

Richland County/Board of Zoning Appeals

June 2, 2010

[Present: Joshua McDuffie, T. Ralph Meetze, Elaine Perrine, Torrey Rush, Susanne Cecere, William Smith; Absent: Sheldon Cooke]

Called to order: 12:45 pm

CHAIRMAN MCDUFFIE: I'd like to call this meeting of the Richland County Board of Zoning Appeals to Order. At this time, the Chair will recognize that we do have a quorum and I'd like to ask Ms. Amelia Linder our attorney to read the Rules of Order.

MS. LINDER: Thank you, Mr. Chairman. Good afternoon Ladies and Gentlemen. My name is Amelia Linder and I'm the attorney for the Board of Zoning Appeals. I'd like to welcome you this afternoon. As we go into our cases today, we have two cases on the Agenda and they will be taken up in the order that they're presented. This Board is a *quasi* judicial body which means that the decisions they make today are final. That is subject to having the Minutes approved next month and then Orders will go out and then if the Applicant is unhappy or displeased with the Order that goes out, they have 30 days from the time that Order is mailed or sent out to appeal it to circuit court. Today, the applicant will have 15 minutes to speak and present their case. If there's any opposition to what the Applicant is requesting, they will have three minutes to speak, and then the applicant again will have another five minutes to summarize his position or her position on the case. If there are witnesses, everybody that speaks and addresses the Board will be sworn in and I'll do that at the end of my introduction here. Please address all your remarks to the Board and not to other members of the audience. You will be under oath and everything will be recorded. It's not quite as formal as a court so if you have matters that need to be introduced, you

1 may do so. If you have any cell phones with you, I'd ask that you'd please turn them on
2 silent, vibrate or turn them off. If you are planning to speak, please make sure your
3 name and address are very clear on the sign-up sheets because you will, if you're an
4 interested party and do speak, you will get a copy of the Order. After your case is
5 heard, you may leave quietly. And then I will take any questions if anybody has any
6 questions. If not, if you're planning to speak and address the Board as a witness, would
7 you please stand at this time to take an oath of truth. Raise your right hand. Do you
8 swear or affirm that the testimony you shall give shall be the truth, the whole truth and
9 nothing but the truth so help you God? If anyone answers in the negative, please let me
10 know. Otherwise you are sworn in. Thank you.

11 CHAIRMAN MCDUFFIE: Alright. Thank you very much Ms. Linder. At this time,
12 is there a motion on approving the Minutes from April 2010?

13 MR. RUSH: I so move.

14 MR. MEETZE: Second.

15 CHAIRMAN MCDUFFIE: Okay, all in favor.

16 *[Approved: Meetze, Rush, McDuffie, Cecere, Smith; Abstained: Perrine; Opposed:*
17 *None; Absent: Cooke]*

18 CHAIRMAN MCDUFFIE: None opposed. Okay at this time, we move on to the
19 public hearing portion of this hearing and I'll ask Mr. Geo Price to introduce our first
20 case. At this time, also though Mr. Rush needs to make a statement.

21 MR. RUSH: Out of the interest of full disclosure, I just wanted to state that for the
22 Record, that in my private practice I have – in my private practice of real estate
23 development, I've had some dealings in the past with Avalon Properties but is in no way

1 shape, form or fashion associated with this parcel and my vote does not have any
2 bearing or there's no benefit, my vote for this particular project.

3 CHAIRMAN MCDUFFIE: Alright. Thank you very much. At this time Mr. Price, if
4 you would call first case.

5 **CASE NO. 10-06 SE:**

6 MR. PRICE: The first item is Case No. 10-06 Special Exception. The applicant
7 Kevin Corrigan is representing PTA-FLA, Inc. The location is 7011 Frost Avenue. The
8 parcel size is 1.67 acres and currently it's vacant. The subject parcel, the applicant
9 proposes to erect a 190' telecommunications tower within a 5,625 square foot leased
10 area; that's 75 x 75. Staff has – one of the things the Staff looks at is to make sure that
11 the setbacks have been met from the various zoning districts and uses, and it's our
12 determination that those setbacks have been met. What you have, what you see before
13 you is an aerial of the site. Just this is more of a north northwest of the subject parcel is
14 Columbia International University. While it does have some residential units right in this
15 particular area, the property is zoning Office and Institutional according to the City of
16 Columbia. Thus, it still meets the setbacks. And here's a plat that was supplied by the
17 applicant. This one and it shows some of the setbacks. There's some other graphics
18 that well be shown to you and I'll kind of leave that up to the applicant and hopefully you
19 can make it out the best you can. This has got more of a locator map for the particular
20 area, kind of showing the, I guess the radius or coverage. And there's some various
21 graphics that will show you what this particular cell tower will do. Also included in your
22 package from discussions with the applicant, my discussions with the applicant were

1 reasons, other cell towers in a particular area and reasons why those would not be
2 suitable sites either for co-location so that should have been in your packet.

3 CHAIRMAN MCDUFFIE: Mr. Price, can you clarify the, what the zoning is on the
4 subject property?

5 MR. PRICE: GC. Sorry about that.

6 MS. CECERE: And I have a question. When you said what about the City of
7 Columbia?

8 MR. PRICE: That the property, the rear of it is located in the City of Columbia.
9 That's Columbia International University. But the property is zoned Office and
10 Institutional, and the reason why I mentioned that was because the requirements for
11 setbacks from residential districts is different that from an Office and Institutional even
12 though they do have the residential units there.

13 MS. CECERE: Okay, thank you.

14 CHAIRMAN MCDUFFIE: At this time, I would like to call Mr. Weston Adams.

15 **TESTIMONY OF WESTON ADAMS:**

16 MR. ADAMS: Yes, sir. Good afternoon. I'm –

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

18 MR. ADAMS: Yeah, Weston Adams, I'm a lawyer here in Columbia, 700 Gervais
19 Street, Suite 300. I'd like to introduce you to three people, if you guys would stand up?
20 Kevin Corrigan is the state manager for the applicant, Rich Newton is the site
21 acquisition manager and Bill Howard is the engineer for the applicant. So all these guys
22 are here to essentially answer any questions that y'all might have as to the application.
23 You know, what we're asking for is a special exception to build a cellular tower.

1 Essentially in order for us to be granted that special exception, we've got to meet both
2 the general criteria and the specific cell tower criteria that are in your zoning ordinances.
3 And I think it's clear from a review of the ordinances, that we meet all those criteria.
4 First, if you consider the general criteria for a special exception the traffic impact is the
5 first criteria that's supposed to be considered. And if you look at the traffic impact,
6 essentially it's an unmanned tower that's only going to have infrequent maintenance
7 visits and so essentially it really does not have any traffic impact whatsoever. As to the
8 second criteria, and that would be vehicle and pedestrian safety, the tower is setback
9 263' off of Frost Avenue and so it's so far back off the road that really it effectively can't
10 have any impact on vehicle and pedestrian safety. And you'll note that essentially that
11 the tower only takes up about 8% of the site. In other words, the tower compound only
12 takes up about 8% of the site and the other 92% effectively serves as a buffer. Now,
13 the third issue to be considered is potential impact of light, noise, fumes or obstruction
14 of air flow in the surrounding property. There's no question that light, there's going to be
15 the light impact because if a tower is under 200' in height it doesn't need to be lighted
16 per FAA regulations so essentially there's no lighting on this tower. Of course, a cell
17 tower doesn't emit any noise or fumes. It doesn't obstruct air flow in surrounding
18 properties so that criterion should not be an issue. The fourth criterion is, is there any
19 adverse impact on the aesthetic character of the surrounding area, essentially. And the
20 surrounding area is a commercial area primarily. The surrounding area, there are
21 already two cell towers on Frost Avenue so this would not be a revolution in the
22 neighborhood. The cell tower we are proposing to build is going to be setback as I said
23 263' off of Frost Avenue, it will be screened by the existing hardwood trees that we're going

1 to leave on the property. It also will be screened by the fact that we're building a fence
2 around it and there will be landscaping around that fence. And as I said earlier, if the
3 fence compound, the fenced compound is only going to take up 8% of the whole lot, this
4 is a 1.67 acre lot which is bigger than most cell tower lots, and we did that in an effort to
5 avoid the setback issues and to provide even more buffer than we needed to. So we
6 bought a lot more land than typically is required on these sort of situations. So I think if
7 you sort of pile all that up together effectively it's the adverse impact on the aesthetic
8 aspect of the neighborhood is really diminimus or none. The last of the five general
9 criterion is the orientation and spacing of improvements and buildings and as I just
10 explained to you under the previous criterion discussion, this thing is going to be
11 setback 263' off of Frost Avenue, it will be behind a fenced compound, it will be
12 screened by mature hardwood trees, so that orientation and spacing of improvements
13 should not be an issue. So, those are the general special exception criteria that we
14 clearly meet so let me add one quick thing. Clear Talk is not by a fly-by-night operator.
15 They essentially have already built cellular networks in eight other states and this is
16 their 9th state, so they're very excited to be here in Richland County and they've got a
17 number of projects their working on in Richland County. They've already found 36 co-
18 locations that they can do that don't require a tower so they're not going to be coming to
19 you to build a lot of towers. So, they're good corporate citizens and I think it should
20 weigh in the mix that they essentially have a good record of being a responsible citizen
21 in eight other states in which they already operate. But in addition to those general
22 criteria that I explained to you, the specific cell tower criteria, you know, there are seven
23 or eight specific criteria; I'm just going to run through those quickly. The first cell tower

1 criterion is that the tower cannot be more than 300' tall. Well, we clearly don't have a
2 problem with that because our tower is only going to be 190' tall. So, we're not even
3 near the maximum height on the tower. Secondly, the setback requirements on the
4 surrounding properties that you can see around our piece essentially to the left and the
5 right if you're looking at the map and looking at our piece, to the left and right of the
6 setback on either side is zero feet on the side setback. And so we clearly satisfy that.
7 The setback requirement on the Columbia Bible College property behind our property or
8 to the north of our property is a huge large wooded tract that Columbia Bible College
9 owns. The setback to that is 50' because there are residences on that but the
10 residences are way off, they're manufactured homes that are student housing, but those
11 mobile homes are way away from our site and so we're only required to have a 50'
12 setback there and we've got a 54' setback to that line. So, we satisfy that requirement.
13 And then lastly, the outparcel that effectively at some point in history must have been
14 cut out of our piece, it's the little divot at the bottom to the southwest, that he's pointing
15 at right now, there is a residence on that property, that setback requirement to that
16 property line from the tower is 190' and the actual buffer that we've set up is 210'. So
17 we're more than 20', we're 20' over the required setback to that property line. And so,
18 in a nutshell, there shouldn't be any problems on the setback requirements because
19 they're all satisfied. And I'm happy to answer any questions as I go along here, it's
20 more entertaining than me just speaking, but the third criterion that we've got to meet is
21 the attempt to locate, to show that we've made an attempt to locate on the nearest
22 towers. And we have in fact done that. Our engineer Bill Howard has spent a lot of
23 time essentially trying to find another tower that would work. We looked at two other

1 towers that are on Frost Avenue. The one at 6901 Frost Avenue and the one at 6539
2 Frost Avenue and the first of those two 6901 Frost Avenue is an FM radio tower and it is
3 virtually impossible for us to locate a cellular antennae on an FM tower because of the
4 interference problems that the FM signal creates for our antennae. So that effectively,
5 technically eliminates that, and as y'all know your ordinance essentially says, you know,
6 if the height isn't right or if the tower can't take the load of an additional antennae or if
7 there're interference problems, then you've satisfied the co-location requirement by
8 trying and those are reasons you don't have to co-locate. So, on that first one, at 6901
9 Frost Avenue, effectively because it's an FM broadcast nature of that tower, it would
10 destroy the signal that our antennae would put out so we can't co-locate there. The
11 second one at 6539 Frost Avenue has a series of technical problems, one of which is
12 the structural integrity of that tower would be compromised if we tried to locate another
13 antennae on it. So for safety reasons we really can't put our equipment on that.
14 Secondly, there are no, there's no safety ladder or climbing pegs. If we were going to
15 install on that tower, Bill Howard would have to climb up the tower itself with no ladder
16 and that would not be safe, it would be violation of OSHA. So, we're not going to do
17 that. And then thirdly, at the base of that tower, there's effectively no room to put an
18 additional box that holds equipment. In other words, the ground's all taken up and at
19 the bottom of a cell tower you got to have space for your box and your equipment.
20 There's no room for that. And then the last, the third closest tower that we looked at is
21 the Monticello Road structure and it's got the same structural, it's a Monticello Road cell
22 tower, it's got the same structural capacity problems as one of the Frost Avenue tower
23 had. Effectively, if we put our equipment on it, the weight would be so great that the

1 tower wouldn't, probably wouldn't stand. So that effectively means we can't co-locate
2 on those three nearest towers and we are left with no choice but to build a new tower.
3 The rest of the criterion essentially, the next criterion is the tower's got to be illuminated
4 as is required by the FAA, if required by the FAA. And because the tower's under 200',
5 the FAA does not require that this tower be illuminated. So, I think we clearly satisfy
6 that criterion. There is a criterion that we build a seven foot fence around, at least
7 seven feet tall and we're going to do that. We're going to build a seven foot compound
8 around the base of the tower and 75 x 75 foot area. And it will be at least seven feet tall
9 and will have razor wire around the top of that for safety reasons. So, we satisfied the
10 seven foot fence requirement. There's a landscaping requirement and we absolutely do
11 intend to landscape around the fence that surrounds the tower. And we're going to
12 leave the mature hardwood trees that exist on the property; we're going to leave those
13 in place to kind of help screen the tower as much as possible. Your ordinance also
14 says that you can't put any signs on the tower; we're willing to abide by that, of course.
15 The only thing we're going to put on the tower gate is emergency contact information
16 and any federally required information. The FAA and the FCC may require that we
17 have some license numbers on the gate and we'll do that if that's required. And then
18 lastly, you've got a requirement that the tower must be dismantled and moved within
19 120 days of being taken out of service and we hereby pledge that we will do that, if the
20 thing is ever taken out of service, we would do that. The price of steel is so high right
21 now, I can promise you that if a tower goes out of service, somebody's going to want to
22 buy the tower the next day and they would pay to take it down because of the value.
23 So, but we hereby assume the responsibility of any kind of dismantlement that's got to

1 be done if the tower's ever taken out of service. In effect, those are all the points that I
2 wanted to make. I'd be happy to answer any questions and I would just like to make a
3 motion that the application that we submitted be admitted into the Record.

4 CHAIRMAN MCDUFFIE: Thank you, we have the application as it was
5 submitted and it's part of the Record.

6 MS. CECERE: I have just a question on the co-location on the three sides.

7 MR. ADAMS: Yes, ma'am. Now who made that determination, your company?

8 Or I mean, not the company –

9 MR. ADAMS: I'm not an engineer but Bill Howard.

10 MS. CECERE: Right, I understand. I'm sorry. Okay.

11 MR. ADAMS: - is here with us, he made that determination. He can certainly
12 answer any questions you got about that.

13 MS. CECERE: No. Would that have to be done in writing to the Staff?

14 MR. ADAMS: Effectively, the application is an attestation –

15 MS. CECERE: Okay.

16 MR. ADAMS: - that we're stating that we truthfully did this, so effectively that is,
17 but Geo can answer the question, I think.

18 MS. CECERE: I'm fine. Thank you.

19 MR. ADAMS: Is that good?

20 MS. CECERE: Um-huh (affirmation).

21 CHAIRMAN MCDUFFIE: And I believe you introduced the three other individuals
22 who are signed up in support.

23 MR. ADAMS: Yes, sir.

1 CHAIRMAN MCDUFFIE: Are you all here just to answer questions or do you
2 have -

3 MR. ADAMS: I think they're here to answer questions, if there are any questions
4 that come up during the course of the [inaudible].

5 CHAIRMAN MCDUFFIE: Are there any other questions for Mr. Adams or for any
6 of the others?

7 MR. MEETZE: Yes.

8 MR. ADAMS: Yes, sir.

9 MR. MEETZE: Being a Barney Fife, bud nipper, I visited the site and it appears
10 that everything you said is right in line. This may be making a mountain out of a mole
11 hill and if I were not involved in a situation now where a little minor detail would have
12 been addressed 11 ½ years ago, it would not have caused a lot of inconvenience for a
13 lot of people now that we're trying to straighten out. Fortunately all the parties are still
14 living and having prefaced my comments with that, are you sure the address of this
15 property is 7011.

16 MR. ADAMS: Yes, sir.

17 MR. MEETZE: Alright. Seventy-Eleven is the house and lot in the little corner
18 there -

19 MR. ADAMS: Yes, sir.

20 MR. MEETZE: - that was indeed cut out of the lot and it will indeed remain 7011.
21 Not that it would ever come up, but I noticed here in the narrative of Mr. Corrigan, and
22 I'm sure it's a typo but here again, I'm kind of a little bit squeamish, if you notice the tax
23 map number there, the last two digits as 13, there is no 13 it should just be 03.

1 MR. ADAMS: Okay.

2 MR. MEETZE: Also -

3 MR. ADAMS: We apologize for that if we -

4 MR. MEETZE: No, apology for necessary. I just say that I'm a little bit
5 squeamish.

6 MR. ADAMS: Sorry about that.

7 MR. MEETZE: And also, 7011 would not be address of this property. Now,
8 would it not be 7019?

9 MR. RUSH: Would you click on that Geo?

10 MR. ADAMS: On the county's online records, apparently it's listed as 701, but
11 that, we could be wrong about that one.

12 MR. MEETZE: I varied this with the address with the addressing department -

13 MR. ADAMS: Okay.

14 MR. MEETZE: - Mrs. Alfreida Tindal [inaudible] structure up on that property, the
15 side of the property would be recognized as 7019.

16 MR. ADAMS: Seventy-Nineteen.

17 MR. MEETZE: Now if this will be an issue, I do not know. But as I say -

18 MR. ADAMS: Thank you, sir.

19 MR. MEETZE: - I'm a little bit squeamish.

20 MR. ADAMS: Well, we stand corrected on that and thank you for bringing that to
21 our attention.

22 MR. PRICE: We can get that straight. I think for the Record, we have the correct
23 tax map number and we can confirm the addressing with Ms. Tindal and which that

1 would be confirmed when they go to pull a building permit because they will need to be
2 issued one.

3 MR. ADAMS: I think in essence, that the application has enough content to
4 identify the property that we're legally okay. But thank you very much for pointing that
5 out, we just –

6 MR. PRICE: What we can do is prior to, before Ms. Linder writes the Orders, we
7 can confirm the correct address and that will be part of the Order.

8 MR. ADAMS: That would be very helpful.

9 CHAIRMAN MCDUFFIE: Are there any other questions for the applicant at this
10 time? Alright.

11 MR. ADAMS: Mr. Chairman, can we just reserve a little time to respond if there's
12 any [inaudible].

13 CHAIRMAN MCDUFFIE: Absolutely.

14 MR. ADAMS: Thank you, sir.

15 CHAIRMAN MCDUFFIE: At this point, we have one party signed up in
16 opposition and I will recognize Mr. Taylor would like to speak at this time. Come up to
17 the podium, state your name and address for the Record.

18 **TESTIMONY OF WILLIS TAYLOR:**

19 MR. TAYLOR: Okay, my name is Willis Taylor and I'm the owner of 7011 Frost
20 Avenue, the small lot to the left. I'll start by saying I flew in from Kuwait about 7,000
21 miles so, strictly for this matter, so I take it very seriously. The concerns I would like to
22 address is my property is located about 210' away from the proposed site of the tower.
23 That's about 65 meters. I have concerns with radiation. I know it's low dosage but

1 there's been studies been proven that low dosage radiation in kids can cause leukemia,
2 that's one of my main concerns. Typically, you want to be, it's been proven that you
3 want to be about 500 meters away from a tower. Let's see here. Okay, I'm just going to
4 read this brief statement that I wrote, that's kind going to cover everything I just said but
5 it's just a brief statement, I didn't have much time to prepare this. I just flew in yesterday
6 so. I have a great concern about living so close to a cell phone tower. The greatest
7 concerns are health issues. There have been studies conducted that has proven that
8 children that live next cell phone towers develop leukemia at a higher rate due to
9 possible chronic exposure to radiation, better known as microwave sickness.
10 Microwave sickness is the universal term for those who become ill from RF microwave
11 radiation exposure. Symptoms of microwave sickness are cumulative and intensify in
12 effect with the frequency with the continued exposure. Studies that were conducted
13 were from families living within 500 meters of these cell phone towers. I'm 65 meters
14 within the cell phone tower. My concerns are for my four year old daughter. I would
15 hate to have to stand here before you five years from today and tell you that she
16 developed leukemia. Some of my other concerns would be property value. I don't
17 know how that would affect having 190' tower looming over my property but it's not – I
18 shouldn't say over it, but it's standing just to the left of my property, but I don't know how
19 that would affect my property value as a far as having it erected over my house. But
20 those are just some of the concerns that I wanted to address. Like I said, I didn't have
21 much time to prepare for this, but just wanted to make that brief statement.

22 CHAIRMAN MCDUFFIE: Thank you, Mr. Taylor. We certainly understand your
23 concerns on both the potential radiation front and on the property value front.

1 Unfortunately, I don't believe that we're empowered to consider the potential radiation
2 effects.

3 MR. TAYLOR: Right.

4 CHAIRMAN MCDUFFIE: In determining whether or not to be able to grant a
5 special exception for the tower.

6 MR. TAYLOR: Okay.

7 CHAIRMAN MCDUFFIE: We have a very strict criteria on what we are allowed
8 to consider.

9 MR. TAYLOR: Right.

10 CHAIRMAN MCDUFFIE: Thank you very much.

11 MR. TAYLOR: Thank you.

12 CHAIRMAN MCDUFFIE: Is there anything else from the applicant at this time?

13 MR. ADAMS: May I approach just for one second. Yes, sir. I think you made
14 the point, Mr. Chairman, that effectively that health issues are not part of your criteria
15 that you can consider in this decision. So I would agree with the point you just made
16 and additionally, I think the FCC effectively has pre-empted that issue and that's sort of
17 their charge to deal on a federal level with any sort of health and technological issues
18 that are out there and that's really kind of a constitutional law question. That's really a
19 federal issue that's best left with the federal government. On the health question, Bill
20 Howard, can say just 30 seconds just to explain it. Although, I don't think it's relevant, I
21 think it's useful to hear his explanation of it.

22 CHAIRMAN MCDUFFIE: Certainly.

23 **TESTIMONY OF BILL HOWARD:**

1 MR. HOWARD: William Howard, 912 South Edisto Avenue, Columbia, South
2 Carolina. I've taken the time to quickly prepare just in case this issue should arise. And
3 I can hand these out to all of you if you would like and what it does is it answers to the
4 FCC's office of engineering and technology bulletin number 65, which states acceptable
5 levels for RF radiation at our particular frequency. We're at 2100 megahertz. Typically
6 microwave frequencies are a bit higher, 18 gigahertz, 18,000 megahertz. So I can hand
7 these out if you would like to just –

8 MR. SMITH: Could you also pass one to Mr. Taylor?

9 MR. HOWARD: Sure. The electromagnetic spectrum and breaks it down
10 between ionizing and non-ionizing energy. We, RF communications use, utilize non-
11 ionizing which is much lower on the spectrum. Ionizing energy, gamma rays and x-rays
12 [inaudible]. What that does is it looks at a worse case scenario. Okay. Well, what the
13 document does that I handed out is state a worse case scenario in the event that our
14 antennae is located 190' on the tower. If something catastrophic should happen to
15 those, we have three antennae on the tower broadcasting about 120 degrees off of one
16 another; 0, 120 and then 240. And what that book said is a catastrophic failure where
17 all three antennas were to fall flat. Typically, the antennae broadcasts on a horizontal
18 plane; but if they for an example, we look at a six foot person standing at the base of the
19 antennae, a 190' below. So at six feet, and 184' apart from our antennas, if all three
20 antennas were to fall flat, facing the gentlemen on the ground and then it takes into
21 account reflection from all four sides, and it still, at that levels were are I think 25 times
22 below what the FCC states is a safe level.

23 CHAIRMAN MCDUFFIE: Thank you very much.

1 MR. HOWARD: You're welcome.

2 CHAIRMAN MCDUFFIE: Are there any other questions either for the applicant
3 or for Mr. Taylor at this time?

4 MR. ADAMS: Mr. Chairman, can I just make sure that those documents get into
5 the Record?

6 CHAIRMAN MCDUFFIE: Mr. Price, would you see that this is under the Record?

7 MS. CECERE: Mr. Price, do we have a map where, on this map, I can't really tell
8 where Mr. Taylor's house is.

9 MR. TAYLOR: No, it's right there.

10 MR. PRICE: You see the portion that's highlighted –

11 MR. CECERE: That's in the very front?

12 MR. TAYLOR: Yeah, right there.

13 MR. PRICE: That's it – I think what the applicant referenced that a piece was cut
14 out, this was the piece.

15 MS. CECERE: Oh, I see. Okay.

16 MR. SMITH: The house is on the front end of that lot? What is that on the back
17 end of the lot?

18 MR. PRICE: This? Concrete.

19 MR. SMITH: No, I'm sorry, the back end of the highlighted lot, that's like a white
20 –

21 MR. TAYLOR: [Inaudible] yeah.

22 MR. SMITH: What is that again?

23 MR. PRICE: Cars.

1 MR. SMITH: Oh, okay.

2 MR. TAYLOR: It's also a detached garage too.

3 MR. PRICE: You're right here?

4 MR. TAYLOR: Right in that area, yeah.

5 MR. SMITH: Okay, so detached.

6 MS. CECERE: What?

7 MR. SMITH: Detached garage. That's all.

8 MS. CECERE: Mr. Taylor, how large is your piece of property?

9 MR. TAYLOR: It's about [inaudible] acre.

10 MS. CECERE: I'm sorry?

11 MR. TAYLOR: About a quarter of an acre.

12 MS. CECERE: Quarter of an acre.

13 MS. PERRINE: Were you living there when the other towers were put up or did
14 you have that property?

15 MR. TAYLOR: I'm not sure when the other towers were put up but I've been
16 living there about four years.

17 CHAIRMAN MCDUFFIE: Ms. Cecere, would you care to go through the Findings
18 of Fact?

19 MS. CECERE: Okay. Go ahead, I'm sorry.

20 MR. RUSH: No, no, just looked like you had a concern.

21 MS. CECERE: I do.

22 CHAIRMAN MCDUFFIE: Please, please [inaudible].

23 MS. CECERE: I understand. Mr. Taylor, thank you. That's all I had.

1 MR. PRICE: Ms. Cecere, it's about a 1/3 of an acre.

2 MS. CECERE: A 1/3 of an acre?

3 MR. PRICE: Yes, ma'am.

4 MS. CECERE: And is that the only house close to that besides the college?

5 MR. PRICE: It seems to be the only one that's abutting the property.

6 MS. CECERE: And the college is on the other side? Columbia University is on
7 that side?

8 MR. PRICE: Yes, it's Columbia International.

9 MS. CECERE: International. Um-hum (affirmation).

10 MR. PRICE: This is some of the residential, I think the manufactured homes that
11 were referenced earlier but, you know, the primary campus is here. And evidently they
12 have a tower on their property also.

13 MS. CECERE: How large is that tower, do you know?

14 MR. PRICE: I don't – when they changed the systems, I'm unable to get that
15 information.

16 MS. CECERE: And what about the other towers that are out there, are there
17 residents close to that?

18 MR. PRICE: Is this the FM tower that you were referring to?

19 MR. ADAMS: There is an FM tower involved.

20 MR. HOWARD: That is correct. And that tower was constructed in 1989.

21 MS. CECERE: But that was before the zoning.

22 MR. SMITH: That's the 6901 tower? Is that, what a minute it can't be [inaudible]?

23 MR. ADAMS: I'll give you the addresses.

1 MR. SMITH: Cause Frost Avenue is –

2 CHAIRMAN MCDUFFIE: 6901, 6539 –

3 MR. ADAMS: Yeah, 6901 Frost Avenue is the FM tower; 6539 Frost Avenue is
4 the other cell tower. Then there's one on Monticello Road as well.

5 MR. SMITH: So what tower is that?

6 MR. PRICE: Which one? The one that we're looking at now?

7 MR. SMITH: Yes, sir.

8 CHAIRMAN MCDUFFIE: That's the FM tower.

9 MR. PRICE: This is the FM tower.

10 MR. SMITH: That's Frost as well? Okay.

11 MR. PRICE: Yes.

12 CHAIRMAN MCDUFFIE: Those are on Frost.

13 MR. SMITH: Okay.

14 MR. ADAMS: The only housing on the Bible college property, she was asking
15 about the housing, way off of the property line. It's just a huge lot. It's probably, I don't
16 know if it's 50 acres or 100 acres.

17 CHAIRMAN MCDUFFIE: Mr. Rush, if you would care to go through the Findings
18 of Fact?

19 MR. RUSH: The property zoned GC. Was there adequate notice for public
20 hearing posted? I would assume so.

21 MR. PRICE: Yes. I've been told yes.

22 MR. RUSH: Told yes, okay. Where was it published? Newspaper, I assume.
23 Will the proposed tower have a maximum height less than 300'? That's yes. Okay. Is

1 the base of the proposed tower located at least 190' from the residential zoning district?
2 The answer to that is yes; it's located 210'. Has the applicant shown proof of attempt to
3 co-locate on existing communication towers? Did the applicant show that alternative
4 towers, buildings or structures were not available for use within the applicant's tower
5 sites search area that was structurally capable of supporting the intended antennae or
6 meeting the applicant's necessary height criteria or provide location free of interference
7 from other communication towers? Yes. Is the applicant willing to allow other users to
8 co-locate on the proposed tower in the future subject to engineering capabilities of the
9 structure? I think they said yes.

10 MR. ADAMS: Yes, we are.

11 MR. RUSH: Okay. Has the applicant agreed to have no – will the proposed
12 tower meet the illumination requirements of the regulatory agency? Yes. Will the
13 communication tower and associating buildings be enclosed within a fence at least
14 seven feet of height? Yes. Has the applicant agreed to landscape the communication
15 tower site in accordance to the requirement? I think they stated that all landscaping, the
16 answer to that is yes as well. Has the applicant agreed to place no signage or to any
17 portion of the communication tower unless the sign is for the purpose of identification,
18 warning, emergency, function or contact or other as required by applicable, state and
19 federal rules? Yes. Has the applicant agreed to dismantle or remove the tower within
20 120 days of out of service? Yes. Would there be a traffic impact for this proposed
21 tower? No. Based on the Findings of Fact – oh, would the proposal affect the
22 vehicle/pedestrian safety? No. Is there a potential impact for noise, lights, fumes? I
23 think the answer to that is no as well. Does the proposed communication tower have an

1 adverse impact on the aesthetic character or environs? I would say No, because of the
2 location. Is the orientation the spacing of the improvements or buildings appropriate?

3 Yes.

4 CHAIRMAN MCDUFFIE: Would you care to make a motion at this time?

5 MR. RUSH: Yes. I would like to make a motion that Special Exception 10-06 be
6 approved based on the Finding of Facts and also to add to that motion to make sure all

7 -

8 MR. PRICE: Addresses.

9 MR. RUSH: - the address site information and addresses and so on and so forth
10 is [inaudible] back in order to get permitting.

11 CHAIRMAN MCDUFFIE: Alright, is there a second?

12 MR. MEETZE: Second.

13 CHAIRMAN MCDUFFIE: Alright. All in favor?

14 MR. PRICE: Those in favor: Meetze, Perrine, Rush, McDuffie, Cecere, Smith.

15 *[Approved: Meetze, Perrine, Rush, McDuffie, Cecere, Smith; Opposed: None; Absent:*
16 *Cooke]*

17 CHAIRMAN MCDUFFIE: None opposed. Mr. Adams, you have your special
18 exception and Staff will be in touch.

19 MR. ADAMS: Thank you.

20 CHAIRMAN MCDUFFIE: Alright, Mr. Price if you would please call the next
21 case. Mr. Price, please call the next case.

22 **CASE NO. 10-07 V:**

1 MR. PRICE: Okay, the next item is Case No. 10-07 Variance. The applicant is
2 requesting the Board of Zoning Appeals to grant a variance to encroach into the
3 required side yard setback on property zoned RSMD, which is Residential Single Family
4 Medium Density. The Applicant is Tonya Curtis. The location is 625 Park Place Drive.
5 Parcel size is .19 of an acre and its existing land use is residential. Subject property
6 according to our records has a 2,452 square foot residential structure, total area. And
7 the applicant's proposing an addition to the west side of the existing structure, I believe
8 it's going to be for a porch. The applicant has amended the application so the original
9 request was for a two foot encroachment. I believe that y'all were each handed out a
10 revised site plan and instead it will be for a one foot encroachment. That doesn't affect
11 Staff's discussions, so we can kind of go from there. I'll kind of just – well, I won't
12 reference this, we'll reference the plans that were submitted that were given to you, I
13 believe you each have a copy. This is the existing structure, and these are just views of
14 the side property. I believe this is the, if you're looking at the property on the right
15 where there's a four foot setback from the property line and this would be the area of
16 the side of the home where the addition will take place and I believe it's going to take
17 place in this general area. That's it.

18 CHAIRMAN MCDUFFIE: I the Chair recognize Ms. Tonya Curtis. Please state
19 your name and address for the Record.

20 **TESTIMONY OF MS. TONYA CURTIS:**

21 MS. CURTIS: Tonya Curtis, 607 White Falls Drive, Columbia, South Carolina
22 29202.

23 CHAIRMAN MCDUFFIE: Please state your case.

1 MS. CURTIS: The residence has the master in the back portion of the house
2 and then we have the setback that we could put it back there. You'd have to walk
3 through a private space to a public space. All the public space is at the forward portion
4 of the house so that means that the hardship would be, you know, having a public
5 space off your private space basically. Also, if we were to make the nine foot deep, you
6 would not be able to fit furniture, such as a table, just a standard, if you see the furniture
7 layout I showed you, that's a standard 36" x 72" table, by the time you pull out the
8 chairs, you would not be able to walk around it to get by the porch if we keep it within
9 the nine foot setback. So we are now requesting a, you know, the addition to be 10' x
10 25' and it will be a screened porch.

11 CHAIRMAN MCDUFFIE: Are there any questions for the applicant at this time
12 by the Board or for Staff? Mr. Price, in the discussion of the site you recommend
13 reducing the size of the structure so that the structure could be constructed within the
14 required existing setback. However, this next proposal still requires a variance still has
15 an encroachment?

16 MR. PRICE: Yes, sir.

17 MR. RUSH: So it still has the [inaudible]?

18 MS. CURTIS: Yes, the original – I'm sorry.

19 MR. RUSH: Okay, go ahead. I'm sorry

20 MS. CURTIS: The original request was 12' x 30' foot. The client that I'm working
21 with had it cost out by a builder decided that was too expensive so she dropped it to 10'
22 x 25'. As I said, the nine foot by the time you have, you see the step that was there? By
23 the time you step out on that property, you're, that nine foot space is now an eight foot

1 space, and by the time that you put the screening and the table, it makes it impossible
2 for you to get around the table.

3 CHAIRMAN MCDUFFIE: The picture on the side of the house?

4 MS. CURTIS: There – that existing patio is like 11' out, so that patio would be
5 torn up and it would come back to the 10' space.

6 MR. RUSH: That's coming of the side, right?

7 MS. CURTIS: Correct. Yeah, that step there, you know, there would remain the
8 step there to be able to get onto the patio.

9 CHAIRMAN MCDUFFIE: So the patio would actually not be as wide –

10 MS. CURTIS: As currently wide as it is now. Yeah.

11 MR. MEETZE: They will tear up the concrete there in lieu of building over it.

12 [Inaudible].

13 MS. CURTIS: Yeah, to do a new slap. Yeah. To do a slab with tile.

14 CHAIRMAN MCDUFFIE: My issue is that I just don't see it's an extraordinary or
15 exceptional condition to the property unless someone can show me one or convinces
16 me otherwise. If somebody would care to go through the Findings of Fact?

17 MS. PERRINE: The property was, is zoned RSMD?

18 MR. PRICE: Yes, ma'am.

19 MS. PERRINE: It was posted properly, published in the newspaper. Are there
20 extraordinary and exceptional conditions pertaining to the particular piece of property? I
21 would say no.

22 CHAIRMAN MCDUFFIE: What's the setback from the property line of this
23 residence on the far side?

1 MS. CURTIS: The existing setback is four foot and it's a combination setback of
2 13'.

3 CHAIRMAN MCDUFFIE: Thirteen feet between the two -

4 MS. CURTIS: Between the two sides, correct.

5 MS. PERRINE: So, if we say there are no extraordinary or exceptional
6 conditions a variance can't be granted.

7 CHAIRMAN MCDUFFIE: Correct.

8 MS. PERRINE: So with these findings, I would make a motion that Variance 10-
9 07 be denied.

10 CHAIRMAN MCDUFFIE: Is there a second?

11 MR. RUSH: Second.

12 CHAIRMAN MCDUFFIE: All in favor?

13 MR. PRICE: Those in favor: Perrine, Rush, McDuffie, Cecere, Smith.

14 CHAIRMAN MCDUFFIE: Ms. Curtis –

15 MR. PRICE: We've got to do an opposed.

16 CHAIRMAN MCDUFFIE: Are there any opposed?

17 MR. PRICE: Meetze.

18 *[Approved: Perrine, Rush, McDuffie, Cecere, Smith; Opposed: Meetze; Absent: Cooke]*

19 CHAIRMAN MCDUFFIE: Okay. Ms. Curtis, your Variance has been denied and
20 Staff will be in touch.

21 MS. CURTIS: Thank you.

22 CHAIRMAN MCDUFFIE: Alright. At this time, we'll move on the other business
23 portion of our hearing if there is any other business.

1 MR. PRICE: I believe that Suzie Haynes, y'all should have received the emails
2 and some correspondence about training that has come up.

3 MR. RUSH: How much training do you have to get every year?

4 [Inaudible discussion]

5 MS. PERRINE: Since I don't have email, would you mail it?

6 MS. HAYNES: I'm going to try to do a training here once a month and I'm going
7 to try to do it the second Thursday of every month. I'm going to try to start that next
8 month. Unfortunately, I can't do the orientation here. It has to be done over [inaudible].

9 MR. PRICE: And that would only affect Mr. Meetze, correct?

10 [Inaudible discussion]

11 MS. PERRINE: May I ask a question of Staff? When we have like – okay, like
12 both of these cases today and we know that the cell tower, they had everything done
13 that they were supposed to do, so why does it have to come before us?

14 CHAIRMAN MCDUFFIE: What was the question?

15 MS. PERRINE: When a cell tower or any applicant is not meeting or is meeting
16 the requirements and Staff kind of gives us their recommendation and we go by our
17 rules and regulations, then why do we have to go through everything?

18 MR. RUSH: I've got one answer to that.

19 MS. PERRINE: Well, [inaudible]. [laughter]

20 MR. PRICE: I'd still like to hear his answer though.

21 MS. PERRINE: We'll let him answer.

22 MR. PRICE: Well, I mean really –

1 CHAIRMAN MCDUFFIE: Shall we adjourn the meeting before we go through
2 this? Okay, at this point I'd like to adjourn the meeting.

3

4

[Meeting Adjourned: 1:55 pm]