

BOARD OF ZONING APPEALS

December 5, 2012

1
2
3
4 *Present: Joshua McDuffie, Michael Spearman, Ralph Meetze, Susanne Cecere,*
5 *William Smith; Absent: Sheldon Cooke]*

6
7 Called to order: 1:03 pm

8 CHAIRMAN MCDUFFIE: I'd like to call this meeting of the Richland County
9 Board of Zoning Appeals to order. And in accordance with the Freedom of Information
10 Act, a copy of the Agenda was sent to radio and TV stations, newspapers, persons
11 requesting notification, and posted on the bulletin board located in the lobby of the
12 County Administration Building. At this time our attorney, Ms. Amelia Linder, will read
13 the Rules of Order and swear in anyone that's going to speak today.

14 MS. LINDER: Thank you, Mr. Chairman. Good afternoon. My name is Amelia
15 Linder and I'm the attorney for the Board of Zoning Appeals and I'd like to welcome you
16 today. This Board as you may know is a *quasi* judicial body which means they have final
17 decision, subject to anyone that's unhappy they can then appeal to circuit court because
18 otherwise the decision the Board makes today will be a final decision. The decision will
19 basically go into effect after the Minutes from this meeting get approved at the next
20 meeting and at that time an Order will go out stating what the decision was. And then
21 you have 30 days from the time you receive that Order to appeal the decision if you're
22 unhappy with the decision. The Applicant has up to 15 minutes to speak and present
23 their case today. If there's anyone here in opposition to what you're asking for, what the
24 Applicant is asking for, they will have up to three minutes to speak, and then the
25 Applicant again will have five minutes to rebut any opposition. I believe we have one
26 case on the Agenda today so that will be the one we take up. If you plan to testify and

1 when you testify please make all your comments, address all your comments to the
2 Board. We will not allow any audience demonstrations and no testimony from what here
3 is at the podium. You will be under oath and your testimony will be recorded. If you have
4 any documents that you'd like to submit you may give those to the Board and the
5 testimony you give will be weighed appropriately and the Board will make a fair and
6 impartial judgment based on the criteria of our zoning ordinance. I would ask that you
7 turn off any cell phones or mute them, make sure your name's on the sign up sheet if
8 you plan to speak. And once a case is covered and over you may come and go as you
9 need. If the Board has any legal questions they may go into Executive Session with me,
10 but I don't anticipate that today. And that sort of summarizes how we're gonna proceed
11 today. Does anyone have any questions? Okay, if not I'd like to swear in anyone that's
12 planning to testify, which means coming up to the podium or potentially coming up to
13 the podium, if you will please stand, raise your right hand. Do you swear or affirm that
14 the testimony you shall give shall be the truth, the whole truth and nothing but the truth
15 so help you God?

16 AUDIENCE: I do.

17 MS. LINDER: Thank you.

18 CHAIRMAN MCDUFFIE: Thank you very much. At this time the next item on the
19 Agenda is approval of the Minutes from the September 2012 session. Has everyone
20 received and had an opportunity to review the Minutes? Are there any corrections?

21 MR. SPEARMAN: One correction, Mr. Chairman.

22 CHAIRMAN MCDUFFIE: Please.

23 MR. SPEARMAN: On line 4, Mr. Meetze's first name.

1 MR. MEETZE: Yes, Elbert is my cousin. I'm T. Ralph.

2 CHAIRMAN MCDUFFIE: Alright. Are there any further corrections? Is there a
3 motion to approve the Minutes as corrected?

4 MR. SMITH: I make a motion to approve the Minutes as corrected.

5 CHAIRMAN MCDUFFIE: Alright, is there a second?

6 MR. MEETZE: Second.

7 CHAIRMAN MCDUFFIE: Alright, so a motion has been made and seconded. All
8 in favor?

9 MR. PRICE: Those in favor: Spearman, Meetze, Smith, McDuffie, and Cecere.

10 *[Approved: Spearman, Meetze, Smith, McDuffie, Cecere; Absent: Cooke]*

11 CHAIRMAN MCDUFFIE: Alright, the Minutes from September of 2012 are
12 approved and we'll now move to the public hearing portion of today's hearing. Mr. Price,
13 if you would call your first case or call the case.

14 MR. PRICE: The case.

15 **CASE NO. 12-09 SE:**

16 MR. PRICE: Yes, sir. Case No. 12-09 special exception. I'm sorry. There's one
17 slight error on this, I apologize. The Applicant is asking to place a communication tower
18 on property zoned M-1, I apologize for that, it's actually M-1, which is the light industrial
19 district. The Applicant is proposing to erect a 180' monopole telecommunications tower
20 within a 6,000 square foot compound.

21 MS. LINDER: Mr. Price? I have a question about the M-1 zoning.

22 MR. PRICE: Yes.

23 MS. LINDER: I don't see that as a listed zoning district for a cell tower.

1 MR. PRICE: Remember, it is – M-1 under 22, excuse me 26-152, I think it's
2 (D)22.

3 MS. LINDER: Which, when was that put in?

4 MR. PRICE: That was in 6.19.12.

5 MS. LINDER: Very recently.

6 MR. PRICE: Yes, ma'am.

7 MS. LINDER: Thank you so much.

8 MR. PRICE: Previously it was a special, just a special requirement but we moved
9 it over to the special exception as the other zoning districts required.

10 MS. LINDER: Thank you.

11 MR. PRICE: As stated, that, once again the Applicant's proposing to erect a 180'
12 monopole telecommunications tower in a 6,000 square foot compound. According to the
13 provisions of 26-152(D)(22)(c)(3), a tower that's located in a district which is abutting
14 non-residentially zoned parcels must meet the zoning setbacks of that particular district.
15 In this case it would be front 25', rear 10', sides would be 0. The tower is proposed to
16 be located at least 25' from each property line. The general area is primarily industrially
17 developed. Right next, the parcel where the tower will be located is next to a, to a
18 hotel/motel that is off of a frontage road, Plumbers Road, which is off of I-20. That's it.

19 CHAIRMAN MCDUFFIE: Alright, thank you very much. Does anyone have any
20 questions for Mr. Price at this time? Alright in that case I'd like to call the Applicants to
21 the stand. I believe we have Mr. Mike Feaginbaum? Did I get that right this time?

22 **TESTIMONY OF MIKE FEAGINBAUM:**

23 MR. FEAGINBAUM: That's pretty good.

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

2 MR. FEAGINBAUM: Yeah, my name is Mike Feaginbaum and I'm with ClearTalk,
3 our offices are located at 2101 Main Street right here in Columbia 29201. And, you want
4 my home address?

5 CHAIRMAN MCDUFFIE: No, that's fine.

6 MR. FEAGINBAUM: First of all, I really appreciate the Board convening for one
7 Agenda item in the month of December and it's really nice and it's highly appreciated.
8 Basically, you know, I think everybody knows who ClearTalk is, we're locally owned
9 cellular telephone company, we are operating here in Columbia and up in Greenville
10 and Spartanburg in an employee owned business, you know, we're trying to provide,
11 you know, first rate services to compete, you know, with Verizon and Sprint and AT&T
12 and have prices that people can actually afford. And, you know, we've had a lot of
13 success here, we're up to about 75 employees, all locally grown, and we're moving
14 forward from there. And, you know, this proposal is just to continue to improve our, our
15 coverage and the quality of our service and, you know, in this area. I think that Mr.
16 Price's description of the project is accurate and I'm here to answer any questions
17 anybody may have.

18 CHAIRMAN MCDUFFIE: Does anyone have any questions for the Applicant at
19 this time?

20 MS. CECERE: I do.

21 CHAIRMAN MCDUFFIE: Okay.

22 MS. CECERE: Mr. Feaginbaum, what's the closest cell tower to that, to this
23 location?

1 MR. FEAGINBAUM: There are two cellular towers that are close by this one, we
2 are located on both of them. One is owned by American Tower Corporation, the other is
3 owned by, by Crown Castle. Am I permitted to –

4 MS. CECERE: Sure.

5 MR. FEAGINBAUM: Okay. There's an AT&T tower about, just shy of a mile,
6 about 8/10ths of a mile away from this particular proposal that we're making to you
7 guys.

8 MR. SMITH: Is there two or three?

9 MR. FEAGINBAUM: Well, there's three but the two other ones that are in close
10 proximity are owned by American Tower Corporation and, and Crown Castle and we
11 already co-located on those ones.

12 CHAIRMAN MCDUFFIE: So this would be, this tower then would be in addition to
13 those two co-located ones to –

14 MR. FEAGINBAUM: That's correct. You know, as –

15 CHAIRMAN MCDUFFIE: - to fill out the network.

16 MR. FEAGINBAUM: Right, and you sometimes become a little bit of a victim of
17 your success. You know, we've had pretty good response and quality is starting to
18 suffer because, you know, spacing isn't quite right and this fills a nice, you know, big
19 hole for us and helps us really provide a lot more, you know, improved coverage for our
20 current customers, and hopefully help a bunch of future ones.

21 MS. CECERE: Mr. Feaginbaum, how do you determine that you need a tower
22 there?

1 MR. FEAGINBAUM: Well, that's an excellent question for our RF engineer, Bill
2 Howard, and maybe we ought to switch places there and Bill can, you know, answer
3 technical questions and, and he's really good at explaining this at like normal people like
4 me can understand. Bill?

5 CHAIRMAN MCDUFFIE: If you could please state your name and address for
6 the Record.

7 **TESTIMONY OF BILL HOWARD:**

8 MR. HOWARD: Hello, William Howard, at 912 South Edisto Avenue, Columbia,
9 South Carolina. We, there are a number of ways we determine where we need towers
10 and where to place towers but the main way we do it is through software analysis of the
11 network, that's the initial way we determine where we need to place sites and I
12 regenerate propagation maps from that software that shows basically how the signal
13 propagates, extends over the covered area, and I can pass these around.

14 CHAIRMAN MCDUFFIE: I believe we have copies of those, is it the same as the
15 one in our, in our –

16 MR. HOWARD: You'll see, there are three slides; one slide shows just
17 propagation of the tower by itself, the other shows the propagation of our current
18 network, the way it stands, I believe that's probably the second slide. And then the third
19 shows the proposed coverage, our current coverage but with the addition of the
20 proposed site. And with a mature network that we have now, page 18 shows the solo
21 coverage of the proposed site and then page 19 you'll see our, that's our current
22 coverage, the signal level we're actually broadcasting at the moment. And then page 20
23 you'll see the current coverage plus the addition for this site. You know, with a mature

1 network such as we have here in Columbia now, we've been on air for about two years,
2 we also use other analysis to determine where we need sites and basically we look at
3 traffic patterns, where people are, which towers are carrying the most traffic, what
4 towers might be getting bogged down. I don't know if you've ever made a cell phone call
5 on your cell phone and received like a fast busy signal, that's basically because the
6 tower you're on is carrying too much traffic, and that's what we're actually experiencing
7 in this area. We have a very weak signal level because of the, the terrain, it's kind of in
8 a bowl area surrounded by higher terrain. So the signal from our current towers does
9 not reach that area very effectively. But we're also seeing a very, a large concentration
10 of ClearTalk subscribers in that area, particularly just south of I-20, and so when you
11 have a number of people trying to make a call on a signal that's already weak, coverage
12 suffers exponentially, you know, it's trying to grab on to the same signal so you get a lot
13 of fast busy signals and so forth and blocked calls, and you'll get tones saying,
14 searching for service.

15 MS. CECERE: Now you say this area is sort of like in a bowl, will that determine
16 also how tall your tower will be?

17 MR. HOWARD: That's also, yes, correct, how we determine the height of the
18 tower. I run it at certain levels and, you know, I try to, basically we want to build the
19 smallest tower possible. There are a number of reasons for that; for one we don't want
20 to over propagate and start interfering with the other cell sites, and then there's the
21 economics, it does cost a bit more every time you go up 10', you have to have a larger
22 foundation, the steel has to be stronger, wind loading has to be, it has to be able to
23 handle heavier wind loading, so we do try to keep the towers at a minimum.

1 MS. CECERE: Is any of this, do you also have like user input on whether or not
2 signals are lost and, etc., or you just determine that just by your –

3 MR. HOWARD: We get daily reports on, every morning we get a report on how
4 the network's performing and we can actually see heavy usage in that area and we can
5 also see a high rate of dropped calls in that area.

6 MR. SMITH: What is the height of this actual tower?

7 MR. HOWARD: Hundred and eighty feet.

8 MR. SMITH: One eighty okay. Thank you.

9 CHAIRMAN MCDUFFIE: Are there any other questions for Mr. Howard?

10 MR. SPEARMAN: Yes, Mr. Chair.

11 CHAIRMAN MCDUFFIE: Okay.

12 MR. SPEARMAN: Is this gonna be a monopole tower?

13 MR. HOWARD: I believe that's what was stated. I think the initial tower was
14 designed to be a self support, which is the lattice towers you see. But, it's a self support.

15 MR. SPEARMAN: Okay, will it require lights?

16 MR. HOWARD: No, it will not.

17 MR. SPEARMAN: It's gonna be under the –

18 MR. HOWARD: Under the FAA threshold.

19 MR. SPEARMAN: - height requirement for lights?

20 MR. HOWARD: Correct.

21 MR. SPEARMAN: Who is gonna be the owner of the tower?

22 MR. HOWARD: ClearTalk Wireless.

23 MR. SPEARMAN: Will y'all allow co-location?

1 MR. HOWARD: Yes, the tower's designed for five or six, four additional carriers.
2 So a total of five carriers.

3 MR. SPEARMAN: Will y'all meet the requirements as far as landscaping that the
4 county requires?

5 MR. HOWARD: Yes.

6 MR. SPEARMAN: Signage as well?

7 MR. HOWARD: Correct, yes.

8 MR. SPEARMAN: And if the tower is declared non-usable by y'all, will y'all
9 dismantle it within a 120 days after that?

10 MR. HOWARD: Yes, we will. Originally when we designed this network about
11 three and a half years ago using the softer simulation tool, Crown Castle had this, within
12 a block or two of this particular site, a proposed site, it is actually on their website as a
13 tower they planned on building, and that's what we had planned on going on. We
14 factored that into the network, we knew it would be down the road, a year or two down
15 the road before they built it. Well, it turns out their main client, AT&T at the time, did not
16 get funding or decided it was not a necessary area to enhance their coverage, so they
17 pulled back and Crown Castle decided they would no longer build a tower.

18 MR. SPEARMAN: Will the tower and the associated buildings be located within
19 at least a seven foot high fenced in area?

20 MR. HOWARD: Yes.

21 CHAIRMAN MCDUFFIE: Any further questions? Any discussion? Mr. Spearman,
22 would you care to go through the Findings of Fact?

1 MR. SPEARMAN: These are the Findings of Facts for Case 12-09 Special
2 Exception. The property is zoned LI which is light industrial. Notice of the public hearing
3 was posted on the property for which this special exception was sought or is sought.
4 The notice, was notice published in a newspaper of general circulation within the county
5 not less than fifteen (15) days prior to the public hearing on the matter? The answer is
6 yes. Will the proposed tower have a maximum height of less than 300'? The Applicant
7 said it would be 180' tall. If the proposed tower will be located on a building 40' or four
8 stories or less in height, will the tower have a maximum height of 20' above the roof
9 line? That's not applicable. It's gonna be stand alone tower from what the testimony
10 represents. If the proposed tower will be located on a building greater than 40' or four
11 stories in height, will the tower have a maximum height of 40' above the roof line? This
12 is not applicable as well. Also, 5(a), is the base of the proposed tower located at least
13 one foot away from a residential zoning district for each foot height of the tower? The
14 answer is yes. Is the base of the proposed tower located at least 50' away from a non-
15 residential zoning district with a habitable dwelling? The answer is no. Is the base of the
16 proposed tower located at least –

17 MS. LINDER: Excuse me, Mr. Spearman?

18 MR. SPEARMAN: Ma'am?

19 MS. LINDER: I believe that answer would be it is at least that far away.

20 MR. SPEARMAN: I'm sorry, you're right. Excuse me, the answer would be yes for
21 5(b). Is the base of the proposed tower located at least the minimum setback required
22 by the zoning district from a non-residential district within the inhabitable dwelling? The
23 answer is yes. Has the Applicant shown proof of an attempt to co-locate on existing

1 communication towers? The answer is yes. Is the Applicant willing to allow other users
2 to co-locate on the proposed tower in the future subject to engineering capabilities of
3 the structure? The answer is yes. Will the proposed tower meet the illumination
4 requirements? That's not applicable because the tower's 180' tall, it's not required to
5 have lights. Has the Applicant agreed to have nighttime light strobes? That's not
6 applicable as well because the tower does not need to be lighted. Will the
7 communications tower and associated buildings be enclosed within a fence at least
8 seven foot in height? The answer is yes. Has the Applicant agreed to landscape the
9 communications tower site in accordance with requirements of §26-176? Yes. Has the
10 Applicant agreed to place no signage to any portion of the communications tower unless
11 the sign is for the purpose of identification, warning, emergency function or contact or
12 other as required by applicable state and federal rule, law and regulation? The answer
13 is yes. Has the Applicant agreed to dismantle and remove the tower, the
14 communications tower within 120 days of the last, of the date the tower was taken out of
15 service? The answer is yes. Will the traffic be impacted by this proposal? The answer is
16 no. Will pedestrian, will this proposal affect vehicle or pedestrian safety? It will not affect
17 either. Is there a potential impact for noise, lights, fumes or obstruction of air flow on
18 adjoining properties? No. Does the proposed communications tower have adverse
19 impact on the aesthetics, character of the environs? The answer is no. Is the orientation
20 and spacing of improvements or buildings appropriate? Yes. That concludes the
21 Findings.

22 CHAIRMAN MCDUFFIE: Would someone like to make a motion?

1 MR. PRICE: Mr. Chair, just to make sure for the Record that the property is
2 zoned M-1, light industrial and that it will be on a self support communications tower, not
3 a monopole.

4 CHAIRMAN MCDUFFIE: Thank you.

5 MR. SMITH: I'd like to make a motion to approve special exception for 12-09 for
6 a cell tower in the light industrial area.

7 CHAIRMAN MCDUFFIE: Alright, Mr. Smith has made a motion to approve. Is
8 there a second?

9 MR. MEETZE: I second.

10 CHAIRMAN MCDUFFIE: Alright. So we have a motion and it's been seconded to
11 approve 12-09 SE. All in favor?

12 MR. PRICE: Spearman, Meetze, Smith, McDuffie, Cecere.

13 *[Approved: Spearman, Meetze, Smith, McDuffie, Cecere; Absent: Cooke]*

14 CHAIRMAN MCDUFFIE: Alright, and that leaves none opposed. We, 12-09
15 special exception has been approved and the Staff will be in touch. Thank you very
16 much. Is there any other business at this time?

17 MR. PRICE: No, sir.

18 CHAIRMAN MCDUFFIE: In that case –

19 MR. PRICE: Oh, I'm sorry. We do have –

20 MS. HAYNES: There's a training on December 7th.

21 CHAIRMAN MCDUFFIE: Friday.

22 MS. HAYNES: [Inaudible] continuing education. [Inaudible]

1 CHAIRMAN MCDUFFIE: Everybody should have received an email about it. Yes,
2 sir?

3 MR. SPEARMAN: Do we have a calendar yet for next year's meeting dates and
4 so forth?

5 CHAIRMAN MCDUFFIE: Not that I have seen thus far. Is there a calendar out
6 yet for next year's meetings?

7 MS. HAYNES: There's a calendar for next year and I'll have it, I'll mail it out, I'll
8 send it out tomorrow.

9 CHAIRMAN MCDUFFIE: What's that?

10 MR. PRICE: I didn't know if you wanted her to go to the podium.

11 CHAIRMAN MCDUFFIE: That's alright. So to just restate for the Minutes that
12 there is a calendar for next year and we –

13 MS. HAYNES: [Inaudible]

14 CHAIRMAN MCDUFFIE: Thank you very much.

15 MR. SPEARMAN: Will we meet on, what, the 2nd of January if we have cases? Is
16 that correct?

17 [Inaudible discussion]

18 MR. SPEARMAN: So it would be the 9th?

19 MS. HAYNES: Correct.

20 MR. SPEARMAN: Do we have any cases for January, Mr. Price?

21 MR. PRICE: Potentially we do. One we're still kind of working on, but potentially
22 we have a case.

1 MR. SMITH: I'd like to make a, just a note of congratulations to our past Zoning
2 Appeals Board Member, Torrey Rush, officially a Member of Richland District Seven,
3 County Councilman, and I want to make sure we have it on, in our notes, in the Minutes
4 for this meeting.

5 CHAIRMAN MCDUFFIE: Thank you very much. We all wish Mr. Rush the best.

6 MR. SMITH: Wish him the best.

7 CHAIRMAN MCDUFFIE: Councilman Rush.

8 MR. SMITH: Councilman Rush.

9 CHAIRMAN MCDUFFIE: And on that note, if there's no further business, meeting
10 adjourned.

11
12 *[Meeting adjourned at: 1:35pm]*