

Richland County/Board of Zoning Appeals  
September 2010

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

Called to order: 1:00 pm

CHAIRMAN MCDUFFIE: [Inaudible] have Ms. Amelia Linder explaining 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 believe we have three cases this afternoon. This Board is a *quasi* judicial body which means their decision is final subject to next month's meetings, next month when they approve the Minutes, then an Order will go out and you'll have 30 days if you're unhappy with the decision, to go to Circuit Court. If there's no appeal, then the decision that's mailed out will be final. If you'd like a copy of the Order make sure you're an interested party by being signed up so we have your name and your address. We will take the cases as they appear on the Agenda today. The applicant will have up to 15 minutes to present his or her case, if there is any opposition, people that are opposed to the request will have up to three minutes to speak. After the opposition has spoken, the Applicant will again have up to five minutes to rebut what the opposition said. Please when you come to the podium address your remarks to the Board and not to members of the audience or to Staff. You will be under oath, the people that wish to speak and so in a little bit, I will ask you to stand if you plan to testify, you'll take an oath to tell the truth which of course, I believe all of you would do anyway. Please at this time, turn off or silence any cell phones you have with you. If you need to leave the room, you may

1 do so. I just ask that you do so quietly. This is really not as formal as a Court. If you  
2 have any evidence you wish to submit, any written documents, you may do so. But  
3 otherwise, your spoken testimony will be given the appropriate weight that the Board  
4 determines. At this time, are there any questions about how we're going to proceed?  
5 Alright, anyone that is planning to testify and give evidence today, I would ask you to  
6 stand at this time and raise your right hand. Do you swear or affirm that the testimony  
7 that you shall give shall be the truth, the whole truth and nothing but the truth so help  
8 you God?

9 AUDIENCE: I do.

10 MS. LINDER: If anyone answered in the negative, please let me know.  
11 Otherwise, you're all sworn in. Thank you. Thank you, Mr. Chairman.

12 CHAIRMAN MCDUFFIE: Thank you very much. At this time, I'd like to see if  
13 there's a motion for approval of the Minutes from July 2010 or amendments that need to  
14 be made to those Minutes?

15 MS. PERRINE: I make a motion that we approve the Minutes on July 2010.

16 CHAIRMAN MCDUFFIE: Alright, we have a motion, is there a second?

17 MR. RUSH: Second.

18 CHAIRMAN MCDUFFIE: We have a motion and second. All in favor?

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

20 CHAIRMAN MCDUFFIE: Alright, it's unanimous the Minutes from July 2010  
21 are approved. And at this time, we'll move to the public hearing portion of today's  
22 Agenda and Mr. Price if you would call your first case when you're ready.

23 **CASE NO. 10-11 V:**

1 MR. PRICE: Okay, the first item is case 10-11 Variance. The applicant is  
2 requesting the Board of Zoning Appeals to grant a variance to encroach into the  
3 required setbacks on properties zoned RU. The applicant will be the City of Columbia  
4 will be represented by Joseph Jaco. The location is 1244 Winterwood Road. The  
5 parcel size is about .42 of an acre and the existing land use is a water pump station. As  
6 stated, the property does have an existing water facility on it. And the applicant is  
7 proposing to upgrade the existing pump station. The area is comprised of residentially  
8 developed parcels and large undeveloped tracts. In the rural district the required  
9 setbacks are front 40', rear 50 and the sides 20. The parcel is conforming is, excuse  
10 me, is non-conforming, by square footage in the rural district you're required to have  
11 33,000 square feet. According to the information submitted by the applicant, the  
12 proposed upgrades would require an encroachment into the required front yard setback  
13 by 32' and as previously stated, the required setback is 40. The western side yard by  
14 11'1" and the rear yard by 42'. The sides, as stated previously, is 20' and the rear yard  
15 would be just normally 40'. The rear is 50, excuse me. What we have here is just a  
16 picture of the site. This picture represents, of course, the front and also one of the side  
17 yards with the encroachment. As you can see this is, this parcel also leads to the rear  
18 and we'll see on the aerial to an existing water tank. Here's a site plan that was  
19 presented by the applicant, we'll go back to that. Once again, here's the aerial of it, as  
20 you can see that the path that we were showing earlier does lead back to an existing  
21 water tank.

1 CHAIRMAN MCDUFFIE: Alright. At this time we have several individuals signed  
2 up to speak in support. Do we have a Don Franklin? Please come to the podium and  
3 state your name and address for the Record.

4 **TESTIMONY OF DON FRANKLIN:**

5 MR. FRANKLIN: Yes, I'm Don Franklin and my address is 6 Brookstone Court,  
6 Irmo, South Carolina and I work with [Inaudible] the design engineer consultants for this  
7 project, we're here on behalf of the City of Columbia. And I guess just to enhance the  
8 description of the project presented it is an upgrade to an existing water pumping station  
9 and it's on the city's water distribution system and this pump station's on Winterwood  
10 Road in upper Richland County. It moves water from the western side of the distribution  
11 system from Lake Murray to the upper Richland County and into the northeast portions  
12 of Richland County. This pump station has been in, been serving this area since 1990  
13 when it was built and there have been no upgrades to the pump station for the last 20  
14 years. The age of it and just the increasing demand, the water demand in upper  
15 Richland County and the growth over the last 20 years has prompted this project to  
16 make these upgrades. The upgrades to the pump station, if you could see, he's got it  
17 up there includes new pumps which requires new electrical drivers. Those drivers  
18 require a little bigger space and that's our primary encroachment is to the upper part of  
19 that page to the side property and that's a room to put these electrical drivers. And  
20 also, the project is proposed to include a generator for emergency standby power and a  
21 meter ball. And that's – is there any questions about the project?

22 CHAIRMAN MCDUFFIE: Anyone? Yeah, we have two other individuals signed  
23 up to speak, if they wish. Jason Shaw?

1 MR. RUSH: I guess one question. You say it was built in 1990?

2 MR. FRANKLIN: Correct, yes sir.

3 MR. RUSH: Alright.

4 MR. COOKE: Mr. Franklin, the electrical room will help enhance the existing  
5 pump, I'm assuming?

6 MR. FRANKLIN: Yeah, yeah to go into a little more detail about that the interior  
7 of the existing building is really small, it's full.

8 MR. COOKE: Right.

9 MR. FRANKLIN: And this pump station is critical, it can't really be taken off line.  
10 The new drivers will be more efficient and they will drive larger pumps. Our first  
11 alternative was to try to get them in the existing building but it was really no way to take  
12 the old ones out, get the new ones in, find space and that's what's lead us to the new  
13 room.

14 MR. COOKE: Okay.

15 CHAIRMAN MCDUFFIE: Any further questions for Mr. Franklin? Mr. Shaw if you  
16 would please, come to the podium and state your name and address for the record.

17 **TESTIMONY OF JASON SHAW:**

18 MR. SHAW: Yes, my name is Jason Shaw. I work for the City of Columbia; I'm  
19 the assistant city engineer for planning. And our address is 1136 Washington Street  
20 here in Columbia. Just wanted to reiterate what Mr. Franklin said. This is a very critical  
21 pump station to the city's water system. It's a part of capital improvements that we're  
22 going through to upgrade the water system throughout the city and the county. This is a

1 very important project for us and I'd encourage you to approve this motion and allow us  
2 to continue working on this project. Thank you.

3 CHAIRMAN MCDUFFIE: And finally, we have Mr. Clint Shealy signed up to  
4 speak as well.

5 MR. SHEALY: I don't have anything to add, but thank you.

6 CHAIRMAN MCDUFFIE: Okay. Alright, if there are any other question for any of  
7 the applicants -

8 MS. CECERE: I wanted to ask -

9 CHAIRMAN MCDUFFIE: - or for Staff?

10 MS. CECERE: - how soon do you plan on starting on this project? Mr. Franklin?

11 CHAIRMAN MCDUFFIE: Addressed that to Mr. Franklin?

12 MR. FRANKLIN: Well, if we get this approval, we'll proceed with design  
13 immediately and the construction could begin this year.

14 MS. CECERE: And how long will it take to complete?

15 MR. FRANKLIN: We're probably looking at maybe a six month window there to  
16 install these items.

17 MS. CECERE: Okay, thank you.

18 MR. RUSH: Mr. Price, I've got a couple of questions. Are there any other  
19 options as far as rezoning or anything like that? Because basically you're almost going  
20 with no setbacks at all, I mean, very minimal, which -

21 MR. PRICE: I don't know if -

22 MR. RUSH: - [inaudible] commercial zoning.

1 MR. PRICE: - most of these I'll say, at least restrictive front yard setback for any  
2 zoning district is going to be 25' from the front. So that will still require some type of  
3 variance by the Board. And also, we also take into consideration, we try not to rezone  
4 for any specific use because really you're looking at the area, the entire area when  
5 you're talking about zoning.

6 MR. RUSH: Okay, so they're no other options –

7 MR. PRICE: No, sir.

8 MR. RUSH: - other than variance? So, when this building was built, well, I guess  
9 it was within Code then?

10 MR. FRANKLIN: Yes.

11 MR. PRICE: Yes.

12 MS. CECERE: Are there any houses – Mr. Price, are there any houses  
13 surrounding this?

14 MR. PRICE: Looking at the aerial here, there does seem to be two residential  
15 structures on both sides. So, the – it looks like the only, looks like this side, would be  
16 the one where the encroachment, I guess you could argue what affect the property  
17 owner, because the other encroachments would be here and here. And those are  
18 abutting the residential. Now, of course, even with the, if the Board were to grant the  
19 variance, they still would be required to meet certain buffer requirements. And one of  
20 the things that the Board, I believe, you can either go along with what Staff typically  
21 provides for buffering or we could, you know, you could also stipulate something.

22 MS. CECERE: Okay. One more second, is that a water tower behind it?

23 MR. PRICE: Right here.

1 MR. FRANKLIN: It's a water tower, yes.

2 MS. CECERE: Is that right?

3 MR. PRICE: Yes.

4 MS. CECERE: And is that part of this pumping station?

5 MR. FRANKLIN: It is, it currently today is an active but there are no plans right  
6 now to do anything with that.

7 CHAIRMAN MCDUFFIE: You said, it's inactive?

8 MS. CECERE: Yeah, this is the second inactive thing we've had on this – they  
9 just leave all this stuff. Excuse me, I'm sorry. [laughter] Sorry.

10 MR. PRICE: Well, maybe you could ask the applicant what are the plans, you  
11 know, for the existing structures that they don't use.

12 MS. CECERE: And who would answer that though?

13 MR. PRICE: The applicant.

14 MS. CECERE: From the City of Columbia?

15 MR. COOKE: Jason Shaw.

16 MR. SHAW: Yes.

17 MS. CECERE: Mr. Shaw, what are the plans for this not in use water tower?

18 MR. SHAW: Well, it was, the water tower was constructed with the original pump  
19 station.

20 MS. CECERE: Right.

21 MR. SHAW: It has been out of use for some period of time and we are  
22 considering demolishing it with this project, we haven't made that final determination  
23 yet, but that is a consideration that we're going to.

1 MR. RUSH: Can you add that to the project then, as part of the plan?

2 [Inaudible discussion]

3 MS. CECERE: Well, we already have another inactive tower that was on the last  
4 project. Okay, thank you. I'm sorry, go ahead.

5 MR. RUSH: Mr. Price, as far as the buffers, what buffers do you guys typically -

6 MR. PRICE: I can tell you, let me turn to – because this would be it looks like it  
7 wouldn't necessarily be a high impact use. Okay. Well, I guess we would consider it to  
8 be high impact use, so it would be high impact abutting a residential. Looks like they  
9 would have to do at least a D buffer which would require a – if they do within 10 to 15'  
10 which will more than likely be the case because of the setback they're required, they will  
11 have to put in a stockade fence.

12 MR. RUSH: So, the buffer needs to be 10 –

13 MR. PRICE: Well, I mean, by Code they're required to be at least 10'. And also  
14 they will need to put in a stockade fence because I'm assuming if they're asking for a  
15 variance and we can kind of go back here.

16 MR. RUSH: So, we wouldn't have enough room for the buffer for the side  
17 setback? Because they're encroaching well beyond -

18 MR. PRICE: Looks like they –

19 MR. RUSH: [Inaudible].

20 MR. PRICE: - along certain parts they would, looks like they would be about a  
21 foot short but we can, you know, based on that Staff can work with the applicants on  
22 making sure they meet the intent because we do have an alternative landscaping plan  
23 but it looks like the fence will be included in that.

1 MR. RUSH: So, you almost need a variance for the buffer as well because they  
2 won't be able to, as per Code, they won't -

3 MR. PRICE: I guess in a nutshell if you go ahead, and you can check with your  
4 attorney, but it looks like if you were approved this as is, I guess by default, you're  
5 almost giving a foot buffer in a certain section of the required 10' buffer.

6 MS. CECERE: The existing fence, Mr. Price, is it on the proper setback?

7 MR. PRICE: You mean the one abutting -

8 MS. CECERE: The one that's - it shows like it has a fence now - on this picture  
9 that I'm -

10 MR. PRICE: Yeah. Looks like it's running along the property line and you can  
11 put a fence right up to your property line.

12 CHAIRMAN MCDUFFIE: Question for Mr. Franklin. These upgraded pump  
13 motors, things like that are going in here, are they the type of thing that if you were  
14 standing at the edge of the property that you could hear when they're in full operation.

15 MR. FRANKLIN: That's a good question about the noise. The noise comes from  
16 the bearings and the motors and the pumps and they do get louder as they get older  
17 and right now, these are pretty old. You can hear the pumps running if you're standing  
18 outside of the building. I would be confident to say that the newer pumps and motors  
19 will be quieter.

20 CHAIRMAN MCDUFFIE: Okay, they would abate whatever noise is there now,  
21 as least -

22 MR. FRANKLIN: Yeah.

1 CHAIRMAN MCDUFFIE: - I guess? Okay. Are there any further questions for  
2 Staff or for any of the applicants? Would anyone care to go through the Findings of  
3 Fact? Don't all jump up.

4 MR. FRANKLIN: I guess I would make one more point of clarification. The  
5 meter vault that we had at the front of the property is a – on the left there, it's a below  
6 grade utility vault. It's not anything above grade there.

7 CHAIRMAN MCDUFFIE: Will the existing valve vault that is above grade out in  
8 front stay in place or -

9 MR. FRANKLIN: Well, that existing valve vault, it's not above grade either -

10 CHAIRMAN MCDUFFIE: Okay.

11 MR. FRANKLIN: - it's at grade. The top of it's probably maybe a foot above  
12 grade.

13 CHAIRMAN MCDUFFIE: What am I seeing out here?

14 MR. FRANKLIN: That check valve does have to stay. It does stay.

15 CHAIRMAN MCDUFFIE: I guess I was – maybe it's an electrical box or  
16 something that's there - a transformer?

17 MR. FRANKLIN: I believe that's a transformer, yes sir.

18 CHAIRMAN MCDUFFIE: That will stay where it is?

19 MR. FRANKLIN: Yes, sir.

20 CHAIRMAN MCDUFFIE: Okay. So we're not actually adding anything above  
21 grade to the front of the –

22 MR. FRANKLIN: No.

23 CHAIRMAN MCDUFFIE: Okay.

1 MR. FRANKLIN: And I guess also that picture there does show the fence being  
2 taken down, they were actually at that time temporarily running some flow meter calcs  
3 on the line, it was dug up on the other side, it's not that way right now. The fence has  
4 been restored.

5 MR. PRICE: Just for the Record, I want to make sure I understand that because  
6 I know this will come back, the meter vault will be underground?

7 MR. FRANKLIN: Yes, sir.

8 MR. PRICE: Right about – riding by we won't see it.

9 MR. FRANKLIN: All you see if the cover at grade.

10 MR. PRICE: Okay, just –

11 CHAIRMAN MCDUFFIE: Ms. Perrine, would you care to go through the Findings  
12 of Fact? Thank you.

13 MS. PERRINE: Okay. I'll start with number four because I'm sure [inaudible].  
14 Are there extraordinary and exceptional conditions pertaining to this piece of property? I  
15 would say, yes, because it is owned by the city, it was put in a number of years ago  
16 before the zoning took place and it is vital to the city's water distribution system, so I  
17 would say yes. Do these conditions generally apply to other property in the vicinity? I  
18 would say, no, because again this is providing water to the northeast section of  
19 Columbia and it's been in operation for a number of years. [Inaudible] Would  
20 application of this chapter to this particular piece of property effectively prohibit or  
21 unreasonably restrict the utilization of property because of the aforesaid extraordinary  
22 and exceptional conditions? Yes. Other properties – well, this piece of property is not  
23 going to change because they're upgrading and making it better. Will the granting of

1 this variance be of substantial detriment to adjacent property or to the public good or will  
2 it harm the character of the district? No. Okay, so with all of that. I would make a  
3 motion –

4 CHAIRMAN MCDUFFIE: Or we could have some discussion on that?

5 MR. RUSH: Yeah, if you don't mind. As far as the extraordinary conditions, I  
6 understand it's pertinent to the city doing business but as far as the property goes, what  
7 – I guess I'm trying to get a feel of what the extraordinary conditions are?

8 CHAIRMAN MCDUFFIE: I'm also kind of at a loss to what those extraordinary  
9 exceptional conditions might be. I mean, we have a fairly small parcel of property that  
10 has a particular use occurring on it, but I'm not sure that I see what would create an  
11 extra ordinary condition on this property and Staff has said that they concur with the  
12 findings of the applicant but I'm curious as what Staff's opinions were for the  
13 extraordinary and exceptional conditions on this property or, you know, or how  
14 application of the ordinance would prohibit or effectively restrict the utilization of the  
15 property, because it's already being used for this land use. And I don't think that we  
16 need, necessarily - can take into account who is applying for the variance so much as  
17 the land use and the specific activity that is being applied for. So, I guess I'm curious as  
18 to what would constitute an extraordinary condition for, or exceptional condition for this  
19 piece of property? Then maybe that it's undersized for the use that they're asking for?

20 MR. PRICE: Yeah, that's part of it. Well, what we noticed recently on a lot of  
21 these variances, you know, you have a case such as this where the use is kind of  
22 unique, you know, to the area. Once again, you have to take into consideration the size  
23 of the lot, maybe if it was, if it met these required .76 as opposed to being .42, maybe

1 there was enough room to actually make these improvements without the necessity of a  
2 variance. One of the things that Staff just really looked at was primarily the uniqueness  
3 of it, just it really doesn't apply to others and that the upgrades typically aren't needed  
4 for these type of facilities.

5 CHAIRMAN MCDUFFIE: I mean, I certainly wouldn't argue that the upgrades  
6 are needed and that this, it does constitute a fairly, as a public utility as sort of unique  
7 use in this area, but –

8 MR. PRICE: And I think also you could look at it, it seems, you know, just kind of  
9 based on where the existing structures are, that it seems like any improvements to the  
10 property as you go outside of the existing structure, it looks like it will encroach into the  
11 required setbacks.

12 CHAIRMAN MCDUFFIE: Right.

13 MR. PRICE: So, it looks like either you do it within, on top of, or not at all. I  
14 mean, that would seem to be what I'm looking at here.

15 CHAIRMAN MCDUFFIE: And it also looks like that they have an additional  
16 parcel of property to the rear that is not being utilized at this point.

17 MR. PRICE: Correct, and I think that maybe the applicant can speak on it better,  
18 even if that water tower was not there, you know, whether that would be –

19 CHAIRMAN MCDUFFIE: I understand that this sort of a monumental structure  
20 and it is where it is, and it would I'm sure be a pretty massive undertaking to try to  
21 relocate this utility to another location, I mean, that part is understood. But, you know, I  
22 still fail to see how - typically the size of a parcel is not considered, as far as I

1 understand it, is not considered an extraordinary condition for that parcel. Any one acre  
2 parcel is a one acre parcel or any half acre parcel is a half acre parcel.

3 MR. PRICE: Uh-huh (affirmative).

4 CHAIRMAN MCDUFFIE: There's nothing, there's no, you know, they're not  
5 arguing that they've got a drainage issue on a portion of the property that prevents them  
6 from building on part of the property or something like that.

7 MR. PRICE: I mean, I guess you could always look at – we know, point well  
8 taken, you could always look at whether the parcel's conforming or not. I mean,  
9 sometimes that will require a necessitated need for a variance because due to the  
10 configurations of the parcel, due to the square footage, that they would not be able to  
11 meet the required setbacks for that district.

12 MS. CECERE: Mr. Price, would you go back to that overview that shows both  
13 the tower and the building?

14 MR. PRICE: Okay. This one?

15 MS. CECERE: Yes. Okay, I see the yellow line and I assume that is the  
16 property line?

17 MR. PRICE: Correct.

18 MS. CECERE: It looks like there is a parcel – there's a road, is that a road going  
19 through there in the back?

20 MR. PRICE: Yes, ma'am.

21 MS. CECERE: Okay. But it looks like there is like a piece of land that – okay.  
22 Outside that line, that comes up to that road, is that not a possibility to – no, take the  
23 arrow back, yeah, where the road goes right there?

1 MR. PRICE: Right here?

2 MS. CECERE: No.

3 CHAIRMAN MCDUFFIE: That looks like a power line break.

4 MS. CECERE: Oh, is that what that is, right there?

5 MR. PRICE: Right here?

6 MS. CECERE: Yes.

7 MR. PRICE: Yes.

8 CHAIRMAN MCDUFFIE: Utility easement.

9 MS. CECERE: Oh, okay.

10 MR. PRICE: And plus, I mean, usually with flag lots and it looks like, that looks  
11 like probably around 50', and we can check that, if you still take into account the side  
12 yard setbacks would apply and so you're looking at a 10' area.

13 CHAIRMAN MCDUFFIE: I mean, I just, I don't view this is being a whole lot  
14 different than somebody wanting to say expand their house out beyond the existing  
15 footprint of their house on an undersized lot, so I mean, granted this is –

16 MR. PRICE: We've had those. [laughter]

17 CHAIRMAN MCDUFFIE: - and sure we have had those and we've approved  
18 some and denied some based on the individual cases. You know, we're talking about a  
19 really, really, this is set much closer to the road than other structures on the road, than  
20 the adjacent structures seem to be. You know, the lot is a lot smaller than the existing  
21 lots and –

1 MR. PRICE: Well, I mean, you could look across the street, I mean, the abutting  
2 parcels, you're correct, even across the street this particular home, you take into  
3 account and maybe even this one, they do seem to have that same encroachment.

4 MR. COOKE: [Inaudible] setback.

5 MR. PRICE: Yeah, maybe to answer the question for Mr. Torrey, I think he  
6 asked earlier, Mr. Rush, excuse me.

7 MS. CECERE: The only other thing is then if you don't grant the variance here  
8 then they're going someplace else and there's another parcel gone.

9 CHAIRMAN MCDUFFIE: Well, and I don't know that's necessarily an option  
10 even, you know, given that we're dealing with where they have physical infrastructure  
11 already.

12 MR. COOKE: Yeah, I really think that due to the fact that yeah, it has been a  
13 case by case situation and this is more of a public use. I know our job as the Board is to  
14 look at the property, each property as the same, you know, for consistency purposes.  
15 And I don't know if it does create an extraordinary condition but I would say, I mean, it is  
16 extraordinary because they're trying to create a more efficient pump for this particular  
17 area. We all know that there's an issue every summer in the northeast area with water.  
18 And I know our job as the Board is to help create a harmonious community and I think  
19 by granting this exception we'll help do it. I mean, it's - to ask the city to pack up and  
20 move it somewhere else is, I think we're going to put more burden on ourselves as far  
21 as tax dollars are concerned and I think these guys are trying to make a reasonable  
22 request. And that's just the way I see it. They're working with the land, true indeed,  
23 yeah, the city could have bought a larger piece of property. We probably wouldn't be

1 here if they had, but that's not the case here. That's hypothetical. So by them working  
2 with what they have and trying to gain some efficiency I think helps to create that  
3 extraordinary condition.

4 MS. CECERE: Mr. Franklin, you've looked at putting this building in a different  
5 way or –

6 MR. FRANKLIN: Yes, ma'am. Our first option was to try to get the electrical  
7 drivers in the building that's there and that just wasn't going to work. They're a little too  
8 big, they require to be cooled if they're going to be efficient, so they need their own  
9 space to be air conditioned. So, that's the separate room. And of course there's more  
10 room, I guess, off the back and the front but the infrastructure has the piping there and  
11 we would, we'd be prudent not to build anything over the top of the piping entering and  
12 exiting the building. So, really our best option was to try to go off the side like we have it  
13 and, you know, outside of doing this, I guess the city would be looking at relocating and  
14 that would be a much further project down the road to do that, whereas this one can  
15 benefit upper Richland County next summer. That's the really, the driver to get this, the  
16 time is really of the essence to get this water upgrade happening.

17 CHAIRMAN MCDUFFIE: Are there any other questions for the applicant? Is  
18 there any consensus on whether we've in fact have an extraordinary and exceptional  
19 condition on the parcels?

20 MR. RUSH: I don't see it.

21 CHAIRMAN MCDUFFIE: I also fail to see an extraordinary and exceptional  
22 condition. Are there any –

23 MS. CECERE: That's why you have a discussion.

1 CHAIRMAN MCDUFFIE: Well, we're discussing it now. Well, is there anyone  
2 who would care to make a motion at this time?

3 MR. COOKE: Mr. Chairman, I would like to move to approve the variance for,  
4 Variance 10-11 based on the Findings of Fact.

5 CHAIRMAN MCDUFFIE: Alright. I have a motion to approve Variance 10-11  
6 based on the Finding of Fact. And I assume that is subject to restrictions that Staff may  
7 put on in terms of buffering and screening the property?

8 MR. COOKE: That's correct.

9 CHAIRMAN MCDUFFIE: Okay. Is there a second?

10 MS. PERRINE: Second.

11 MS. CECERE: Also, excuse me; let's put a time line on this, please?

12 CHAIRMAN MCDUFFIE: Okay.

13 MS. CECERE: Within a year?

14 CHAIRMAN MCDUFFIE: Construction to be started within a period of one year?

15 MS. CECERE: Well, construction started within a half a year.

16 CHAIRMAN MCDUFFIE: Construction to be started within six months?

17 MS. CECERE: Yes.

18 MR. PRICE: I mean, they will need to do a plan submittal; it may take time for  
19 Staff to review. Maybe a year.

20 CHAIRMAN MCDUFFIE: Let's just say –

21 MR. PRICE: Maybe you could do six months for –

22 MS. CECERE: Well, Mr. Franklin said they wanted to be up next summer.

1 MR. PRICE: What I'm saying is that you could probably do two stipulations: 1)  
2 you could put a time on when plans need to be submitted, and then a time that once the  
3 plans are approved, they would need to initiate work.

4 MS. CECERE: I go with the recommendation of the Staff.

5 MR. PRICE: One year.

6 MR. COOKE: Yes.

7 MR. PRICE: Okay.

8 CHAIRMAN MCDUFFIE: Okay, we have a motion and a second. All in favor?

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

11 MR. PRICE: Those in favor: Perrine, Cecere, Cooke.

12 CHAIRMAN MCDUFFIE: All opposed?

13 MR. PRICE: Rush, McDuffie.

14 CHAIRMAN MCDUFFIE: Okay, Mr. Franklin, you have your variance and Staff  
15 will be in touch.

16 MR. FRANKLIN: Thank you.

17 CHAIRMAN MCDUFFIE: Mr. Price, if you would call the next case, please?

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

19 MR. PRICE: The next item is Case No. 10-12 Variance. The applicant is  
20 requesting the Board of Zoning appeals to grant a variance to exceed the allowable  
21 square footage for a pylon sign in the RU district. The applicant is James Marion  
22 Duncan; the location is 10220 Garners Ferry Road. The parcel size is almost seven  
23 acres and the existing land uses is institutional. The subject property is home to the

1 Lebanon Methodist Church. The applicant proposes to exceed the allowable square  
2 footage for a sign located in the RU district by 178 square feet. The area is comprised  
3 of residentially developed parcels and large undeveloped tracts. In the discussion, I  
4 believe I stated the applicant feels that the new sign will allow them, give them more  
5 visibility at least as far as, you know, kind of advertising the mission of the church and  
6 some of the services that they offer to the community. A picture of the existing church.  
7 And this is the existing sign and it's also in your package but I will get to the proposed  
8 changes to the sign. This is what is proposed. A couple of views – this is looking down  
9 Garners Ferry Road headed toward town. Another view from the sign to the church.  
10 And this is just kind more of an aerial of the, to give you a good overview of this  
11 surrounding properties. The little area that you see like kind of like a little tan frosting  
12 over it is McEntire. And this is the site. In the rural district, that the allowable square  
13 footage for a pylon sign is 50 square feet and that's if it's located within the front yard  
14 setback, and if it's located within the front yard setback it cannot exceed four feet in  
15 height. So, essentially if you approve this on, – approve this variance request, you're by  
16 default be approving a, you'll be making the existing non-conforming sign, conforming;  
17 as far as setbacks and height. That is all from Staff.

18 MR. COOKE: Repeat that again, Mr. Price.

19 MR. PRICE: Yeah, the existing sign is non-conforming as far as location.

20 MR. COOKE: Right.

21 MR. PRICE: Because – let me make sure I'm saying that right here - due to  
22 height.

23 MR. RUSH: Oh, as far as over four feet? That's where it stands now.

1 MR. PRICE: Yes.

2 MR. RUSH: Okay.

3 MR. PRICE: Yeah.

4 MR. RUSH: So, that's non-conforming currently?

5 MR. PRICE: Yeah.

6 MS. CECERE: Was it conforming when the church was built or there was no -

7 MR. PRICE: I believe, in all our records indicated it was there prior to any  
8 zoning, so.

9 MS. CECERE: To the zoning.

10 MR. COOKE: To the zoning, alright.

11 CHAIRMAN MCDUFFIE: It's currently non-conforming because it's too tall?

12 MR. PRICE: Yes.

13 CHAIRMAN MCDUFFIE: And how about -

14 MR. PRICE: And also the square footage.

15 CHAIRMAN MCDUFFIE: I was going to say, how about in terms of the square  
16 footage?

17 MR. PRICE: Square footage, yes.

18 CHAIRMAN MCDUFFIE: And how does the county regulate the additional, if you  
19 flip back to the photograph for a second, what about that?

20 MR. PRICE: Oh, that the other side.

21 CHAIRMAN MCDUFFIE: That right there. How does the county regulate  
22 additional temporary sign?

1 MR. PRICE: There should be a temporary sign allowed a certain number of  
2 days; they're allowed, temporary signs are allowed 30 days, no more than 30 days twice  
3 a year. So that'll be something we'll have to look into.

4 CHAIRMAN MCDUFFIE: Alright, at this time, we have several individuals signed  
5 up in support of the variance. I'd like to call the first one, Marion Duncan. Please come  
6 up to the podium, state your name and address for the Record.

7 **TESTIMONY OF MARION DUNCAN:**

8 MR. DUNCAN: Yes, my name is Marion Duncan; I live at 1205 Bay Water Drive,  
9 West Columbia, South Carolina. I am employed with New Media, we're a  
10 communications company. I am acting as an agent for Lebanon Methodist Church.  
11 First, I want to thank you for the opportunity to present a request to allow the church to  
12 install a new signage. At this time, I would like to see if it would be permissible for us to  
13 go ahead and let the Pastor speak for his two to three minutes and one other person  
14 that would speak for a minute and then let me come back and finish my presentation.  
15 Would that be permissible?

16 CHAIRMAN MCDUFFIE: I don't see any reason why not.

17 MR. DUNCAN: Okay. Then I will introduce to Pastor Mark Williams and Jackie  
18 that's a member of the church.

19 CHAIRMAN MCDUFFIE: Alright, at this time, Mr. Mark Williams, please state  
20 your name and address for the Record.

21 **TESTIMONY OF MARK WILLIAMS:**

22 PASTOR WILLIAMS: My name is Mark Williams, 1205 Princeton Street,  
23 Columbia, 29205. If I could have permission to approach to handout a brochure?

1 CHAIRMAN MCDUFFIE: Please. If you could give one to Staff as well, for it to  
2 be entered into the Record.

3 PASTOR WILLIAMS: I appreciate your willingness to hear from me today. Part  
4 of what makes Lebanon such a special church is that it has faithfully served its  
5 community for many, many years. At present, Lebanon sponsors a variety of different  
6 opportunities that impact the lives of those who live nearby. Lebanon hosts community  
7 exercise classes, a community garden club, Prime Timers lunches for senior citizens,  
8 family fun nights, musical concerts, blood drives to benefit the American Red Cross, a  
9 Fall Festival when the community all comes to Lebanon for a fun day with proceeds  
10 from the festival going to support Epworth Methodist Children's Home. We wrap  
11 Christmas presents for needy families, we prepare kits for earthquake victims, we cook  
12 pancake suppers to help raise money for orphans in Nicaragua. We organize toiletry  
13 drives for the Kellingsworth Shelter here in town. We contribute to the food supply at  
14 Harvest Hope. We support the Cub Scouts, we make care packages for our troops, we  
15 build homes for poor people. We offer financial assistance to families in crisis. These  
16 are just a few examples of what we do at Lebanon. Indeed, we are church passionate  
17 about serving our community. I come before you today because we want to do even  
18 more. Recently, we have experienced much growth at Lebanon. Over the past 12  
19 months, our Sunday morning worship attendance has risen nearly 20%. Our church's  
20 growth and outreach ministries caught the attention of the United Methodist Churches  
21 Office of Congregational Development, which awarded our church with a partial grant  
22 for a new sign. The reason why we sense our current sign is insufficient is that it limits  
23 our ability to tell the community about the ministries that are happening at Lebanon on a

1 daily basis. A taller sign would enhance our ability to communicate. We are difference  
2 making church and we want to make sure that everyone is invited to make a difference  
3 with us. The sign we have chosen is sacred looking. Unlike the other large and  
4 unattractive signs nearby our sign is esthetically pleasing with a design that blends  
5 beautifully into the church's architecture. At present, when we have an event that we  
6 want to let people know about, we wheel out a small ugly sign to accompany our current  
7 sign. Simply put, the combination of these two signs is a real eyesore. And so in sum, I  
8 think you're approval for a variance for our new difference making church sign is a win-  
9 win for all parties involved. It's a win for our Richland County community and it's a win  
10 for our church. I thank you so much for your consideration.

11 CHAIRMAN MCDUFFIE: Thank you. Are there any questions for Mr. Williams at  
12 this time? We also have Jackie MacElwayne?

13 **TESTIMONY OF JACKIE MCELWAYNE:**

14 MS. MCELWAYNE: Jackie McElwayne, 1630 Crossing Creek Road, Eastover,  
15 South Carolina 29044. On behalf of Lebanon United Methodist Church, thank you for  
16 allowing us to appear before you today to seek a variance for our new church sign. As  
17 a 46 year member of Lebanon and the current evangelism chair, I can share with you  
18 that never has our church been more spirit filled than now. While we have always  
19 reached out into our community through our programming and many various missions,  
20 we have recently watched our community grow and realize more than ever the urgency  
21 to share God's message of peace and love to those who are hurting and lost. We  
22 strongly believe that God has called us to obtain a new church sign which would allow  
23 us to communicate with the community about the activities taking place at our church.

1 Our current sign has only our church name and does not have a message area. The  
2 new sign would allow us to communicate our address, our phone number, our pastor's  
3 name and the hours of church, school and worship. Most importantly, a new sign would  
4 allow us to invite the community to take part and share with us in the many wholesome  
5 and uplifting activities we offer. We ask that you give prayerful consideration for  
6 allowing us to have the necessary variance.

7 CHAIRMAN MCDUFFIE: I believe Mr. Duncan wanted to finish.

8 MR. DUNCAN: Yes, thank you so much for allowing them to speak. If I could  
9 approach, I have some literature that I would like to give out to each of you and I can  
10 also give Mr. Price one. These are some just different pictures of the same  
11 circumstances and I'd like to call your attention to [inaudible]. Thank you again. As I  
12 said, my name is Marion Duncan, I represent New Media locally, an agent for Lebanon  
13 United Methodist Church. You know, I really hope that I can relay the message in such  
14 a way that you will see that their needs are designed to meet the needs of other people.  
15 One of the things that impressed me about Pastor Mark and the congregation is they're  
16 really not interested in making this a political issue, nor are they interested in making it a  
17 legal battle. That's just something they do not want to do. When you have this  
18 opportunity, communications is the key. Communications is a vital part of every aspect  
19 of our lives. The success of church's vision will depend upon how well they can get that  
20 message out. One of the things I'll call your attention to in the Richland County sign  
21 regulations, Section 26-180, it reads, "These standards are adopted to achieve the  
22 following: To encourage the effective use of signs as a means of communication in the  
23 county while preserving their rights of free speech under the First Amendments Rights

1 in the United States Constitution.” Now, I’d like to bring your attention to Exhibit A, the  
2 first one that you have there. Now, put this picture, because I wanted you to see, get a  
3 feel for what you would see when you’re driving down that road. Exhibit A is 250’ away  
4 from that sign, bearing in mind that the people are traveling at 55 to 65 miles an hour.  
5 Within a second and a half, you pass that sign. Now, also visualize that that existing  
6 sign, which is a non-conforming sign according to the new sign criteria, is seven feet  
7 tall, so that sign as you see it there, 250 away, looks even though it looks only a couple  
8 of feet tall, it is actually seven feet tall by 10’; it’s 70 square feet of overall signage.  
9 Now, I want you to visualize that sign now being four feet tall; and what would you see?  
10 You’re driving down the road 65 miles an hour and now that sign, why would it be four  
11 feet; because they’re in a position that when they knew they needed a new visible  
12 means of communication. If they do anything to that sign at all, it’s got to be conforming  
13 because the sign was put up 20-30 years ago to my estimation, and if you’ll notice in  
14 that picture you’ll see a smaller church building that was built. And that’s what that sign  
15 was for and then they got the opportunity to expand that church into another building but  
16 the sign is still locked into that same size, so we are a seven foot tall sign that if we go  
17 and request at this point, okay, we would like to mount lighted signs to the side of that  
18 fascia, we would be turned down. There’s nothing that we can do. If we do anything at  
19 all, we have to actually tear down the brick wall. This brick wall has a lot of memories to  
20 the people that were involved and they would like to keep that. So under today’s  
21 guidelines, it would go from a seven foot tall sign, imagine a four foot at 65 miles an  
22 hour and trying to get a message out in today’s world. The church’s property is zoned  
23 RU, under the guidelines, as I said, it would drop that sign to a size from seven foot to

1 four feet. Now, look at Exhibit B, I took the liberty of going one to one and half miles  
2 away from the church, this is what the neighbors have, not very attractive signs but  
3 signs. Now, the difference there of course is they're businesses but the church is also a  
4 business. It is a business. And so here in these signs, they go and apply for a sign, it's  
5 a business use so they're allowed to go 15, 20, 25' tall. So all their neighbors are able  
6 to be able to communicate to the people that's driving up and down the road. Now, if  
7 you will, go to C, which is the proposed sign. First I have to make an apology to Mr.  
8 Price and to the Board, the drawings that we had been working with, with the church, is  
9 of course this one right here, which is the one you see. Unfortunately, when the  
10 graphics guy, when we were putting together the drawing to send to, for the variance  
11 meeting, he keyed in the wrong scale and the scale changed. So, the size that you're  
12 seeing up here is totally incorrect and I apologize, that's our fault. We only caught that  
13 last night. It shows that the sign is 15' tall, but the scale was changed and it kicked out  
14 and this is the correct one that you see, is the same size and if you'll notice the brick  
15 wall that you see in that picture is the brick wall that's existing and we would like to keep  
16 and maintain that wall cause it means a lot to that church. So, we're not trying to go in  
17 there with all new and starting over. The columns that you see would be updating,  
18 enlarging the columns to meet, to house the signs that we're looking to do. So, the  
19 original wall, like I say it's important, it updates the column and the roof in keeping with  
20 the architecture of the building. Now, in RU zoning you're actually allowed 50 square  
21 feet. Now one of the things I need to call your attention to is when you apply for  
22 signage, you don't count in the square footage of the brick, you don't count in the  
23 square footage of the column and the roof, we never have and in 30 years that I've

1 been doing this. The actual sign criteria, the actual signage on the sign that you have in  
2 front of you, only has 50 square feet of lighted sign. I guess I can only assume that in  
3 Mr. Price's estimation he went outside to outside. You never count whole skirting,  
4 whole columns and columns, you count the lighted area. So, we are not actually asking  
5 for not one ounce more than what the sign criteria allows this church to do. It allows it  
6 50 square feet, we're asking for 44. Now, so it can – take in mind everything about this  
7 sign based on that is permissible in Richland County except the height. We're only  
8 dealing with one aspect of that entire book of sign criteria is the height. Everything  
9 about this sign, including the height, is permissible in every other district in Richland  
10 County, except residential. So if a church was located up the road several miles, we  
11 wouldn't be having to have this meeting, we would be in the middle. I, myself have built  
12 15, 20 to 30 signs in Richland County for churches of this size or even larger in some  
13 cases. Now, obviously there's an LED sign on here and it goes without saying that the  
14 church understands that the LED sign has or will have limitations on the usage and  
15 they'll have no problem following the guidelines from the County Council. Now, here's  
16 our concerns, the present guidelines place an unlimited burden or hardship or a cap if  
17 you will on their ability to communicate, to grow, to minister and to reach the community;  
18 an unreasonable cap. The existing sign criteria does one thing, it locks the church in a  
19 time zone. Now think about that. If you look at that picture of the existing sign, and  
20 realize that that sign was built when the original church was built, and then they were  
21 fortunate enough to be able to grow and build a new sanctuary and a new school in a  
22 part of it, that sign they've not been allowed to touch. But the growth of the church  
23 continues to grow, but the sign criteria locks them into a time zone that you can't touch

1 that sign. Not only does it lock them in, if you change it, it goes from seven foot down to  
2 four foot.

3 CHAIRMAN MCDUFFIE: Thank you. Thank you, Mr. Duncan, I need to ask you  
4 to wrap it up.

5 MR. DUNCAN: Okay, if I could just make this last statement. Thank you so  
6 much.

7 CHAIRMAN MCDUFFIE: Sure.

8 MR. DUNCAN: So, what can we do about these signs under the existing  
9 ordinance, nothing. To change it as I said, you'd have to tear it down. You know, my  
10 request to you guys is you have a chance to right an oversight, this was not something  
11 they put in the sign criteria that I would consider as wrong because there was a day in  
12 rural you didn't need a sign any bigger than this. But there are circumstances out there.  
13 See, most part of it, most of it, it's only churches that get caught, and I have just have  
14 another minute, they get caught in this dilemma, businesses that want to go into that  
15 area get rezoned, they're able to buy a sign that they would like to have. And picture  
16 again now, if you will, at the cars going 65 miles an hour, the sign goes virtually  
17 unnoticed. So one question to end is what does this send? If you have a person that is  
18 driving down that road and they're looking for a church, what message does that  
19 existing sign send to that individual? It tells them probably that nothing is going on at  
20 that church. And that's the thing that we want to change. We want to change that to a  
21 communication sign that allows them to be able to do that. We only ask one thing,  
22 we're not asking for a larger sign that is permissible, we only ask that you grant the

1 variance based on the height restrictions, to take this church out of that time zone and  
2 imagine if that was your church.

3 CHAIRMAN MCDUFFIE: Thank you.

4 MR. DUNCAN: Thank you so much. Thank you very much.

5 CHAIRMAN MCDUFFIE: Quick question for Staff before go any further. I drive  
6 this route twice a day, and have seen all of the signs listed here in Mr. Duncan's Exhibit  
7 B. Those signs are also, are those businesses are also located in a rural area and the  
8 signs are –

9 MR. PRICE: No, sir. I believe those business are all located in General  
10 Commercial.

11 CHAIRMAN MCDUFFIE: Those are General Commercial? Okay.

12 MR. PRICE: Those are the designations.

13 CHAIRMAN MCDUFFIE: Even the Congaree Horse Farm?

14 MR. PRICE: Now that's – I'm sorry, the convenience stores that you'll see are  
15 General Commercial, I'm not sure about the Congaree. More than likely that's zoned  
16 rural and they may with not having the research of the information in front of me, it's  
17 probably non-conforming.

18 CHAIRMAN MCDUFFIE: That's definitely a relatively recent sign. I can –

19 MR. PRICE: Okay, we'll need to look at that.

20 MR. COOKE: And Kelly's is right across the street.

21 MR. PRICE: Kelly's, yes. Kelly's is commercial.

22 CHAIRMAN MCDUFFIE: Katy-corner.

23 MR. COOKE: Yeah, right across the street.

1 CHAIRMAN MCDUFFIE: Any questions for either Staff or the applicant at this  
2 time?

3 MR. RUSH: Yeah, I have one for Mr. Price. As far as the measurement of the  
4 sign, as far as getting with – is that done, does that include the entire sign or just the -

5 MR. PRICE: The height is measured from the base to the height. So, he's  
6 correct in that. That would be most definitely a request for a variance. When doing the  
7 computations for the sign, I'm looking at a section now, you usually square in the area  
8 of the, where the message is and –

9 CHAIRMAN MCDUFFIE: Not just the lighted portion or course but the lettering  
10 portion of the sign.

11 MR. PRICE: Right, from this area right in here, excuse me. This would all – we  
12 would calculate that. Now -

13 MR. RUSH: What about the bottom?

14 MR. PRICE: But when you look in here, typically, you'll square that in. There's a  
15 little provision in the Code that also states that it shall include any area, any material or  
16 color in forming an integral part of the background of the display or used to differentiate  
17 the sign from the backdrop or structure against which it is placed. But normally in this  
18 case, we would just measure, just the area where the message is.

19 MR. RUSH: The height [inaudible].

20 MR. PRICE: Yeah, that's the big – yes.

21 CHAIRMAN MCDUFFIE: But I think they are asking for a greater than allowable  
22 sign face area from the county calculation.

1 MR. PRICE: No, it may be – just kind of do some quick calculations, it looks like  
2 it would fit just in there.

3 CHAIRMAN MCDUFFIE: But they were limited to 50 square feet and they're  
4 asking for 227.76 square feet.

5 MR. PRICE: Yeah, redoing the calculations on this, this area right here, would  
6 come out to about 7.8 feet, 7.8 just doing this area right in here.

7 CHAIRMAN MCDUFFIE: Just doing which area?

8 MR. PRICE: Yeah, right in here.

9 CHAIRMAN MCDUFFIE: The lower area is how many? Seventy?

10 MR. RUSH: Seven point –

11 MR. PRICE: 7.78. Just in here. And then if you get in here, it looks like that's  
12 going to be about 42 square feet. So, it's going to fall just below.

13 CHAIRMAN MCDUFFIE: Okay. Are there any other questions either for any of  
14 the applicants or for Staff at this time? Okay. Mr. Rush, would you care to go through  
15 the Findings of Fact?

16 MR. RUSH: I'm going to start with Number 4 as well. Are there any  
17 extraordinary or exceptional conditions pertaining to the particular piece of property? I  
18 would like to put that out for discussion, actually, I would say no. But I'd like put that out  
19 for discussion.

20 CHAIRMAN MCDUFFIE: I guess I also fail to see what the extraordinary and  
21 exceptional conditions might be. I mean, it's – I think it's a parcel carved out of a larger  
22 rural parcel that surrounds it. There are, there is the small area of commercial stuff up  
23 the road but generally everything out there is pretty rural, I mean, you've left Columbia;

1 you are in rural Richland County if you're out that far on Garners Ferry. And there really  
2 is, there's probably, I mean, there's very little commercial activity going on out there.  
3 Mostly, rural and rural area and the military base and churches. I really fail to see what  
4 kind of extraordinary conditions pertain to this parcel. Anybody -

5 MR. DUNCAN: Is it possible to make another comment concerning that  
6 question?

7 CHAIRMAN MCDUFFIE: If it's brief, please.

8 MR. DUNCAN: Well, yeah cause, and one of the things I wanted to bring up is  
9 because I feel that the extraordinary use of the property is its only four lanes. Typically,  
10 you'll have a, in a rural you'll have country roads, very little traffic, traffic is moving a lot  
11 slower and in this case, you have a four lane road, it's a long stretch of road where the  
12 traffic is moving at such a high rate makes it, to me, an extraordinary use of the property  
13 where it's detrimental to them to have such a small sign.

14 CHAIRMAN MCDUFFIE: Well, but the, I mean, the speed that the traffic travels  
15 is the same, let's say from the last stop light in town on Garners Ferry till you get to  
16 where the Food Lion is until you get to the top of Statesburg Hill, I mean, it's 70 miles an  
17 hour the whole distance and it's all rural property. Every property along that path would  
18 have the same conditions pertaining to it though.

19 MR. DUNCAN: My understanding that that was not rural in those areas because  
20 each one of those businesses are zoned in a business, but there's also red lights that  
21 stop that and there's nothing here to slow the traffic down and it is four lane instead of  
22 two lane, so you've got two lanes going this way and two lanes going that way. But

1 we're just asking again, with hat in hand to see if you would be in a position to help the  
2 church to be able to communicate.

3 CHAIRMAN MCDUFFIE: I appreciate the request. I'm with Mr. Rush where I  
4 just don't see how there's an extraordinary or exceptional condition applying to this  
5 particular parcel of property. Does anybody else have any -

6 MR. DUNCAN: If I could just add one more thought to that that you may not be  
7 aware of? Okay, appreciate it. They have been given two pieces of property that abut  
8 on each side of this. And one of the conditions of that is that they be able to, that they  
9 give it to them and if they are in a position or willing to use this for the growth of the  
10 church. So not only do we have that piece of property now it's several hundred feet  
11 wider and in their plans of growth is other buildings that's going to be on that property.  
12 And it's going to get more and more difficult, it will not get easier. It will get more and  
13 more difficult to be able to do the outreach for the community for what they're trying to  
14 accomplish. And then the backdrop is if that even if they do anything to that sign,  
15 they've got to bring it down. Thank you.

16 CHAIRMAN MCDUFFIE: I certainly appreciate the difficulties and understand  
17 that they're, the congregation's wish to grow the church and to expand their outreach to  
18 the community but we are here to consider specifically your request for the variance as  
19 it does or does not meet the requirements laid out in the Code. And if this Board does  
20 not determine that there are exceptional and extraordinary conditions that apply to this  
21 particular piece of property, then it is not within our purview to grant a variance. Would  
22 anyone care to have any further discussion or make a motion at this time?

1 MS. PERRINE: Okay, in looking at Exhibit A, because the sign is sort of down in  
2 a low area and they're trying to let everybody out there know what's going on, can the  
3 lay of the land be considered [inaudible]?

4 MR. RUSH: I don't see that as a, you know, although there is –

5 MS. PERRINE: Not extraordinary?

6 MR. RUSH: Yeah, I don't see that as extraordinary cause if you look down the  
7 road it's sort of rolls the same way all the way down the road at most points. So it's  
8 nothing specific to that property, if it, you know, fell off in the edge, that would be one  
9 thing, but just for a simple roll of the property most [inaudible].

10 MS. PERRINE: Are there other churches that are out there that, are they in the  
11 rural area also?

12 MR. PRICE: I'd probably take a wager that most of them, most of the churches  
13 out there are rural in zoning.

14 MR. COOKE: Now you said, Mr. Price, the Exhibit B the signs down the street  
15 are in business, they're zoned for –

16 MR. PRICE: Yes, sir. I'm familiar with a few of them and I know that those are  
17 commercial.

18 MR. COOKE: Commercial?

19 MR. PRICE: Yes.

20 MR. RUSH: Can they get a zoning change?

21 MR. PRICE: They could apply for a zoning change. But you know, once again, I  
22 think as we discussed earlier, when we're looking at the potential zoning changes, we  
23 do look at more than just a one particular use.

1 CHAIRMAN MCDUFFIE: Well, there's not a, necessarily a need for a zoning  
2 change for this parcel because the actual use is not prohibited by the rural designation  
3 it's simply their ability to build a taller sign.

4 MR. PRICE: Yes, sir.

5 CHAIRMAN MCDUFFIE: Is there any further discussion or -

6 MR. COOKE: So, let me get this straight. So, across the street down – well  
7 Katy-corner, Kelly's is commercial. Next door to them is Congaree Horse Farm is  
8 commercial, is that correct?

9 MR. PRICE: We're not sure about the horse farm, we believe that's rural.

10 MR. COOKE: The horse farm is rural?

11 MR. PRICE: Yes.

12 MR. COOKE: And that sign is in compliance with the height?

13 MR. PRICE: No, sir. That's something we're going to look at. We're not aware  
14 of any permits being taken out, so that's something that we will investigate, I guess  
15 some time after this meeting.

16 CHAIRMAN MCDUFFIE: I appreciate you looking into that.

17 MR. PRICE: And another one down the road.

18 CHAIRMAN MCDUFFIE: Would anyone care to make a motion as this time?

19 MR. RUSH: I'd like to make a motion. I'll make a motion that Variance, Case  
20 No. 10-12 be denied based on the fact that there are no extraordinary or exceptional  
21 conditions pertaining to this particular piece of property.

1 CHAIRMAN MCDUFFIE: Alright we have a motion to deny Variance 10-12  
2 based on the fact that there are no extraordinary or exceptional conditions, is there a  
3 second? I'll second. We have a motion that has been seconded. All in favor?

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

5 CHAIRMAN MCDUFFIE: All opposed?

6 MR. PRICE: Those opposed, Perrine, Cooke.

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

8 CHAIRMAN MCDUFFIE: Mr. Duncan, your request for variance has been denied  
9 and Staff will be in touch. Thank you very much. Mr. Price, if you would please call  
10 your next case?

11 **CASE NO. 10-13 V:**

12 MR. PRICE: The next item is case 10-13 Variance. The applicant is requesting  
13 the Board of Zoning Appeals to grant a variance to encroach into the required side yard  
14 setback on property zoned RU. The applicant is Ernest Timmons, the location is 1121  
15 Old Road. The parcel size is .8300 of an acre. The existing land use is residential.  
16 Subject property has a 6,378 square foot dwelling according to Staff records which was  
17 originally constructed around 2008. The applicant is proposing an addition to the  
18 existing structure, which will encroach into a required side yard setback. The area is  
19 comprised of single-family residential dwellings many of which abut Lake Murray. The  
20 square footage of proposed addition is 480 square feet and it will encroach into the  
21 required 20' side yard setback by 8.7'. The existing structure is approximately 20' from  
22 both side yard setbacks, which you will see on the plat which will be shown  
23 momentarily. This is a view of the structure from the road. It's going to be in this area

1 along in here going back. Another view from the side. One of the things that – well  
2 actually, I'll wait until I get to the plat of the property. This is the view from the rear, so it  
3 kind of shows where the addition will take place, somewhere in here. This is the rear  
4 where it abuts Lake Murray and there's a swimming pool in the back so, we looked at  
5 that as you can't encroach any further in the back now. There's a view of the plat for  
6 the property, and as we always do whenever there's a variance request, the  
7 encroachment into the setback we would suggest that the applicant supply us with a  
8 plat depicting where the home will be set so we'll see approximately where the setbacks  
9 will be so we can – they asked for the minimum required as opposed to just a generic  
10 request. One of the things that we did talk to the applicant about was there seems to be  
11 an area just in here, where the addition could take place, but that is also the area where  
12 the garage is. So, it'd be right in this area so, they wouldn't be able to use the garage  
13 with that addition.

14 MS. CECERE: So, you would not be able to get to the garage?

15 MR. PRICE: Well, if they put the addition there, you'll block the entrance into the  
16 garage and as previously stated, as you can where the home is currently built, it's pretty  
17 much right at the 20' setback, so really any encroachment into the size would, excuse  
18 me, any addition into the sides would result in some type of encroachment. That's it  
19 from Staff.

20 CHAIRMAN MCDUFFIE: We have the applicant I believe signed up to speak in  
21 favor, Mr. Ernest Timmons. Please state your name and address for the Record.

22 MR. PRICE: I'm sorry, I didn't present this aerial of the structure and the abutting  
23 properties.

1 CHAIRMAN MCDUFFIE: Thank you, Mr. Price.

2 **TESTIMONY OF ERNEST TIMMONS:**

3 MR. TIMMONS: Ernest Timmons, 1121 Old Road, Chapin. We were hoping to  
4 get a variance to expand the front of the house for approximately a room 20 x 24. As  
5 Mr. Price said, there is no options other than to that one side. If we were to go to the  
6 right, it would take the structure all the way to the property line and again in the back  
7 there's a pool, you can't go that way, you can't go out at the front because of the design.  
8 The area that made the most sense would be in the corner that would set it back toward  
9 the garage and we wouldn't be able to come out any further than where the garage  
10 doors are currently located, it would extend us as it's showing, what you would be  
11 looking at there is the addition and the outside corner would bring it to right at 11' from  
12 the property line as opposed to the 20'. I mean, again, this is our only option to be able  
13 to add on to the home. The neighbor next door has a, or got a variance to build their  
14 home on this side of the property and he's within I think either 10 or 11' now and the  
15 opposite side of his property it appears that it's even closer than that to the property  
16 line. I've got a notarized letter from him saying he's fine with the, you know, going to the  
17 property line, it doesn't create any problem or he doesn't have any objection to that. I  
18 went to the Richland County website and pulled up a good number of the homes out in  
19 the area where we are and I think if you look at them, and I didn't make copies for  
20 everybody, I apologize, but I'd say probably over 50% of the homes in this area are  
21 probably are 10' or possibly even less setback from the property lines, so I don't think  
22 what I'm asking is unusual for what's right around that area. And again, the next door  
23 neighbor, I wouldn't be – probably I wouldn't be any closer than what the next door

1 neighbor is currently. I brought an architect's rendering of what it would look like if  
2 anybody needed to, you know care to see that. As far as blending in, I mean, it's not  
3 something that would look like an afterthought to the residence, it would look like it was  
4 meant to be from the front and the back, side.

5 CHAIRMAN MCDUFFIE: Could you please give this to Staff to enter into the  
6 Record. Thank you.

7 MR. TIMMONS: Do you need, Mr. Price, any of these?

8 MR. PRICE: No, sir.

9 MR. TIMMONS: What about, do you need the letter from the neighbor?

10 MR. PRICE: Yes.

11 MS. CECERE: Mr. Price, could you let us look at that please?

12 MR. PRICE: Oh, I'm sorry.

13 MS. CECERE: And the drawing.

14 MR. COOKE: And the drawing.

15 MS. CECERE: We're going to be difficult today.

16 MR. COOKE: Yeah, we wanted to see the drawing.

17 CHAIRMAN MCDUFFIE: I'm looking at the front and rear views here, is that –

18 MR. TIMMONS: Yes, sir that's correct.

19 CHAIRMAN MCDUFFIE: We didn't mean to interrupt, by the way. Did you have  
20 anything –

21 MR. TIMMONS: That's, I mean, in a nutshell, that's it. I mean, we wanted to add  
22 on to the house and that's the only way that really made any sense and it kept us still as  
23 far back from the setback as we can. If we were to the go the way it would put it right

1 on the property line and again this just seemed like the only location on that piece of  
2 property that you could do it. And there's reasonable access to join the house, there's  
3 some windows that we would use as a door whereas the other side is not. Plus it would  
4 be closer to the property line. This would be the best case scenario. If you couldn't do  
5 this then we really, you know, we couldn't add onto the house.

6 CHAIRMAN MCDUFFIE: Okay, thank you very much. Are there any questions  
7 for either Mr. Timmons or for Staff at this time? Would anyone, Mr. Cooke, would you  
8 care to go through the Findings of Fact?

9 MR. COOKE: Sure there Mr. Chairman. Alright, we'll start with number four. Are  
10 there extraordinary and exceptional conditions pertaining to this particular piece of  
11 property? I would say yes. And that's because the current location of the house. The  
12 current location of the house it really presents a challenge for the addition. Alright? Do  
13 these conditions generally apply to other properties in the vicinity? I think, no. No.  
14 Would applications of this chapter to this particular piece of property effectively prohibit  
15 or unreasonably restrict the utilization of the property because of the aforesaid  
16 extraordinary and exceptional conditions? Yes, because of those challenges that it has  
17 being that close to the property line. And the last one is, will the granting of this  
18 variance be of substantial detriment to adjacent properties or the public good or would it  
19 harm the character of the district? The answer to that would be no. So with that being  
20 said, Mr. Chairman, I would like to move to approve variance 10-13 based on the Facts  
21 of the Finding.

1 MR. RUSH: Mr. Price, let me ask you a question. It seems like around the lake  
2 we get a lot of these properties, I mean, is there anything we can do, because it just  
3 gets –

4 MR. COOKE: We're averaging one –

5 MR. RUSH: I mean, we're always, is something you guys could do specifically  
6 for that area because, I mean, it's just getting -

7 MR. PRICE: Typically, I'm sorry, typically when you get cases by the lake, at  
8 least the ones that I'm familiar with over the last few years I've been doing this, one of  
9 the main issues is that the lots were not conforming, so you're looking at cases where  
10 instead of being a 33,000 square feet, they may be a quarter of an acre, maybe half an  
11 acre, I think that presented more challenges when you try to apply the setbacks for a  
12 rural district. In some case, just really didn't leave any room at all.

13 CHAIRMAN MCDUFFIE: Well the lots were created very narrow as well to  
14 maximize the number of waterfront lots that are in a particular area.

15 MR. PRICE: Right, and a lot of them where –

16 CHAIRMAN MCDUFFIE: They'd be very long and skinny.

17 MR. PRICE: And most of them were non-conforming.

18 CHAIRMAN MCDUFFIE: This lot is not a non-conforming lot.

19 MR. PRICE: Right. I was going to get to – yeah, most of the lots were there  
20 prior to and this particular case, this lot is not non-conforming.

21 CHAIRMAN MCDUFFIE: It is conforming.

22 MR. PRICE: Yes, conforming. Geez, sorry. I'm not used to going that route.  
23 And over the years there has been a request, a rezoning request in this particular area

1 along Old Road to rezone the properties to I guess, to kind of help with the setbacks for  
2 some of the structures that were being built. And the last time that this appeared before  
3 Council it was denied and one of the reasons for it was because of a fear that while  
4 rezoning the property, [inaudible] help, you know, reduce the number of required  
5 setbacks, what it will also do is allow an increase in density for that area and so there's  
6 that fear of, we'll rezone it, so you can build but you can also subdivide and create a lot  
7 more lots in that particular area.

8 MR. RUSH: With that being said, we – Council's saying that the reason why they  
9 don't want to rezone that area is because it would reduce the setback, but we keep  
10 getting variances to setbacks on all of them, so –

11 CHAIRMAN MCDUFFIE: I don't think they should necessarily -

12 MR. PRICE: Well like I said, this issue's different.

13 MS. CECERE: Well, I think -

14 CHAIRMAN MCDUFFIE: - [inaudible] what's the density of lots?

15 MR. PRICE: I think this issue may be a little different than some of the ones  
16 you've had before.

17 MS. CECERE: I think where this is different is that this house is built after all the  
18 zoning went into effect and how after all this problem with these lake lots, this is a fairly  
19 new house and it was in the correct setback. What makes it different now is the  
20 addition. So, I think it was, it had the correct setbacks –

21 MR. RUSH: Yeah, I understand that.

22 MS. CECERE: - and now we're trying to change it because we want an addition  
23 to this house. So, I think that's the whole point here, I think.

1 MR. PRICE: Right, and as I stated previously, a lot of the requests that have  
2 come before you previously, the lots have been there for, really prior to zoning.

3 MS. CECERE: And usually –

4 MR. PRICE: In this particular case, I believe the lots that were created in this  
5 particular area came in, they were in compliance. They weren't subdivided too long  
6 ago.

7 CHAIRMAN MCDUFFIE: Any additional questions for either Staff or the  
8 applicant? I believe we had a motion on the table, would you care to repeat it?

9 MR. COOKE: Ah, yes Mr. Chairman, I would. I would like to move to approve  
10 10-13 Variance based on the Findings of the Facts.

11 CHAIRMAN MCDUFFIE: Is there a second? Is there a second? Would anyone  
12 care to introduce a substetive question? Go ahead.

13 MS. CECERE: I'll make a motion that variance 10-13 will be denied. There are  
14 no extraordinary circumstances.

15 MR. RUSH: Second.

16 CHAIRMAN MCDUFFIE: Alright, we have a motion to deny 10-13 based on lack  
17 of extraordinary and exception conditions and it's been seconded. All in favor?

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

19 CHAIRMAN MCDUFFIE: Opposed?

20 MR. PRICE: Those opposed, Cooke.

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

1 CHAIRMAN MCDUFFIE: Mr. Timmons, your request for a variance has been  
2 denied and Staff will be in touch, thank you very much. Is there – that concludes the  
3 open public hearing, is there any other business at this time?

4 MR. PRICE: I will at this time, the only thing I would do is turn it over to Suzie  
5 Haynes just to announce about any trainings that y'all may need or any future trainings.

6 CHAIRMAN MCDUFFIE: Thank you.

7 MS. HAYNES: I've been sending that to y'all every month. We do one here  
8 each month in Chambers around lunch time, I haven't got it scheduled yet for this  
9 month. I believe everyone has had their orientation, besides Mr. Meetze who's not here  
10 today. Other than that, we need to get three hours continuing ed. I know you've been  
11 getting my emails, so by the end of the year I'm going to start breathing down your  
12 necks now.

13 CHAIRMAN MCDUFFIE: And that is per calendar year, correct?

14 MS. HAYNES: Yes.

15 CHAIRMAN MCDUFFIE: Okay.

16 MR. RUSH: Did we - for the Record –

17 MS. CECERE: Mine's finished, right?

18 MS. HAYNES: I believe you're finished, yes. After you, [inaudible]

19 MR. RUSH: For the Record I also wanted, while we have the Administrator here,  
20 we might need security at some of these meetings [laughter] because of the looks I'm  
21 getting after we deny some of these.

22 MR. COOKE: Yeah, that dude there was mad. [laughter]

23 MR. RUSH: Especially from church folks.

1 MS. CECERE: Oh, yes.

2 MR. PRICE: I'm going the other way.

3 MR. RUSH: That dude there was mad. Exactly.

4 MR. COOKE: I'm watching him, I'm like –

5 CHAIRMAN MCDUFFIE: If there is no other business at this time, I'll go ahead  
6 and adjourn the meeting.

7

8

*[Meeting Adjourned at 2:29 pm]*