

RICHLAND COUNTY BOARD OF ZONING APPEALS

October 6, 2010

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5 *[Present: Chairman Joshua McDuffie, Ralph Meetze, Elaine Perrine, Torrey Rush,*
6 *Susanne Cecere, Sheldon Cooke, William Smith]*

7
8 Called to order: ____ pm
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10 CHAIRMAN MCDUFFIE: At this time, I'd like to call the October meeting of the
11 Richland County Board of Zoning Appeals to order. We have a quorum today. And in
12 accordance with the Freedom of Information Act, a copy of the Agenda was sent to
13 radio and television stations, newspapers, and persons requesting notification and
14 posted on the bulletin board located in the lobby of the County Administration Building.
15 At this time, the county's attorney, Ms. Amelia Linder, will present the Rules of Order.

16 MS. LINDER: Thank you Mr. Chairman. Good afternoon Ladies and Gentlemen,
17 welcome to the Board of Zoning Appeals meeting this afternoon. I'm going to take just
18 a few minutes and go through some rules of procedure to maybe make it a little bit
19 clearer to you on how we need to proceed this afternoon. The Board of Zoning Appeals
20 is a *quasi* judicial body which means that the decisions they make today will be final
21 subject to next month's Minutes being approved and the Orders going out and then
22 within that timeframe, you've got 30 days to appeal the decision to circuit court if you're
23 unhappy with the decision that the Board makes this afternoon. We will take up the
24 items as they're presented on the Agenda today. The Applicant who's making the
25 request for either their special exception or their variance will have up to 15 minutes to
26 present their case. If there's anybody here today that's in opposition to what the
27 Applicant is requesting, they will have up to three minutes to speak, and then again, the

1 Applicant can rebut what the opposition said for another five minutes. Please address
2 your remarks to the Board. You do need to be signed up if you're planning to speak
3 and in a few minutes I'll be giving you an oath to tell the truth. So, if you are planning to
4 testify, you will have to take the oath and I, I guess, I'm not sure whether there is a sign-
5 up sheet, but if you do want to speak, you'll be allowed to do so. Today, it's not quite as
6 formal as a court, but if you have documents to submit, you may do so and the Board
7 will give the appropriate weight to the evidence or the testimony that you give today.
8 Are there any questions up to this point? Okay, I would ask if you have a cell phone,
9 please turn it off or mute it. If you do need to leave, I would ask that you do so quietly.
10 And if there are no questions and you are planning to testify, would you stand at this
11 time? If you plan to come to the podium and give evidence or speak to the Board, you
12 need to stand at this time and raise your right hand. Do you swear or affirm the
13 testimony you shall give shall be the truth, the whole truth and nothing but the truth, so
14 help you God?

15 AUDIENCE: [Inaudible]

16 MS. LINDER: If you answered in the negative, please let me know, otherwise you
17 all are sworn in. Thank you.

18 CHAIRMAN MCDUFFIE: Alright, the next item on the Agenda is the approval of
19 the Minutes from September 2010. Are there any changes, modifications that need to
20 be made to the Minutes or is there a motion?

21 MS. PERRINE: Mr. Meetze - change that to Ralph.

22 CHAIRMAN MCDUFFIE: Okay.

1 MS. PERRINE: Instead of Elbert. But then since we have a reconsideration in
2 the Minutes, do you want to approve –

3 CHAIRMAN MCDUFFIE: Do we approve the Minutes –

4 MS. PERRINE: - with the exception or?

5 MR. PRICE: I think we could maybe move this to the end of the Agenda.

6 CHAIRMAN MCDUFFIE: Okay, we'll do that.

7 MS. PERRINE: Oh, okay.

8 CHAIRMAN MCDUFFIE: Let's go ahead and defer this to the end of the Agenda
9 then. The next portion of the Agenda is the public hearing portion and if Mr. Price will
10 call the first case.

11 **CASE NO. 10-16:**

12 MR. PRICE: Okay, the first item is Case No. 10-16 Variance. The Applicant is
13 requesting the Board of Zoning Appeals to grant a variance to exceed the maximum
14 square footage for an accessory structure on property zoned RU. The Applicant is
15 Willard Cox, the location is Langford Road, I didn't have a specific address for it at this
16 time, and it's a little bit more than two acres and the existing land use is residential.
17 Subject property has a 1,688 square foot dwelling which was originally constructed
18 around 1940 according the Richland County Assessor's database. The Applicant is
19 requesting once again to, is proposing a construction of a barn which will exceed the
20 maximum allowed square footage of 1,200 square feet for an accessory structure. The
21 area is comprised of large tract of land that are both vacant and residentially developed.
22 According to the Land Development Code an accessory structure cannot exceed 1,200
23 square foot or 50% of the square footage of the principle dwelling on a property. And in

1 this case, just based on the square footage of the home, it would be 1,200 square feet.
2 Here's an aerial of the subject property. There's the, the house in the front and there's
3 an existing barn that the Applicant stated would be torn down and replaced. And this is
4 just the, this is the view from the road. Now this was provided by the Applicant, I wish I
5 could get it a little clearer but actually the, this would be flipped around with just the
6 house and here's the barn and as you can see, the little dotted lines around it shows
7 where the new structure would be built. And that's it.

8 CHAIRMAN MCDUFFIE: Thank you Mr. Price. At this time we have Mr. Willard
9 Cox signed up to speak. If you would please state your name and address for the
10 Record.

11 **TESTIMONY OF SHERI COX:**

12 MS. COX: My name is Sheri Cox, I'm Willard's wife, he's out of town on
13 business trying to make us money so we can build this building hopefully. This
14 gentlemen has already explained pretty much what we're asking for. We'd like to have
15 a 40 x 60 building put on the property, remove this one and build it there. We have farm
16 equipment and a boat and trailers, one of which we've already had stolen off the
17 property. So we'd like to have a larger building put up there. We are presently
18 remodeling the house and will be adding onto that because that will be our residence in
19 the future. So, right now – well, like I say, we're on the property, we have storage stuff
20 and as you can see, like I say, the trailer that we bought to start with already has been
21 stolen, so we really wanted to have this building to house stuff that we have presently.
22 Also, we are renting three storage units full of things from children's furniture and stuff
23 that we're storing for them while they're overseas in the military and various other things

1 that my husband has accumulated over the years, but primarily we really would like to
2 be able to house our boat and our trailer and tractor and keep it under cover and also to
3 have it under a secured building that we have put up a security system for. So, that's
4 basically our story and what we are asking for is just that larger size building. It will be
5 one that will match the house, it'll be a Hoover Building, I believe it is sited and
6 everything, you know, to look very cosmetically acceptable to the area. And it does sit
7 back off the road a good ways so, [inaudible] not interference with anything.

8 CHAIRMAN MCDUFFIE: Alright, thank you very much. Are there any questions
9 at this time for the Applicant or for Staff?

10 MS. CECERE: Ms. Cox at this time, you're not living on the property is that
11 correct?

12 MS. COX: Correct. We bought it with the understanding, you know, with it being
13 unrestricted that, you know, there wouldn't be a problem, but then when my husband
14 went to get another permit for a septic, that's when he found out that you can't do it that
15 big, so that's when he came and –

16 MS. CECERE: What do you consider would be the circumstances, the
17 extraordinary circumstances to grant this?

18 MS. COX: I don't know really how to answer that other than, like I say it's our
19 need for, you know, if we're going to live there, we wanted to house everything in one
20 area and we needed that size building to accommodate, you know, what we already
21 have. Like I say, the boat has been sitting out in the open for the last several years, and
22 we wanted it under cover. But it's basically, you know, so that it can all be in one area

1 because we are, like I say, going to be living there as soon as we get it remodeled and
2 get our present house sold.

3 MS. CECERE: How much square footage are you planning on adding on the
4 house?

5 MS. COX: The house I think in total would probably be close to 2,000 square
6 feet.

7 MS. CECERE: Mr. Price, what would be the –

8 MR. PRICE: Really in order, just based on the calculations I have, I have for the
9 proposed use including the roof extension, the house would need to be like 6,400
10 square feet.

11 MR. RUSH: You're saying the total house would be 6,400 square feet?

12 MR. PRICE: The total house would need to be 6,400 square feet for us to apply
13 the provision of the Code where 50% of the principal structure can be used for an
14 accessory building.

15 MR. RUSH: Okay, I see what you're saying. Okay, okay.

16 MS. COX: We're trying to downsize in housing here but we needed the storage
17 in for all the things that we have.

18 MR. MEETZE: The building that you're proposing, will it be visible from the
19 road?

20 MS. COX: Yes, yes as you coming down that road, yeah. I mean, if you're
21 looking straight on, no, probably not. Because by the time we add our garage and all
22 that on, you know, it's not going to be. But coming from either direction on Langford,
23 you probably would.

1 MR. MEETZE: And there's nothing behind your property here but just woods –

2 MS. COX: No.

3 MR. MEETZE: - and undeveloped property.

4 MS. COX: Right, yeah. And there's 60 acres next to us for sale and then a
5 residence on the other side. We're hoping to acquire that other land behind us and
6 possibly some next to us.

7 MS. CECERE: Mr. Price, could you go back to that first picture that showed the
8 lot?

9 MS. COX: That's the neighbor – yeah, that white fence is the neighbor's.

10 MR. PRICE: That's your neighbor's.

11 MR. COOKE: Um-hum, that's the fenced area.

12 MR. PRICE: Which one is yours?

13 MS. CECERE: The very first one that you showed the outline of the lot, is that
14 the actual lot, it goes through a, it looks like it goes through another building.

15 MR. PRICE: Right here?

16 MS. CECERE: Where the line is on the left-hand side when I'm looking – yeah.

17 MR. PRICE: Right here? Um -

18 MS. COX: I don't know, that's another barn type structure that they have.

19 MS. CECERE: But that's not on your property?

20 MS. COX: No, it's just –

21 MR. PRICE: It could be close; I know our lines –

22 MS. CECERE: Oh, okay.

1 MR. PRICE: - aren't exact but looks like either a portion of that structure is
2 encroaching through the property lines or it's encroaching to the property line.

3 MS. COX: Really?

4 MR. PRICE: Yeah, a survey will – but that really doesn't affect -

5 MS. CECERE: I understand.

6 MR. PRICE: - what we have.

7 CHAIRMAN MCDUFFIE: If the Applicant were to acquire the additional property
8 that they're seeking to acquire or may acquire in the future, would that change the
9 amount of – or is it just based on the zoning for the lot or -

10 MR. PRICE: Actually, for accessory structures, that's pretty universal for all our
11 zoning districts, 1,200 is the maximum number for an accessory use. Yes.

12 MS. COX: There's a lot of horse country out there where people are building
13 barns and I think there's a neighbor up the street that actually has their front yard
14 fenced in for their horse. So, I'm thinking if they can do that, can we not put a building
15 out behind?

16 MR. PRICE: Yeah, we've actually - kind of off – we try to work with, when these
17 structures come before us that are a part of an actual like a barn, you know, horses and
18 you know, maybe you have some type of livestock or you're actually farming the land.
19 I'd say in more of a commercial farm, unless you make [inaudible] acres upon acres; try
20 to work with them from that aspect. But, in a case where you're just looking at just an
21 accessory use for a residential use that 1,200 definitely does apply.

22 CHAIRMAN MCDUFFIE: How, just for my information, how would a, what would
23 a barn be considered under the Code?

1 MR. PRICE: What we do is we look at its part of that permitted use. Let's say if
2 were, if you had horses, you are part of, I guess part of that permitted use for that
3 district. You know, horses, leave them out. So that's why that will be allowed to
4 exceed; as opposed to a storage building. You call it a barn, but it's a storage building
5 on the property.

6 MR. SMITH: So, if she labeled it a "farm" -

7 MR. PRICE: No, it's more of a determination. You can't just label it. We have to
8 actually see what it is that you're doing.

9 MR. SMITH: Oh, so even if you do have a farm, farming, actually utilizing farm
10 equipment inside the building, and there is farm on the property, that storage building
11 would not be associated with the farm at all?

12 MR. PRICE: We would want to see the farm.

13 MR. SMITH: Okay, so you want to see the farm?

14 MR. PRICE: Yeah, I mean, we've had cases where someone has said, I know
15 it's kind of getting off a bit, but someone has had a parcel and they wanted to put a barn
16 for their tractor on that parcel. Well, it turns out - where are you farming or what are
17 you farming? They said, well I have farmed me some land, but its miles away. It's not
18 the same.

19 MR. SMITH: Uh-huh (affirmative). Okay.

20 MR. PRICE: It needs to be on that parcel where that use is.

21 MR. SMITH: Okay.

22 CHAIRMAN MCDUFFIE: But, I mean, that use is permitted outright in a rural
23 district.

1 MR. PRICE: Right.

2 CHAIRMAN MCDUFFIE: Would someone care to go through the Findings of
3 Fact?

4 MR. COOKE: I'll do that Mr. Chairman. Let's start off here, are there any
5 extraordinary and exceptional conditions pertaining to the particular piece of property?
6 At this current time, I'm going have to say no, based on the facts. There are no
7 extraordinary –

8 MS. COX: Would it not be to the benefit though for higher tax purposes, that
9 you're going to get better revenue.

10 CHAIRMAN MCDUFFIE: Ma'am, unfortunately –

11 MS. COX: - for having –

12 CHAIRMAN MCDUFFIE: - that's not something that's within our purview to
13 consider. We're specifically looking at does the parcel and the use that's being
14 requested meet the criteria for the variance. So, that's not in our purview to determine
15 today.

16 MS. COX: Oh, okay.

17 CHAIRMAN MCDUFFIE: If, would you care to make a motion if –

18 MR. COOKE: Yeah, Mr. Chairman, I would like to move to deny variance 10-16
19 based on the Findings of the Facts.

20 CHAIRMAN MCDUFFIE: Is there a second?

21 MR. RUSH: Second.

22 CHAIRMAN MCDUFFIE: We have a motion that has been seconded, all in
23 favor?

1 MR. PRICE: Those in favor are, Rush, McDuffie, Cecere, Cooke, Smith.

2 CHAIRMAN MCDUFFIE: Alright, all opposed?

3 MR. PRICE: Those opposed, Meetze and Perrine.

4 *[Approved: Rush, McDuffie, Cecere, Cooke and Smith; Opposed: Meetze, Perrine]*

5 CHAIRMAN MCDUFFIE: Ms. Cox, your request for variance has been denied
6 and Staff will be in touch, thank you very much. Mr. Price, if you would call the next
7 case.

8 **CASE NO. 10-17:**

9 MR. PRICE: The next item is Case No. 10-17 Special Exception. The Applicant
10 is Jeffrey Godby; the location is 124 Bombay Drive. The parcel size is a little more than
11 1 ½ acres and it's currently vacant. The Applicant is proposing to place a manufactured
12 home on the subject property. The adjacent properties along Bombay Drive are
13 primarily industrially developed, as you can see. Bombay Drive is located off of Bluff
14 Road and it's a dead end road that serves 13 parcels and most of those parcels are
15 developed in more of an industrial nature. As you can see, the subject parcel's kind of
16 is highlighted or bordered by kind of an aqua/turquoise color line. As you can see, from
17 – this is Bluff Road and from the entrance as you go into the property, you can see it's
18 pretty much developed. This is a picture of the site. And this is a plat that was provided
19 by the Applicant. That's pretty much it.

20 CHAIRMAN MCDUFFIE: Alright, thank you Mr. Price. As this time, the
21 Applicant, Mr. Jeffrey Godby, has signed up to speak. Please state your name and
22 address for the Record.

23 **TESTIMONY OF JEFFREY GODBY:**

1 MR. GODBY: Jeffrey Godby, 104 Ott Road, Columbia.

2 CHAIRMAN MCDUFFIE: Could you just tell us a little bit about what –

3 MR. GODBY: I own a plumbing company, Superior Plumbing and Gas. That
4 [inaudible] of property, that's just the company my wife and I have to own the property,
5 [inaudible] my plumbing company. My intentions are to build a shop on the property
6 until the economy stabilizes, I'm not going to get into that. But I would like to utilize the
7 property for lay down yard, truck storage, pipe storage and such. Unfortunately,
8 Bombay Drive, well fortunately, it's in a good location, easy access, close to the
9 interstate and it was in my price point. Unfortunately, it's right off of Bluff Road and it's
10 not the greatest place in the world. Bombay Drive is a dark road at night, there's not a
11 whole lot of activity at the end of the road, and as you can see, I'm right at the end of
12 the road. It's pretty typically to find other fences cut, where vandals have come in and
13 obviously it's in our mind that anything I put in the yard will get stolen. And just putting a
14 fence up with razor wire unfortunately, it's just not enough. There's nobody there. I'm
15 not looking to start a trailer park off of Bluff Road; I want to have somebody there just to
16 secure my property. And I think that, you know, talking to other neighbors, it makes
17 sense to have somebody there just to maybe deter some of the bad guys from coming
18 in.

19 CHAIRMAN MCDUFFIE: So –

20 MR. PRICE: Excuse me Mr. Chair, may I interject here? If it's the Applicant's
21 intent to actually establish a use on the property as in a lay down yard, and he goes
22 through the full submittal for the site plans because he's probably going to have to
23 provide any required landscaping, buffering, parking, whatever is necessary, and he

1 establishes a use on the property then we can view – if he puts a manufactured home
2 on the property, we can view it as a temporary use. You could even get a time limit on it
3 and have him come in periodically to renew this temporary use permit as opposed to
4 going through this particular route. But, prior to us doing that, we would definitely have
5 to, he would definitely have to establish a principal, a permitted principle use on the
6 property.

7 CHAIRMAN MCDUFFIE: So, if he wanted to have a manufactured home out
8 there, that a night watchman type person –

9 MR. PRICE: Right, more for security purposes.

10 CHAIRMAN MCDUFFIE: Um-hum (affirmative).

11 MR. PRICE: Right. We would look at that with –

12 CHAIRMAN MCDUFFIE: Then that would be an outright – okay, with once the
13 site plan was –

14 MR. PRICE: Right because we wouldn't deem it to be permanent use; it is a
15 temporary use that we would continue to monitor. You know, maybe every year, maybe
16 every six months or so to come back in here and renew it. But what that does is keeps
17 it from being established permanently.

18 MR. COOKE: And he doesn't need the Board to –

19 MR. PRICE: He wouldn't need the Board for that particular course.

20 MR. COOKE: - all he would need is to consult with you for temporary -

21 MR. PRICE: Right, he would either have to go through a plan submittal.

22 MR. COOKE: Right.

1 MR. PRICE: Once that's approved, then we could look at doing the temporary
2 use.

3 MR. RUSH: So, are you saying he should withdraw this?

4 MR. PRICE: Well, I mean, if that's his case –

5 MR. RUSH: If that was the option?

6 MR. PRICE: Well one of the things I wanted to definitely point out was that he
7 clearly would need to submit plans. He would actually establish that use on that
8 property. But if that's something that he's not willing to do, or ready to do, then I guess
9 we would have to go through this route of would you allow him to have a manufactured
10 home on the property?

11 MR. RUSH: I think if he had other options, I think those should be sort of taken
12 into account first, because once you do the special exception that is more permanent.

13 MR. PRICE: Correct.

14 MR. RUSH: So, you would have to, if he wanted to go back and put his
15 company's facility on that site, then he would have come back to get a, to revert back to
16 that, is that correct?

17 MR. PRICE: No, sir.

18 MR. RUSH: So we can just ask –

19 [Inaudible discussion]

20 CHAIRMAN MCDUFFIE: He could just discontinue to – [inaudible] potential use.
21 Mr. Godby, is it would it, what is your pleasure at this time, would you care to follow Mr.
22 Price's recommendation to develop a site plan for the business or would you like to
23 continue going through the application process for a special exception?

1 MR. GODBY: Honestly, I'd like to have the special exception. I don't know how
2 temporary it will be, you know, a lot of people thought that this economy we're in was
3 going to be a lot more temporary than it's been. But it could be realistically, two or three
4 years before I even break ground on a shop out there. You know, so I just don't, I'm
5 not, I'm nowhere close to being ready to submit any kind of plans, you know, site plans
6 or building plans at this point. And furthermore, until I get out there and really – until
7 I'm, have somebody living there or somebody stationed there, I don't know if just
8 because I have shop on the property if that's going to be the security that I want.

9 MS. CECERE: I have one more question. Mr. Price, now, if let's say this facility
10 doesn't work out, would Mr. Godby then be required to remove the mobile home?

11 MR. PRICE: Are you talking as if a special exception was granted?

12 MS. CECERE: Yes.

13 MR. PRICE: I think that may be a stipulation that y'all can place on the
14 conditions of approval.

15 MS. CECERE: Thank you.

16 MR. RUSH: Let me ask you another question, Mr. Price. If – so it's zoned
17 industrial, I assume.

18 MR. PRICE: Yes, sir.

19 MR. RUSH: Under that zoning, without the special exception, you can't do any
20 type of residential -

21 MR. PRICE: No, sir.

1 MR. RUSH: - on that property. So, with the special exception, by allowing this
2 one manufactured home will it only be one home? Or could he actually set up a couple
3 on the property?

4 MR. PRICE: No, sir. I think his request is to put a manufactured home on the
5 property and so that would be, you know, being singular, that's what he, would be
6 allowed to place there.

7 MR. COOKE: That's all he'll be allowed to place there –

8 MR. PRICE: Yes.

9 MR. COOKE: - it's not an umbrella where he –

10 MR. PRICE: No, sir.

11 MR. COOKE: - the special exception would cover. Okay.

12 CHAIRMAN MCDUFFIE: Just asking for specifics, something specific –

13 MR. COOKE: Right.

14 CHAIRMAN MCDUFFIE: - and grant just what he's –

15 MR. COOKE: Okay.

16 MR. GODBY: I don't know if it helps, but there was up until about three or four
17 months ago a couple of lots up closer to Bluff Road, a mobile home on a piece of
18 property. I don't know if they had special exception or if they just had it there, but they
19 moved it recently to sell the lot.

20 MR. RUSH: I guess the way I see it and I guess we sort of discussing on the
21 Board is that with the option that Mr. Price gave, it sort of gives you the ability to move
22 forward, based on your testimony on what you said you wanted to do on the property.
23 By going through the special exception, there's some more questions to that type of use

1 that may not fit what you're trying to do so, I wonder if by having that option to submit
2 plans and go forward, will that work for you?

3 MR. GODBY: You're talking about –

4 MR. RUSH: Yeah, the option that Mr. Price –

5 MR. GODBY: I honestly, I don't know what kind of site plans I have to submit. I
6 don't know what kind of costs is going to be involved with that, so –

7 CHAIRMAN MCDUFFIE: I guess, we could also offer you the option of deferring,
8 you know, of deferring until you have time to determine that as well. That would be
9 something that would be more, is that something that we could -

10 MR. PRICE: Right. And I wanted to make for clarity for the Applicant, I guess,
11 we could bring this to your attention too, it seems like, and maybe I heard this earlier
12 during his testimony, that he's going to use it for something. I mean, if right now, if you
13 grant the special exception, clearly, the only thing that would go on that property is the
14 manufactured home. If it's determined that it is being used in any type of industrial or
15 commercial nature then that would be a violation because prior to doing that he needs
16 to submit plans. So, if, you know, so what we're looking at and if he knows that by
17 receiving the special exception or you granting the special exception, the only thing that
18 could be used on that property, the only use that would be on that property is a
19 manufactured home and it can only be used residentially and no other parts of the
20 property can be used industrially or commercially. That clearly needs to be understood.

21 MS. CECERE: So, what you're saying is he couldn't put another building there
22 and store things, is that what you're saying? Yeah?

1 MR. PRICE: Well, I mean, let's say he stored his own personal goods, I wouldn't
2 say that –

3 MS. CECERE: But I mean he –

4 MR. PRICE: But anything that's associated with a commercial use -

5 MS. CECERE: Right.

6 MR. PRICE: - would be a violation.

7 MS. CECERE: Do you understand?

8 MR. GODBY: Yeah, that's not what I'm looking for here.

9 CHAIRMAN MCDUFFIE: If that is not what you're looking for, then we can offer
10 the Applicant the opportunity to withdraw the request for special exception at this time,
11 is that correct?

12 MR. PRICE: I mean, he could if he just wants to go forward and just put a
13 manufactured home on the property for residential purposes, then he can proceed on
14 with the variance request.

15 MR. RUSH: Variance?

16 MR. PRICE: Excuse me, special exception request.

17 MS. CECERE: But that's all it can be.

18 MR. COOKE: Yeah.

19 MR. GODBY: Okay, I'm - I thought when I started the whole application I was
20 straight with what I wanted to do. What I'm getting is I can't get a special exception to
21 have a mobile home on the property and store plumbing trucks and trailers.

22 CHAIRMAN MCDUFFIE: I believe that's exactly what Mr. Price had said.

1 MR. PRICE: Correct. Yeah. Now, if he needs some more understanding, we
2 can defer this case so we can talk to him.

3 MS. CECERE: Yeah, I think that –

4 MR. PRICE: And then bring it back or he could just proceed on today.

5 CHAIRMAN MCDUFFIE: It would at this time, I guess we should – it may be in
6 your interest to defer this case until you've had an opportunity to have a conference with
7 Staff as to whether you want to proceed or withdraw.

8 MR. GODBY: I think – well, I think I just need to withdraw because I need to use
9 it for commercial use.

10 CHAIRMAN MCDUFFIE: Okay.

11 MR. PRICE: Okay.

12 CHAIRMAN MCDUFFIE: So at this time then we'll consider the case withdrawn.
13 Alright. At this time, the Applicant has withdrawn the case and Mr. Price will call the
14 next case.

15 MR. GODBY: Thank you very much.

16 CHAIRMAN MCDUFFIE: Thank you.

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

18 MR. PRICE: Okay, the next item is Case 10-18 Variance. The Applicant is
19 Dennis Honeford; the location is New Haven Circle. The Applicant is requesting a
20 variance to encroach into the required side yard setback on property zoned RU. The
21 subject property is a little bit more than $\frac{3}{4}$ of an acre which means it meets the
22 requirements of Land Development Code for a rural lot. As far as area, subject property
23 is heavily wooded and undeveloped. The Applicant is proposing to construct a

1 residential structure which will encroach into the required side yard setbacks by 7'4".
2 The area is comprised of single-family residential dwellings, many which abut Lake
3 Murray Boulevard. As you can see, this is the subject property is once again bordered
4 by turquoise color and if you – and I can do that this way with you. These two lots here,
5 looks like they were both, it was one parcel and the way it was cut was so you could
6 create two parcels. This lot right here is your typical flag lot, you know, 50' front widens
7 out to the remaining acreage in the back. This is almost like a reversed flag lot.

8 MR. RUSH: Yeah.

9 MR. PRICE: So, that's really unique about that particular parcel. And the
10 Applicant has supplied us some good information for the Board. This is a plat of the
11 property and also the abutting parcel. And as you can see, and I'm sure the Applicant
12 when we speak more on it, of the area in which he can build a home. I'm just thinking,
13 you can see in the Staff Report that this particular area in the back is labeled Area Z, is
14 probably not going to be built upon without some type of variance just due to its width.
15 This is kind of a cropped in version. This is the site plan. And this is more zoomed in.
16 As you can see, there's the home and it was going to be 12' 6" inches away from the
17 side property line. I'll let the Applicant speak more on that, but I believe the intent was
18 really to kind of maximize the uniqueness of the lot next to the lake, maybe provide
19 either access or a view of the lake. That would be all.

20 CHAIRMAN MCDUFFIE: Thank you Mr. Price. At this time, we have the
21 Applicant, Dennis Honeford signed up to speak. Would you please state your name
22 and address for the Record?

23 **TESTIMONY OF DENNIS HONEFORD:**

1 MR. HONEFORD: I'm Dennis Honeford. My address is 760 West Karen Court,
2 Decatur, Illinois. The property located on Haven Circle, I purchased the property in
3 2007 and we intend to build a residence there. As Mr. Price said, the area you're
4 looking at the overhead there, Area Z is largely below the 363 level, so there's no
5 buildable area back in there. The front portion of the lot, Area X and Y on the overhead,
6 that contains about 21,352 square feet. And out of that 21,352 square feet 10,989
7 square feet are used up, are eaten up by the setback requirements under the statute.
8 The front setback is 40' and the side setbacks are 20'. So what it does is the width of
9 the lot the 120' then is really reduced to 80' of a buildable width area. And that's 51%,
10 so 51% of the lot is eaten up in those setback requirements. And what we're asking is
11 for an encroachment in my plan that I submitted, I was asking for an encroachment of
12 10' into the side setback requirements.

13 CHAIRMAN MCDUFFIE: Are there any questions for the Applicant at this time?

14 MR. SMITH: I have a question. Were you familiar with the actual setback before
15 you submitted the plan?

16 MR. HONEFORD: Yes, sir. Uh-huh (affirmative).

17 MR. SMITH: Okay. And is it any possible way that the plans that you submitted
18 can actually be structured to be able to fit within the actual guidelines?

19 MR. HONEFORD: The, we've worked with our plan several times to get the
20 house width narrowed down so that we could fit on there. And we have the plan sort of
21 narrowed down, you know, pretty much so that we can get it in. The placement of the
22 house on the lot is in a better position, if we can move it over to that side of the lot.

1 MR. SMITH: Do you agree that you have an option to be able to move the house
2 into a different part of the actual, the area that you are able to build on, the actual
3 10,989 feet, do you agree that you have an option to move the house to put it –

4 MR. HONEFORD: Yes, sir we do but the next case is – that I have filed just
5 immediately after this is for an accessory building that we want to place side-by-side
6 with the house.

7 MR. SMITH: Thank you.

8 MR. HONEFORD: Uh-huh (affirmative).

9 CHAIRMAN MCDUFFIE: Is that accessory building, I know that this is coming up
10 in the next case, but is that the garage that's pictured?

11 MR. HONEFORD: Yes, sir. Yes, sir, it's a detached garage.

12 CHAIRMAN MCDUFFIE: Detached garage which is going to be spaced 17'
13 apart from the house?

14 MR. HONEFORD: It will be the, on the site plan that was filed, it shows 17' apart
15 but we have added stairs on the back of the house there on the side of the porch and
16 the stairs come over about 9'. So it's, if you account the stairways, the stairs coming
17 down in there that 17' would be reduced by approximately 9'.

18 CHAIRMAN MCDUFFIE: I was just wondering if the garage was moved
19 somewhat closer to the house, if we could do this without needing either variance.

20 MR. HONEFORD: Well, but what we thought we would do is we didn't want the
21 house and the attached, the detached garage so close together. It's for architectural
22 purposes, it would look better if there's somewhat apart and the – I do have included in

1 the filing a, letters from contiguous property owners on either side of our properties that
2 don't have any objections to the encroachments.

3 CHAIRMAN MCDUFFIE: Is there any further questions for either Staff or the
4 Applicant?

5 MS. CECERE: Yeah. Was there no possible way to attach the garage to the
6 house?

7 MR. HONEFORD: This, the detached garage ma'am is a separate structure and
8 we intend to use that for boat storage, for, to put gasoline and oil in as sort of the fire
9 safety prevention, so to speak; paint and chemicals that type of thing to move them out
10 of the garage and put them in that building. The building also would be used for boat
11 storage and tools and workshop type of thing.

12 MS. CECERE: My problem is I still am looking for the extraordinary and
13 exceptional circumstances that we would have to rule on or I would have to make my
14 decision on. I don't see those.

15 MR. HONEFORD: Yes, ma'am. We feel that the extraordinary circumstances
16 here are that the setbacks are severely limiting the amount of building area on our
17 property. We have, there's 33,000 of property, the back section of it is, has about
18 11,600 square feet and substantially all of that is below the 363 level and so you can't
19 build back there, plus it's it would be too narrow to put anything back there anyway. So
20 what we end up with is 21,352 square feet in the front portion of the lot and out of that
21 21,352 about 11,000 of it is taken up by setback requirements and that we can't build in.
22 Now, according to the houses directly across the street from us, new houses a new
23 area, those setback requirements on the side are 16' with a minimum of 5' on any one

1 side. And so we feel that the extraordinary circumstances here are the 20' side setback
2 requirements that we have. And it takes the width of our property 120' and with the 20'
3 on each side, 40' in setbacks, we only have an 80' width on our property.

4 CHAIRMAN MCDUFFIE: Thank you.

5 MS. CECERE: I have a question for Mr. Price. The properties across the street
6 that's –

7 MR. PRICE: Single-family, low density.

8 MS. CECERE: Low density. Okay, that's a totally different zoning.

9 MR. PRICE: The setbacks for that particular zoning district would be 25 front, 20
10 rear, combined total of 45, no side less than 5.

11 MS. CECERE: Thank you.

12 MR. COOKE: And what about the property that's right next door?

13 MR. PRICE: Rural.

14 MR. COOKE: Right there with the –

15 MR. PRICE: This one?

16 MR. COOKE: The next one over.

17 MR. PRICE: This one?

18 MR. COOKE: Yes, sir.

19 MR. PRICE: Rural. All rural.

20 CHAIRMAN MCDUFFIE: Yeah, my issue with that issue is that it's, that it's going
21 to be whether or not the application of chapter effectively prohibits or unreasonably
22 restricts the utilization of property because obviously a house can still be built on this
23 property and still can be used residentially without a variance. It just can't be used in

1 the exact manner or to the exact design that the Applicant would prefer to use for this
2 particular residence he proposes to build. But I don't see how I guess they would meet
3 the criteria, meet the criteria for a variance given that it could be used, it could be fully
4 utilized even economically utilized without a variance. I'd entertain any discussion on
5 that or anything else requiring the variance.

6 MR. SMITH: I believe with the actual space that's, that they can't build on, the
7 360', now that's from the lake, actually provides a special exception almost because it
8 minimizes the amount of space on top of the actual setbacks. I've seen the case before
9 but then I truly believe there is a special, extraordinary case because of the amount of
10 square footage that they're able to build on, from only the amount that they're able to
11 build on from the lake as well as the setbacks. So there're two different cases for me
12 that are extraordinary.

13 CHAIRMAN MCDUFFIE: But you've got up at the front portion of the lot you
14 have 120' minimum of width and what is the, what's the required amount of setback?
15 That is 20' on the side?

16 MR. PRICE: Yes, sir.

17 CHAIRMAN MCDUFFIE: So, you're telling me that an 80' wide house is not, is a
18 hardship, is something that is going to prevent you from being able to use the property?

19 MR. SMITH: Well, it's not about preventing – I understand. Okay, I understand it
20 from that perspective, but then in regards to the amount of space they have in the front
21 – yeah, from that perspective, I do understand where you're coming from but I do
22 believe there's a special exception, I mean, excuse me, a variance that should be made

1 in regards to the amount of extraordinary circumstance of the amount of land. And
2 that's from my perspective.

3 CHAIRMAN MCDUFFIE: I mean, the 363 contour has been there since the lake
4 was developed and obviously hasn't moved.

5 MR. SMITH: Yeah.

6 CHAIRMAN MCDUFFIE: Changed so that, not being able to build at the back
7 half of the lot would have been a foregone conclusion based on any reasonable amount
8 of due diligence before purchasing this lot.

9 MR. SMITH: Yeah.

10 CHAIRMAN MCDUFFIE: So, the Applicant would have known that they could
11 build at the front portion of the lot. And also given the width of the rear portion of the lot,
12 it's, it would be likely buildable anyway, but there's plenty of room, it seems like at the
13 front the parcel to build just about anything one would like to build, you know, I just don't
14 see it. That's just my opinion.

15 MR. SMITH: Is there any other discussions?

16 MR. RUSH: Yeah, I'm sort of, as far as the width goes, and just having buildable
17 square footage on the lot, I think it's more than adequate space to build a home.

18 CHAIRMAN MCDUFFIE: Would somebody care to go through the Findings of
19 Fact? Mr. Rush, would you please?

20 MR. RUSH: Yeah. And I'll start with number 4. Are there extraordinary and
21 exceptional conditions pertaining to the particular piece of property? I'm going to have to
22 go with no on that. I just think that because of the square footage that is having enough
23 allowable or buildable square footage on that lot, I think it's more than adequate space.

1 There may have to be some architectural design to make it work, but I think it's more
2 than adequate so, unless there's any discussion, I would like to make a motion.

3 CHAIRMAN MCDUFFIE: Okay.

4 MR. RUSH: I would like to make a motion that Variance 10-18 be denied based
5 on the fact that there are no extraordinary or exceptional conditions pertaining to this
6 particular piece of property.

7 CHAIRMAN MCDUFFIE: Would you care to add in that, can I offer an
8 amendment?

9 MR. RUSH: Please.

10 CHAIRMAN MCDUFFIE: I would also wish to offer the amendment that the
11 property, that not granting the variance does not unreasonably restrict the utilization of
12 the property because of the aforesaid extraordinary or exception circumstances. Is
13 there a second?

14 MS. CECERE: I second.

15 CHAIRMAN MCDUFFIE: All in favor?

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

17 CHAIRMAN MCDUFFIE: And all opposed?

18 MR. PRICE: Those opposed, Cooke and Smith.

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

20 CHAIRMAN MCDUFFIE: Alright, Mr. Honeford, you're request for variance has
21 been denied. Staff will be in touch and at this point you can remain where you are while
22 Mr. Price calls the next case.

23 **CASE NO. 10-19 V:**

1 MR. PRICE: Okay. I guess we can proceed on with this case, I guess and this –
2 I'm not sure if the Applicant wishes to proceed on with the variance request for the
3 garage, being that he may have to do some reconfigurations. We can proceed on with
4 it or he can withdraw, but -

5 CHAIRMAN MCDUFFIE: I'll leave that up to the Applicant at this point.

6 MR. HONEFORD: Yeah, I guess we'll just withdraw the other one at this point.

7 CHAIRMAN MCDUFFIE: The Applicant asked to withdraw 10-19 –

8 MR. HONEFORD: Unless, Mr. Price, do you think there's any point in, I mean,
9 you know?

10 MR. PRICE: No, I kind of prefer not to speak on that. It would seem that the
11 conditions for the first case would apply to this second case also but it's up to the
12 Applicant.

13 MR. HONEFORD: We'll just withdraw then.

14 CHAIRMAN MCDUFFIE: Thank you very much.

15 MR. HONEFORD: Thank you for your time.

16 CHAIRMAN MCDUFFIE: And at this point, we have a request for
17 reconsideration. Mr. Price would you care to [inaudible]?

18 **REQUEST FOR RECONSIDERATION: CASE NO. 10-12 VARIANCE:**

19 MR. PRICE: Yes. What we have is a reconsideration request from Case No. 10-
20 12 Variance. This was a case that you heard last month and the reconsideration
21 request has been – I'm sorry, this is by Reverend Mark Williams, he actually submitted
22 a reconsideration request and that's at 10220 Garners Ferry Road. What I will do – yes,
23 you can have that. As you can see, just to kind of go over, the Applicant was asking for

1 a variance to exceed the square footage of the existing sign and they have submitted a
2 letter asking you for your reconsideration of your denial. They are not required to speak
3 or present anything to you. You can base it on the letter. I believe the Applicant is here
4 in case you have some questions or you'd like to direct some comments to them.

5 CHAIRMAN MCDUFFIE: At this point, I would like to call the Board into
6 Executive Session for the purposes of receiving legal advice. So we'll go into Executive
7 Session at this time.

8 [EXECUTIVE SESSION]

9 CHAIRMAN MCDUFFIE: Where were we on this? We have a request for
10 reconsideration of Case No. 10-12 Variance, request for variance. And we have a letter
11 here that has been sent to the county and distributed to the Board alleging a mistake of
12 law, a mistake of fact, and a misrepresentation that occurred in last month's
13 proceedings. And I guess at this time we should discuss each of the points that the
14 letter has raised and consider whether or not to grant a reconsideration of the case. As
15 far as the first allegation, the mistake of law, our counsel has informed us that there is
16 not a right to wait on presenting the case to the full Board, it is a consideration, we
17 sometimes offer but it doesn't necessarily change the outcome. But a quorum does in
18 fact represent the body of the Board. So, the right is to have it heard before a quorum
19 of the Board, not to wait for the entire Board. So I, it would be my opinion and the
20 opinion of the attorney that there was not a mistake of law for Point A [inaudible]. Point
21 B, the allegation of mistake of fact; the sign agent is alleged to have referred to the sign
22 as being 15½' tall when in fact, the actual proposed sign is 13½' tall. So, it is the
23 Applicant's assertion that the Board might have come up with a different outcome had

1 the Board been presented with the correct dimensions of the sign. Is that something at
2 this time to discuss this and determine whether or not to proceed on those grounds?

3 MR. COOKE: Yeah, I would like proceed on those grounds because if the actual
4 proposed height was, that was presented to us was two feet, I mean, it was two feet
5 under what the actual height what they were trying to propose.

6 CHAIRMAN MCDUFFIE: But there was – go ahead.

7 MR. RUSH: I was just going to say, but even with that being said though being
8 that they were out of compliance as it sits right now, if they built that same sign at the
9 same height, they'll be out of compliance.

10 CHAIRMAN MCDUFFIE: Well, but yeah there – if the height that's allowable is
11 four feet and then it's really not a 13½ to a 15½, you know, in my mind anyway, I wasn't
12 considering the overall height of the sign as much as I was granting the variance for the
13 use of the sign.

14 MR. RUSH: Yeah.

15 CHAIRMAN MCDUFFIE: If they'd been asking for five feet instead of 13½ or
16 15½ feet, to me, it wouldn't have made a difference because I didn't feel like they met
17 the requirements for the variance. It wasn't a question of height to me. And if anybody
18 feels any different –

19 MS. PERRINE: Well, the sign that is there now was there before zoning so it's,
20 I'm like with Mr. Cooke that if the sign was presented to us differently than what we had
21 and what we thought it was going to be, then I think we should reconsider.

22 MS. CECERE: Thirteen feet, still wouldn't be in the variance.

23 MS. RUSH: Yeah, it still wouldn't be –

1 MS. CECERE: We voted on it whether or not it met the variance. Just because
2 the sign now is even larger than what it would be allowed. We're not asking them to
3 take that sign down and make it smaller, but 13.5' and 15.5', neither one of those meet
4 the requirements set forth by the county.

5 CHAIRMAN MCDUFFIE: And we didn't feel like it met the parcel itself, met -

6 MS. CECERE: Exactly.

7 CHAIRMAN MCDUFFIE: - the criteria for the variance, not so much the height of
8 the sign. I think we're losing a little bit of focus on that.

9 MR. RUSH: Yeah, I agree. It was done under extraordinary conditions.

10 CHAIRMAN MCDUFFIE: Perhaps you voted differently but if we have a copy of
11 the Minutes handy can we - I would like to go back -

12 MS. PERRINE: But I'd like to say, I mean, that's why we have variances that's
13 why we have special exceptions. And that's why people come before us and, so that
14 we can -

15 MR. RUSH: Take it into consideration.

16 MS. PERRINE: Right. Thank you.

17 MS. CECERE: And we did. I mean, we took it into consideration and we said
18 there aren't any extraordinary or exceptional circumstances.

19 CHAIRMAN MCDUFFIE: In fact the motion right here was that the case would
20 be denied based on the fact that there were no extraordinary or exceptional conditions
21 pertaining to this particular piece of property. And that's what, that's what the Board
22 found. Let's -

23 MR. MEETZE: Yes, I have a comment.

1 CHAIRMAN MCDUFFIE: Um-hum (affirmative).

2 MR. MEETZE: Though I can't vote – we all understand the law in writing. We all
3 understand the letter of the law but we all understand the spirit of the law. Now, God
4 gave us all a brain to think. Even gave me one, I'm blessed. But, I think we've got a
5 circumstance here that common sense more than outweighs the letter of the law or the
6 spirit of the law. And I maintain that this would enhance the property, it would do
7 nothing to, in fact, nothing of detriment of anything surrounding and I just feel like we're
8 making a mountain out of a mole hill here. If I'm out of order, please say so.

9 MR. SMITH: Thank you, sir.

10 CHAIRMAN MCDUFFIE: Well granted you were not here during the last time, so
11 you may not be fully familiar with the facts of the case. But based upon what was
12 presented to the Board, we did not feel that the property in question met the criteria for
13 the variance. And we didn't really necessarily address the question of whether or not
14 the particular use enhanced the property or did not. We were simply looking at whether
15 or not they met the criteria for the variance. And –

16 MR. MEETZE: But there's also exceptions to all rules and all regulations. I'm
17 sorry I'm head strong but that's just –

18 CHAIRMAN MCDUFFIE: That may well be the case. Let's – can we look at the
19 3rd point that was made about misrepresentation?

20 MR. MEETZE: Yeah, sure.

21 CHAIRMAN MCDUFFIE: It says that Mr. Duncan failed to list the extraordinary
22 and exceptional conditions pertaining to the property that were crucial to the case. The
23 exceptional condition is a valley or dip in the land's elevation. The valley or dip was

1 originally created when the highway in front of the church was widened and the roadbed
2 was raised to properly bank the curve when approaching the church from the south.
3 Given the rural requirements for signage, the law presents a hardship for the church
4 and that the sign would not be visible from the road from all directions; that they need
5 additional height to overcome the hardship. We could examine that point for a moment
6 alone.

7 MS. PERRINE: Well should, just a question from me. Should we be discussing
8 all of this now or should we vote to see if we want to reconsider or rehear this case and
9 start [inaudible] –

10 CHAIRMAN MCDUFFIE: We need to determine whether or not there are
11 appropriate grounds for rehearing the case and that's what we're trying to determine at
12 this time.

13 MS. PERRINE: Oh, okay.

14 MR. COOKE: With the valley and the dip, if that's – Mr. Price? It states that the
15 valley and the dip was originally created when the highway in front of the church was
16 widened. I don't know if that, does that really create a hardship for that signage for the -

17 MR. PRICE: It's kind of hard for me discuss that because that seems like that
18 would be something that would be discussed more if the case were –

19 MR. COOKE: If we were –

20 MR. PRICE: - planned at reconsideration.

21 MR. COOKE: - if it was reconsidered?

22 MR. PRICE: I mean –

1 CHAIRMAN MCDUFFIE: But we're just looking at the picture I see, you know,
2 beyond this property, there are other valleys and dips on the road. I drive to Sumter
3 everyday and that is probably one of the more hilly areas of the county. It's full of
4 valleys and dips that pertain to all properties out there, not just specifically to the – or
5 too many properties out there, not just specifically to this one piece of property. It
6 doesn't seem to me that that might create a hardship, but that's my opinion. Now, the
7 individuals that were here last time to hear the case would be qualified to vote as to
8 whether or not this case warrants or merits a rehearing. And at this time, I would ask
9 that once a motion is presented, that the individuals who were not here last time do not
10 participate in the voting. Is there a motion in either direction to grant or deny a
11 rehearing or further discussion at this point?

12 MS. CECERE: I make a motion that reconsideration for Case No. 10-12 V be
13 denied.

14 CHAIRMAN MCDUFFIE: Alright, is there a second?

15 MR. RUSH: Second.

16 CHAIRMAN MCDUFFIE: All in favor? And all opposed?

17 MR. PRICE: Those in favor are Rush, McDuffie, Cecere.

18 CHAIRMAN MCDUFFIE: And all opposed?

19 MR. PRICE: Those opposed, Perrine and Cooke.

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

22 CHAIRMAN MCDUFFIE: Okay. Mr. Williams, your request for reconsideration
23 has been denied and Staff will be in touch. At this time, we have still have the matter of

1 approving the Minutes from last month. And we had, I believe one amendment to the
2 meeting Minutes to correct Mr. Meetze's name. Okay, and are there any other, anything
3 else? Is there a motion at this time to approve the Minutes as corrected?

4 MR. COOKE: I so move.

5 CHAIRMAN MCDUFFIE: Okay, is there a second?

6 MS. CECERE: Second.

7 CHAIRMAN MCDUFFIE: Alright, all in favor?

8 MR. PRICE: Oh, I'm sorry. Perrine, Rush, McDuffie, Cecere, Cooke.

9 *[Approved: Perrine, Rush, McDuffie, Cecere, Cooke; Abstained: Meetze, Smith]*

10 CHAIRMAN MCDUFFIE: Alright, the Minutes are approved. And we are
11 adjourned.

12

13

[Meeting Adjourned]