

RICHLAND COUNTY BOARD OF ZONING APPEALS

July 2010

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4 *[Present: Chairman McDuffie, Mr. Meetze, Ms. Perrine, Mr. Rush, Ms. Cecere, Mr.*
5 *Cooke, Mr. Smith]*

6
7 Called to order: 1:05 pm

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9 [Recording equipment malfunctioned during call to order and opening remarks]

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11 CHAIRMAN MCDUFFIE: Alright, ladies and gentlemen, I apologize for delay.

12 I'm told that the recording system is fixed now and we can at this time proceed. Mr.
13 Price, if you would call our first case.

14 Meeting begins: 1:15 pm

CASE NO. 10-08 V

15
16 MR. PRICE: Okay, the first item in this case 10-08 V which is a variance. The
17 Applicant is requesting the Board of Zoning Appeals to reduce the required number of
18 off-street parking spaces on property zoned M-1, which is Light Industrial. The
19 Applicant is Mark James. The location of his request is the corner of Bluff Road and
20 Blair Street. The parcel size is about an acre. It is currently undeveloped. The
21 Applicant is proposing to construct a 9,014 square foot retail building which would be a
22 Dollar General. The area is comprised primarily of industrial and residentially
23 developed parcels; most of them are single-family. There a number of multi-family
24 which has really been dedicated for student housing in that general area and as you'll
25 see in some of exhibits I'll show you that there's a multi-family development directly
26 behind there but it is primarily for student housing. I'm sorry – I got my case
27 misnumbered. This is the site. And as you can see directly behind there, it's the
28 student housing, I believe it's The Retreat. Kind of interestingly enough this parcel was

1 actually located, the parcel behind it is located in the City of Cayce. Here's another. I'll
2 try to open up the side, the site plan for you. I know it was a little confusing on the Staff
3 Report that I presented to you; one of the things that Staff has been looking at is when a
4 variance comes in is what other options do they have? Because one of the things we try
5 to do with all Applicants is try to exhaust all options prior to them coming to the Board;
6 really using the variance as kind of a last resort. The particular case, we were looking
7 at does the, can the building be reduced? And the reason why we just mentioned that
8 was because a reduction in the square footage would bring the proposed parking into
9 compliance, which would bring it down to the 30 parking spaces. However, even after
10 the Agenda was prepared, I had a couple of discussions with the architect, I mean, the
11 engineer, Mr. Rafe, regarding this project and one of the things that he was, that we did
12 discuss was – let me take a look. Actually I liked it better the other way, sorry. One of
13 the things that we discussed was – well, let me kind of go back a bit. The Applicant,
14 they had to relocate a 60" drain pipe from the middle of the property and as you can
15 see, the area is in bold back here; this is where the pipe has been relocated. Talking to
16 the engineer for the project, he mentioned that they kind of wanted to keep this area
17 clear because this is where they have to have loading and unloading, I guess for the
18 products and they can't do it off of Bluff Road, as you can imagine, the truck trying to
19 back in off of Bluff Road so they're going to come in off of Blair. So one of the things
20 that we did discover is that potentially even if they were to reduce the square footage of
21 the building they will still need to keep a certain area clear for the loading and unloading
22 of the merchandise. So I guess what I'm saying is the Staff recommendation would be
23 leaning toward more toward an approval than a denial. But the Applicant will still need

1 to discuss with you the possibilities of maybe reducing the square footage of the
2 building. And that's it from Staff.

3 **TESTIMONY OF MARK JAMES:**

4 MR. JAMES: My name is Mark James. I'm at 5046 Courtney Road, Columbia,
5 29206. I am a principal with Capitol Development Partners; we're the developers of this
6 Dollar General and appreciate the opportunity to be before you today. I guess Geo did
7 a great job of hitting on kind of the points that we've dealt with on this location. The big
8 one is the – literally the big one is the 60" pipe that runs through the middle of the
9 property, storm water drainage pipe that runs through the middle of the property. You're
10 talking about an acre piece of property with that size pipe running through the middle of
11 it; it's very difficult to find something developable with that pipe remaining where it is.
12 So, as his site plan that you saw earlier shows, we're having to relocate that around the
13 rear edge of the property which does create a smaller area of developable property for
14 us. The way that this property lays out, Geo's right, we have to bring or our tenant will
15 have to bring their delivery trucks in off of Blair Road, they'll come in towards Bluff Road
16 and then they'll back in to that area where the loading door is. So, the opportunity for us
17 to move the building on site, especially considering that the drainage pipe, is minimal.
18 Geo referenced the size of the building. Our tenant has several different sites
19 prototypes, they wanted to use a large store here but we couldn't make it fit and we
20 realized that our best opportunity for approval was to go ahead and go with the smallest
21 prototype that they've got, the 9,000 square foot store. They really don't consider going
22 in store sizes that are smaller than that. For them and their business model, they feel
23 like the minimum 9,000 square feet which you see on this drawing, is what they have to

1 have. And the one thing that I would add that, to the Staff presentation is that there is,
2 you know, Arthur Towne, Little Camden, some of the student housing, The Retreat
3 that's around this, that we anticipate there to be some business that doesn't choose to
4 drive, that chooses to walk up. And we've got sidewalks provided for in the drawing and
5 our hope is that people will view that as an opportunity to walk as well. I'm happy to
6 entertain any questions that you may have and I'm available to you.

7 MS. CECERE: Mr. James, now the front of the building will face Bluff Road, is
8 that correct?

9 MR. JAMES: That's correct. Yes.

10 MS. CECERE: Would the building have fit any other way on this of piece of
11 property, like facing possibly Blair Street?

12 MR. JAMES: Ma'am, we couldn't turn the building any other way. We've truly
13 tried to figure out, look at all our different options and we couldn't figure out a way to
14 turn this building in any other way that would optimize circulation and also take into
15 consideration deliveries for inventory.

16 CHAIRMAN MCDUFFIE: I noted on the area photograph that it does appear that
17 there are sidewalks along Bluff in front of the housing development there?

18 MR. JAMES: Right.

19 CHAIRMAN MCDUFFIE: Are you going to continue sidewalks across the front of
20 your parcel as well or?

21 MR. JAMES: They will continue across the front of our property on Bluff Road –

22 CHAIRMAN MCDUFFIE: Okay.

23 MR. JAMES: And will also extend down Blair Road.

1 CHAIRMAN MCDUFFIE: Okay, because I didn't see those on the drawing.

2 MR. JAMES: Yes. We have, this drawing that you have is shown to emphasize
3 the drainage pipe and where that was and where is it.

4 CHAIRMAN MCDUFFIE: Okay.

5 MR. JAMES: I do have, I don't have copies of one but I do have one that
6 [inaudible] exhibit that will show the parking.

7 MR. PRICE: It's a new development, so by Code, he's required to provide
8 sidewalks.

9 MR. RUSH: Let me ask you a question. With the drainage pipe going out the
10 back of the parcel and you've got a 199' of, there's no setback requirements, is that
11 correct, Mr. Price?

12 MR. PRICE: Yes, sir.

13 MR. RUSH: So if you turned it long ways, because I think you're only required to
14 have a 130', 70 x 130 for a Dollar General, so they won't allow you to put an entrance
15 on the, let's say the long side of the building or is that the case?

16 MR. JAMES: You're talking about the tenant?

17 MR. RUSH: Yeah, the tenant. So, if you turned it so that the back of the store
18 which is on the left side backs up to that drainage pipe, is that an alternative?

19 MR. JAMES: It is an alternative, the issue we run into with that is that if you turn
20 it, which would parallel the road, you don't have a way to get delivery trucks in, you can't
21 run delivery trucks into the property if you turned it that way.

22 CHAIRMAN MCDUFFIE: Couldn't still have an entrance off of Blair?

23 MR. RUSH: Yeah.

1 MR. JAMES: No, you couldn't, I'm talking about where the, how the truck would
2 pull into the building itself, kind of excessive.

3 CHAIRMAN MCDUFFIE: Okay.

4 MS. CECERE: What are the average sizes of most of those Dollar General
5 Stores? Do they vary?

6 MR. JAMES: Well, they do. The prototype sizes they have is a 9,000 square
7 foot one, the that you see on your drawing today. The most typical one is a 12,000
8 square foot [inaudible].

9 MS. CECERE: But nothing smaller?

10 MR. JAMES: Nothing smaller.

11 CHAIRMAN MCDUFFIE: Is – you mentioned that there is a 30' drainage
12 easement that will – on the rear of the property –

13 MR. JAMES: Right.

14 CHAIRMAN MCDUFFIE: And that the, that easement is just placed over the 5'
15 drain pipe is that correct?

16 MR. JAMES: Right.

17 CHAIRMAN MCDUFFIE: Okay. So, right now the 30' easement is over the –
18 back in the middle of the property?

19 MR. JAMES: Exactly.

20 CHAIRMAN MCDUFFIE: And that easement can't be reduced any or anything
21 that like it's –

1 MR. JAMES: Well, I mean, we – prudence would tell us to leave on a pipe that
2 size, plenty of space to give for repairs and things like that. And in addition to that, the
3 person who owns the pipe, a private individual, currently has a 30' easement.

4 CHAIRMAN MCDUFFIE: Okay.

5 MR. JAMES: They're willing to cooperate with us and work with us to relocate it
6 but they don't want to give up less than what they have.

7 CHAIRMAN MCDUFFIE: Does anyone have any further questions?

8 MS. CECERE: Well, I have one for Staff. Where or what does this drainage pipe
9 connect to?

10 MR. PRICE: The Applicant can better answer that.

11 MS. CECERE: I'm sorry?

12 MR. PRICE: The Applicant can better answer that.

13 MS. CECERE: Oh, okay. I'm sorry.

14 MR. JAMES: Well, it is a – I don't know exactly what it connects from and to. I
15 don't – it does connect obviously from some property further upstream and those are
16 the beneficiaries of the easement and it goes through The Retreat, the housing
17 development that you see there. I do not know necessarily what its ultimate termination
18 is.

19 CHAIRMAN MCDUFFIE: Just looking at the aerial once again with The Retreat,
20 I mean, it looks like they've built right on top of where I would assume the drainage pipe
21 going through. They were given, I guess [inaudible] to build in the easement. Y'all are
22 unable to secure that or how, or does it take some sort funny routing once it leaves your
23 parcel?

1 MR. JAMES: I can't speak to that, I don't know.

2 CHAIRMAN MCDUFFIE: I mean, it looks like they've build a swimming pool and
3 maybe a volleyball court and a building on top of it.

4 MR. JAMES: I don't know, they could have possibility even relocated it, I don't
5 know if they had to.

6 CHAIRMAN MCDUFFIE: Are there any further questions for the Applicant at this
7 time or for Staff?

8 MR. RUSH: I guess, Mr. Price, just to give you a chance, I mean, can you shed
9 any light on that as far as where does the pipe continues on the path that it's currently
10 going, there's another building on top of it so, is there – for one is it necessary to
11 relocate the easement and if not, then there's adequate space for the trucks on the side.
12 So, unless there's some reason why or that the pipe is, like you said is it's, you know,
13 has a right angle and goes back to the street or something like that, that we don't know
14 about. But it doesn't seem that way, so can you shed any light on where it's going, what
15 is it, is it necessary to relocate it?

16 MR. PRICE: No, sir. I really don't have any idea where it's going or where the,
17 how it's being used.

18 MR. JAMES: From our standpoint, and it's my understanding is that I was under
19 the impression from our engineer that it was an issue that had – we couldn't build on it
20 from a governmental code issue, not only that but even if we could, we wouldn't put a
21 building on top of a 60' drain pipe.

22 MR. PRICE: I guess the only thing I want – once we get, you know, we get more
23 information, of course, during the testimony and also some times after the fact, is, you

1 know, even if you could build on this, let's say you build on the drainage pipe, and even
2 with the easement being there, I guess that one of the things that did come up is, okay
3 where the building is located and with the loading and unloading, I'm not sure if you can
4 see it, [inaudible] if this is going to be the loading door and let's say the building is
5 unable to be oriented another direction, this right here essentially is not some place you
6 want the cars coming backing out where there's potentially loading and unloading. So
7 regardless, I don't think this would be a usable area just taking away the drain pipe at
8 least the proposed relocation of it.

9 MR. RUSH: Okay, so are these parking - if you come down from the sales door,
10 the sales floor door, that's where parking starts right there, is that correct?

11 MR. PRICE: Yes, sir. It will start here -

12 MR. RUSH: Well, you're less than a foot, or no, a door length away from the
13 loading and unloading door anyway, so I'm trying to see the difference there.

14 MR. PRICE: Well, I guess more or less that, because that's going to be more for
15 pedestrian access, you park and then you go inside the building. But just looking at the
16 back, I'm just pointing out is if potentially let's say I guess 18 wheelers or large vehicles
17 here, you don't necessarily - it will potentially block traffic coming out, at least that
18 access. You know, and the other thing too is, I think as the Applicant pointed out,
19 you're kind of looking at the general area, potentially it could be a good bit of foot traffic.

20 MR. RUSH: Well, I guess, you know, looking at it a couple of different ways,
21 because if you turn the building, being that, you know, on a 9,000 square foot Dollar
22 General that the prototype is a 70 x 30 [sic] facility, even if you turned it long ways,
23 you're looking at, you know, with no setback requirements, you're looking at having,

1 possibly having a 30' opening on the, looking at the property on the right side, that's not
2 adequate room to get a truck in and out? I mean, am I looking at that wrong?

3 MR. JAMES: Well, I mean, I think - I wish our engineer were here, and I
4 apologize that he's not. When we looked at this within the confines of a 60" pipe with a
5 30' easement,

6 MR. RUSH: Um-hum (affirmative).

7 MR. JAMES: - there was not enough space in there to put a building and the
8 drainage pipe. I mean, what you're looking at the black line is not the, that's the pipe
9 itself, that's not the easement area. So when you start turning that building and putting
10 it in there, you're really are not leaving yourself enough space to move a truck in there.

11 CHAIRMAN MCDUFFIE: I guess the thing that I'm having trouble with is that
12 obviously the property could still be developed even without the granting of the variance
13 and the question is do the current restrictions on the property, you know, constitute an
14 unreasonable restriction, if a variance was not granted? And somebody could easily
15 come in and put in another retail type establishment that just, with a smaller footprint
16 without needing a variance and so I'm, you know, that's giving me an issue with meeting
17 a criteria for a variance. I guess the question is what is a reasonable versus
18 unreasonable restriction on the property, and do we have things that obviously have
19 been in place for awhile that are causing a particular issue –

20 MR. JAMES: Right.

21 CHAIRMAN MCDUFFIE: - [inaudible] parcel?

22 MR. JAMES: Well, I mean, certainly, there's the potential out there that
23 somebody could come along and not encounter the problems we've got. I'm here today

1 with an approved project and a tenant who wants to be here and kind of meets the need
2 for a lot of new folks that live out there and I guess my hope would be that there'd be a
3 lot of merit in what we're proposing for the county and for the area [inaudible]
4 considering what we're proposing that it would be worthy of a variance.

5 MR. RUSH: And also going back to what the Chair brought up earlier, as far as
6 that pipe goes, if that pipe extends on to this next, I guess that's the entrance to the –
7 even if it goes straight through the property, it looks like it's going under a swimming
8 pool, like I said unless there's a direction that pipe is taking that we just have no idea
9 about, there's something, you know, obviously there's something being built on top of it
10 right now. So -

11 MR. JAMES: Well, that's –

12 MR. RUSH: - I'm wondering if -

13 MR. JAMES: The pipe –

14 MR. COOKE: - the engineer just wants to relocate it and, you know, but –

15 MR. JAMES: Well, I mean, I guess what I'd say to you is, as I've said to you, we
16 can't build on, we can't build on a 60" storm water pipe. That's just not a, you know,
17 what happens in not uncommon situation as you ride around Columbia, pipes run into
18 problems and you can't, if you've got a building sitting on pipe, you can't repair it and
19 the worst case scenario like on Abelia Road, yesterday last night a 16" sink hole came
20 up. So, I mean –

21 MR. RUSH: Is that pipe operable? I mean, are they using that pipe, is it being
22 used for something Mr. Price, do you know? You guys aren't – you guys tapping into
23 that for sewage or anything like that?

1 MR. JAMES: It's storm water.

2 MR. RUSH: I mean, storm.

3 MR. JAMES: Yeah, yeah, storm water. And there is, I mean, you can see where
4 it connects in from across the street. It's across the street where the property is, there's
5 a creek that comes through that property that is coming through this pipe. And I look at
6 that and I guess I see something a little bit – there might be a portion of a swimming
7 pool that is on that [inaudible] it's holding water all the time across Blair Road. I don't
8 know where that pipe goes as it comes through there, but I don't, I see some space
9 where it may not have a –it may have a swimming pool on it but I don't think it's got a
10 building on it. And –

11 MR. RUSH: And that part's been approved already? Movement of that easement
12 has been approved already?

13 MR. PRICE: It will be with the plans, when he submits the plans. Have you
14 submitted?

15 MR. JAMES: No.

16 MR. PRICE: Okay.

17 MR. PRICE: Yeah, one of the things we did pull up and that's the flow
18 accumulation that kind of runs through the property and that may have –

19 CHAIRMAN MCDUFFIE: Yeah, but that's based on the typography on the
20 ground, not based on where somebody may have put a –

21 MR. PRICE: Pipe.

22 CHAIRMAN MCDUFFIE: - culvert.

1 MR. RUSH: I assume that based upon the typography by relocating it the way
2 that it's going to sort of go around – that's [inaudible].

3 CHAIRMAN MCDUFFIE: Would any of the Board Members care to go through
4 the Findings of Fact? Are there any further questions? Don't all jump at once. [laughter]

5 MR. COOKE: Alright, first question would be are these extraordinary and
6 exceptional conditions pertaining to the particular piece of property? I'm going to say,
7 yes. And the reason why, that I say yes is due to the existence of the drainage
8 easement and the relocation of the drain pipe restricts the developable area of the
9 property.

10 MR. RUSH: With that being said is extraordinary conditions to that piece of
11 property, that pipe runs directly through the next piece, so is it necessarily extraordinary
12 circumstances, if it's not?

13 CHAIRMAN MCDUFFIE: Well, I mean, it's definitely, it could still be an
14 extraordinary circumstance but it's maybe not quite exceptional.

15 MR. COOKE: Yeah.

16 CHAIRMAN MCDUFFIE: It's occurring on adjacent properties as well. But I
17 mean, they're definitely, there definitely is a condition on that parcel though that's
18 preventing the Applicant from being able to utilize it as one would ordinarily buys a
19 parcel of that shape and size. I would concur with -

20 MR. RUSH: Okay. Would application of this Chapter to this particular piece or
21 property – I'm sorry, yes, ma'am? I'm sorry do these conditions generally apply to other
22 properties in the vicinity? I'm sorry, I got ahead of myself. The answer would be no.
23 Would application of this Chapter to this particular piece of property effectively prohibit

1 or unreasonably restrict the utilization of the property because of the aforesaid
2 extraordinary and exceptional condition? That would answer would be, yes.

3 CHAIRMAN MCDUFFIE: I still have an issue with that one.

4 MR. RUSH: Why? Well, let's open it up for a discussion then, what's the issue?

5 CHAIRMAN MCDUFFIE: Will the application of the chapter effectively prohibit it,
6 which I obviously don't think it would prohibit development or utilization of the property.
7 It definitely would create a restriction on the property though, the issue becomes a, you
8 know, is it an unreasonable restriction and my answer, I think, would be no. It's still, it
9 would still be possible to utilize this property in some sort of a commercially or industrial
10 type way that's consistent with the zoning of the parcel. You just can't build something
11 as large as you might otherwise like to build on there and it may not be a suitable parcel
12 for, to put to your client. I'm conflicted. I don't see a lot of harm from granting the
13 variance, but at the same time, I'm not sure that we're necessarily meeting the criteria
14 for the variance here.

15 MR. COOKE: Okay. I'm going to move on to Number 7 with that being said and
16 you still want us to discuss that don't you because -

17 CHAIRMAN MCDUFFIE: [Inaudible] continue to discuss it.

18 MR. COOKE: Yeah.

19 CHAIRMAN MCDUFFIE: Yeah, I mean, anybody – well, I mean, does anybody
20 have anything to add to it or -

21 MR. COOKE: Well, I guess because of the drainage easement and the
22 relocation of the drainage, true indeed that it probably could be something else. It
23 probably could be an establishment that's smaller, but having this – I guess I'm going to

1 have to go this direction with it, I think by having that Dollar General there in that area,
2 and I know that's not what the case is but, in an effort to create a harmonious
3 community, that's what this Board's job is to do, I think it does, it restricts the utilization
4 of the property and it is extraordinary. I'm just all for having that Dollar General there.

5 MR. RUSH: Well, I guess it –

6 MR. COOKE: I am.

7 MR. RUSH: I'm sorry. And I guess it just depends, is it restricting or is it just
8 restricting for this particular box or this tenant, box and tenant? I guess like the Chair
9 said, I mean, if you put a smaller box on there, can you make it work? I guess you could
10 get six more spaces in there if you had a smaller box. So, I don't know, with that and
11 the drain, you know, I don't know, I've got a couple of questions still lurking with the
12 drainage [inaudible]. Like maybe they're more technical than Staff can –

13 CHAIRMAN MCDUFFIE: Or why couldn't parking be put on top of the new drain
14 pipe easement with the understanding that if the pipe collapses or if there's a
15 maintenance issue then, go in and remove the asphalt and make the repair. I mean, it,
16 – obviously becomes prohibitively maybe prohibitively expensive to do that at some
17 point. But we're talking about creating a, putting a new pipe. I don't know what the
18 lifespan is of, you know, but I mean, somebody could definitely come in and build
19 something on the front half of this parcel.

20 MR. COOKE: I don't know the average size of most establishments. And I know
21 you stated that 9,000 square footage was the minimum, so we're talking about reducing
22 something to what 8,500 square footage and the only – I don't know the average size,
23 I'm not an expert in that [inaudible].

1 CHAIRMAN MCDUFFIE: Even 8,500 square feet might not fit on this parcel but

2 –

3 MR. PRICE: Seventy-five.

4 MR. COOKE: So, it's 7,500?

5 MR. PRICE: It would be 7,500.

6 MR. COOKE: It would be 7,500 that will have to, I mean, even though the 9,000
7 if you – like we were saying, if you flipped it around and the back would be on Blair
8 Road, you can't pull in trucks off of Bluff Road with that. Bluff Road is a major highway,
9 and you can't back in cars off of Bluff Road like that, you're going to create an accident,
10 it's going to create –

11 MR. RUSH: Say that again?

12 MR. COOKE: What you were trying to explain earlier, you Mr. Rush, you was
13 talking about taking the back end and flipping it to the side, if I understand you correctly.

14 MR. RUSH: Basically turn.

15 MR. COOKE: And basically turning it so the back is the top we're showing here
16 and it would be on Blair Road and all your parking would be on Bluff Road but bringing
17 a truck in and off of Bluff Road and bringing customers in and off of Bluff Road is, you're
18 going to endanger –

19 MR. RUSH: I think you're still have the access point down the Blair Road
20 [inaudible].

21 MR. JAMES: But you wouldn't – well, if I may? If it's proper for me to –

22 CHAIRMAN MCDUFFIE: No, go ahead.

23 MR. COOKE: No, sure Mr. James.

1 MR. JAMES: The driveway being shown where it is, is the closest to the
2 intersection that we'll be allowed to have it by DOT. And, you know, Bluff Road and
3 Blair is really signalized. Our desire is to keep a drive on Blair Road and turn the
4 building as you're describing and keeping it outside of the easement area really calls
5 into question whether or not we'll be able to keep that driveway there.

6 MR. COOKE: So the driveway is the closest you can have it to the intersection?

7 MR. JAMES: That's right. Both of these driveways are as close to the
8 intersection as we can have and we have been told by DOT in a preliminary review of
9 this site plan, don't even come in here with a full access drive off of Bluff Road.

10 CHAIRMAN MCDUFFIE: Mr. Price? I have a question. In the Land
11 Development Code, would the required number of parking spaces differ between
12 different zoning classifications?

13 MR. PRICE: No, sir and actually –

14 CHAIRMAN MCDUFFIE: Just based on the square footage of the –

15 MR. PRICE: - this will apply to another case you probably will see, it's retail.

16 CHAIRMAN MCDUFFIE: So, it's just for retail uses?

17 MR. PRICE: It's for retail –

18 CHAIRMAN MCDUFFIE: Regardless of whether M-1 or C-1 or whatever?

19 MR. PRICE: No, sir? Just retail. And so, you know, every, I guess retail
20 establishment has different needs, but we just throw it into that category of a retail.

21 MR. JAMES: And just to speak a little further to that from our standpoint, we've
22 built over 85 of these in the last five years and we want to abide by Code, we want to do
23 what Code requires us to do but really from our standpoint, you've got two or three

1 employees in there, you've got, you know, 20 cars is as many as you're ever going to
2 see in the parking lot at any given time.

3 MR. COOKE: Yeah.

4 MR. JAMES: I think from a practical and functional standpoint, I don't think we're
5 giving up much to go to the 30. I know that y'all have got procedural and a Code issue
6 we have to deal with here but I think from a practical standpoint, I don't think we're
7 contributing to the business by granting some kind of hardship [inaudible].

8 CHAIRMAN MCDUFFIE: And practically, I'm inclined to agree with you. The
9 issue becomes that if we grant a variance that doesn't meet the requirements for a
10 variance, next month somebody's going to come in here wanting a variance that maybe
11 we don't think they should have. And they'll feel like they're entitled to it because the
12 Board has found that way in previous situations. It would just create an unfortunate
13 situation for us.

14 MR. JAMES: Yeah, I understand and from our standpoint, I mean, we can't
15 make this site work, I'd love to make it work with a smaller building, but my client isn't
16 going to accept a smaller building on this location.

17 MR. MEETZE: Question. These spaces, the employees will be using these
18 spaces also?

19 MR. JAMES: Correct.

20 MR. MEETZE: What would be wrong or would it be practical to have an
21 employee parking lot, so to speak over this drain pipe back here and have six spaces
22 just for employees only?

1 MR. JAMES: Well, and again you start introducing trucks and cars – we’ve
2 already got a difficult situation with that right now. You start introducing trucks and cars
3 into the same traffic pattern and you want to limit that as much as possible. And –

4 MR. MEETZE: Well, these folks, they have done their feasibilities and that
5 smaller prototype either works or it doesn’t work because they have to have X number
6 of square footage to be able to generate the revenue that they have to have to be able
7 to have a tenant with a long term lease.

8 MR. JAMES: Correct.

9 MR. MEETZE: So, that’s why you’ve got your number [inaudible] this is it take it
10 or leave it.

11 MR. JAMES: Well, I mean, you know, there’s some flexibility from a standpoint
12 of going a 12,000 versus a 15,000 versus a 9,000. And there’s some flexibility on that
13 end –

14 MR. MEETZE: But 9,000 is your minimum because the feasibility just will not
15 allow –

16 MR. JAMES: Right.

17 MR. MEETZE: – any type of, what you want to say, a positive bottom line.

18 MR. JAMES: Right. They’ve got all their metrics that they have to run and meet
19 with and these guys are building a lot of stores kind of across the country and to start
20 trying to customize buildings, which gets expensive and requires brainpower and effort
21 that, you know, from their standpoint, they’re going to look at this and say, you know
22 what, if you reduce the size of the building, we’re going to do less in sales, which is

1 going to make it a more marginal store, if not an unprofitable store. So we have to –
2 this is what we want.

3 MR. MEETZE: For what it might be worth, I've traveled the state and I have seen
4 many, many, many of these stores just like the gentlemen, said, I don't know that I've
5 been there morning, noon, night, weekends, and I don't know that I've ever seen a
6 parking lot more than maybe with half a dozen of maybe a dozen cars in the lot at any
7 given time.

8 CHAIRMAN MCDUFFIE: I mean, I'm absolutely inclined to agree with that, I
9 don't –

10 MR. MEETZE: Maybe during the Christmas rush.

11 CHAIRMAN MCDUFFIE: I mean, people don't spend hours inside the Dollar
12 General.

13 MR. MEETZE: That's right.

14 CHAIRMAN MCDUFFIE: They go in and get their stuff and they get out.

15 MR. MEETZE: Most of them are on a mission. You'll have tremendous walk-in
16 traffic there, is what I'm looking at.

17 MR. RUSH: I guess we're just trying to get the bottom of is based on the
18 property itself, based on what they're trying to do [inaudible] and what they're asking for
19 do they fall within our Code as it reflects to what they're trying to do?

20 CHAIRMAN MCDUFFIE: Do they meet the requirements for the variance?

21 MR. RUSH: Yeah, and I then, like I say, I totally agree with the guys as far as
22 maybe the traffic count and pedestrians entering in and out the store but besides that, if

1 we got back to the letter of what we're making our decisions on, does it meet that
2 requirement? And just based on six and – I don't know. I still have some concerns.

3 MR. MEETZE: Six parking spaces staying in the way of a very profitable tax
4 producing entity here on what is now nothing but a vacant lot.

5 MR. RUSH: Yeah. And at the same time, it relates to our Code, we don't make
6 decisions based on profitability or whether it's a revenue generating source or not and
7 that's sort of defined in our –

8 MR. COOKE: Well, I guess the question was the unreasonable restrictions – the
9 utilization of the parking. And again, I'll say I'm not an expert on sizes of
10 establishments, but you're talking about what Mr. James said is that is as close as he
11 can get to an intersection, you know, with DOT regulations. And also if you're talking
12 about putting a smaller establishment, you're talking about 7,500' rather and having a
13 loading dock that basically can't go any closer than that, so I really can't think of
14 anything else that you can put there besides, I don't know, maybe a small convenience
15 store. I don't know what else you could put there that because of the restrictions for
16 DOT and because of that drain pipe, it really, to me, it restricts the utilization of the
17 property as a whole. It does.

18 MR. JAMES: Well, if I may say one additional thing to that, we're purchasing the
19 property from Tucker Oil Company, they own Corner Pantry. If he saw this as an
20 opportunity for him to put a convenience store in it, I assume he wouldn't be selling to
21 us. And in addition to that, I mean, we do – our primary client in this area is Dollar
22 General. But we're familiar with some of the other dollar retailers and there isn't
23 anybody who's got a prototype that's any smaller than the one we're talking about

1 whether it's Family Dollar or Dollar Tree. And certainly you might end up with
2 somebody who is trying to do it on their own and create their own business here, but I
3 certainly would feel more comfortable with the staying power of Dollar General in this
4 location than I would with somebody who was going to try to come out and [inaudible].

5 CHAIRMAN MCDUFFIE: I mean, that being said, the existence of a 60" drain
6 pipe wasn't an unknown factor though [inaudible]. You know, and for you to purchase
7 the property, you knew that this was there.

8 MR. JAMES: Oh yeah, that's why I'm here.

9 CHAIRMAN MCDUFFIE: Pre-existing.

10 MR. JAMES: We haven't bought the property yet. I mean, our purchase, our
11 acquisition of this and our development of this property is contingent on us navigating
12 through this process successfully.

13 MR. MEETZE: Pardon me, this is a gray area issue, I'm thinking. But I think
14 there has to be a little common sense involved in the thing also.

15 MS: PERRINE: Well, I would think that if Staff has done their homework and
16 they indicate to us the subject parcel meets all the criteria, then it meets it so.

17 CHAIRMAN MCDUFFIE: Do we have a consensus to continue to move forward
18 at this time?

19 MR. COOKE: Yes.

20 CHAIRMAN MCDUFFIE: Okay.

21 MR. COOKE: So, the next question is will granting this variance be of substantial
22 detriment to adjacent properties or to the public good or will it harm the character of the
23 district? I'm going to definitely say, no.

1 MR. RUSH: Can we say with all certainty that by relocating that storm drainage,
2 there wouldn't be any issues with that? Staff, can we say that?

3 MR. PRICE: I could never say that.

4 MR. RUSH: No, I'm asking, I guess I'm asking.

5 MR. PRICE: No.

6 CHAIRMAN MCDUFFIE: I would assume that some PE has to sign off on it -

7 MR. RUSH: Yeah.

8 CHAIRMAN MCDUFFIE: - and agree that it's not going to [inaudible] functioning
9 of the pipe. But I don't think that's really [inaudible] involved with granting of the
10 variance [inaudible]. I don't think we have the technical expertise to say that that would
11 create a flow issue.

12 MR. RUSH: Hey, either way, I guess we can't say.

13 MR. COOKE: Yeah. So Mr. Chair, I'd like to move to approve variance 10-08
14 based on the Findings of Fact.

15 MS. PERRINE: I'll second.

16 CHAIRMAN MCDUFFIE: At this time we have a motion to approve based on the
17 Findings of Fact. It has been properly seconded. All those in favor?

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

19 MR. PRICE: Those in favor are Meetze, Perrine, McDuffie, Cecere, Cooke and
20 Smith.

21 CHAIRMAN MCDUFFIE: All opposed?

22 MR. PRICE: Rush.

1 CHAIRMAN MCDUFFIE: Okay, Mr. James you have your variance and Staff will
2 be in touch.

3 MR. JAMES: Great, thank you very much.

4 CHAIRMAN MCDUFFIE: Alright at this time, Mr. Price, if you would please call
5 the next case?

6 **CASE NO. 10-09:**

7 MR. PRICE: Okay. They were mislabeled but we kind of go from here. The next
8 case is 10-09 Variance. The Applicant is requesting the Board of Appeals to grant a
9 variance to encroach into the required, it's actually side yard setbacks, I have rear, but it
10 actually side yard setbacks on property zoned rural. The Applicant is Bobby Fuller, the
11 location is 148 Riddle Landing Road, parcel size is a little bit less than an acre and the
12 existing land use is a residential structure on the property. And Staff found that it was
13 built around 1936 and that according to the Applicant the current structure is not in any
14 condition to rehabilitate and it is their intention to tear that down and replace that with
15 another structure. The area is comprised with many single family residential dwellings
16 many of which abut Lake Murray. We've kind of gone, seems like we run across this
17 periodically with the, especially for those of you have been on Board for awhile. Lake
18 Murray rural zoning, non-conforming lots, all kind of go together. And this is the case,
19 I'll kind of go through the slides here. View from Riddle Landing Road, and fence – I
20 believe this serves as the property line. As you can see the current setback from the
21 existing structure to the fence on that side and the same thing here, really isn't, wouldn't
22 meet our 20' setback for the rural district. Let me pull a plat for it. If you can kind of
23 make that out, it's in your Agenda here. One of the things that we ask the Applicant to

1 do was to kind of impose the proposed dwelling on the property so that you could see
2 exactly what the setbacks would be. One of the things that Staff did point out is, you
3 know, once we begin, when we start looking at the other options that are available, I
4 believe it's going to be a manufactured home and it could be oriented a certain direction
5 to potentially meet the setbacks. One of the reasons why Staff didn't necessarily
6 support that option is because the other homes, the orientation of the other homes, this
7 would make, this really is kind of character because of the other homes typically either
8 face the front, face toward Riddle Road or some of them actually face Lake Murray, they
9 don't face the side property lines so, that's why Staff wasn't in support of that particular
10 option. And that's it.

11 **TESTIMONY OF ROBERT FULLER:**

12 MR. FULLER: Mr. Chairman, ladies and gentlemen, I'm Robert Fuller. I am here
13 today as attorney for the Applicant/Owners of this property Chuck and Joni Beaman.
14 They are not at present with us today but actually Ashley Beaman, the daughter of the
15 property owners who proposes to occupy the property, is present today if there were
16 questions that you needed to ask of us. What I have sent up to you is a little further
17 definition of the property by way of graphics, showing various views of the property as it
18 is presently constructed with the somewhat dilapidated small concrete block structure
19 that constitutes the existing residence that has been on the property for many years. I
20 tried to give you photographs that would give an indication of the proximity of the
21 existing structure to the side property lines. It is an extremely large lot, but it has a
22 generally trapezoidal shape with extremely long side lines to a very narrow front and a
23 fairly substantial lake frontage. The location of the house structure on the property at

1 this time is the location that was historically the location of the structure. At the time that
2 it was built, there were no side line restrictions. At the time that the Beaman's acquired
3 the property, there was a consideration of the possibility that side line restrictions were
4 10' but the structure was already in place and was, as it is presently, situated on the lot
5 already there. The second sheet that accompanies the photographs is a copy of the
6 surveyor's plat of the lot. All of which you has placed the proposed replacement
7 structure which is in essence a structure that is 44' x 28'. The existing house on the
8 property that would be replaced is 49' in width [sic] by 21 and a little bit in width. So, in
9 effect the request being made for the replacement structure will be still an
10 encroachment into the 20' side line setback but it will be less encroachment than is
11 presently there with the structure that occupies the property at the present time. We
12 have presented to you this indication with the expectation that you might have some
13 questions about the location of the building on the property. The only question that has
14 come up from anybody in the neighborhood related to whether or not the location of the
15 structure was going to be moved any closer to the lake. There was no objection from
16 anybody to a continuation of the structure in essentially in the same place, occupying
17 essentially the same location on the lot. The only concern from those who are
18 approximate to the location would have been if the structure were moved down the hill
19 where the side lines were further removed from the structure, but there would be a view
20 consideration from houses that were located on either side towards the lake. There is
21 a wide diversity of house types, if you will, off of Johnson Marina Road and Riddle
22 Landing Road and around the lake at this point. Some very substantial sized
23 permanent home structures are in near proximity, several structures that are not terribly

1 unlike the existing structure there, small cabin like construction with appurtenances that
2 have been added on, the Pawley's Island beach houses on stilts, manufactured houses
3 of various sizes and types in the near vicinity. So there is a pretty good amalgamation
4 of types of uses in the area. There are some permanent residents, there are some
5 renters and there are some summer owners. It is the purpose of this application to
6 remove the dilapidated structure that is beyond redemption from interior and exterior
7 and structural specifications, to replace it with a habitable usable structure that Ms.
8 Beaman will occupy as her actual residence on the property. So the intent is to
9 maintain the residential use in essentially the same position, slightly larger area but less
10 encroachment. And we would propose to you that in connection with the variance
11 application requirements, that the lot shape, as Mr. Price has already indicated to you
12 that you find around the lake where there is great – there's no uniformity and a variety of
13 styles and types, this trapezoidal shape creates a diminished width at the very location
14 of where the proper spacing for a residential structure should be on the lot, given the
15 percolation feel for the septic tank and the plumbing facilities on it, the historical location
16 of the residence itself, and the accommodation of essentially the setback features of the
17 surrounding lot. We believe that the side line restriction did not exist when the house
18 was first built, so that situation was not created by the owners. The fact that the house
19 now has a side line encroachment was not something that was developed by the owner
20 of the lot. The side lines were superimposed on the existing condition and what is being
21 requested is not an expansion of the use but a constriction of it to a certain amount
22 relative to the side line restrictions. They do not, the conditions don't generally apply to
23 other properties in the vicinity because there is such a great disparity in sizes, shapes

1 and locations of structures. Some are clearly in violation of side line restrictions and
2 other lot side boundary setbacks but they have been historically in place for so long that
3 there is no real means or remediating those things. This one would be of no different
4 consideration than that. And this location of the proposed replacement structure on the
5 lot is the place where it is best accommodated. Whether or not you could fit in another
6 structure somewhere else where there would not be a violation of the side line
7 restrictions is certainly a possibility because the largest portion of the lot is nearer to the
8 lake. But in, given the unique circumstances and the fact that it is a lake lot adjacent to
9 lake lots where view is a primary consideration for all of the common users of the
10 property, the satisfaction of the neighborhood considerations for maintenance of the
11 relative front line setbacks and the lake vistas is probably a greater consideration than
12 relocation somewhere else on the lot to maintain an artificial conformity to the side line
13 restrictions which have never been a feature of this particular lot. There would be no
14 detriment to the neighborhood if this variance is granted. Indeed, it would be an
15 improvement, the replacement of a substandard structure with a modern residential
16 structure continuing the use but in a reasonable manner, a more modern use of the
17 property and an occupied use on the property would be a convenience for the
18 neighborhood and for the property values that are there. I see no downside in it. It is –
19 we're here because the circumstances converged to require it if the existing structure is
20 to be torn down and replaced with anything.

21 CHAIRMAN MCDUFFIE: Question for Staff. I was just going you, have there
22 been other variances, or is there a record of other variances in the vicinity?

1 MR. PRICE: No, sir. One of the things that we do with, especially variances
2 such as this, we kind of go through our data base to see in that particular street or in
3 that general area. Not in this particular area have there, do we have any records of,
4 now maybe a little further up another road somewhere along Johnson Marina but not in
5 this particular area.

6 MR. FULLER: Mr. McDuffie, I would suggest to you, and I certainly don't know
7 whether they have been variances requested or not, but there are, and I know other
8 violations don't count, but there are many, many structures on Riddle Landing Road and
9 in the vicinity that are way closer than 20' to the side line.

10 CHAIRMAN MCDUFFIE: I do not doubt that.

11 MR. RUSH: So you mentioned in your explanation that there is a possibility of
12 the house sitting further back. I guess your only reason for not having it sit further back
13 is because of keeping the, maintaining your view of the lake? Was that what you said?

14 CHAIRMAN MCDUFFIE: Neighbors view and all that.

15 MS. CECERE: There's also a septic tank problem.

16 MR. RUSH: Well, no – well, go back to – let me ask you a question. Go back to
17 the aerial view. Can you blow that lot up? Well, are you, will you be taking away from
18 the neighbors view if you sit it back adjacent to the neighbors?

19 MR. FULLER: Well, the house is up in this vicinity.

20 MR. RUSH: Yeah.

21 MR. FULLER: As are the houses on either side.

22 MR. RUSH: What is that right there?

23 MR. FULLER: [Inaudible] the hill.

1 MR. RUSH: Let me ask you a question. What is that right – the next lot over?
2 Yeah, that's a house right there, right?

3 MR. PRICE: Yes.

4 MR. RUSH: Now, go to the other lot on the other side. No, the other lot on the
5 right side of it.

6 MR. FULLER: This is the septic.

7 MR. RUSH: Yes, I understand.

8 MR. FULLER: Alright, which one you -

9 MR. RUSH: The house to the right. Yeah. Where is the house on that property?

10 MR. FULLER: There's a house there.

11 MR. RUSH: Setting back there.

12 MR. FULLER: There's another house up in here. Did, that map, I don't think
13 shows exactly what's there.

14 MR. RUSH: So there's two houses on that one lot?

15 MR. PRICE: Which one – is this?

16 MR. RUSH: To, south of the –

17 CHAIRMAN MCDUFFIE: The parcel immediately adjacent to the south of the
18 subject parcel.

19 MR. COOKE: There's two houses.

20 MR. RUSH: Now, come down. Now lower –

21 MR. COOKE: If you look at your –

22 MS. CECERE: Right there.

23 MR. COOKE: - over to the property.

1 MR. RUSH: On that property right there, where is the house located?

2 MR. COOKE: - [inaudible] sitting right next to it, see? It's right there.

3 MR. RUSH: So, by sitting it further back, you will block the, you were saying it
4 will block the view of others?

5 MS. CECERE: Plus, you've got the septic tank and the drain line to deal with.

6 MR. RUSH: Well, with the septic tank and drain line are they, I guess that's a
7 DHEC question, it's not –

8 MR. FULLER: But there's –

9 MR. RUSH: - on us but will they -?

10 MR. FULLER: There's a substantial elevation difference –

11 MR. RUSH: I'm pretty sure.

12 MR. FULLER: - down to the lake so the septic field as it is shown on the plat is
13 from in this area and runs down and that is a fairly substantial downhill elevation.

14 MR. RUSH: Yeah.

15 MR. FULLER: And everybody along the same bank shares that common
16 denominator. There are houses that are closer to the water, but in this particular
17 circumstance, the historic location on this lot including the approved percolation field,
18 the septic tank and the approved location for the house and the sewer facility, it would
19 be further uphill than you are thinking by moving down to the wider portion of the lot.

20 MR. RUSH: So this –

21 CHAIRMAN MCDUFFIE: You would have to go down pretty far on the lot as well
22 to get, to be able to get a proposed building onto the lot with a 20' setback. I think you'd
23 have to be right down need the 100 year flood plain elevation.

1 MR. RUSH: Probably as it relates to the other houses, probably within the same,
2 lined up with the rest of the houses.

3 CHAIRMAN MCDUFFIE: I don't know on here where they are, but I mean, you'd
4 have to [inaudible].

5 MR. RUSH: no, I'm just saying based on –

6 CHAIRMAN MCDUFFIE: I mean, you'd have to be – you'd have to be very, very
7 far off the lot.

8 MR. FULLER: The house to the – as you stand on the rear deck of this property
9 looking to the lake, the house to the right is somewhat forward. The house to the left is
10 as the same setback elevation as the house that is presently on the lot. There is
11 another house on the adjacent lot, there's one here and there's one that is back in here.
12 So, they are at random locations. The only people that responded in any way to the
13 posting of the property were those who said they're concern was that the house not be
14 moved closer to the lake. They had no problem with the location where it was, so long
15 as it was not being moved down to the lake. And there is no intention to do that, there's
16 no necessity to do that and indeed it would be an awkward and possibly not feasible
17 thing to do.

18 MR. PRICE: Mr. Rush, we're kind of looking at this, if the rear of the property is
19 let's say 100', which is shown, you take away the 40' that you would be required for
20 your side yard setbacks and then that drain field looks like it's about at least 20' so you
21 probably want to be a few feet off of that, seems that regardless of whether you move it
22 further back or not, it's still going to require a variance unless the structure is, you know,
23 oriented, you know, I guess more or less to face a side rather than a rear or the front.

1 MR. RUSH: So that drain, that septic tank is the proposed septic tank.

2 MR. FULLER: No, it exists.

3 MR. RUSH: Oh, that's the existing one. So you're going to basically tap into the
4 existing septic tank.

5 MR. FULLER: Yes.

6 MR. RUSH: This was the one from 19 – when was this house built?

7 MR. PRICE: Record shows 1936. I can't say when the septic tank was there,
8 but clearly 1936 was when the home was built.

9 MR. FULLER: The whole idea here being to do as little to the existing
10 circumstance as necessary to change only for the better in the sense that that which is
11 beyond repair be made usable for the same purpose.

12 CHAIRMAN MCDUFFIE: By granting the variance we in fact would be reducing
13 the encroachment. [Inaudible] the required side setbacks. Given that this won't be
14 quite as wide as the house that's there now. We've been seeing a lot of these those
15 though.

16 MR. COOKE: Especially around the lake.

17 CHAIRMAN MCDUFFIE: Where folks are. You're wanting to build a new lake
18 house on a lot that's zoned rural that basically cannot be done. That's the facts that are
19 described by the Code. Would anyone care to go through the Findings of Fact?

20 MS. PERRINE: I'll do it. Are variance an extraordinary or exceptional conditions
21 pertaining to the particular piece of property? Yes. And I would say because of the
22 configuration of the parcel, also that the setbacks and the location of the septic tank and
23 drain fields. Do these conditions generally applied to other properties in the vicinity?

1 No. Would application of this chapter for this particular piece of property effectively
2 prohibit or unreasonably restrict utilization of the property because of the aforesaid
3 extraordinary or exceptional conditions? Yes. [Inaudible] or restriction? There again, I
4 think it's because of the way the parcel is.

5 CHAIRMAN MCDUFFIE: You'd have a very tough time building a structure that's
6 similar to the neighboring structures.

7 MR. RUSH: Can I ask one question?

8 CHAIRMAN MCDUFFIE: Yeah.

9 MR. RUSH: I guess with the septic, it's saying that's the approximate location
10 based on who - did the surveyor make the recommendation this is the best place for the
11 septic?

12 MR. FULLER: No, it has been –

13 MR. RUSH: Oh, that's where it –

14 MR. FULLER: - that is the location.

15 MR. RUSH: Oh, okay. Okay.

16 MR. FULLER: That is the approved DHEC location and there may be no other.

17 MR. RUSH: Alright.

18 MS. PERRINE: Okay. Will the granting of this variance be of substantial
19 detriment to adjacent property owners or the public good or will it harm the
20 neighborhood of the district? No.

21 CHAIRMAN MCDUFFIE: Would anyone, would anyone care to make a motion?

22 MR. MEETZE: I so move, that the variance be granted.

23 CHAIRMAN MCDUFFIE: Alright, is there a second?

1 MR. SMITH: Second.

2 CHAIRMAN MCDUFFIE: Alright, we have a motion to approve variance 10-09
3 based on the Findings of Fact that has been properly seconded. All in favor?

4 MR. RUSH: Those all in favor: Meetze, Perrine, Rush, McDuffie, Cecere,
5 Cooke, Smith.

6 CHAIRMAN MCDUFFIE: All opposed?

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

8 CHAIRMAN MCDUFFIE: Mr. Fuller, you have your variance, have fun at the
9 lake.

10 MR. FULLER: Thank you, Mr. Chairman.

11 CHAIRMAN MCDUFFIE: Mr. Price, if you would call the next case.

12 **CASE NO. 10-10:**

13 MR. PRICE: Next item is Case No. 10-10 Variance. The Applicant is
14 requesting to Board of Zoning Appeals to grant a variance to exceed the
15 maximum number of off-street parking spaces on property zoned GC. Applicant
16 is Gretchen Lambert, location is 78 Polo Road, parcel size is about 2.69 acres.
17 The subject property has an existing 12,000 square foot medical office. The
18 Applicant is proposing an addition to the existing structure which would result in
19 the total square footage of 14,700. As stated, the Applicant is asking for a
20 variance to exceed the allowed number of parking spaces by 12. I'll pretty much
21 let the Applicant -

22 CHAIRMAN MCDUFFIE: Is this the first one of these that we've seen?

1 MR. PRICE: Huh?

2 CHAIRMAN MCDUFFIE: Is this the first one of these that we've seen?

3 MR. PRICE: In awhile – yes, sir. This is one and, you know, I don't want
4 to initially go back to any of the previous cases we've had, but one of the things
5 about our parking ordinance to require parking spaces, is it does through
6 everything into a category, so you may have certain uses that just function
7 differently, so they have different needs. So one of the things that as you can
8 see, Staff did recommend approval on this; however, from speaking to the
9 Applicant, [inaudible] best that she could demonstrate what and why the needs of
10 the hospital would require, or excuse me, the doctor's office would require the
11 additional parking spaces.

12 CHAIRMAN MCDUFFIE: Thank you.

13 **TESTIMONY OF GRETCHEN LAMBERT:**

14 MS. LAMBERT: Good afternoon. Thank you for hearing my case this
15 afternoon. Lexington Family Practice Northeast is –

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

18 MS. LAMBERT: Oh, I'm sorry. Yes. Gretchen Lambert, with Studio 2OR,
19 801 Gervais Street, Suite 201, Columbia, South Carolina 29201. Lexington
20 Family Practice Northeast is an existing general practitioner located off of Polo
21 Road. They have been in business for a number of years and have really
22 enjoyed a successful practice at that location. They are currently under a couple

1 of rules by the insurance companies that they have to deal with that creates a
2 scheduling issue creating a greater number of people at the site than they have
3 ever had previously. Currently, the insurance companies require them to
4 schedule all of their either lab functions or their exam rooms in 20 minute
5 increments throughout the day. With a number of existing exam rooms and lab
6 functions that they have, they're actually currently at a, running a negative. They
7 need more spaces now to be able to handle the load that they have. And they do
8 have currently 28 staff and 38 patient spaces for their needs. They need 66
9 spaces and they currently have 63. What we're looking at doing is increasing
10 their number of exam rooms and also bringing a CT scanning function to this
11 general practitioner's office to better serve the community. In doing so, they're
12 going to require 33 staff parking spaces and 58 patient parking spaces. That
13 actually comes to 91 spaces, but we're asking for a variance for 86 parking
14 spaces. We feel that that number better fits with the flow that's existing on the
15 site and won't create any detriment to the property. We have - Mr. Price, if we
16 could go to my civil drawing, if you don't mind? What we're doing is proposing
17 that we add three parking spaces in an existing planting bed next to the existing
18 entrance to the building, and then we are proposing that, you'll see on the bottom
19 left of the plan, oh, thank you, I don't travel with a pointer. Let's see if I can figure
20 out how to use it now. What do I do?

21 MR. PRICE: See the little button?

1 MS. LAMBERT: Yes. Ah, alright. The three spaces that we're proposing
2 to put into the planting bed are located right here next to the existing main
3 entrance to the building. The other spaces that we're proposing adding are
4 located right here. They are adjacent, immediately adjacent to the existing
5 parking flow which you see right here. We're actually losing some of the existing
6 parking in the back because of the location of the addition to the property here.
7 So, we will lose a number of spaces back here and hope to gain some of those
8 spaces back. Another problem that we have at this site is it is not a walkable
9 site, we aren't in a very urban location, it's very suburban; Polo Road and Two
10 Notch Roads are very, very busy. Everyone who comes to this location will be
11 driving a car. And so we are in a situation where we are going to need to,
12 unfortunately, unlike the first Applicant you had, we're not going to have foot
13 traffic that he would have at his property. Another thing to point out to you in the
14 location of our property is that the other adjacent properties are completely
15 developed. We are adjacent to a very large shopping center here, which is
16 completely built out and completely parked. We also have a small children's
17 physician's office behind us and currently on our site, we are loaning them
18 parking spaces, there's a cross parking agreement which means that that takes
19 away parking spaces for us, but it's necessary for the function of their business.
20 So we have not included those parking spaces in any of our counts because
21 technically, they are not ours to use. Immediately across the street from our
22 existing property is, Geo if you could go up on the other side of Polo Road, yes –

1 thank you; is an existing shopping center here which is not facing towards Polo
2 Road, it is facing towards Two Notch so the front of our property is really facing
3 the side of the [inaudible] right here. And then immediately adjacent to our
4 property, there is a housing complex or a small office complex here. We have
5 the luxury of a very large natural buffer with landscaping and also a number of
6 easements that go through that location that will not allow any building to occur
7 on that; therefore, our proposed parking will be maintained within the existing flat
8 surfaces adjacent to our existing parking here. There is a large elevation change
9 that happens right here along this easement before we get to the natural
10 landscape area. One thing that we definitely don't want to do with the success of
11 this business is negatively impact any of our neighbors. We would not want to
12 have a situation where our patients or our staff are seeking parking in any of our
13 neighbors' parking lots. That would obviously create a hardship for the neighbors
14 and it's not something that we're interested in doing. One thing that we're afraid
15 of is that patients obviously, especially if they're running late for a doctor's
16 appointment, are going to try and find the easiest parking possible to get in as
17 quickly as possible and so we definitely want to try to negate that. And as far as
18 the impact that it will have on the district, because we're dealing with an existing
19 building and existing parking, we feel that this probably will not create any kind of
20 hardship aesthetically. The parking that's there existing we're just going to be
21 continuing. Luckily, it is not going to be impacting any existing properties views
22 of anything, we also have a situation where we don't have any other properties

1 directly viewing our property. There are a number of physical items on our site
2 that help screen the parking that we're talking about adding here, the landscape
3 buffer does come around right in this location and there's existing fencing there
4 that will not be modified. Also, we have a number of plants that are planted
5 currently in front of the existing parking lot that help to screen it from Polo Road.
6 Thinking about Polo Road, obviously, if you've been up there, you know how
7 much traffic there is there anyway, so we are not luckily pulling out onto Polo
8 Road. All of our traffic is happening along this road that is part of this shopping
9 center complex, so we will not be in any way creating any further danger to any
10 of the drivers along Polo Road, we're coming out at an established intersection.
11 That's really it. I'm happy to answer any questions or if you have any concerns.

12 MR. RUSH: I've got a question. One thing you mentioned was removing
13 some of the existing landscape, like some of the beds for, I guess those are trees
14 or what have you?

15 MS. LAMBERT: Yes, they're currently low bushes.

16 MR. RUSH: I guess is a two-fold question, Mr. Price, as well. Is there a
17 landscape issue here that we need to be concerned about as far as the
18 landscape ordinance?

19 MR. PRICE: No, sir. If they're removed, they'll need to be replanted.

20 MR. RUSH: I'm sorry?

21 MR. PRICE: Anything that's removed will need to be replanted.

1 CHAIRMAN MCDUFFIE: Is there a limitation as to what portion of the
2 property can be covered with permeable surface?

3 MR. PRICE: No, sir.

4 CHAIRMAN MCDUFFIE: Are there any questions for either Staff or the
5 Applicant at this time? Would someone care to go through the Findings of Fact?
6 I'll go through if no one else wants to. Are there extraordinary or exceptional
7 conditions pertaining to this particular piece of property? And I would say that,
8 yes, they've got certain requirements on their business that are contributing to
9 the needs to expand and expand some more parking spots than the Code would
10 typically allow for. Do these conditions generally apply to other properties in the
11 vicinity? And I would say no. Would application of this chapter to this particular
12 property effectively prohibit or unreasonably restrict the utilization of the property
13 because of the aforesaid extraordinary and exceptional conditions? And I would
14 say, yes. Would the granting of this variance be a substantial detriment to the
15 adjacent property or to the public good or will it harm the character of the district?
16 And the answer is, no. If there is no discussion at this time, I'd like to make a
17 motion to approve variance 10-10 based on the Findings of Fact.

18 MR. SMITH: I'd like to second.

19 CHAIRMAN MCDUFFIE: A motion and it is seconded for approval, all in
20 favor?

21 MR. PRICE: Those in favor are: Mr. Meetze, Ms. Perrine, Mr. Rush, Mr.
22 McDuffie, Ms. Cecere, Mr. Cooke and Mr. Smith.

1 *[Approved: Meetze, Perrine, Rush, McDuffie, Cecere, Cooke, Smith; Opposed:*
2 *None]*

3 CHAIRMAN MCDUFFIE: None opposed.

4 MS. LAMBERT: Thank you.

5 CHAIRMAN MCDUFFIE: Thank you very much Ms. Lambert, Staff will be
6 in touch. At this time we also have, need to approve the Minutes from June of
7 2010. Is there, are there any corrections to the Minutes or would anyone like to
8 make a motion for approval?

9 MR. SMITH: I make a motion to approve the Minutes for June 2010.

10 MS. PERRINE: Second.

11 CHAIRMAN MCDUFFIE: Alright. All in favor?

12 MR. PRICE: Those in favor are: Mr. Meetze, Ms. Perrine, Mr. Rush, Mr.
13 McDuffie, Ms. Cecere, Mr. Cooke and Mr. Smith.

14 *[Approved: Meetze, Perrine, Rush, McDuffie, Cecere, Mr. Smith; Opposed:*
15 *None; Abstained: Cooke]*

16 CHAIRMAN MCDUFFIE: Minutes from June 2010 are approved. And if
17 there is no other business, any other business?

18 MR. SMITH: Mr. Cooke wasn't here. Okay, you got that already. Okay.

19 CHAIRMAN MCDUFFIE: Okay, if at this time, there's no other business,
20 this will conclude the -

21 MR. PRICE: Yeah, there will be no cases for August, so we will not have a
22 meeting.

1 CHAIRMAN MCDUFFIE: Alright, so the next meeting will be in
2 September.

3 MR. PRICE: Yes.

4 CHAIRMAN MCDUFFIE: Alright, at this time we conclude the public
5 portion of the meeting.

6

7

[Meeting Adjourned at 2:30 pm]