

1 **BOARD OF ZONING APPEALS**

2 November 5, 2008

3 *[Present: Joshua McDuffie, Torrey Rush, William Smith, Susan Cecere, Sheldon*
4 *Cooke]*

5
6 Called to order: 12:55 p.m.

7 VICE-CHAIRMAN MCDUFFIE: I'd like to call the November Board of Zoning
8 Appeals to order. And our first order of business, I'd like to make a motion that we go
9 into Executive Session to discuss pending litigation. Do I hear a second?

10 MR. RUSH: Second.

11 VICE-CHAIRMAN MCDUFFIE: All in favor?

12 *[Approved: McDuffie, Rush, Smith, Cecere, Cooke]*

13 *[Executive Session]*

14 VICE-CHAIRMAN MCDUFFIE: I call the Richland County Board of Zoning
15 Appeals back from recess. I see that we have a quorum and so at this time I'd like Ms.
16 Amelia Linder, our attorney, present the Rules of Order.

17 MS. LINDER: Good afternoon, I'd like to welcome you to the afternoon of
18 November 5th, Board of Zoning Appeals meeting. My name is Amelia Linder and I am
19 a, I am the attorney for the Board of Zoning Appeals. I'd like to go over a few rules and
20 procedure that apply today. If you're here to be heard on a case requesting a Special
21 Exception or a Variance or, or appealing the Zoning Administrator's decision, I believe
22 we have one Variance today, and you plan to testify to that you will have to be sworn in
23 to get the testimony. The applicant will have up to 15 minutes to present their case, if
24 there's any opposition they will have up to three minutes to speak on their issue or

1 concerns and then the applicant has up to five minutes to rebut. We have a very short
2 agenda today, which will get us out of here in plenty of time. When you are up at the
3 podium testifying, please address your comments to the Board Members and not to
4 members of the audience. Today's hearing is the *quasi* judicial hearing, it's, it's semi
5 like a court. The Board's decisions are final, subject to an appeal to circuit court. If
6 you've got documents to submit, we'll accept those. The Board has the right to weigh
7 and give credence or balance out the testimony and so they will be doing that. They'll
8 give the weight of the testimony based on what they feel is appropriate. And then there
9 will be a motion and a vote either to approve your application or your request, or to deny
10 it and then there's special conditions for the approval or the denial, which they will on
11 the Record for you. If you're unhappy with the decision, you have 30 days from the time
12 the Order is mailed to you, you have 30 days to file an appeal to the circuit court and in
13 that you would submit your reasons why you feel like the Board's decision is contrary to
14 law. Housekeeping matters, please turn off cell phones, pagers, if you're planning to
15 speak make sure your name is on the sign up sheet. Other than that, if there are any
16 questions I'll entertain them, if there are no questions and if you plan to testify if you'll
17 please stand so I can give you the oath of, swear to tell the truth. Sir, if you'll raise your
18 hand please. Do you swear or affirm that the testimony you give today shall be the
19 truth, the whole truth and nothing but the truth so help you God?

20 AUDIENCE MEMBER: [Inaudible]

21 MS. LINDER: You are sworn in, thank you.

22 VICE-CHAIRMAN MCDUFFIE: At this point the Board will take up the matter of
23 the appointment of officers as I'm currently acting Chair.

1 MS. CECERE: I'd like to nominate Joshua as the Chair.

2 MR. SMITH: Second.

3 VICE-CHAIRMAN MCDUFFIE: Are there any other nominations for Chair?

4 [Inaudible] accept my acclimation or do we need to vote? All in favor? All opposed?

5 *[Approved: McDuffie, Rush, Smith, Cecere, Cooke]*

6 CHAIRMAN MCDUFFIE: Okay, next office will be for the new Vice Chair. Are
7 there any nominations from the floor?

8 MR. SMITH: I nominate Torrey Rush.

9 CHAIRMAN MCDUFFIE: Alright I'll second that nomination. Are there any other
10 nominations from the floor? All in favor of Torrey Rush for Vice Chair? All opposed?

11 *[Approved: McDuffie, Rush, Smith, Cecere, Cooke]*

12 CHAIRMAN MCDUFFIE: Torrey Rush is the Vice-Chair. Secretary [inaudible]?

13 MS. LINDER: I believe Mr. Price is your active secretary.

14 MR. PRICE: Unless you want to change that.

15 CHAIRMAN MCDUFFIE: No. Alright well that concludes the, the appointment of
16 officers. We will, on the matter of the approval of Minutes from October 2008, we
17 cannot approve the Minutes today.

18 MR. RUSH: I would like to make a motion that we have a special called meeting,
19 late next week, maybe Thursday of next week if possible in order to, because of the
20 circumstances at hand not being able to have the Minutes ready for this meeting, we
21 have a special called meeting late next week in order to, to actually vote on the Minutes,
22 vote to approve them.

23 CHAIRMAN MCDUFFIE: Can we do it after work?

1 MR. RUSH: Whatever time, that's fine.

2 CHAIRMAN MCDUFFIE: Can we do it say 5:30, Thursday the 13th?

3 MR. SMITH: [Inaudible] Friday [inaudible]

4 CHAIRMAN MCDUFFIE: Can we do it Wednesday at 5:00? Alright at this point
5 then, the Board will plan on convening a special called meeting Wednesday the 12th at
6 5:00 pm to approve or to look at the approval of Minutes. At this point we will move to
7 the public hearing portion of our, of our Agenda. And we'll call on Mr. Price.

8 **CASE 08-71 VARIANCE:**

9 MR. PRICE: The first and only item on the agenda as far as cases is 08-71
10 Variance. The applicant is requesting the Board of Zoning Appeals to grant a Variance
11 to locate an accessory structure in front of the building line of a principal structure on the
12 property zoned, it's a dual zoning of Rural and RS-LD. The applicant is Leslie
13 Branham, address is 181 Hiller Road. Parcel size is about one and a third, a third acre
14 it's residential in use. The, it has an existing residential structure and a three car
15 garage. The applicant is proposing, once again, to establish an accessory structure in
16 the front of a building line of the residential structure. The area is comprised of
17 residential structures and the rear of the property is abutted Lake Murray. What I have
18 before you is the section of the Code, it was actually referenced in your Agenda over
19 specifically under B(1) except as otherwise provided in this section an accessory
20 structure or use shall not be located in front of the building line of the principal structure.
21 So that's why we have a Variance request, that's the section of the Code. There's a
22 plat of the property, this is showing the proposed location of the structure. Kind of an
23 aerial of it. Here's a view from Hiller Road and I believe this would be the area where

1 they're looking to, where the proposed structure will be located. This is a picture of the
2 existing garage, the rear of the property. As you can see here we located this on one of
3 the trees and there's a vegetative buffer zone, protected area so I believe that pretty
4 much rules out the structure going back there. There does seem to be some room in
5 the back portion of it, I believe as stated that would, it would impede the vision of the
6 applicant looking at the lake, I'm sure most people want to enjoy that. This is another,
7 this is from Lake Murray toward the rear of the home. I will go back, I wish I had a
8 better shot of that so forgive me for it but this is actually the driveway. One of the, from
9 talking to the applicant, he states that when he's bringing the boat in it's getting harder
10 and harder to maneuver it into that particular area and by placing the structure here, it'll
11 be a little easier for the boat and other structures to go into it.

12 MR. RUSH: Mr. Price, do you have a picture of the proposed location, do you
13 have a drawing of the -

14 MR. PRICE: No, I don't.

15 MR. RUSH: Oh.

16 MR. PRICE: Normally I would ask for a, a drawing of it but I, I believe this is just
17 a case of the location rather than size.

18 MR. RUSH: No, this area, I wanted to see, but that's the location right there.

19 MR. PRICE: Yes. Okay, let's see it, okay yeah it may be in that package that
20 was sent to you.

21 CHAIRMAN MCDUFFIE: Alright, Mr. Branham, would you like to -

22 **TESTIMONY OF LESLIE BRANHAM:**

1 MR. BRANHAM: [Inaudible] I'm just gonna basically read my notes. Basically
2 I'm asking for a Variance to build a detached garage for additional storage of a boat, jet
3 ski, lawn tractor and various other articles I own. Setting the garage adjacent to the
4 structure will impede my access to the current garage and would require extensive
5 demolition of my driveway. And placement of the garage, also too close to that area
6 would not look in proportion to the house and would emphasize any mismatch of brick
7 or shingles cause my house is about 12 years old, I'd be afraid I would be able to get
8 the bricks to match exactly. And the biggest item is if I were to place it right there
9 beside my house I would not be able to access my current garage. The lot, as you can
10 see, is very large. It's, you know, my house sits approximately 460' from the roadway.
11 The replacement of the proposed garage would not obstruct the view of my home, nor
12 my neighbor's home and part of the garage would be obstructed from a, a tree line in
13 my front yard. From this distance, I doubt anyone would notice that the garage is
14 beyond the front of our home. And it also would only come into view after you get about
15 200' down my driveway. My plans are to build a brick structure that would match my
16 home and I feel it would not only add to the appearance of my property but add to the
17 value as well. I want this addition to my property to look as if it were there all along.
18 Putting it elsewhere would look like an afterthought and would take away from the
19 overall appearance of my home and property. My neighbor's, Barry and Lynn Norman,
20 which are to the left, have no objections to the placement of the garage as written in
21 their statement and I've provided a statement. Mr. Price, like I said, is showing you the
22 picture of my home from the road and you also have something to look at and the
23 garage will kind of sit behind that tree line and as those trees and those bushes get

1 bigger it would even obstruct it even more. I don't really quite understand the intentions
2 of the ordinance other than to keep someone from placing the garage or structure right
3 in the front of their home, which of course would, would be unsightly and degrade the
4 property but my proposed location would not block the view of my home. I feel that the
5 interpretation of this ordinance is depriving me of rights commonly enjoyed by other
6 homeowners in my area. I have numerous documented pictures of other properties in
7 nearby developments in Richland County that have detached garages beyond the front
8 perimeter of their homes that are architecturally pleasing and I think you have those to
9 look at. Some were built within the last three years, some are, some are older. I've had
10 intentions for some time now of building an additional garage and now I've outgrown my
11 existing storage capacity. Allowing me to build this detached garage will allow us to
12 keep all items inside, created a more appealing home and property as, as well as
13 protect us from possible theft and vandalism. That's pretty much it.

14 CHAIRMAN MCDUFFIE: Any discussion from the Board? [Inaudible] anything
15 to add [inaudible]?

16 MR. PRICE: No, sir.

17 MR. SMITH: Do we actually have the square footage of the actual unit?

18 MR. BRANHAM: I plan to build approximately a 24 x 30.

19 MR. SMITH: A 24 x 30.

20 MR. BRANHAM: Right.

21 MR. SMITH: Will it only be a one story or a two story?

22 MR. BRANHAM: It will just be a one story.

23 MR. SMITH: No, no living space above it?

1 MR. BRANHAM: No living space, it'll just be mainly for my boat, which you
2 probably, I think you have pictures of my boat. It's somewhat cumbersome to get in and
3 out of the garage, it has a high tower, and it'll be for my boat, my lawnmower and my
4 lawn equipment and to kind of free up some space in my other garage cause I'm pretty,
5 pretty much jammed in there now.

6 MS. CECERE: And the reason you cannot put it in your backyard is because of
7 the conditions required?

8 MR. BRANHAM: Yeah, the only, like I said, in the backyard would mainly block
9 my view of the lake and that's one reason why I have the property there, and to put it
10 right behind in that area where you see right there, would be too close to the buffer
11 zone. It's a vegetative setback that we have to keep natural and we can't, like I said I
12 can't build up any grade against it or anything like that and there's a slope there, to get it
13 level I'd have to build up the grade and then I'd be encroaching on the vegetative
14 setback.

15 MR. RUSH: Just one quick question. Are the, for Mr. Price, are the setback
16 requirements the same for buffer zones as for property lines, the same type of setback
17 requirement?

18 MR. PRICE: Our setbacks are only taken from the property line.

19 MR. RUSH: Okay, so the buffer zone wouldn't -

20 MR. PRICE: No [inaudible].

21 MR. BRANHAM: I can't build any, any existing, any permanent structures
22 anywhere in that buffer zone. Our property line runs up to that buffer zone and like I
23 said to be five foot from that buffer zone, like I said I couldn't get that grade to match.

1 MR. SMITH: So would you have plumbing inside this -

2 MR. BRANHAM: The only thing I would probably run is some electrical for some
3 lights and to raise the door up and down, but no plumbing.

4 MS. CECERE: And will the door face the driveway or will it face the street?

5 MR. BRANHAM: My, my plans are actually to put a door on the front and the
6 back to be able to drive straight through. So the door would actually, you'll see a door
7 from the, from the roadway.

8 CHAIRMAN MCDUFFIE: Ms. Cecere, do you want to go through the, the
9 findings of facts?

10 MS. CECERE: Are there, are there extraordinary and exceptional conditions
11 pertaining to this piece of property? I would say yes for the simple reason that the, the
12 additional structure cannot be built in the backyard for the simple reason that it would
13 obstruct the view to the lake and there is a protective buffer, vegetative buffer on there.
14 Do these conditions generally apply to other properties in the vicinity? No, I wouldn't
15 think so. Would application of this chapter to this particular piece of property effectively
16 prohibit or unreasonably restrict the utilization of the property because of the aforesaid
17 extraordinary and exceptional condition? Yes. And will the granting of this Variance be,
18 be of substantial detriment to the adjacent property or the public good or will it harm the
19 character of the district? No, and the property owner, as a matter of fact, has no
20 objection and has a letter from the neighbor saying they have no objection.

21 MR. RUSH: Mr. Price, could you put the screen on the plat please? Between
22 the back of the driveway and that buffer zone is about 27', is that correct? I can, I can't

1 see it from here but just going by the handouts that we received, is that 27' from the
2 back of the driveway at the corner of the house -

3 MR. PRICE: I, I would need your -

4 [Inaudible discussion]

5 MR. PRICE: Yes, sir. If you look here on the short end, that's about 27.2' so this
6 area would be a little bit more.

7 MR. RUSH: Okay, so that's, and to that line right there that's 27' to the buffer
8 zone but the actual property line extends all the way to the, to the water for the most
9 part, right?

10 MR. PRICE: No, that's the property line.

11 MR. BRANHAM: No, my property line is the buffer.

12 MR. PRICE: That's the property line.

13 CHAIRMAN MCDUFFIE:: It's sort of a different situation than I guess than you'd
14 find in a normal neighborhood because, you know, with a lake house, the back of the
15 house is almost I guess the front of the house, [inaudible] where the view is and
16 [inaudible]. Are there any other comments [inaudible]? Is there a motion from the
17 Board?

18 MR. SMITH: Motion to approve.

19 CHAIRMAN MCDUFFIE: [Inaudible] based on.

20 MR. SMITH: Based on the information that was provided from the applicant,
21 motion, motion to approve.

1 CHAIRMAN MCDUFFIE: I'll restate the motion. We have a motion to approve
2 08-71 Variance based on the findings of fact stated by, made my Ms. Cecere. Is there a
3 second to the motion?

4 MS. CECERE: I second.

5 CHAIRMAN MCDUFFIE: All in favor?

6 MR. PRICE: Alright, those in favor are Smith, McDuffie, Cecere, Cooke.

7 CHAIRMAN MCDUFFIE: All opposed?

8 MR. PRICE: Those opposed, Rush.

9 *[Approved: Smith, McDuffie, Cecere, Cooke; Opposed: Rush]*

10 CHAIRMAN MCDUFFIE: Mr. Branham, you have your Special Exception, or
11 Variance rather. Mr. Price will be in touch.

12 MR. BRANHAM: Okay, thank you.

13 CHAIRMAN MCDUFFIE: That concludes the, the public hearing portion of this
14 month's Board of Zoning Appeals meeting. At this point we'll move into Other Business.

15 MR. RUSH: I have something. I would like to reconsider a case that we heard
16 last month, it was Special Exception 08-63. It was the mobile homes being placed on
17 M-1 property based on the fact of just the property not adhering to surrounding areas or
18 the, the land uses of the surrounding areas. I would like to pass a motion to reconsider
19 that.

20 CHAIRMAN MCDUFFIE: Is there a second from someone who was here?

21 MR. PRICE: Mr., for clarity you mean both cases?

22 MR. RUSH: Yeah, I'm sorry there were two separate cases in that. So 08-63
23 and 08-64.

1 CHAIRMAN MCDUFFIE: Is there a second from, from a Member of the Board
2 who was here last month?

3 MS. CECERE: I second.

4 CHAIRMAN MCDUFFIE: Okay, all in favor of reconsidering?

5 MR. PRICE: Those in favor are Rush, Cecere, Cooke.

6 *[Approved: Rush, Cecere, Cooke]*

7 MS. CECERE: You weren't here.

8 MR. COOKE: I wasn't here. I forgot, I'm sorry.

9 CHAIRMAN MCDUFFIE: So those in favor?

10 MR. PRICE: Okay so those in favor would be Rush and Cecere.

11 CHAIRMAN MCDUFFIE: All opposed?

12 MR. PRICE: McDuffie.

13 *[Opposed: McDuffie]*

14 CHAIRMAN MCDUFFIE: Alright that, Mr. Price can you place a rehearing for
15 those on -

16 MR. PRICE: Yes, they'll be scheduled for December public hearing.

17 CHAIRMAN MCDUFFIE: At this point we have received a remand from,
18 pursuant to Judge Milling's Amended Order dated October 21st, 2008. We have
19 received a supplemental Order and if there is no objection from the Board I would find it
20 to be satisfactory [inaudible]. Is there any, is there any objection from the Board?
21 None, and at this point I would like to make the Order part of the Record. And we, that
22 concludes all of our business for today. Yes, Mr. Kocy?

1 MR. KOCY: Mr. Chairman, state law requires Zoning Board and Planning Board
2 Members to take training on land use and the law and such. [Inaudible] there's one that
3 first week in December that I'll alert you to, and if you'd like [inaudible] find a convenient
4 day that all of you can get together, we can run the training here at your convenience.

5 CHAIRMAN MCDUFFIE: Is the December session, do you know if that's the
6 annual training or the introductory training? Is there, is there even a difference?

7 MR. KOCY: [Inaudible] training quarterly and one of the sessions for the
8 December meeting is land use law, which I think you'd find very beneficial. I've taken it
9 in the spring, it's a 90 minute session, very well done and again it's on a CD so we can
10 replicate it here.

11 CHAIRMAN MCDUFFIE: I was gonna say, is that something we could get
12 replicated for us to take home or do we need to actually -

13 MR. KOCY: [Inaudible] proctor to make sure your eyes are awake and
14 [inaudible].

15 CHAIRMAN MCDUFFIE: Could you tell us again what the date of the -

16 MR. KOCY: Suzie is coming back with the dates. I believe it's, it's definitely the
17 first week in December, [inaudible] December 8th from 6:00 to 9:00 pm at the Central
18 Midlands Council of Governments.

19 CHAIRMAN MCDUFFIE: And if I'm correct, all members of the Board to remain
20 in good standing are required to have this annual training.

21 MR. KOCY: Absolutely.

22 CHAIRMAN MCDUFFIE: And, you know, were they to be out of date in their
23 training would be required to sit off the Board until they could receive that training.

1 MR. KOCY: That is correct.

2 CHAIRMAN MCDUFFIE: Could I have all members of the Board take notice of
3 that.

4 MR. PRICE: Yeah, also before the new members, I believe that will be Mr. Smith
5 and Mr. Cooke, they're required to take at least six hours of training. They have one
6 year from the date of appointment. So they, I believe as Mr. Kocy just stated, this would
7 be beneficial to them. I don't believe it meets the, the six hours required of them. So
8 they're, they're six hours are specific for new members and we'll get with you on when
9 those will, and you'll need to [inaudible].

10 MR. KOCY: [Inaudible] much more comfortable than the [inaudible]

11 CHAIRMAN MCDUFFIE: At the COG they do serve dinner.

12 MS. CECERE: They do. [Laughter]

13 CHAIRMAN MCDUFFIE: If, if, if Staff could get us out, either email or by other
14 means a schedule of training, I believe it is also available through the COG's website, I
15 think.

16 MR. PRICE: Yes.

17 MS. CECERE: So are you planning to have the, the training here or not in, at the
18 COG?

19 MR. KOCY: I'll, I'll talk to COG to see if they would free up the disk. We
20 contribute to the cost of the disks, the disks are very expensive they're several hundred
21 dollars and we contribute, it should not be a problem. The biggest problem is me
22 finding a convenient day for you all because either Geo and/or I would have to either be
23 here to proctor.

1 MR. PRICE: No, only you or Anna.

2 MR. KOCY: Okay, Anna or I have to be here to proctor the coursework.

3 CHAIRMAN MCDUFFIE: Alright thank you very much. At this point is there a
4 motion to adjourn?

5 MS. CECERE: Oh I, I wanted to say just one more thing. I want to express my
6 condolences to Stephanie and I'm sure the Board agrees with that.

7 MR. RUSH: Yes, definitely.

8 CHAIRMAN MCDUFFIE: At this point is there a motion to adjourn?

9 MR. RUSH: So moved.

10 CHAIRMAN MCDUFFIE: Alright, meeting is adjourned.

11

12

[Meeting Adjourned at 1:51 pm]