

1 **RICHLAND COUNTY BOARD OF ZONING APPEALS**
2 **Public Hearing**
3 August 5, 2009

4
5
6 *[Present: Joshua McDuffie, Harold Branham, Torrey Rush, Suzanne Cecere, Sheldon*
7 *Cooke; William Smith (in at 1:08); Absent: Elaine Perrine]*
8

9 Called to order: 1:03 p.m.

10 CHAIRMAN MCDUFFIE: I'll call this meeting of the Richland County Board of
11 Zoning Appeals to order. At this time our attorney, Ms. Amelia Linder will [inaudible]
12 everyone to speak today.

13 MS. LINDER: Thank you, Mr. Chairman. Good afternoon, ladies and gentlemen.
14 My name is Amelia Linder and I'm the attorney for the Board of Zoning Appeals and I'd
15 like to welcome you to the meeting this afternoon. I'd like to go over a few little matters
16 of procedure and how we're going to handle this meeting today and I will try to be brief.
17 The Board of Zoning Appeals is *quasi* judicial court which means that their decisions are
18 final subject to an appeal to circuit court. The applicant will be the first to speak and
19 they will have up to 15 minutes to present their case. We have two cases today so this
20 should not be a very long meeting today. If there's anybody in opposition to what the
21 applicant is requesting they will have three minutes to speak and then the applicant will
22 again have five minutes to address the opposition. When you come to the podium
23 please address your comments to the Board of Zoning Appeals. We would ask you be
24 respectful to other members and to the Board and to Staff members. Please turn off
25 cell phones or silence them. People that do come to the podium and speak will be
26 under oath so if you are planning to come to the podium to address the Board I'm going
27 to ask you in a few minutes to stand up and take an oath to tell the truth. If you have

1 any documents to submit you may do so and then the Board will, after all the cases
2 have – or after your case, the applicant’s case has been heard, the Board will render a
3 decision. The decision is final subject to the Minutes being approved at next month’s
4 meeting and once those Minutes are approved an Order will go out to all parties of
5 interest. If you are here and are not the applicant but you want a copy of the Order,
6 make sure you get your name and address on our list so we can get a copy of the Order
7 to you. Are there any questions at this time? All right. Then for all those people that
8 are planning to speak and address the Board would you please stand at this time and
9 raise your right hand. Do you swear or affirm that the testimony you shall give be the
10 truth, the whole truth, and nothing but the truth so help you God?

11 AUDIENCE: Affirmative response.

12 MS. LINDER: Okay. If anyone answered in the negative please let me know.
13 You’re are sworn in. Thank you.

14 CHAIRMAN MCDUFFIE: Thank you very much. Mr. Price, will you please call
15 our first case?

16 **CASE NO. 09-22V:**

17 MR. PRICE: The first item is Case 09-22, excuse me. Yeah. Right, 09-22,
18 Variance.

19 CHAIRMAN MCDUFFIE: Mr. Price, I apologize. Prior to calling the first case we
20 need to approve the Minutes from July. Are there any corrections or edits that need to
21 be made to the – is there a motion to approve?

22 MR. BRANHAM: I’d like to make a motion to approve the Minutes as stated.

23 MR. RUSH: Second.

1 CHAIRMAN MCDUFFIE: All right. All in favor?

2 *[Present: Branham, Rush, McDuffie, Cecere, Cooke; Absent for vote: Smith; Absent:*
3 *Perrine]*

4 MR. PRICE: Those in favor are Branham, Rush, McDuffie, Cecere, Cooke.

5 CHAIRMAN MCDUFFIE: The Minutes from July 1, 2009 are approved and now
6 at this time if I could have Mr. Price please call the first case.

7 MR. PRICE: As stated, the first case is 09-22 Variance. The applicant is Dave
8 Chandler. The location is 2329 Island Trail Road. The applicant is requesting a
9 variance to encroach into the setbacks on property zoned Rural and these would be the
10 setbacks. Staff asked the applicant to provide a plat of the property showing the
11 location of the home so we could get the specifics as to exactly how far they would be
12 from the property lines. It's in your application. It would 7.9 – excuse me, in your
13 Agenda, - it would be 7.92 in the western portion of the property and 8.12 on the right
14 according to the plat that they provided to us. Once again the property is little less than
15 half an acre and it is zoned Rural. As Staff was preparing the report we did some
16 research as to the other parcels in that area to see if previous variance requests have
17 been submitted, approved or denied, whatever the case may be, and as indicated in
18 your Agenda we found that there were four parcels within this stretch, it's a dead end,
19 that were granted variances for the construction of the home. So based on that and the
20 other information that we have Staff made a recommendation for approval.

21 *[Smith in at 1:08]*

22 CHAIRMAN MCDUFFIE: At this time if the applicant would please come down to
23 the podium and please state your name and address for the Record.

1 **TESTIMONY OF DAVE CHANDLER:**

2 MR. CHANDLER: My name is Dave Chandler. I reside at 736 No Place Loop,
3 Irmo, South Carolina. What I'm asking, first of all I would like to make a correction on
4 the Agenda. On the property in question it's 2329 Island Trail Road, that's actually
5 Chapin, South Carolina 29036. It's still Richland County though obviously. And really
6 all I'm asking, I've never done anything like this before, but with the property we
7 purchased it about six months ago and found out later after we purchased it it's zoned
8 Rural which is 20' setbacks on each side. And based on how narrow the lot is it'd be
9 very difficult to build a house in character with the other houses in the neighborhood and
10 that's why we're requesting a variance. We have a plat that was submitted with a
11 proposed footprint of the house and that is just the footprint and what we are asking is
12 actually a 10' setback on either side of the property. Not that we would need it but the
13 builder suggested to ask for a 10' just in case there's a little bit extra here and there in
14 case you have to move something because of a big rock and also because of the brick
15 house it's going to add a few inches on either side of the plat. I would like to add that
16 properties on either side of us, 2325 and 2333 Island Trail Road, have both signed
17 papers saying that they have no objections to the variance and these would be probably
18 be the direct properties that would be affected by the encroachment that we're asking
19 for today. That said, I hope that we get approved.

20 CHAIRMAN MCDUFFIE: Are there any questions at this time for the applicant?

21 MS. CECERE: Yes. When, is this like, even though it's zoned Rural, is it like a
22 subdivision?

1 MR. CHANDLER: Yes. It is a subdivision. You can see by the plat, and actually
2 it's kind of unique because the island is divided exactly in half by the county line. So
3 half the island is Lexington County and our half is Richland County. And a majority of
4 the lots are anywhere from a half acre, I think there might be one that's an acre. I think
5 there might be one in the point that's a little bit bigger but the majority of them are just
6 half-acre residential lots.

7 MS. CECERE: I have a question for Mr. Price. Were these, when these lots
8 were divided or when these lots were, or came into existence was that before the last
9 Land Development Code or?

10 MR. PRICE: Yeah. All of our records indicate that these lots were in existence
11 prior to the adoption of not just our current Land Development Code but really before all
12 of our ordinances came into place. So you're going back into late '70s.

13 MS. CECERE: So that lot had been in existence since then?

14 MR. PRICE: Yes, ma'am.

15 MS. CECERE: Thank you. At some point did you try to – once this, maybe it's
16 not the right question. What about the setback, could you have made the house instead
17 of making it wider, longer?

18 MR. CHANDLER: We looked at that. It wouldn't really be in character with the
19 other houses because if you make it, it has to be at least wide for a garage and with the
20 20' setbacks that would only allow I believe less than about 25' for a livable space as far
21 as front elevation is concerned. So that's why we opted not to go so much long. It's
22 because the other houses have kind of a garage and then a foyer and then a living
23 room and it just wouldn't fit in with the rest of the neighborhood if we made it longer

1 because none of the other houses are really that long; they're all wide which is why a lot
2 of the other houses, I don't know, I can't say a lot, I know some of the other houses had
3 to apply for a variance as well to kind of meet the same characteristics as the existing
4 houses that were there.

5 MS. CECERE: Thank you.

6 CHAIRMAN MCDUFFIE: Are there any further questions for the applicant? Is
7 there any discussion from Members of the Board? Ms. Cecere, would you care to go
8 through the Findings of Fact for the variance?

9 MS. CECERE: Are there extraordinary and exceptional conditions pertaining to
10 the particular piece of property? I would say, yes because this lot was created before
11 the recent Land Development Code, and for the house to be in proper perspective with
12 the houses that are already there I think it would need to look basically in the same
13 thing since it's a subdivision. Do these conditions generally apply to the other property
14 in the vicinity? No. Would application of this character, to this particular piece of
15 property effectively prohibit or unreasonably restrict the utilization of the property
16 because of the aforesaid extraordinary and exception or conditions. I would say, yes.
17 And will the granting of this variance be of substantial detriment to the adjacent property
18 or to the good, public good or will it harm the character of the district. I would say the
19 answer to that is no.

20 CHAIRMAN MCDUFFIE: Are there any further comments or discussion from the
21 Board? Would anyone care to make a motion at this time?

1 MS. CECERE: I make a motion that Variance 09-22 be approved and, in that the
2 property is, it's a narrow lot and had been in existence for a number of years, and also
3 that basically the neighboring houses meet the same criteria.

4 MR. COOKE: I second.

5 MS. CECERE: Mr. Chairman, legal has brought up a point in regards to Staff's
6 recommendation. The applicant was requesting a variance to encroach into the west
7 and east side of the yard setback by 7.92 and 8.12 but the applicant asked for 10 and
8 that needs to be addressed –

9 CHAIRMAN MCDUFFIE: In the motion?

10 MS. CECERE: - in the motion.

11 CHAIRMAN MCDUFFIE: Would you care to address it?

12 MS. CECERE: Well, I mean, does anybody have any objections? Okay. We'll
13 go with the applicant then that the setback will be 10'on either side.

14 CHAIRMAN MCDUFFIE: He's requesting 10' in the encroachment. Is there a
15 second to the motion?

16 MR. COOKE: I'll second.

17 CHAIRMAN MCDUFFIE: All in favor?

18 **[Approved: Branham, Rush, McDuffie, Cecere, Cooke; Abstained: Smith;**
19 **Absent: Perrine]**

20 MR. PRICE: Those in favor: Branham, Rush, McDuffie, Cecere, Cook.

21 CHAIRMAN MCDUFFIE: All opposed? Thank you very much. You have your
22 variance and Mr. Price will be in touch.

23 MR. CHANDLER: Thank you very much.

1 CHAIRMAN MCDUFFIE: At this time prior to call, prior to Mr. Price calling the
2 next case, I would just like to remind those that are here today that we will not be
3 hearing the repeat of testimony for any evidence presented in the earlier, last month's
4 hearing today. We will examine the new evidence that has been submitted to, that has
5 been submitted to Staff and any new facts that can be brought to the [inaudible]. Mr.
6 Price, if you would call the next case.

7 **CASE NO. 09-18SE:**

8 MR. PRICE: All right. The next item is Case 09-18 Special Exception. The
9 applicant is requesting the Board of Zoning Appeals to grant a special exception to
10 permit the construction of a communication tower in the RU district. The applicant is
11 Pegasus Towers and the location we have it as 1437 Salem Church Road. The parcel's
12 a little more than 10 acres. It's undeveloped. The applicant is proposing to erect a 195'
13 telecommunication tower within a 6,400 square foot fenced area. As you stated, Mr.
14 Chair, that this case was heard last month by the Board and was deferred until the
15 applicants could bring in some information regarding inability to co-locate. One of the
16 things that this case did bring to light was that the way our ordinance was originally
17 written. The way the cases used to come in before the Board the actual companies
18 were putting up the towers themselves. This is a little different because now you have
19 people putting up towers that aren't necessarily the telecommunications companies.
20 They're putting them up for them in advance so they did comply with those
21 requirements as far as bringing in the information for co-location and I will show this to
22 you. Once again we can go through some of the slides as to location. They meet their
23 setbacks. This is showing you kind of an estimate of the height. This is a site analyst

1 they have and I also – you all received the final analyst from the applicants regarding
2 the coverage. I have also have that here that I can go through when the applicant
3 comes up.

4 CHAIRMAN MCDUFFIE: All right. At this time I would like to call the applicant. I
5 believe Mr. [inaudible]. At this time I'd like to call the applicant.

6 MR. PRICE: I believe Mr. Timmons is here to represent [inaudible].

7 CHAIRMAN MCDUFFIE: Please state your name and address for the Record.

8 **TESTIMONY OF FRANKIE JONES:**

9 MR. JONES: Good afternoon. Frankie Jones. Address is 300 North Green
10 Street, Greensboro, North Carolina. I'm here today with Mr. Harold Timmons also of
11 Pegasus and the property owner, Mrs. Tanner, and pretty much just wanted to hit a
12 couple points. Mainly that the process for a tower company is number one to identify
13 coverage gap, then number two to identify a location that can solve that coverage gap.
14 As has already been mentioned the ordinance is written in a way that it, pertaining to
15 the actual carrier building its own tower. In this case this is a tower company building it
16 and so we walked through various other sites, other potentials and show why those
17 sites don't work for solving the coverage gap that we've identified. And we're available
18 to answer any questions that you may have. More technical questions will be directed
19 to Mr. Timmons. More in terms of just the broader scope of the project can be directed
20 to myself.

21 CHAIRMAN MCDUFFIE: Are there any questions for Mr. Jones at this time?
22 We have two other individuals signed up to speak. Mrs. Tanner and Mr. Timmons,
23 would either of them have anything to add at this point or?

1 MR. PRICE: Maybe for clarification. You did state that you were not opening
2 this up for –

3 CHAIRMAN MCDUFFIE: Absolutely.

4 MR. PRICE: - public input.

5 **TESTIMONY OF HAROLD TIMMONS:**

6 MR. TIMMONS: For the record my name is Harold Timmons. I'm located at 906
7 James Dell Parkway, Greensboro, North Carolina. I don't have anything additional to
8 add. I just wanted to let you know that I'm available if you have any questions in
9 regards to any technical issues stated in the report. Thank you very much.

10 CHAIRMAN MCDUFFIE: At this time we have two additional individuals that are
11 signed up against. I'd like to call Mr. Ronnie Motts. At this time if you have anything
12 new to add to the Record.

13 **TESTIMONY OF RONNIE MOTTS:**

14 MR. MOTTS: My name is Ronnie Motts. I live at 80 Muskrat Run. If I get
15 redundant from what I just said last time ya'll just tell me and I'll just go sit back down.
16 But I am against this here and one thing that I'd like to know, if a tower like this is
17 located behind your piece of property would it increase your property or decrease your
18 property? Is that, am I allowed to ask that question? And would y'all be able to answer
19 that, you know.

20 CHAIRMAN MCDUFFIE: Mr. Motts, we're not here to answer those types of
21 questions today. We're simply here to take testimony.

22 MR. MOTTS: Okay.

1 CHAIRMAN MCDUFFIE: Thank you though. We also have Mr. John Cable
2 signed up as well.

3 **TESTIONY OF JOHN CABLE:**

4 MR. CABLE: My name is John Cable. I live at 1419 Salem Church Road. I
5 discussed a few matters about this last time. There's only one issue I want to bring up
6 other than that I had started to talk about but hadn't developed it. There is, my problem
7 at the moment is that the tower location is right next to a creek. Now last time it was
8 presented as a wetlands issue but what it really is is an issue of erosion down into the
9 lake. I wanted to submit these to you. This is a copy of a 1939 aerial. This little dark
10 band here is –

11 CHAIRMAN MCDUFFIE: If you could please speak into the microphone. The
12 recorder's not picking you up at the moment.

13 MR. CABLE: Here's the location of the proposed tower. Now when, now Mr.
14 Tanner has already done a pretty good amount of damage to that area and there's
15 already a lot of erosion and silting going into the lake. But construction of that tower in
16 that location is just going to increase that. My preference would be as an interested
17 landowner is to have that cell tower, if we must have that eyesore in the area, at least
18 move that tower outside of the area that's going to be impacted by that creek. Right
19 now it's right on the other side of it in that little dip. Also a final thing, I would like a copy
20 of that report that you have access to if I could.

21 CHAIRMAN MCDUFFIE: Mr. Price, am I correct that this report will be part of the
22 Record of today's -

23 MR. PRICE: Yes, it will.

1 CHAIRMAN MCDUFFIE: Okay. It will be available. Are there any questions at
2 this time for any of the individuals that have [inaudible]? Mrs. Tanner, you're signed up
3 to speak. If you have something additional to add, you're welcome to speak. Please
4 state your name and address for the Record.

5 **TESTIMONY OF THERESA TANNER:**

6 MRS. TANNER: My name's Theresa Tanner and I live at 1437 Salem Church
7 Road. And the creek that the gentleman was speaking of it's actually not really, well the
8 only time it has water into it is when it rains and it doesn't run anywhere. It's been, you
9 know, for years. It doesn't, we don't –

10 MR. COOKE: Please give her an opportunity.

11 CHAIRMAN MCDUFFIE: [Inaudible] cross questioning from the audience.

12 MRS. TANNER: But, you know, as far as, I mean, there's no one that lives. The
13 Motts's live all the way at the end of that road. We're the only ones on that property
14 there. And the nursery is across from it that the Motts's own acreage. There's nobody
15 that actually lives anywhere near where this cell tower is going to be. It's all wooded
16 area. We are the only ones and we actually, our home faces about 800' off of Salem
17 Church Road and then our property goes all the way back to Muskrat Road. And we
18 deeded over to help out everybody on, that lived at the very end of Muskrat Road to the
19 county because that was basically landlocked when the six houses, cause it was a
20 private road, almost a half acre of land to help all of them out. But I don't see like I said
21 the cell tower where it's located, you know, is where all the guidelines we were told they
22 were supposed to meet. So I don't, you know, if there's a problem if we need to move
23 it, you know, 10' a little bit this way, that way, I mean, we have no problem with that.

1 CHAIRMAN MCDUFFIE: Thank you very much.

2 MS. CECERE: Ms. Tanner?

3 MS. TANNER: Yes.

4 MS. CECERE: How close is this tower to your home?

5 MS. TANNER: We're probably, how close would you say we are? We live, and
6 we have trails cut all through there. My home is the only home really that it would
7 effect. Nobody else lives anywhere within, you can't see anybody else's home.
8 Because Muskrat, if you look, if you have a picture of Muskrat Road there is nobody.
9 The nursery is all the way down the left side of Muskrat until you get to the very end
10 where there are six homes but you're nowhere near this.

11 MS. CECERE: When you say nursery you mean like a gardening nursery?
12 Gardening?

13 MS. TANNER: Yeah. They grow, it's, the Motts's own it. They can tell you. It's
14 where they grow, I don't know. They grow shrubbery and that's all that's out there. It's
15 natural.

16 MS. CECERE: I just wanted to make sure it wasn't a day care.

17 MS. TANNER: Oh, no, no, no. Flowers and shrubberies and things.

18 MS. CECERE: Okay.

19 MS. TANNER: That's all that is all the way down the left side.

20 MS. CECERE: Is your home closer than the tower than -

21 MS. TANNER: My home is right there. Yes, ma'am.

22 MS. CECERE: But it would be closer than the people that are here signed up
23 against?

1 MS. TANNER: They're nowhere near it.

2 AUDIENCE MEMBER: [Inaudible]

3 MS. CECERE: Ma'am just address, just address –

4 MS. TANNER: No. None of their homes are anywhere – that's what I'm saying.

5 This is all wooded areas. Their homes are nowhere, anywhere – nobody's home is
6 near this. It's all natural woods. I'm the only one that has built there and like I say we
7 had just under 13 acres and we deeded over to the county for Muskrat because the
8 Motts's live on Muskrat at the end which is on the Lake Murray and it was land, you
9 couldn't build anymore than six homes on a private road.

10 MS. CECERE: Okay.

11 MS. TANNER: And in order for them, you know, to do anything and build
12 anymore homes back there we had, you know, they came and asked us to please, and
13 because we had that, that was the largest part of our 13 acres is Muskrat Road back
14 there.

15 MS. CECERE: I have one more question. Did you approach the company or the
16 company approached you?

17 MS. TANNER: The company approached us.

18 MS. CECERE: Okay. Thank you. Okay.

19 MS. TANNER: Any more questions?

20 CHAIRMAN MCDUFFIE: Are there any other questions for either Ms. Tanner or
21 for any of the other -

22 MR. RUSH: I've got a question for Mr. Price. Mr. Price, I understand that, even
23 in our report, that it shows the sites of the other towers in the area.

1 MR. PRICE: Yes.

2 MR. RUSH: But it doesn't show – so are we saying we're throwing co-location
3 out at this point? Because it's showing other site but it's not showing any attempt to co-
4 locate on those sites. It's one thing to identify a site but an attempt to co-locate is a
5 different issue in my opinion. But, I mean, if that can be clarified.

6 MR. PRICE: That may be a question more so for the applicant.

7 MR. RUSH: Okay.

8 MR. PRICE: Just, you know, from my years I guess dealing with the cell towers
9 there've been times when you've seen towers right near each other but they just provide
10 different coverages so it was needed to be that close to each other [inaudible].

11 MR. RUSH: Okay. Did you understand my question?

12 MR. JONES: Certainly.

13 MR. RUSH: Okay.

14 MR. JONES: And I'd like to direct you to page seven of the report and if you
15 begin in the fourth paragraph, it says, "In comparing this report, all structures etc., etc.,
16 below is an explanation of analysis in clockwise from north to south." And there it goes
17 through five specific sites. In each one, for the first one says, "The site is too far
18 northeast to provide the coverage needed to fill the gap." Second site does not provide
19 the coverage needed to fill the gap. So it walks through the alternative locations.
20 Because again the focus of the tower company would be to fill a coverage gap.

21 MR. RUSH: Okay. I see what you're saying. So you're saying that with, the
22 area that you're trying to cover right there by use, you couldn't even use those towers to
23 co-locate on?

1 MR. JONES: Those towers would not fill the coverage gap there is and so we
2 walked through each one of those potential locations.

3 MR. RUSH: I gotcha.

4 MS. CECERE: I have one more question. And do you already have someone
5 to, for this site, that wants to use this site?

6 MR. TIMMONS: The answer to that is yes. As we indicated at the last meeting
7 that we did have a user who wanted to use the tower but the user does not want their
8 use of the tower to be public at this time. But we discussed that at the last meeting.

9 CHAIRMAN MCDUFFIE: This tower will have the ability to attach how many sets
10 of equipment?

11 MR. TIMMONS: Five. Structurally it'll handle five.

12 CHAIRMAN MCDUFFIE: [Inaudible] five, five co-located?

13 MR. TIMMONS: That's correct. That's correct.

14 CHAIRMAN MCDUFFIE: Because I would certainly hate to see a, you know, an
15 example like we're seeing on this, you know, on these maps you presented where we
16 have a Crown tower and an Alltel tower or the Crown tower and the ATC tower, you
17 know that appear to be located hundreds of yards -

18 MR. TMMONS: Yeah, well a number of those do have a second and third user
19 on those structures which is, you know, initially when towers were developed by
20 carriers, you know, there was an issue of competitiveness and not letting people on
21 their structures but as a tower company it is our goal to seek co-locations so we're
22 going to actively pursue co-location so that for each one that we can attract to that
23 structure we basically reduce the number of requests that this Board has to come

1 before them and make decisions on by being able to not only just use it but, you know,
2 make it easier for them to utilize our structures.

3 CHAIRMAN MCDUFFIE: Are there any additional questions at this time? Mr.
4 Rush, would you care to go through the Findings of Fact for the Special Exception?

5 MR. RUSH: Okay. We do have proper zoning for that; is that correct, Mr. Price?

6 MR. PRICE: Yes.

7 MR. RUSH: Okay. Public hearing, I mean, there was public notice, Mr. Price?

8 MR. PRICE: Yes.

9 MR. RUSH: And I'm going to start at number four. Will the proposed tower will
10 have any maximum height less than 300'? So that's yes. Okay. All right. Is the base
11 of the proposed tower located at least 195 from a residential zoning district? So, yes.
12 Yes on that. Has the applicant shown proof of attempting to co-locate on existing
13 communications towers? Did the applicant show alternative tower buildings or other
14 structures were not available for use within the applicant's tower site search area that
15 was structurally capable of supporting the intended antenna or meeting the applicant's
16 necessary height criteria or provide a location free of interference from the other
17 communications towers? I would say yes on that. Is the applicant willing to allow other
18 users to co-locate on the proposed towers, on their proposed towers? We asked that
19 question and they said yes. Number seven, will the proposed towers meet the
20 illumination requirements of regulatory agencies such as FCC or FAA? .

21 MR. TIMMONS: Yes.

22 MR. RUSH: Yes. Okay. Could the applicant step forward for a second, please?

1 MR. RUSH: Does the tower, the proposed tower, does it meet the FCC and FAA
2 regulations?

3 MR. TIMMONS: It meets the FAA requirements.

4 CHAIRMAN MCDUFFIE: This will be a, am I correct, this will be an unlighted
5 tower?

6 MR. TIMMONS: That is correct.

7 MR. RUSH: Okay. The illumination, okay. And this tower will have no night
8 strobe on as far as lighting?

9 MR. TIMMONS: No.

10 MR. RUSH: Okay. And will the communication tower and the associated
11 buildings be enclosed within a fence at least seven feet of height?

12 MR. TIMMONS: Yes.

13 MR. RUSH: Has the applicant agreed to landscape the communication tower
14 site in accordance with the requirements?

15 MR. TIMMONS: Yes.

16 MR. RUSH: Has the applicant agreed to place no signage to any portion of a
17 communication tower unless the sign is for purposes of identifications, warning,
18 emergency function or contact or other as required by applicable state or federal rules,
19 laws, or regulations?

20 MR. TIMMONS: Yes.

21 MR. RUSH: Has the applicant agreed to dismantle or remove communication
22 tower within 120 days of date the tower is taken out of service?

23 MR. TIMMONS: Yes.

1 MR. RUSH: And will the traffic be impacted by this [inaudible]? And I say no on
2 that.

3 MS. LINDER: If I may stop, Mr. Rush. Just for the Record the applicant has
4 affirmatively answered the question that they will meet the illumination requirements, not
5 have nighttime strobe lighting, the communication tower will be enclosed within a fence
6 of seven feet in height, he has agreed to landscape the site, and he has agreed to
7 conform with our signage requirements, and to remove the tower within 120 days if the
8 tower is taken out of service. Applicant did answer the affirmative on those questions.
9 Thank you.

10 MR. RUSH: Okay. Will this proposal effect vehicle or pedestrian safety? No. Is
11 there a potential impact of noise, lights, fumes, or obstruction of airflow on adjoining
12 properties? I would say no on that as well. Does the proposed communications tower
13 have an adverse impact to the aesthetic character of the environ? And I'll open that up
14 for discussion.

15 CHAIRMAN MCDUFFIE: Please lead the discussion.

16 MR. COOKE: You're asking if it has an adverse impact on the environment?

17 CHAIRMAN MCDUFFIE: On the aesthetics. On the aesthetics. Obviously it's a
18 cell phone tower. It's not a pretty thing. Certainly nobody wants to look at a cell phone
19 tower but I think we're required the sort of ways the potential adverse aesthetic
20 character of that with the need to provide, you know, a service that, you know, people
21 expect and people use. You know, and I guess the question is how to be able to
22 provide that service with a minimal amount of an adverse impact or an adverse

1 aesthetic impact rather than, you know, just providing that service all without giving that
2 some consideration.

3 MR. COOKE: And this is the design of the tower, the tree like design? It's a big
4 tree, but -

5 CHAIRMAN MCDUFFIE: It does seem to be a very large tree.

6 MR. COOKE: A very large tree.

7 CHAIRMAN MCDUFFIE: I might ask either the applicant or the property owner.
8 Generally about how tall are the existing trees on the parcel?

9 MS. TANNER: They're very old so they're up there. Some of the trees, like I
10 said that whole area on Muskrat there's nothing but the woods. There are no homes.

11 CHAIRMAN MCDUFFIE: Please come down and speak into the microphone; I
12 apologize.

13 MS. TANNER: Yeah. The trees are very, very old. They're very, they're up
14 there on the property, you know, 100, yeah. I mean, I'm guessing, you know, 170, 190'.
15 They're up there; the trees are. But, I mean, I'm nervous. But no there's, and like I said
16 there's no homes anywhere around. It's whole road until you get to the end of Muskrat
17 is where there are homes. I mean, on both sides of Muskrat is all, you know, I'm the
18 only one I guess and my house is on, actually I come in off of Salem Church Road
19 instead of Muskrat.

20 CHAIRMAN MCDUFFIE: Thank you. The tower is set fairly far into the center of
21 the applicant's property. I mean, it, it meets the requirement for being 195 based on the
22 height away from the property line at a minimum, and it is, does appear to be fairly
23 wooded [inaudible] area.

1 MS. CECERE: I would want to make sure also that when this tower gets built
2 that if there is that creek that is in existence when we have a lot of rain or anything that
3 – make sure that none of the environments are damaged during the building of this
4 tower. The other thing that concerns me is that actually, you know, I guess we've been
5 told that there is someone interested in locating on this tower but I'm not saying that
6 that's not true but I don't have any proof. I'm like the Doubting Thomas. I would like to
7 have something that I can look at and say yes there is. And just to put up another tower
8 because there is a gap and, but we really don't know whose gap it is. I mean, I think we
9 discussed that last time. I mean, I have a cell phone and [inaudible] I go through many
10 areas where I don't have service but I don't call up my carrier and say I'm [inaudible]
11 you know, this is not a good place to be and I usually know where those locations are. I
12 usually try not to use my cell phone at those places but, I mean, we can't cover the
13 whole County with communications towers. I mean, we need to look at not just what we
14 have now but what we leave for everybody else and to me you put up another cell
15 phone tower and, you know, you then have to go out and look for people to locate on it.
16 I mean, to me that defeats the purpose of it.

17 CHAIRMAN MCDUFFIE: Certainly, I mean, that, that is the case. We don't want
18 to blanket the county with unnecessary towers. However, we have to examine the
19 criteria for the special exception that's being presented before us. You know, and we
20 have to think about health, safety, welfare, effects on the environment. All of those
21 things are things that we may need to give obviously individual consideration to. But at
22 the same time we have to examine of course what's been presented to us both in the
23 last presentation last month and today.

1 MS. CECERE: I guess what I'm saying is I would feel better if I actually saw a
2 contract that somebody wants to locate on this tower. I feel like then, you know -

3 CHAIRMAN MCDUFFIE: Mr. Price, would, the construction of this tower's
4 obviously going to meet whatever the county's requirements for storm water and that
5 type of thing all through the construction?

6 MR. PRICE: Correct.

7 MR. RUSH: Well, and I guess another question is will, I don't know if we can go
8 down that road as far as, even with the construction of the towers to keep developers,
9 tower developers from – nine times out of ten you won't do it till you have someone.
10 Probably would make sense –

11 MR. PRICE: If the tower –

12 MR. RUSH: - at the same time if you put it up there from a prospecting purpose,
13 I mean, I don't know.

14 MR. PRICE: If the tower's constructed, they meet all of our site plan
15 requirements and all the other reviews and it's constructed according to the Code, if
16 they don't have someone up there [inaudible].

17 MR. RUSH: [inaudible] days.

18 CHAIRMAN MCDUFFIE: And also we do have sworn testimony from the
19 applicant that they have somebody that is intending already when it's time to locate on
20 the tower so but we do have sworn testimony to that effect.

21 MR. RUSH: In 120 days.

1 MR. PRICE: They choose to, you know, pay the money, do the reviews,
2 construct a tower, go through all of that and then have to take it down within three
3 months, four months of erecting it.

4 CHAIRMAN MCDUFFIE: Yeah, and I believe this did come up in the last – in the
5 last month's hearing and the applicant did state that this was not a good time to be
6 building a spec tower anticipating somebody might want to locate on it and that
7 obviously –

8 MR. RUSH: Mr. Chairman, I'm sorry, I guess we'll say yes to 15. And 16 is the
9 orientation and spacing of improvements or buildings appropriate? I'll say yes to that as
10 well.

11 CHAIRMAN MCDUFFIE: Is there any discussion, additional discussion at this
12 time or any additional questions?

13 MR. COOKE: I guess I wanted to take a look at, I really, Mr. Chairman, would
14 like to look at – I'm not an engineer myself, okay, and I know [inaudible] I would like for
15 them to clarify that, what are the ranges for these towers? I know we talked about co-
16 location and I know you've got a list. You're saying that one was too far away because
17 it was a mile and a half away, one was 1,200', one was 1,000', one was 2.5 miles away,
18 one was four miles away. I just wanted to know what's the exact range if you could,
19 please.

20 MR. TIMMONS: Well, there is no exact range because each site has to be
21 judged on its own merits in terms of where it's located, elevation of land, vegetation
22 between, you know, one tower and another. Where all those factors gets placed into
23 the computer model that produces your predictions, you know, some sites will, you

1 know, reach out two miles, some will only reach out a mile and a half. So it's
2 somewhere between a mile and a half to two miles is what you're generally going to get
3 out of most sites that are at a standard height of roughly 195'. Of course as the height
4 of the structure goes down then that's also going to diminish the amount of coverage
5 that you get in hilly areas but might not effect it in flat areas so as you can see, you
6 know, a lot of different factors go in to that to determine so in short there is no standard
7 but for the most part you can generally expect a mile and a half to two.

8 MR. COOKE: And the reason I asked that, as stated before I'm no engineer of
9 any kind but saying that, you know, made the attempt to, and I think that was the issue
10 last time was to co-locate and just by saying that, you know, these sites are too far or
11 it's not enough. There's no real way I have, I have no idea if they are or they aren't. I
12 just have to take your testimony. Okay.

13 MR. TIMMONS: I understand but let me assure this Board that this tower is not a
14 speculative tower and when the negotiations are complete that's when the tower will be
15 built. In this environment you don't spend \$300,000 on an investment, build the tower,
16 and then in 120 days have the locality tell you you have to take it down. So we are
17 going to be just as prudent about doing our business and taking care of that before we
18 provide this community with a structure that it has to look at. The last thing I would say
19 is that if you stop and take a look around your community as you drive around, try to
20 notice how many towers you see that do not have antennas on them. I think you'll be
21 very hard pressed to find any, and that's because people just look, don't build towers
22 these days unless they have the commitments they need to make the return on their
23 investment.

1 CHAIRMAN MCDUFFIE: I have one more question while you're up. The site
2 that's listed on the packet you [inaudible] has, being found 813324.

3 MR. TIMMONS: Yeah.

4 CHAIRMAN MCDUFFIE: Does that site, already has the same carrier that
5 intends to locate on the proposed tower on that tower?

6 MR. TIMMONS: That – I believe that is correct.

7 CHAIRMAN MCDUFFIE: [Inaudible] particularly where –

8 MR. TIMMONS: Page seven.

9 CHAIRMAN MCDUFFIE: Where it's speaking about the Alltel COL302 site?

10 MR. TIMMONS: Yes, exactly.

11 CHAIRMAN MCDUFFIE: [Inaudible] feet away?

12 MR. TIMMONS: That is correct.

13 CHAIRMAN MCDUFFIE: And so currently that's [inaudible] Alltel tower.

14 MR. TIMMONS: That's right.

15 CHAIRMAN MCDUFFIE: We have that Crown 813324 that already carries -

16 MR. TIMMONS: That carries already on that structure as well as – go ahead.

17 CHAIRMAN MCDUFFIE: So even 1,000' away from an existing tower that this
18 same carrier is using they need an additional tower? I mean, my question is is that is
19 the proposed carrier that is going to go on this tower on the Crown 813324 tower?

20 MR. TIMMONS: Yes. That carrier is already on 813324 and that's why Alltel 302
21 cannot be used.

1 CHARIMAN MCDUFFIE: Right. But, so the 813324 tower is, let's say
2 approximately the same distance away from the Alltel COL302 tower; is that correct?
3 It'd marginally further?

4 MR. TIMMONS: No. The 81332 and the 302 are primarily side by side. 800,
5 1,000' apart from each other but they're, you know, significantly far away from the
6 proposed site.

7 CHAIRMAN MCDUFFIE: Well –

8 MR. TIMMONS: I think what they're saying is that you can't utilize 302 because
9 you're utilizing 813 and they're side by side.

10 CHAIRMAN MCDUFFIE: Okay. And about how far are the 302 and the 813324
11 sites from this, from the proposed [inaudible]?

12 MR. TIMMONS: Let me see. I'll have to ballpark. It looks to be a mile and a half
13 to two – let's see - 296 is one a half so it's somewhere in the neighborhood of one and a
14 half to a little bit under, between one and one and a half.

15 CHAIRMAN MCDUFFIE: I guess when I was looking at that I guess I misread
16 and it seemed to me that it was saying that the 302 site was 1,000' from the proposed
17 site.

18 MR. TIMMONS: No. 302 is 1,000 from 813.

19 CHAIRMAN MCDUFFIE: That seemed to me to be awful close to have, to need
20 an additional tower.

21 MR. TIMMONS: Exactly. What it's saying is that they're on this one, they're on
22 this one. This one is here. You can't put equipment here because you've got
23 equipment here. That area's already being covered.

1 CHAIRMAN MCDUFFIE: I guess looking at the map they are it looks like over a
2 mile apart from the proposed -

3 MR. TIMMONS: Yes. From the proposed site.

4 CHAIRMAN MCDUFFIE: All right. Are there any additional questions or
5 discussion?

6 MR. BRANHAM: Mr. Chairman, I make a motion that Special Exception 09-18
7 be approved based on the findings of facts.

8 MR. SMITH: Second.

9 CHAIRMAN MCDUFFIE: We have a motion and a second. Were there, before
10 we continue on, were there any additional stipulations that either Staff would like to see
11 added to this or?

12 MR. PRICE: No.

13 CHAIRMAN MCDUFFIE: We have a motion on the floor that has been properly
14 seconded. Who down there seconded it? All in favor?

15 MR. PRICE: Those in favor, Branham, Rush, Cooke, Smith.

16 CHAIRMAN MCDUFFIE: All right. All opposed?

17 MR. PRICE: Those opposed, McDuffie, Cecere.

18 ***[Approved: Branham, Rush, Cook, Smith; Opposed: McDuffie, Cecere; Absent:***
19 ***Perrine]***

20 CHAIRMAN MCDUFFIE: Pegasus Towers, you have your Special Exception
21 and Staff will be in touch. Thank you.

22 MR. TIMMONS: Thank you very much.

1 CHAIRMAN MCDUFFIE: At this time is there any, do we have any old business
2 or any other business that we need to attend to?

3 MR. PRICE: Ms. Suzie Haynes will talk to you about your training.

4 CHAIRMAN MCDUFFIE: Can we close the public meeting first? Let's go ahead
5 and close the public meeting first. At this time I would like to adjourn the Richland
6 County Board of Zoning Appeals August meeting.

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[Meeting Adjourned at 2:15 p.m.]