

BOARD OF ZONING APPEALS

February 2, 2005

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5 *[Members Present: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

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7 Called to Order: 1:05 p.m.

8 CHAIRMAN TOLBERT: Good afternoon, we'd like to welcome you to the
9 February meeting of the Zoning Board of Appeals. We will have opening remarks by
10 Mr. Farrar, our Legal Department.

11 MR. FARRAR: Thank you Mr. Chairman. Good afternoon, I'm Brad Farrar, from
12 the County Attorney's office. Some of you may be Board veterans, you may have heard
13 this little spiel I do up front before, I'll recap the main points of the Board and their
14 procedure today; if you have any questions I'll take those up as well. The Board sits as
15 what they call a quasi court, it's kind of like a court of law but it's not, in some respects
16 as well. The Board will hear evidence as a court would do, its decisions are appealable
17 to Circuit Court and that's basically the appeal process that I'll talk about in a moment.
18 The order of presentation, the Board will hear up to 15 minutes of presentation from the
19 applicant. The applicant can do anything that's appropriate to brief the Board on a
20 case. The cases we're going to hear today are special exceptions and variances.
21 During that time, you would also present any witnesses that you would have. It's a total
22 of 15 minutes. Those in opposition have three minutes each to state why they're
23 opposed to the request and then the applicant comes back for up to five minutes of
24 rebuttal. These times are maximums, you could take less if you wanted to and the
25 times also could be extended by questioning of the Board. If you'll notice the
26 procedure, it's applicant, opposition and then applicant at the end. Why does the

1 applicant go first and last? Well, it comes back to the quasi judicial nature of the Board,
2 the applicants bears what we call the burden of proof, like you might see in a court case
3 to convince the Board why they should get the special exception or variance; so that's
4 why they go first and last. Remarks should be addressed to the Board. In a moment
5 we'll swear everyone in under oath. Please keep in mind your testimony will be under
6 oath, it'll also be recorded in the event we need to transcribe the proceedings for appeal
7 issue. At the conclusion of the Board's case, and this is somewhat different than you
8 might get in a court of law, Board will render a decision and they'll do it here today in
9 open session. The effect to that decision is what I call a conditional decision. The
10 condition being that the Board's decisions do not become final until the minutes of the
11 Board's meeting have been approved. So for example, the decision of the February
12 Board of Zoning Appeals meeting, 2005 meeting, the minutes for that meeting will likely
13 will be ready in the March, come back next month. The end of the meeting in March,
14 Board would very likely approve the February minutes and then you would have a final
15 decision of the Board. The reason I mention this is, really a cautionary nature that I
16 mention it, is that, I'll give you an example; if you have a case for a variance and you
17 want to encroach, maybe a foot or two into your neighbors or into the side yard set-
18 back, and that may impinge upon your neighbors property. And you come in, present
19 your case, unanimous decision, no opposition, very excited about that. You go home,
20 you call the contractor, get him to come out the next day, pour the foundation, you've
21 spent some money. The Board could come back a month later, before they've
22 approved the minutes and they could say, "Well, it's come to our attention since the last
23 time that we got together that your neighborhood, who was out of town for two weeks,

1 out of the country perhaps, has a real strong objection to what you're trying to do; that
2 could be new evidence, for example, something different from the last meeting. The
3 Board may reconsider the case, and if the Board reconsiders it, which is perfectly legal
4 and appropriate under their rules, you could have a decision that goes the other way.
5 But you've spent some money is the point. So, just keep that in mind. The chance of
6 that happening is not great, but it is a possibility. You also would probably be able to
7 handicap your case pretty well, to know whether it's something that there's going to be
8 that kind of opposition; so, it'll depend on each case. After the minutes have been
9 approved you do have a final decision of the Board. There's always a however, under
10 State Law, even though the Board's process is concluded, anyone who feels they have
11 been aggrieved by a decision of the Board, may appeal that decision to Circuit Court.
12 Not complicated, it's just a basic appeal stating why the Board, as a matter of law, got
13 their decision wrong. You get a hearing in front of a Circuit Court judge, that judge
14 would essentially be setting as an appellate court at that point. You wouldn't have new
15 testimony, you would have a review of the record that occurred here during today's
16 meeting. However, after that occurs then you do have a completely final decision of the
17 Board, not only under its rules but under state law. And a person does not have an
18 indefinite period of time to file such an appeal. They've got 30 days from the date the
19 decision of the Board is mailed to make that appeal to Circuit Court. After those two
20 events have occurred, you do have the final decision. Are there any questions about
21 that, it's kind of a quick explanation of it; but those are the two, probably the most
22 important thing I talk about is the effect of a decision. Okay, couple of the
23 housekeeping points, things the Board will and will not consider. The Board will

1 consider documents and evidence that you'd like to introduce to them relevant to your
2 case. Certainly, sworn testimony is going to carry more weight than un-sworn
3 testimony. Letters are going to carry more weight than petitions; things that a person
4 has actually taken the time to put more of an explanation on. But, they'll look at all that
5 material and give it its due weight. As I stated, we'll take an oath here in a moment.
6 For the Board composition, the Board of Zoning Appeals is a seven member body.
7 There are five present today. We do have a quorum, we can conduct business. If you'd
8 like to wait for a full panel, you certainly can make that request of the Board at the time
9 your case is called, but if you want to go forward that's fine as well. Let me explain the
10 effect of a tie decision, that's not likely since we do have five members, but it is
11 possible. In the event a case ends in a tie, somebody moves for the matter to be
12 approved, that results in a tie, somebody moves for a matter to be defeated, it also ends
13 in a tie; the case would move to the next month, and you'd have basically a new hearing
14 on that matter. Little bit contrary to standard parliamentary procedure where something
15 would fail for the lack of a majority, but that's the process under the County Code. If
16 anyone has a cell phone or pager, if you could please turn that to vibrate or turn it off so
17 we don't pick it up on the machine, we'd appreciate that. We're not as bad as the
18 Circuit Court, if you take one of those into Circuit Court, they'll confiscate it if it goes off,
19 it's interesting to see that happen every once in a while. Sometimes you get questioned
20 about, do people have to sit here the whole time? If - you can come and go as you
21 want, this is a public forum, please just do so quietly, but feel free to step out if you have
22 to. If your case is at the bottom of the docket, it may be an hour or two before we get to
23 it, it may not be, it depends on how fast these presentations go; but you're certainly free

1 to come and go. The only time the Board will not be seated where it is today, actually
2 two times, if they take a recess, which they may do, or if they decide to call for an
3 Executive Session, which is permitted under the Freedom of Information Act.
4 Essentially any public body can go behind closed doors, under the Freedom of
5 Information Act, to discuss certain things; such as an employment matter, a contractual
6 matter, or a legal matter. The context of the Board of Zoning Appeals, we're not going
7 to talk about employment or contracts, but we could talk about a legal issue, so they
8 may want to take me, as their attorney, and Staff back to talk about a legal issue.
9 However, people always wonder, well gee, what goes on behind closed doors? You
10 can't take a vote, you can't take a straw pole, you can't say, "Well how are you
11 leaning?" You know, that type of thing, you have to go back there and discuss the legal
12 issue. You get that worked out, it's just like if you were talking to your attorney about
13 something personal to you. You get done with that, we come back in open session,
14 then they make the motion, then they have their discussion, then they render their
15 decision. But, that would be the only time and those are not, certainly we don't do that
16 every case, it may come up once or twice, or in a meeting, but it's somewhat rare.
17 Okay, I think that's pretty much it, we don't have that big of a crowd today for as many
18 cases as we have. I would make a couple of notes, Case A, has been withdrawn. If
19 anybody's here for that one, it's Wanda Wright, 3221 Padgett Road, if anybody's here
20 for that, the case has been withdrawn. Case K, 5690 Lower Richland Road, this is a
21 request for special exception for a communications tower. If anybody's here for that
22 particular case, it's been deferred. It'll most likely pop up on next month's agenda, but it
23 has been deferred. Any questions about any of the things I've covered before we take

1 the oath? Okay, if you have not signed up on the case sheet, which was out front
2 before you came in you can still testify on a case but you do need to get signed up; so
3 after we take the oath, please come to the front and get your name on the sheet for each
4 case that you want to speak to. And whether you have signed up or not, if you plan to
5 come to the podium and give testimony, if you would at this time please stand and raise
6 your right hand, I'll swear you in as a group. Do you swear or affirm the testimony you
7 shall give, shall be the truth, the whole truth and nothing but the truth so help you God?

8 AUDIENCE: I do.

9 MR. FARRAR: Thank you, please be seated, I always say if we do this as a
10 group, if anybody had anything other than "yes", or "I do", or "right", to my question, let
11 me know; otherwise you'll be considered sworn and at this time I'll turn it to the
12 Chairman. Thank you very much.

13 CHAIRMAN TOLBERT: Thank you. Anyone hadn't signed up that like to speak
14 on a case you may do so at this time. Mr. Price? Mr. Price, for a point of clarification
15 for the Board, from our last agenda last month, some of the people that did not show up
16 – okay - some of the people that did not show up, were you able to verify to call in for
17 reasons that they didn't appear before the Board?

18 MR. PRICE: One of the things I did, after our meeting I went down and I called
19 the applicants myself to see what had happened. I was told by some of them that they
20 had not received notification. I also noticed that at the Planning Commission meeting
21 there were a couple of "no shows" also, where they did not receive notification. And just
22 kind of judging from that, I just assumed that there was something wrong with the
23 mailing system at that time and something that Staff's going to look to clear up.

1 MR. BROWN: They're saying they didn't receive a letter?

2 MR. PRICE: Yes.

3 MR. BROWN: Were the letters posted?

4 MR. PRICE: The property was posted.

5 MR. BROWN: I know the property was posted but were the letters posted, were
6 they put in the mail?

7 MR. PRICE: Well, we know we sent the letters out. Well, we, you know, we sent
8 the letters out because we usually keep a copy of them; but, now whether they were
9 delivered there or not, we're not sure because we did not send them out certified.

10 CHAIRMAN TOLBERT: But we do have proof that the property was posted,
11 right?

12 MR. PRICE: Yes.

13 MR. BROWN: And was advertised in the newspaper as required?

14 MR. PRICE: Yes.

15 CHAIRMAN TOLBERT: Isn't part of the burden left on the applicant to make it
16 be known that they're fully aware of the time and place of the Zoning Appeal meeting,
17 aren't they?

18 MR. PRICE: No Sir, normally we'll, I mean, if I have the opportunity to speak to
19 the applicant I always make sure I go over the date first. But, most of the time, they're
20 notified of when the meeting is and what time it's going to be and where to come by that
21 letter.

22 MS. PERKINS: In all that, what are you saying to them?

1 MR. BROWN: He saying he put them back on the agenda because they said
2 they didn't get a letter.

3 MS. DORSEY: Should perhaps we should start sending them out by certified
4 mail?

5 MS. PERKINS: Certified returned receipt.

6 MR. PRICE: That's something we'll look at. As I stated before, when I was
7 talking with you Mr. Tolbert, this is something we really haven't had a problem with
8 before. This is just something new and which kind of caught me by surprise. As was
9 stated, we very seldom have that problem of the applicant not being notified.

10 MR. BROWN: There's a presumption that something property posted in the mail,
11 that it's received by the addressee. Now, if you've got three in one month who make
12 the same statement, and apparently some number of people on the Planning
13 Commission as well, that may bring it into issue. But, it doesn't bring into issue whether
14 the property was properly posted or not, or whether it was published in the newspaper.

15 MR. FARRAR: Yeah, I think there's a rebuttable presumption that notice was
16 properly given, but like you say, if you have multiple, you know, individuals coming
17 forward and saying they didn't get notice, that's something y'all have to evaluate, and
18 the Zoning Administrator, in determining good cause had to evaluate the - you can send
19 the letters out certified mail, the only thing on that is the administrative, whoever's going
20 to get kind of tagged with doing that, down in the Zoning Department. They're properly
21 short handed right now. You could do that, it's not required, you can make it a
22 requirement if you want to, but it, we've, in sending out some of these orders certified
23 mail, it is a time consuming process.

1 MR. BROWN: Well y'all send out all the violation letters certified mail, don't you?

2 MR. PRICE: Yes.

3 CHAIRMAN TOLBERT: Okay, so the Board is, on your recommendation to the
4 Board, it's being placed back on the agenda because improper notification, is that what
5 you're saying?

6 MR. PRICE: Yes.

7 CHAIRMAN TOLBERT: Okay. The Board - any other questions concerning the,
8 this issue? Okay, Mr. Price, we'll take our first case then.

9 **CASE 05-24 SE:**

10 MR. PRICE: The first case is Item B, Case 05-24 Special Exception. The
11 applicant is requesting the Board of Zoning Appeals to grant a special exception to
12 permit the construction of a communication tower in a rural zoning district. The
13 applicant is Jonathan Yates, the address is Monticello Road. The property is currently
14 undeveloped and heavily wooded. The applicant proposed to erect a 300' self-support
15 tower within a 10,000 square foot leased compound. The subject property is located on
16 a two-laned road. The surround area is a mixture of heavily wooded, undeveloped
17 parcels and large tracts with residential structures. The adjacent parcels west, east and
18 south of the property are primarily developed residentially. The northern parcels are
19 primarily heavily wooded and undeveloped.

20 CHAIRMAN TOLBERT: Mr. Yates?

21 MR. BROWN: The brooding omnipresence.

22 CHAIRMAN TOLBERT: Yeah. Normal procedure, state your name, address and
23 information you want to share with the Board on your project you plan to present.

1 **TESTIMONY OF JONATHAN YATES:**

2 MR. YATES: Thank you, very much Mr. Chairman; my name is Jonathan Yates,
3 151 Meeting Street, Charleston. I was going to ask with the Board's indulgence, and it
4 has to do with this project, I was going to divert and use three minutes of my time, we
5 would like, on behalf of my client, Cingular Wireless, just to show the Board, cause we
6 come to you a lot, and I think a lot of you have question, am I going to see Yates every
7 first Wednesday of the month? What we wanted to do, if I could use three minutes of my
8 time, and not to detract from this site, but I have with me, Mr. Brad O'Dell, who's our
9 Development Chief, here for the South Carolina and William Robinson, who's our
10 Senior RF Manager. These two gentlemen, William designs and selects the site and
11 Brad then implements them. If it would please the Board, we were going to simply show
12 what you will see, including the site for the balance of the year. We think, we have
13 some displays and we think we can do this very quickly, not to eat up time, but we think
14 it's important. You keep seeing us and saying, "Hey are these guys going to ever go
15 away?" So, if it's permissive, we would like to proceed with that.

16 CHAIRMAN TOLBERT: Well, Mr. Yates, I personally do have a problem with it,
17 in the fact that we'll be prejudging areas in the community is not fully aware of what
18 you're going to be presenting to us.

19 MR. YATES: Mr. Chairman, I agree. No, we are simply, not asking you to
20 prejudge anything. Obviously, everything will have to come and stand on its own
21 merits. All we really wanted to do was give the Board a snapshot of what you might see
22 from us this year so you'll know about how many times you'll see us, but no prejudging
23 at all. Obviously I have to come each time and, depending on who's in the room

1 opposing me and how good my site is, this was simply just a goal to give you a
2 snapshot of what we were looking at this year. But I will play this anyway, I will do this
3 anyway that the Board decides.

4 MR. FARRAR: Let me interject here, sorry. We met with Mr. Yates, a couple
5 weeks ago, to talk about some issues. It was actually Staff's suggestion that he might
6 want to do something like this to - we should've alerted the Board. But just to kind of
7 round out, because he had various questions, how much more is it going to take to fill
8 out the coverage area and he was actually going to give a little info on that. We don't
9 have to take that up but that actually was a Staff generated request.

10 CHAIRMAN TOLBERT: The only thing I can do, Mr. Yates, is present it to the
11 Board and ask for their recommendation. What is your recommendation for Mr. Yates
12 doing a three minute presentation of his future sites for the future of 2005?

13 MR. BROWN: If it's only going to take a couple of minutes, I'd like to see it, to
14 get a feel for how many times Mr. Yates is going to reappear.

15 CHAIRMAN TOLBERT: Is that a motion, Mr. Brown?

16 MR. BROWN: Yeah, I'll make that a motion.

17 CHAIRMAN TOLBERT: All right, do I have a second? No second?

18 MR. YATES: I will go right to my presentation.

19 CHAIRMAN TOLBERT: Thank you.

20 MR. YATES: Thank you very much. Very quickly, and we'll start with my site
21 plan, Brad and then we'll go to the ordinance. Today - first and foremost, today, as you
22 saw the pictures, we have a property, which is about a 96 acre tract, located on
23 Monticello Road, in northern Richland County. This property is about $\frac{3}{4}$ of a mile back

1 from the intersection of Monticello and Hinnant Store Road. The property is owned by
2 Roy and Annie Ruth Huffstetler. Mrs. Huffstetler is here with us here today, also with a
3 lot of supporters. This is one of the few times I've been here before you where you
4 have a sign in sheet with a lot of people signed for. Unfortunately, Roy got out of the
5 hospital right after the start of the year, so he is unable to join us. The Huffstetler's
6 owned this property for right about 10 years. They use it exclusively, or have used it
7 exclusively, for the purpose of deer hunting. The only thing you'll find on the property is
8 undeveloped, heavily treed, there's some trails where they could access it for deer
9 hunting and a few tree stands. So, that's all on the property presently. We really like
10 this piece of property with the heavy tree growth. They did a little timbering a few years
11 back, but otherwise we have a very heavy evergreen tree cover there and we're
12 surrounded - I was reviewing, last week, the aerials for this and - we're surrounded by
13 large pieces of property. In fact, we're immediately adjacent to the old Smith family
14 farm, owned by Wilbur Smith and his brother James, both deceased. So, we're in a
15 section of the county where William needs to get some coverage. Williams doesn't
16 have the coverage he needs. But what we're able to work with today is I'm coming to
17 you with a fairly large piece of property, which helps me in my placement. We talked
18 about setbacks a lot last time, just to give you a feel, when I have 96 acres and a very
19 willing landlord, who allowed us, we went right into the center position of the property,
20 300' off of the road. But, thanks to the Huffstetler's, I'm 300' off of the road, I'm over a
21 1,000' to this side, 1,265' here and almost 1,800' going back; so this was the exception.
22 I know we talked about setbacks a lot last time. This was the exception, when I have
23 this big of a piece of property, you can meet all the setbacks, which we did. Brad, we'll

1 go to the due diligence. As we've discussed before, Cingular goes through a series of
2 due diligence. First and foremost, the FAA issued the determination of no hazard to air
3 navigation. Thank you, Brad. South Carolina SHPO reviewed this and we got the no
4 effect letter; the highest recommendation they can give, no effect. Thank you Brad. As
5 we usually do, we had it reviewed and approved by USF&W, based, for the endangered
6 species act. Thank you. In this particular section of Richland County, just to be safe,
7 we also had it reviewed by the two Indian tribes that may have at one time had
8 representatives of those tribes living there, or buried there. We first had it reviewed by
9 the Catawba, the Tribal Historic Preservation Officer for the Catawba Indian nation, and
10 it was approved. In addition, we presented this because there is historical data that at
11 one time the Cherokees might have been in this area briefly. So, we sent this for review
12 to the Eastern Band and the Cherokee Indians, along with other sites in there, and it
13 was also approved. This is our site right here that was approved by the Cherokees.
14 Thank you Brad, I think at this point we'll go to the ordinance; which we've talked about
15 this before, but I'll try to move through quickly; obviously, I have to hit it just to create a
16 record. Were there any alternatives? No, where we are, out there at Monticello and
17 Hinnant Store Road, there really wasn't anything out there. We've talked about the
18 setbacks, but just to reiterate, thanks to the Huffstetler's and thanks to the size of the
19 property, we actually met every single setback by a really an incredible margin.
20 Illumination, again we're going to use the Flash Tec system. And again, the beauty of
21 the Flash Tec, day white, night red, the effect offsite, somewhere between a 40 and a
22 60 watt patio bulb. Again, because what Flash Tec does with their downward deflection
23 device, all the light goes up for the airplane and verily anything comes to the ground.

1 Thank you, Brad. Next question, we will have a fence 7' high, that will secure a 40 by
2 60 area; we're going to lease a 100 by 100, but we're going to secure our actual
3 compound inside a 40 by 60. We're going to, we meet all of the Article 5 landscape
4 requirements. In fact on this site; we're going to have to clear our site and then come
5 back in because of the tree cover. We will not have any signage. We do meet the
6 requirement, the maximum height is 300, which is exactly where we are; that is what
7 William needed to get the coverage he needed in that part of the world. Number 8, if it
8 goes out of use for any reason, we have, I've submitted a letter as Cingular counsel for
9 South Carolina, that we will remove it and we would agree that there could be a
10 condition of any approval that if for any reason we go out of service, it's removed within
11 120 days. Next, we have the Richland County Special Exceptions for Towers. These
12 are 6 requirements that every tower must meet; Number 1, will we endanger health and
13 safety? I think the data is in, and we've talked about it before. What we will do is bring
14 wireless coverage to where it's not in the County, so we will actually enhance public
15 safety. Are we in an area where we will not detract from neighborhood aesthetics?
16 Yeah, this is a 96 acre piece of property. We've got some, particularly the Smith family
17 farm behind us. We've got some big tracts around us and for the most part, right along
18 this stretch; these are not areas that have been actively farmed. I think the Smith family
19 ran a cattle operation for a while, so you've got in some really incredible tree cover out
20 there on Monticello and Hinnant Store Road. Are we necessary to provide a service?
21 We feel we are, one thing we want to talk about and I'll talk about it later in co-location,
22 we've designed this facility not just for Cingular but for four of our competitors. In
23 addition, we have reserved space if Richland County has any need for any law

1 enforcement communication. We're just in the process now, and in Moncks Corner, in
2 Berkley County, doing a series of facilities like we're doing in Richland County, but in
3 rural Berkley County and Berkley County is actually going to go on every single one of
4 our facilities, they're going to put their emergency communication devices on; which we
5 made available free of charge to Berkley County and we make the same offer,
6 obviously, to Richland County if they have any need. Number 4, do we meet the
7 proposed setbacks? Yes, as we discussed before, we're in the RU district. Forty front
8 feet, 50 rear, 20 sides, you saw my incredible setbacks. I meet all setbacks by a least a
9 factor of 7 and in some cases I meet them by a factor of 50. So, we really, thanks to the
10 Huffstetler's and thanks to the size of the property, setbacks for once were not an issue
11 for us. Number 5; is there a proposed tower within a 1,000' of this one? No there isn't,
12 there's nothing even close. Did we attempt to co-locate? Yes, and again, we will talk
13 about this always in the future, why you see a lot of me, Cingular doesn't like me being
14 here every Wednesday, first Wednesday of the month; because it means they have to
15 outlay the capital to build a tower. If there was anything else they could've used, they
16 would've done it, because they would rather, just dollars and cents. We have a certain
17 budget to develop out South Carolina and if we can use an existing facility we will. Last,
18 every special exception in Richland County requires that you meet the 11-2-2(C)
19 requirements, which are five, just general questions, really to make sure that the use is
20 not going to harm the surrounding neighborhood. Number 1, traffic impact; Brad will be
21 the guy that develops the site. Brad needs about 30 days to build out and then his
22 operational folks, after that, and William's folks, eight to 10 times a year, is the
23 maximum visit time. Number 2, vehicle and pedestrian safety. We will actually

1 enhance vehicle and pedestrian safety. We don't feel there are too many pedestrian, in
2 all fairness, along Monticello Road at this stretch. But, for the folks traveling Monticello
3 and Hinnant Store Road, we will give them in vehicle coverage, which we think will
4 enhance safety. Next question, potential impact of noise, light, odor and fumes offsite;
5 we have not noise, no fumes, no odor and again, we are not buying the minimum
6 system, we're buying the real Cadillac system, the Flash Tec, so there will be no off site
7 light. And that leads into really the next question which is, is the and adverse impact on
8 the aesthetic character of the environs? The environs really include properties that look
9 very similar to the Huffstetler property, in that, heavy tree cover, very rural, very
10 scattered residential and fairly good-sized tracts around us, like the Smith family farm.
11 So, we feel very much we meet the character. Ms. Huffstetler, Roy and Annie Ruth
12 were kind to us. We're 300' off the road, so we're far enough off the road so visibility
13 will be diminished and then we're surrounded by 96 acres; which really provides quite a
14 nice buffer, particularly with the tree cover. And I talked to Annie Ruth, we were talking
15 about it last week, she was trying to remember, she thinks maybe four or five years ago
16 they did some timbering. But, if you go look at the property and look at the aerials, it
17 wasn't a very, it was a very light timbering, because the tree cover's incredible. Last
18 question, orientation, spacing, improvement or buildings. We will access directly off of
19 Monticello Road. You'll get back, we'll secure by a fence a 40 by 60 area and that is
20 about all we do. Cingular, right now, we just have cabinets. Again, we've designed
21 space for Richland County and for our four competitors. Some of them might have
22 some equipment shelters, but all of that will be contained inside of our 40 by 60' area,

1 which is fenced. I'm here for any questions, as well as Mr. Robinson, who designed the
2 site, and Mr. O'Dell, who if we are approved, will develop and build the site.

3 CHAIRMAN TOLBERT: Mr. Yates, I know you normally tell me this, I just might
4 didn't hear you say it, what type of vegetation you going to put around that fenced area,
5 is that vegetation?

6 MR. YATES: Yeah, we're going to, actually to do this, we're going to have to
7 scoop out trees. What we've found works best, Mr. Chairman, is particularly in this
8 climate because of their growth rate, we come in with the Leland Cypress trees, about
9 48" at time of planting, and the fact of the matter is, while they're pretty trees, in my
10 opinion, they grow like huge weeds. What we've found with Leland Cypress, is they
11 grow quickly, up and out, so that's what we'll deploy again and again they're selected
12 because they work well in the climate of Richland County and they provide the quickest
13 and the best cover; not really a factor on this site, because you'll literally have to travel
14 into the site to find the trees. But, that's what we usually deploy because they provide
15 the best cover.

16 CHAIRMAN TOLBERT: Did I hear you say the height of this tower?

17 MR. YATES: The height of the tower is 300'. This is a 300' lattice style tower.

18 CHAIRMAN TOLBERT: And the tower is the same magnitude of the last one
19 that you talked about, with the collapsible tower?

20 MR. YATES: Yes, sir, it's. It's the same design. It's what we call our lattice
21 design, which is a three sided structure, which we call a self-supporting structure. The
22 advantage of the lattice is the structural integrity is incredible. We have never lost one
23 in a catastrophic condition, particularly visiting the state of Florida; our colleagues at

1 Cingular Florida did not lose any of these self-supporting towers. They are also very
2 easy for the, our competitors, when they want to come on, very easy to put their
3 equipment on. And also what we've found, at 300', we only have two options, actually
4 over 220' we only have two options, either the lattice or the guide-style and the problem
5 with the guide-style is, we coming down from the tower, you have to go out 80% of the
6 height with the guide wires, so unfortunately, unlike the Huffstetler's property, we would
7 have to clear a very large area, you'd have the guide wires coming down and we've
8 found that residents and neighbors do not like the guide as much because of the
9 clearing required, it opens up the site, makes it more visible and the guide wires are
10 noticeable. The lattice tower is a great deal more expensive than the guide, we can
11 build a guide a lot cheaper, but after our history in the two Carolinas, we found that most
12 folks visually prefer the guide because it takes up less land mass and you don't have
13 the wires going every which way.

14 CHAIRMAN TOLBERT: Any other questions?

15 MR. BROWN: Mr. Yates, would you bring the site plans for this?

16 MR. YATES: Yes, sir, I sure will.

17 MS. DORSEY: Is the site of a heavily wooded area or does the tree line start
18 somewhere?

19 MR. YATES: It is in the middle of a heavily wooded area, the only really
20 improvements on this site, there was some timbering done. Ms. Huffstetler, we were
21 thinking it was about four or five years ago, was the last time?

22 MRS. HUFFSTETLER: [Inaudible]

1 MR. YATES: And it's grown up pretty nicely, as you can see from the photos, so
2 we're back in the tree line and really, other than I want to say three deer stands –

3 MRS. HUFFSTETLER: Two.

4 MR. YATES: Excuse me two deer stands and the access road, that's all that on
5 the property are the trees. The Huffstetler's did a fairly, from what I can tell, from my
6 view of it, a pretty light timbering, a pretty light timbering and there are no other
7 improvements on the property; so we're tucked back nicely in it.

8 CHAIRMAN TOLBERT: Any other questions? Thank you.

9 MR. YATES: Thank you, sir.

10 CHAIRMAN TOLBERT: Is there anyone else that's for it, wish to speak, Ms.
11 Huffstetler wish to speak? You have to down and address – please come down, state
12 your name, your address, information you want to share about this project.

13 **TESTIMONY OF ANNIE RUTH HUFFSTETLER:**

14 MS. HUFFSTETLER: Annie Ruth Huffstetler, 1705 Cofield Drive, West
15 Columbia, South Carolina 29169. He was saying the timber was light, it was only 25
16 acres that they timbered and they didn't really take a whole lot off of that. There were
17 trees left, there's plenty of trees there.

18 CHAIRMAN TOLBERT: Are you plan to do anymore timbering in there?

19 MS. HUFFSTETLER: No, not at the present time, no.

20 CHAIRMAN TOLBERT: Any other questions? Okay, thank you. Anyone else
21 that's for it would like to speak, Holmes, Poole?

22 MR. YATES: I think most of this folks, Mr. Chairman if I may, just came to show
23 their support and they signed up really for and were just here in case we got into some

1 heated battle, but I think they really just want to show their support for the project and
2 for Ms. Huffstetler.

3 MS. PERKINS: Can I, I have a question Mr. Yates. Those people who were
4 signed up, I just heard Ms. Huffstetler, saying that she resided in Lexington County,
5 West Columbia.

6 MR. YATES: Yes, ma'am.

7 MS. PERKINS: Is her support system from Lexington or Richland County?

8 AUDIENCE MEMBER: [Inaudible]

9 MRS. HUFFSTETLER: Some are from Richland, some are from Lexington.

10 MR. YATES: Oh, okay. Really a mix, yes, ma'am.

11 MS. DORSEY: Are any of the people, who've come in support, are they living
12 near the area?

13 MRS. HUFFSTETLER: No, those people were, they're kind of old and they
14 couldn't come.

15 MR. YATES: She's talking about the Starnes family. The Starnes family are
16 actually the managers of the Smith family farm, the two Smith brothers are deceased
17 and we were hoping today that the Starnes would come, they are the closest neighbor
18 and they could not make it.

19 CHAIRMAN TOLBERT: Okay, are there persons signed up in against, Ms.
20 Evelyn Bush?

21 **TESTIMONY OF EVELYN BUSH:**

22 MS. BUSH: Thank you Mr. Chairman and Members of the Board. My name is
23 Evelyn Bush, I live at 7309 Venus Road in Columbia and I'm, I want to speak, what I

1 see here is a lack of openness, where the cell towers are located. When they're stealth
2 towers and boot-leg towers in the County, if people don't know, they're there, I mean
3 they just don't know until they see it and perhaps maybe some of the trees are chopped
4 down around there. But, this lack of knowledge affects citizens because that they, it
5 could be for their health and safety sakes, because there's a lot, there's a question of
6 this. But, this thing, my main thing is I'm here again on that 1996 Federal Law, which
7 says health and safety, if I understand it right, cannot be used for a reason of denial.
8 And another thing I'm interested in is the taxes that these bring in. Do these bring tax
9 changes to the owners of the property who have leased this land, do they have to pay
10 more taxes? That's a good questioning I think. And, also, a question of the taxes that
11 are collected by the County, I think that should be put out because once Cingular has
12 gotten this 300' tower up, that they're going to lease out to four other companies and the
13 combination of all of this, to me, it needs to be made plain - what health and safety
14 could be, needs to be examined and that I think the sheer number of these towers, that
15 are just popping up all over South Carolina, needs to be discussed too. And as far as
16 this SHIPO and I did have time to look up - I know what it means is beautification and
17 preservation and obtaining the property for your heritage, so forth and so on here in
18 South Carolina. To me, those are just; don't hold up in these cases, I don't even think
19 that they should be applied as rules; that's my opinion on that, as far as these cell
20 towers are concerned. And, that this preservation and historical, you could almost get a
21 place anywhere here in South Carolina, there's been so much history in this state, so.
22 Thank you very much.

1 CHAIRMAN TOLBERT: Thank you. Any questions? Next we have C.G. Smith.
2 Mr. Smith? Ms. Smoak, Pamela Smoak? Virginia Bullock? Mr. Yates, you have time
3 for rebuttal.

4 MR. YATES: Yeah, well just going to address two things, one that Ms. Bush
5 brought up. In the contract that Cingular has, in our standard contract, which is what
6 Ms. Huffstetler signed, we do provide in the contract that if in fact the real property taxes
7 go up, Cingular pays the increase, so the property owner's left with their base in the
8 property. And yes in fact, when Richland County assesses our improvements, they will,
9 we will get a bill for our improvements. So we do pay taxes; as well as when our
10 competitors go on and bring their equipment on, there will be an assessment. Second
11 thing, just I want to clarify, SHPO is very important. SHPO is required, we're required
12 under Federal Law to have a, we don't always get the letter I presented to you today,
13 which is the no effect letter, but we're required to at least have a no adverse effect with
14 conditional letter prior to going forward. And, in a lot of areas in the state, with the
15 historical areas we have, a lot of sites end up not going forward because we cannot get
16 SHPO approval. Mr. O'Dell can tell you that many sites he's looked at, we were unable
17 to proceed with because of SHPO, so SHPO is a fairly big matter to us and fairly
18 important. So, just wanted to address those two points.

19 CHAIRMAN TOLBERT: Thank you, any questions? Chair will now entertain a
20 discussion.

21 MS. DORSEY: Did anybody from the area sign up in opposition that would be
22 affected?

23 MR. YATES: No, ma'am, there was no opposition.

1 MS. DORSEY: This isn't correct, but no one from the area signed up for it either,
2 except for Mrs. Huffstetler?

3 MR. YATES: I think the concern, Ms. Huffstetler has some friends, she has a
4 right, some friends came to support her.

5 MS. DORSEY: I am not disagreeing with that, it's just I'm trying to find out who
6 has sort of standing, I guess, or who -

7 MR. YATES: As Ms. Bush lives on Venus and got to speak, anyone, really any
8 citizen of the State has standing.

9 MS. DORSEY: Okay.

10 MR. YATES: I think and as much as I love Ms. Bush, we do hear from her each
11 week and she doesn't live anywhere near any of these sites. I think - what we hoped for
12 today was that the Starnes, Katie and her husband, could come, who run the Smith
13 place and they couldn't. So, really what we see today, cause Roy's just gotten out of
14 the hospital and he's in a nursing facility here in Columbia. What you see is a lot of Ms.
15 Huffstetler's friends came to support her and this is very important to her and Roy and
16 they came to show their support.

17 CHAIRMAN TOLBERT: Any other discussion?

18 MR. BROWN: Well, it seems to me it's just as important that apparently no one
19 from the area came to oppose this location and based on its geographical site, where
20 it's situated, it would appear that any impact, if there is any, would be minimal at best. I
21 can see no legitimate reason, within in the purview of the ordinances to take issue with
22 the request.

1 CHAIRMAN TOLBERT: Any other discussion? No other discussion, Chair will
2 now entertain a motion.

3 MR. BROWN: Mr. Chairman, I move that Case 05-24 SE be approved.

4 MR. YOUNG: I'll second it.

5 CHAIRMAN TOLBERT: It has been motioned and seconded that 05-24 SE be
6 approved; all in favor of the approval by raising your hand. Opposes?

7 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins Absent: Myers]*

8 CHAIRMAN TOLBERT: Motion's granted, thank you. Next case.

9 **CASE 05-30SE:**

10 MR. PRICE: The next case is Item C, Case 05-30 Special Exception. The
11 applicant is requesting the Board of Zoning Appeals to grant a special exception to
12 permit the establishment of a family daycare on property zoned RS-2. The applicant is
13 Elicia Sinkler, the location is 101 Moon (sic) Cross Drive. The subject property has an
14 existing single-family residential structure, located on the corner of Moon (sic) Cross
15 Drive and Padgett Road; the rear of the property is enclosed by a fence. The applicant
16 proposed to establish a family daycare for a maximum of six children. The ages of the
17 children would range from newborn to 13 years of age. The proposed hours of
18 operation have not been clearly stated. The days of operation are Monday through
19 Friday.

20 CHAIRMAN TOLBERT: Ms. Sinkler you didn't sign in, you need to come sign in
21 please. You signed in under the wrong sheet. For the Record please state your name,
22 your address and any information you want to share with the Board on what you'd like
23 to do.

1 **TESTIMONY OF ELICIA SINKLER:**

2 MS. SINKLER: My name is Elicia Sinkler, I live at 101 Moon Cross Drive,
3 Columbia, South Carolina 29209. And I think you said pretty much everything.

4 MR. BROWN: Ms. Sinkler, what are your hours of operation?

5 MS. SINKLER: 6:00 to 6:00.

6 MR. BROWN: 6:00 to 6:00.

7 MS. SINKLER: Yeah.

8 MR. BROWN: And that's five days a week?

9 MS. SINKLER: Monday through Friday.

10 MR. BROWN: And are you going to be the only adult providing supervision are
11 will there be anyone else?

12 MS. SINKLER: It will just be me.

13 MR. BROWN: And you're going to take children from six months to 13 years of
14 age?

15 MS. SINKLER: That's newborn to 13 years of age, yeah.

16 CHAIRMAN TOLBERT: Do you have kids of your own?

17 MS. SINKLER: One.

18 CHAIRMAN TOLBERT: What's the age?

19 MS. SINKLER: Well, he's deceased.

20 CHAIRMAN TOLBERT: Oh, okay. I'm not sure, something in the back yard that
21 I really can't get a good clear picture on; like a grill or some other -

22 MS. SINKLER: Yeah, there's two barbecue grills back there and a table and
23 chairs.

1 CHAIRMAN TOLBERT: Is that the same area that you're going to have for the
2 kids to play in?

3 MS. SINKLER: Well, it's a large yard, so if the grills need to be removed
4 because of the children out there playing, that's no problem.

5 CHAIRMAN TOLBERT: I didn't say they need to be removed. I just asked you
6 where the area was, I asked you what area will you have for them, is that a defined area
7 where you're going to have them playing, they going to be all over the place? Because,
8 you know, one of the things that the kids could get hurt playing around a grill, like that,
9 so that was my question.

10 MS. SINKLER: Well, while the children are out there playing the grills can be
11 removed and put into the shed.

12 MR. BROWN: Have you spoken with your neighbors about what you're planning
13 to do?

14 MS. SINKLER: Yes, everybody's okay with it.

15 MR. BROWN: I'm sorry?

16 MS. SINKLER: The neighbors are fine with it. No one has any problems.

17 CHAIRMAN TOLBERT: What do you have for loading and unloading? I'm not
18 sure - I see a big guide wire in the front and then I see a mailbox and I see the
19 extension of your carport. Is there an area for them, for the people to turn around rather
20 than backing out and - unloading in the streets and backing out?

21 MS. SINKLER: When they come into the driveway, the yard is big now. They
22 can could come around and just go right back to the street.

23 CHAIRMAN TOLBERT: Is that a design area for them, or just -

1 MS. SINKLER: Yeah.

2 CHAIRMAN TOLBERT: That's a design area for them?

3 MS. DORSEY: There's no circular driveway.

4 MS. SINKLER: No, the driveway isn't circular, but what I'm saying is that when
5 they come onto the driveway they can just turn right into the yard cause the yard is big
6 and just go right back into the street, so they won't have to back up.

7 MR. BROWN: It appears that if they go back across your yard, in the front of
8 your house, it would be from the right to the left side of the house, that they've got to go
9 back down over the curb, is that correct?

10 MS. SINKLER: Well, yeah a little curb. It's almost flat, you know?

11 MS. DORSEY: And a sidewalk.

12 CHAIRMAN TOLBERT: And a guide wire.

13 MS. PERKINS: Is that what that is?

14 CHAIRMAN TOLBERT: That's a guide wire. Isn't that an electrical pole there,
15 that that's a guide wire in your front yard? Can you go back to that other picture, Mike?
16 Right there.

17 MS. SINKLER: Yeah, they still have plenty of room to come around, that
18 wouldn't be in the way.

19 MS. PERKINS: Come around where? I'm not sure that I understand.

20 MS. SINKLER: Electrical pole that's here, cars have plenty of room to still come
21 through the driveway and off of that, the curb right there, without hitting the electrical
22 line.

1 MS. PERKINS: Yeah, but that is - they're crossing over a sidewalk and a curb.
2 How would you suggest that they not do that?

3 MS. SINKLER: By pulling up in front of the house then and just park on the
4 street and walk up into the house.

5 MS. PERKINS: You can't do that.

6 MS. SINKLER: You can't?

7 MS. PERKINS: No.

8 MS. SINKLER: No, well?

9 CHAIRMAN TOLBERT: The way you were, your first - that you first explained is,
10 where the car is there, you taking about come around that, but that's a fire hydrant.

11 MS. SINKLER: No, before the electrical pole, where the green sign is, you would
12 come off on there, you see where it's kind of flat by the stop sign, the sidewalk?

13 CHAIRMAN TOLBERT: But that's still coming across a sidewalk.

14 MS. SINKLER: Well, yeah.

15 MS. PERKINS: And that's public, you know that's a public right-of-way, as
16 opposed to yours.

17 MS. SINKLER: It's - pardon me?

18 MS. PERKINS: It's public.

19 MS. SINKLER: Oh, okay. Well?

20 CHAIRMAN TOLBERT: Okay, any other questions?

21 MS. SINKLER: And why is it a problem for them to park on the street, right there
22 in front of the house, if -

1 CHAIRMAN TOLBERT: Well, one of the things could happen, ma'am, if the kid
2 could get out on the opposite side of the car and walk and be in the street.

3 MS. SINKLER: But they're with their parents, I mean, they -

4 CHAIRMAN TOLBERT: Ma'am, how many time a child jump out a car, they just
5 jump out a car, it don't make no difference if they say they're going, they out the car and
6 they could get hit. There's so many accidents and all we're trying to do is not trying to
7 tell you how, but just trying to protect the area for the kids.

8 MR. BROWN: The more basic problem is that the ordinance states that they
9 have to load and unload off the public right-of-way.

10 MS. SINKLER: Okay.

11 MR. BROWN: And that's all public right-of-way.

12 MS. SINKLER: Well, what other, can I do, I mean?

13 MS. PERKINS: That's what you have to tell us.

14 MR. BROWN: I think it's possible it could be done through her front yard, but it
15 would have to somehow be delineated so that that's what, in fact is used rather than
16 simply pulling up to the sidewalk and letting the children out, either with creating a
17 driveway through there with crush-and-run, or something to ensure that that's what in
18 fact happened, rather than that the parents simply, pull up and unload the children and
19 pull off.

20 MS. DORSEY: I think there's a, to me there's a traffic issue too. You've got a
21 busy road adjacent, the major issue is the driveway and I don't -

22 CHAIRMAN TOLBERT: Were you made aware that that was one of the
23 requirements for loading and unloading?

1 MS. SINKLER: No.

2 MS. DORSEY: I don't see how there's room enough to, without compromising
3 the safety.

4 CHAIRMAN TOLBERT: It's in the conditions, so I mean that's - you need to
5 submit some type of plan for that, how you plan to accomplish that, because that's part
6 of the -

7 MS. SINKLER: Loading and unloading, is that what you're talking about?

8 CHAIRMAN TOLBERT: Ma'am?

9 MS. SINKLER: Loading and unloading the children?

10 CHAIRMAN TOLBERT: Yes, ma'am, that is part of the conditions.

11 MS. SINKLER: And even if we made it a circular driveway, coming off that
12 sidewalk, can you do that? You know what I mean? Where you come onto your
13 driveway and made a little, another driveway to come around, just like they were going
14 to do anyway before, over the grass, would that pass it?

15 CHAIRMAN TOLBERT: Well, you'd have to, you're still talking about the
16 conditions; you're talking about a sidewalk and public right-of-way there. You'd have to
17 make sure those conditions meets their requirements as far as, because you're coming
18 across a curb there as well.

19 MS. DORSEY: I'm not going to be inclined to vote in favor of a circular driveway
20 that goes over a curb and a sidewalk under any circumstances. So that's not, for me, a
21 possibility.

22 CHAIRMAN TOLBERT: Any other questions? Thank you. There's no one
23 signed up in opposition. The Chair will now entertain a discussion.

1 MR. BROWN: Ms. Dorsey stated her discussion and I'm not in disagreement
2 with it.

3 MS. PERKINS: I'm not either.

4 MS. DORSEY: I think there are times when it just doesn't fit and this is one.

5 CHAIRMAN TOLBERT: I don't think we have to make a decision.

6 MS. PERKINS: She left.

7 CHAIRMAN TOLBERT: We still have to make a motion. Chair would now
8 entertain a motion.

9 MS. DORSEY: I move that case number 05-30 Special Exception be -

10 MR. BROWN: Second.

11 MS. DORSEY: No, I didn't say what - I forgot the word. Denied, I'm so
12 surprised. I'll restate the motion. I'll move that case number 05-30 Special Exception
13 be denied.

14 MR. BROWN: Second.

15 CHAIRMAN TOLBERT: Okay, that's been motioned and seconded that 05-30
16 SE be denied. All in favor for that denial? Opposes?

17 *[Approved to Deny: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

18 CHAIRMAN TOLBERT: The motion has been denied. Next case please.

19 **CASE NO. 05-32-V:**

20 MR. PRICE: Next item is Item D, Case 05-32 Variance; the applicant is
21 requesting the Board to grant a special exception, excuse me, a variance to reduce the
22 number of required parking spaces in a C-3 zoned district. The applicant is Thomas
23 Mackey. The location is 8401 Two Notch Road. The subject property has a 7,360

1 square foot commercial structure that was built in about 1984. The applicant proposes
2 to build a 1,986 square foot addition that would increase the required off street parking
3 to 21 spaces.

4 CHAIRMAN TOLBERT: Mr. Mackey, please come forward. For the Record,
5 state your name, address and any information you want to share with your project to the
6 Board.

7 MR. PRICE: Excuse me, before Mr. Mackey speaks, I just want to add, he's just
8 - the request is to reduce the required parking spaces from 21 to 18.

9 CHAIRMAN TOLBERT: 21 to 18?

10 MR. PRICE: Yes.

11 CHAIRMAN TOLBERT: Okay, Mr. Mackey.

12 **TESTIMONY OF THOMAS MACKEY:**

13 MR. MACKEY: My name is J.J. Mackey. I'm part owner of the Light House,
14 8421 Two Notch Road, Columbia. We're wanting to expand the facility and we're
15 asking for a variance on the parking. Our expansion, we feel, will not bring any more
16 retail traffic to the store. Our business is a little different than most retails, like Lowe's or
17 Home Depot's or Best Buy's. Well, we've been in business over 30 years; typically our
18 business is about half retail, about half wholesale. Wholesale being what I call
19 contractor business, where we sell housefuls of fixtures to contractors. The - what
20 we're trying to do is increase our loading facilities and the warehouse and that type of
21 thing so we can enhance our wholesale part of it. The big expansion that's been going
22 on, for the last few years in Richland County, that's been giving you headaches, it's
23 been a God send to us. What we're trying to do, is like I said, so much of our business,

1 nowadays is contractor packages and things like that, where we don't even see
2 customers that come in the store, we're just dealing with contractors that we either
3 deliver a houseful of fixtures to, or the electricians come and pick them up. We're trying
4 to increase our loading facility which is just about 100' off the road, there and give us
5 the much needed more warehouse space [inaudible].

6 CHAIRMAN TOLBERT: Questions?

7 MR. BROWN: Mr. Mackey, is this addition going to just simply add to the length
8 of the building?

9 MR. MACKEY: Yeah, this will –

10 CHAIRMAN TOLBERT: Mr. Mackey, let them give you a microphone. We need
11 to keep this on Record, please.

12 MR. MACKEY: It's actually two, we're enhancing the loading facility, here and
13 then this is a building part, there.

14 MS. DORSEY: So, you'd be taking away parking here?

15 MR. MACKEY: Well, no there's no parking there currently. Well, I'm sorry,
16 there's parking right here.

17 MS. DORSEY: I've seen the trucks there.

18 MR. MACKEY: Yeah, I'm sorry, there's parking there, so we're actually just
19 taking up two spaces.

20 MS. DORSEY: A good two spaces, so you're increasing the size of the building
21 and you're decreasing the size, or the spaces to park already. How does that add up,
22 as far as what's required parking?

23 MR. MACKEY: Well I think that's just it, we were required 21, we asking for 18.

1 MS. PERKINS: But I thought I heard you say that you were going to, with the
2 increase of the size of the building, you're actually taking away two and then you're
3 asking to reduce it by three. So is it a total of five, is that what you're saying? I don't
4 know, I'm asking.

5 MR. MACKEY: No, let me show you. [Inaudible discussion] We currently don't
6 have problems with parking. And like I said, this is not to drive retail traffic to the store;
7 this is to help us with our deliveries and things like that. [Inaudible discussion]

8 MR. BROWN: So, but you're adding parking down here is that -

9 MR. MACKEY: No, we're not adding parking. We tried but we were not able to
10 add that there. That's why we're here to ask for the variance now. If we had been able
11 to do this, we wouldn't have any problem, but the highway department wouldn't allow us
12 to do it.

13 MR. BROWN: What about this over here?

14 MR. MACKEY: Hold on a second. [Inaudible discussion] Are we adding two
15 spaces? Yeah, okay. So, the two that we're taking away, we're adding there, is that
16 correct?

17 CHAIRMAN TOLBERT: Excuse me for a second. Gentlemen, do you have this
18 so that the Board can have a copy so that we can look at it?

19 MR. MACKEY: Well, we sent this.

20 CHAIRMAN TOLBERT: Can we get copies of this please? If you all could just
21 hold for a second, let us get this information because we need to keep this information
22 on records.

1 MR. FARRAR: We've kind of got like four different conversations going on for
2 each, it's messing up the tape.

3 CHAIRMAN TOLBERT: Yes, sir. Mr. Mackey, you need to come back to mic,
4 because you're the one in the position to talk to. Here's your chart, you can go back to
5 the podium. Well go back and we'll try to get a little control of this situation. Now, so
6 that everyone can understand this, on the backside, where you're building the new
7 building, if I'm correct, there's two spots that indicated there that's not going to be lost in
8 this case, is that correct?

9 MR. MACKEY: Are you talking about -

10 CHAIRMAN TOLBERT: On the side here.

11 MR. MACKEY: It will be one spot that's lost not two spots that shown on there.
12 But we will gain two spots on the right hand side.

13 MR. BROWN: You've got to - you'll end up with a total of 18 parking spaces?

14 MR. MACKEY: Correct. And based on the square footage, you know, the 21,
15 like I said, we're really not a typical retail space. And that so much of our business is
16 not people coming in the door.

17 MS. DORSEY: I understand that, but you do have retail traffic.

18 MR. MACKEY: Oh absolutely.

19 MS. DORSEY: And don't you, do you not expect that with the increase in volume
20 of your sales, you're going to increase your need for employees, increase, I mean there
21 are other things that go along with -

22 MR. MACKEY: I understand the question, but no, really we're only adding about
23 800' of retail space and that's not going to increase my retail business there, it's just

1 going to give me a little more breathing room of what I have currently. But as I said,
2 we've have a shift in our business, over the last five years. In that, I mean 20 years
3 ago, almost everything that went out the door we saw customers and also real estate
4 agents and things like that as well. But, like I said, there's been a shift in our industry
5 and so many of, some much of what we do now is packages, where we don't see retail;
6 you know, we don't see the customer on that at all, we just, that goes out the back door.

7 MS. DORSEY: So you've run out of space for your warehouse?

8 MR. MACKEY: Yeah and also this is greatly, greatly increasing our loading dock,
9 which that's where, that's where our biggest strangle hold right now is the loading dock,
10 trying to get the things in and out where people picking up and delivering

11 CHAIRMAN TOLBERT: Mr. Mackey, I got a question for you now.

12 MR. MACKEY: Yes, sir.

13 CHAIRMAN TOLBERT: On the side, where you're building, how will this parking
14 space be affected with loading and unloading? Is there a loading dock on the same
15 side of the parking?

16 MR. MACKEY: On that front part. The loading dock is -

17 CHAIRMAN TOLBERT: On the side. On the side.

18 MR. MACKEY: Typically, that part is employee parking anyway. The loading
19 dock is on the far corner, right there, so it's doesn't, it's not really affected by that car,
20 that parking space right there. So, our loading is right here.

21 CHAIRMAN TOLBERT: Okay.

22 MR. MACKEY: And like I said, typically this is more employee parking than
23 anything.

1 CHAIRMAN TOLBERT: But that's part of your parking?

2 MR. MACKEY: It's part of the parking.

3 MS. PERKINS: And you're only, as I heard the other gentlemen say, you're not
4 really taking away that space, that one parking space that's over there, you're angling it,
5 is that what -

6 MR. MACKEY: That is correct, no it's not taking it away.

7 MS. PERKINS: Okay, that's what I thought - him -

8 CHAIRMAN TOLBERT: Wait a minute, now you got me, you saying those two
9 spots where the outlay of the building, he said you're going to lose one, you saying
10 you're not going to lose one?

11 MR. MACKEY: Well, it's not drawn on here, I think, what is that?

12 CHAIRMAN TOLBERT: It's counted in the numbers, I counted it already, that's
13 counted in the number where you've got that angle on there.

14 MR. MACKEY: Well, this is the site plan. This is the latest site plan on this, so
15 this is how it will be.

16 [Various discussions]

17 CHAIRMAN TOLBERT: I'm satisfied with that now, thank you. Okay, any other
18 questions?

19 MS. PERKINS: Now the site plan that you presented to us, Geo this is now a
20 question for you, do you have a copy of it? Because I wanted to also note that the
21 proposed, and I can't read this now, is it -

22 MR. PRICE: We have the site plan that was submitted.

1 MS. PERKINS: No, that's not my question to you. My question to you is do you
2 have the site plan that he just presented to us; is it the same, that's what I'm asking?

3 MR. PRICE: Well, except for the showing of the -

4 MS. PERKINS: So it's not the same. If there's an exception, it's not the same.

5 MR. PRICE: No, just this little area right here, where it says, "Proposed no
6 parking areas".

7 MS. PERKINS: Um-hum (affirmative).

8 MR. BROWN: Well that's [inaudible] the Board anyway.

9 MS. PERKINS: No, sir. It's not - yeah.

10 MR. PRICE: Yeah, that looks like it's - that's not on the same property anyway.

11 MS. PERKINS: I want to know if we're going to vote on this, which site plan
12 we're voting on. That's all I'm asking the question, that's all I want to know. He just
13 presented one to the Board. I'm asking you, do you have a copy of that, that he just
14 presented to the Board?

15 MR. PRICE: No.

16 MS. PERKINS: It's not what I think you copied.

17 MR. BROWN: I'm sure Mr. Mackey would be delighted to give him.

18 MS. PERKINS: I said, "If he doesn't have one." if he has it then -

19 MR. PRICE: I mean, I'd much prefer that -

20 MR. MACKEY: That's the one that doesn't show the parking.

21 MS. PERKINS: Yeah, see that's the one -

22 MR. PRICE: This is the one I have, as you can see it doesn't show that parking
23 down here.

1 MS. PERKINS: Oh, okay. Okay. And it's not -

2 MR. BROWN: It's in the water anyway.

3 MS. PERKINS: Oh, okay.

4 CHAIRMAN TOLBERT: Okay, are you satisfied?

5 MS. PERKINS: Yes, sir.

6 CHAIRMAN TOLBERT: Okay, any other questions? No other questions?

7 Alright, thank you Mr. Mackey. Mr. Foster, you want to -

8 MR. FOSTER: I have nothing further. Thank you, sir.

9 CHAIRMAN TOLBERT: Okay, alright. There's no one signed up in opposition,
10 the Chair will now entertain a discussion.

11 MR. BROWN: Once we've sorted through this, it seems fairly reasonable that
12 there is enough parking there for the retail aspect of the [inaudible]

13 MS. DORSEY: I'm a little uncomfortable about increasing the size of the
14 wholesale and retail essentially [inaudible] operation and decreasing the parking in a
15 commercial area.

16 CHAIRMAN TOLBERT: Even though I didn't hear some type of hardship, but I
17 think the part of that was that the County wouldn't allow him to put anything, the
18 Highway Department wouldn't allow him to put anything toward the front.

19 MS. DORSEY: I think that's stretching it quite a lot. I mean, if it doesn't fit, for
20 the Highway Department, you can't put - I can't put the blame on the Highway
21 Department for following their own rules and not allowing this to happen. I understand
22 what you're saying, but -

1 MS. PERKINS: Now if I, and I'm not sure, Ms. Dorsey, what I heard him say was
2 that, or what I understood him to say was that he was increasing the retail space for
3 room, for display as opposed, I'm not sure, as opposed to actually selling retail. That
4 most of his business was shifting from the retail to the wholesale. That's what I thought
5 I heard him -

6 MS. DORSEY: I thought that he said, he can correct me, but the proposed
7 additions were for retail?

8 MR. MACKEY: Well, retail is a by-product of the [inaudible]

9 MS. DORSEY: Right, I understand.

10 MR. MACKEY: Our warehouse is upstairs above the showroom and so,
11 expanding that area; we have an area downstairs as well. And, we are a little, you
12 know, we're a little shoulder to shoulder there anyway, so - but we're only talking about
13 800'. And like I said, the whole purpose of this is not to drive more retail business, it's
14 just to help us get the expansion in the whole [inaudible].

15 MS. DORSEY: Need more space, I understand, I truly do, completely. And,
16 perhaps, obviously, maybe the other Board Members don't have the same concern; I
17 just have a concern about a retail and wholesale operation and a reduction of parking in
18 a commercial area. I've not had an issue with all the industrial warehouse type things,
19 but I've got some concerns and it may be minor, it's just three spaces and I know you're
20 looking at it, "it's just three spaces;" it may not be an issue.

21 MR. MACKEY: Yeah, well, you know, currently it's not an issue with us as the
22 way it is now and like I said, the increase is not really, I don't anticipate any really
23 increase in business because of it.

1 MR. BROWN: Mr. Mackey are you increasing your sales staff?

2 MR. MACKEY: No.

3 MR. BROWN: Based on this addition? You have what, three or four sales
4 people?

5 MR. MACKEY: Yeah, we have four sales people in the store and then also a
6 manager [inaudible], but no we're not increasing the sales staff.

7 MS. PERKINS: What would you say would be a hardship for you?

8 MR. MACKEY: I'm sorry, a hardship? I don't understand the question.

9 MR. BROWN: In order to grant a variance, the applicant is required, under the
10 zoning ordinance, to show a hardship that they will suffer if the variance is not granted.
11 Hardship can't be financial and it cannot be something of the applicant's own making. It
12 has to be some sort of independent factor that comes into play that would create a
13 hardship for you in the absence of the variance.

14 MR. MACKEY: In the absence of the variance, it's possible we might have to
15 move at some point in time, so that we can accommodate, you know, everything there.
16 That's obviously not what we would want to do.

17 MR BROWN: How long have you been there?

18 MR. MACKEY: Since '84. And it's not really anything that we've discussed. But
19 as far as the hardship, other than, you know, we just need more space.

20 MS. PERKINS: Let me ask you, and being that you are in a sense retail, you are
21 in retail because -

22 MR. MACKEY: Oh, I'm in the retail business, absolutely.

1 MS. PERKINS: What predicator are you using that if you enlarge the warehouse,
2 as well as the retail space, that you aren't going to get more customers? I know you
3 said it, but I wanted to -

4 MR. MACKEY: No, I understand your question, I just, we're just, the area has so
5 much growth that's there and I don't think us, you know, if I increase that store 5,000', I
6 really don't think it would bring me any more business. My perfect example of that, I
7 have a facility in Lexington that's three times this. This store does more volume than
8 that store, so, you know, it's not so much the space, you know, and like I said that's not
9 why we're trying to do it. We're just, we busting apart with a small warehouse up there.

10 MS. PERKINS: Could that be because of your egress and ingress into that
11 place, I'm just wondering about that?

12 MR. MACKEY: In Lexington?

13 MS. PERKINS: No, on Two Notch Road.

14 MR. MACKEY: I don't know, I think that, to me, there's just a certain amount of
15 business that, you know, in my kind of business and basically what we cater to isn't in
16 home sells, so, you know, I don't know, I don't think I've answered your question.

17 MS. PERKINS: No, I don't have any - thank you.

18 CHAIRMAN TOLBERT: Okay, thank you.

19 MR. MACKEY: Thank you.

20 CHAIRMAN TOLBERT: The Chair now still will entertain a discussion.

21 MS DORSEY: Although I do not agree with this case, the issue has come up
22 before of there being extraordinary circumstances and I think there's a contradiction

1 between the increase in volume and sales and possibly traffic and a decrease in
2 parking, but I think the Board knows where I stand and I leave it to the Board to decide.

3 MS. PERKINS: I'm not sure that I get - Ms. Dorsey, I didn't get that, I really.

4 MS. DORSEY: Is this, I guess what I'm saying is, obviously to me the Board
5 Members think that there's merit in this. Is there an opinion that there's some sort of
6 extraordinary circumstances that would apply to this case?

7 MS. PERKINS: Well, that's what I was asking him to, you know, I was not, you
8 know, I don't know. Maybe one [inaudible]

9 MS. DORSEY: There could be -

10 MS. PERKINS: But I, you know, his going back, you know, if you were going to
11 increase the retail space and you are in the retail business, on you say so, I don't think
12 that's a good indicator of whether or not you're going to have more retail, with people
13 coming in. And I don't know a hardship. Does any of the other Board? Because he
14 didn't state one really.

15 MR. BROWN: I happen to be very familiar with this operation and, been in that
16 store, I don't know how many times.

17 MS. PERKINS: Retail or wholesale? [laughter]

18 MR. BROWN: And I know, in my personal experience, and I'm trying to influence
19 any other Board Member with it, but my personal experience, being in there, the number
20 of retail customers that they had was not very large and although it has no bearing on it,
21 I never had any trouble finding a parking space as it exists right now. It seems to me
22 that if there's a hardship it's perhaps one that he's not able to make the maximum use
23 of his property and his potential without the expansion and I would add into that, only for

1 the slightest consideration, that the inability to use the parking place [inaudible] DOT,
2 that he thought he might get out of DOT, while that isn't persuasive, I'm sure it put that
3 in the dilemma, but I wouldn't state that as a hardship.

4 CHAIRMAN TOLBERT: I'm trying to remember, I go by this same place as well.
5 I don't know in the, what other area in the back of it, I don't know how far, I'm looking at
6 the property line, I don't think he have any other consideration back there, I think that's -

7 MR. BROWN: There's a Doctor's Care right behind it, isn't there?

8 CHAIRMAN TOLBERT: A bank or something back there, right?

9 MS. PERKINS: [Inaudible]

10 MR. PRICE: Maybe I could interject something, one of the problems is that our
11 code specifically states it's either retail or wholesale. I think this, kind of to a degree,
12 kind of falls in between both, sort of like if you were to go to Lowe's, you know, the
13 contractor's sections? You know, I could go in there and buy, you know, a couple of
14 boards for my house and that would be considered retail; yet at the same time the
15 majority of the people there are buying it wholesale. So, it's like, you know, what's the
16 middle ground for that, because if this was considered a wholesale operation then his
17 required parking for the existing uses would only be 12, then he wouldn't need this
18 variance.

19 MR. BROWN: If it were wholesale, there's a lesser parking requirement than
20 retail?

21 MR. PRICE: It would be six, well 600, one space for everyone 600 square feet,
22 so it would knock it down to 12. So he's kind of that, is he wholesale, is he retail? So,

1 to a degree, this is another one of those cases where the existing ordinance doesn't
2 totally address the specific use.

3 MS. DORSEY: Well, what do we do? Do we make, I mean to give the best
4 judgment in this case, do primarily consider the use, the intended use as a wholesale? I
5 don't want to complicate this.

6 MS. PERKINS: It's not complicating because I think that what you're asking, and
7 I get confused with that too, is that he stated, the applicant, and if I'm incorrect, my
8 Board Members, this is just a, that basically the additional space is for the wholesale
9 part as opposed to the retail part. That's, and that may be not what he said, cause -

10 CHAIRMAN TOLBERT: I think that's what he said, because he said 800' of
11 what he plans to would increase his retail but the majority was for the storage for the
12 wholesale end of it.

13 MS. PERKINS: I didn't hear him talk; I'm confused.

14 CHAIRMAN TOLBERT: That's what he said.

15 MS. PERKINS: And then I don't think we can make this up as we go. If there is,
16 you know, I'm thinking that we're supposed to be doing that. You know, nonconformity
17 and it's not being addressed and I think your question is, what do we do? And I was
18 just thinking from the analytical point of view, listening to him and what he's saying, and
19 maybe Brad could shed some light on that?

20 MR. FARRAR: This is on its face a diminimus request. He wants three fewer
21 spaces than what he has right now. If the man who understands his business and his
22 business plan thought that he was going to drive away customers, he would not be here
23 before you. If you go to the place and you got a place to park, and then probably a

1 number empty spaces, I mean, the nature of his business, as he's described it, is this is
2 kind of an annex to his main retail establishments, where they have a hybrid of
3 wholesale and retail and the conditions for the variance, one of them includes ". . .
4 application of the chapter to the particular piece of property would effectively,
5 unreasonably restrict the utilization of the property." If he's going to expand his
6 wholesale business and the zoning code doesn't take that into account in terms of a
7 middle ground between retail and wholesale as Geo has suggested with the 12 parking
8 spaces, then that may be a gap not his, you know, fault not his own making, but this is
9 by its very nature a diminimus request.

10 CHAIRMAN TOLBERT: Everybody understand that? Any other discussion?

11 MS. PERKINS: I would go with the merit, you know, if I were to do it, it would be
12 because as he has stated, Mr. Mackey has stated, to be basically for wholesale as
13 opposed to – because there are no direct guidelines for us to go by.

14 MS. DORSEY: I think what Brad is trying to say and I agree that he's not asking
15 for anything that's going to cause detriment as he states, or, if or as we might be able to
16 see. And I don't mean to make this difficult. I don't want to go down a slippery slope
17 with these. When this kind of stuff comes up and we start playing around with what
18 we're supposed to be doing here, so if - I can feel that, I mean I just want to feel that this
19 is valid, that what we do is valid, so based on that and it's not going to cause hardship,
20 I'll leave it to someone else to make the motion.

21 CHAIRMAN TOLBERT: No other discussion? Chair will now entertain a motion.

22 MR. BROWN: Mr. Chairman, I move that case 05-32 be approved.

23 MR. YOUNG: Second.

1 CHAIRMAN TOLBERT: It has been motioned and seconded that 05-32 V be
2 approved, all in favor by raising your hands. , Opposes?

3 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

4 CHAIRMAN TOLBERT: Variance has been approved, thank you. Next case
5 please.

6 **CASE 05-35 SE:**

7 MR. PRICE: The next item is Item E, Case 05-35 Special Exception. The
8 applicant is requesting the Board to grant a special exception to permit the
9 establishment of a family daycare on property zoned RS-2. The applicant is Dianne
10 Austin Nwokolo. The location is 1842 Malcolm Drive. The subject project has an
11 existing single-family residential structure, which is located at the end of Malcolm Drive;
12 it's kind of like at the end of a dead end. There's not a distinguishable driveway. A
13 fence encloses approximately $\frac{3}{4}$ of the property. The front yard, well that's not fenced.

14 CHAIRMAN TOLBERT: Ms. Nwokolo were you sworn in?

15 MS. NWOKOLO: Yes.

16 CHAIRMAN TOLBERT: Okay, for the Record please state your name, your
17 address and any information you want to share with the project you plan to present to
18 the Board today.

19 **TESTIMONY OF DIANNE AUSTIN NWOKOL:**

20 MS. NWOKOLO: My name is Dianne Austin Nwokolo. I live at 1842 Malcolm
21 Drive, Columbia, South Carolina, 29204 and I plan on opening a daycare in my home.

22 MR. BROWN: Ma'am, you state that you'll be caring for children, I guess from
23 newborn to 12 years of age?

1 MS. NWOKOLO: Yes, sir.

2 MR. BROWN: And looking at the photographs and I went by your house, but I
3 couldn't look in, I couldn't see in the back yard very well, but it appears to me there's a
4 lot of things in the back yard that would be very attractive to a young child.

5 MS. NWOKOLO: Yes, before we, there are some things in there, well would, are
6 being cleaned up in there. I know there's a lawn mower out there and there's my gas
7 grill and there's also part of the wall has fallen down, where my landlord is going to
8 repair that.

9 MR. BROWN: You say your landlord's going to repair that?

10 MS. NWOKOLO: Yes he is and that thing, right there, will be taken down, the
11 basketball hoop has fallen and that will be removed.

12 MR. BROWN: What about that shed back there?

13 MS. NWOKOLO: That actually is a, where we put all out, my grandson's toys,
14 his bikes and stuff like that are in there.

15 MS. PERKINS: So you rent this property?

16 MS. NWOKOLO: Yes, I do.

17 MR. BROWN: The thing we don't have is a letter from the landlord allowing her
18 to, or agreeing to her requesting special exception.

19 MS. NWOKOLO: I thought I sent it.

20 MR. BROWN: You may have but it isn't in our packet.

21 MS. NWOKOLO: Oh.

22 CHAIRMAN TOLBERT: Did you, Mr. Price, did you receive that?

23 MR. PRICE: I'm looking in the file now. I don't see it at this time.

1 MS. NWOKOLO: He said he has no problem with it, whatever the Board says is
2 fine.

3 MS. PERKINS: But we need a letter.

4 MR. BROWN: We have to have it in writing.

5 CHAIRMAN TOLBERT: We have to have it in writing.

6 MS. NWOKOLO: I wrote one up and he just signed it for me, so.

7 MR. BROWN: You don't have it Mr. Price?

8 MR. PRICE: No, sir.

9 MR. BROWN: In that case I move that we defer this case until she's able to
10 obtain that from the landlord.

11 MS. DORSEY: Second.

12 MS. NWOKOLO: Is there any other objections to the building besides those
13 things?

14 CHAIRMAN TOLBERT: We have to have that before we can go any further.

15 MS. NWOKOLO: Okay.

16 CHAIRMAN TOLBERT: Mr. Price were there something else?

17 MR. PRICE: [Nods no]

18 CHAIRMAN TOLBERT: Okay, it has been motioned and seconded that this case
19 be deferred to the next agenda for authorization from the owner. All in favor of that
20 approval by raising your hand. Opposes? Okay.

21 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

22 CHAIRMAN TOLBERT: Okay. This case will be deferred until next agenda.
23 Next case. The Zoning Administrator will notify you. Next case.

1 **CASE 05-44 SE:**

2 MR PRICE: Okay, this is an interesting one here. The next item is Item F, Case
3 05-44 Special Exception. The applicant is requesting the Board of Zoning Appeals to
4 grant a special exception to permit the establishment of a family daycare on property
5 zoned RS-2. The applicant is Bettie Kelson. The location is 401 Sagamore Road. The
6 subject property has an existing single-family residential structure. The subject property
7 has an existing single-family residential – yeah, with a single car driveway that leads to
8 a garage. A fence encloses the rear of the property. The applicant proposes to
9 establish a family daycare for a maximum of six children. The ages of the children
10 would range from newborn to 13 years of age. The proposed hours of operation are
11 Monday and Tuesday 12:00 a.m. to 9:00 p.m., Wednesday 8:00 a.m. to 6:00 p.m.,
12 Thursday 8:00 a.m. to 7:00 p.m. and Friday 8:00 a.m. to 12:00 p.m. The subject
13 property is located in one of the phases of the Winslow subdivision. The applicant, of
14 course, is not here. She did send a letter asking the Board to make the decision on the
15 merits of the letter that she submitted.

16 CHAIRMAN TOLBERT: We can't do that.

17 MR. BROWN: Mr. Chairman, obviously the applicant was aware of the meeting.
18 We don't have an issue here of her not receiving a letter or any representation of that. I
19 move that the case be considered as withdrawn.

20 MS. PERKINS: Second.

21 CHAIRMAN TOLBERT: It has been motioned and seconded that Case number
22 05-44 E, recommend to be withdrawn because non-participant of the applicant. All
23 those in favor of that motion -

1 MS PERKINS: Before you do that, and wasn't she, she didn't show up last
2 meeting. Isn't this one that we were presented last month?

3 MS. PRICE: No, I spoke to the applicant. You know, I explained that she really
4 did need to come. Of course, as you can see from the times that she has, she's
5 actually keeping her grandchildren and the other kids were like, I think she stated two
6 from the neighborhood and one additional child that works with her daughter. But, so I
7 did explain to her that she needed to come. She said she'll just take her chances.

8 MR. BROWN: Well, she took them and here we go.

9 CHAIRMAN TOLBERT: For the lack of time set between the motion, I would ask
10 for that motion again please.

11 MR. BROWN: Move that case 05-44 SE be considered as withdrawn, due lack
12 of appearance by the applicant.

13 MS. PERKINS: Second.

14 CHAIRMAN TOLBERT: It has been motioned that 05-44 SE be withdrawn
15 because of non-participating of the applicant. All in favor of that motion by raising your
16 hand. Opposes?

17 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

18 CHAIRMAN TOLBERT: Motion has been approved to withdraw. Next case.

19 **CASE 05-45-SE:**

20 MR. PRICE: The next case is Item G, Case 05-45 Special Exception. The
21 applicant is requesting the Board to grant a special exception to permit the
22 establishment of a family daycare on property zoned RS-3. The applicant is Denise
23 Johnson. The location is 9501 Farrow Road. The subject property has an existing

1 single-family residential structure with a single car driveway that leads to a garage. A
2 fence enclosed ½ of the rear of the property. The applicant proposes to establish a
3 family daycare for a maximum of six children. The ages will range from newborn to
4 three years of age. The proposed hours of operation are 6:00 a.m. to 6:00 p.m. The
5 property is located amongst a community of single-family residential structures. The
6 abutting parcel east of the site has been zoned, rezoned to PUD 1-R, that's for a
7 residential development.

8 CHAIRMAN TOLBERT: Okay, Ms. Johnson, please come forward, state your
9 name, address and any information you want to share with the Board on what you
10 would like to present to the Board today.

11 **TESTIMONY OF DENISE JOHNSON:**

12 MS. JOHNSON: Denise Johnson, 9501 Farrow Road, Columbia, South Carolina
13 29203. I'm looking to operate a family daycare home out of my, at my home.

14 CHAIRMAN TOLBERT: Ms. Johnson, I didn't see any protection from, which is
15 known to be a very busy, busy, busy highway, any protection from the backyard to the
16 front, on the sides; there's no -

17 MS. JOHNSON: No gates or anything, the exit, you're saying?

18 CHAIRMAN TOLBERT: Well it has nothing to stop the kids from running out and
19 running out the side.

20 MS. JOHNSON: Right, I'm in the process, I want to put a fence there in my
21 backyard to separate me from the neighbors. It's already a fence separating me from
22 Providence Plantation subdivision in the back, so I want to bring it up on the side of my
23 home.

1 MS. PERKINS: So the fencing that's there now is not your fencing, that wood
2 fencing?

3 MS. JOHNSON: No it's a fence for Providence Plantation to separate, on the
4 side of my house all the way to the back yard, it's their fence and I want to put up a
5 wooden fence on the right hand side to attach from there up.

6 CHAIRMAN TOLBERT: There is a fence across; it's a wooden fence across the
7 back?

8 MS. JOHNSON: Yes, sir.

9 CHAIRMAN TOLBERT: And a wooden fence to the right side of the property?

10 MS. JOHNSON: The left side of the property in the back. I will put one up on the
11 right side to separate me from the neighbors, it just depends which way you stand, I
12 guess.

13 CHAIRMAN TOLBERT: If your driveway's here and I'm facing the house, there's
14 no fence to the right side?

15 MS. JOHNSON: There's a fence to the right side in the back, I mean to the left
16 side in the back, not the right.

17 CHAIRMAN TOLBERT: Not the right side.

18 MS. JOHNSON: Not the right side.

19 CHAIRMAN TOLBERT: Not the right side, that's what I'm asking you. There's
20 not fence to the right side?

21 MS. JOHNSON: That's correct.

22 CHAIRMAN TOLBERT: Okay, and there's no protection between the fence to
23 the left of your house and your house that a child could just come out into the street?

1 MS. JOHNSON: That's correct.

2 CHAIRMAN TOLBERT: Now, I don't see any indications of your plans for
3 loading and unloading on this. What are your plans, because I know Farrow Road in
4 the morning time is like driving on Interstate 20.

5 MS. JOHNSON: Yes, sir and it is a one-car garage driveway. I drive in and they
6 have my whole front yard and they can circle the front yard and go back out of that exit,
7 that driveway.

8 CHAIRMAN TOLBERT: I saw this, is that enough maneuvering space for a
9 vehicle in that front yard?

10 MS. JOHNSON: My front yard is pretty big.

11 CHAIRMAN TOLBERT: I sat at the railroad tracks and looked at this thing for a
12 long time and I didn't see a whole lot there.

13 MS. JOHNSON: No? I've done the circle -

14 CHAIRMAN TOLBERT: And I'm not an engineer or nothing like that, so I
15 couldn't tell. But, the density of the traffic and the concern that I have for that area, plus
16 the train comes through there and I'm just, you know, I just want to make sure that I
17 can, I'm trying to visualize what you put here on the paper, but -

18 MS. JOHNSON: I have done it several times myself, far as just circling my front
19 yard and also pulling into my front yard, pulling in front of my front door and also I can
20 back up and on my side, right there on the side and then go out on the driveway.

21 MS. PERKINS: On this diagram you have a way to enter and a way to exit.
22 Where would you enter, because I'm confused, there's a, is that a ditch in the front
23 yard?

1 MS. JOHNSON: Yeah, it's out in the street though; it's out by the street.

2 MS. PERKINS: Yeah, but how you going to get off the street onto your
3 driveway?

4 MS. JOHNSON: I mean, you have to drive up in my driveway. When you drive
5 up in my driveway you will cut to the right, right in front of my steps, right in front of my
6 door and you will circle that front yard and come back out in front of that ditch.

7 MS. PERKINS: So you're going to build another exit?

8 MS. JOHNSON: Yes, ma'am.

9 MS. PERKINS: Oh, okay.

10 MS. JOHNSON: I'm going to build, I'm do another building for the exit as well as
11 putting up my fence in the backyard.

12 MS. PERKINS: Tell me again now, I'm sorry.

13 MS. JOHNSON: I want, my entrance, my exit, I want -

14 MS. PERKINS: You're going to have two; one way they can enter and then
15 they'll just keep going around and exit, is that what you're talking about?

16 MS. JOHNSON: They can go out and exit through, on the ditch, you know,
17 where my ditch is so wide, I can build up and do an exit right there as I do in the circle.
18 But for right now, I just drew this so they can just turn right now, you know, in my front
19 yard, on my grass.

20 MS. PERKINS: So right now they enter and exit on to same driveway?

21 MS. JOHNSON: On the same driveway, yes, ma'am.

22 MS. PERKINS: What I was asking you is, the way this, that you presented to us,
23 you presented one way of entering and then another way of exiting. So, is this your

1 presentation to us that you're going to have a circular driveway where they drive in one
2 way and then exit the other way, that's what I'm trying, that's your -

3 MS. JOHNSON: Yes, ma'am.

4 MR. BROWN: How does this tree enter into this?

5 MS. PERKINS: Yeah, that's what I was -

6 MR. BROWN: Is all this going to happen before they get to the tree that you
7 have in your front yard?

8 MS. JOHNSON: Once they drive in the driveway, they can circle, they can circle
9 the front yard, cause my yard, my yard, my house is there, I still got room over for them
10 to make a circle to come in front of the tree.

11 MR. BROWN: Yes, ma'am, I went by your house, I went by and looked at it.

12 MS. JOHNSON: Okay, yes.

13 CHAIRMAN TOLBERT: Right there, right there.

14 MS. PERKINS: There's the tree, right there.

15 CHAIRMAN TOLBERT: Ms. Johnson, I don't know if I'm in order, but I just want
16 to ask you a question.

17 MS. JOHNSON: Yes, sir.

18 CHAIRMAN TOLBERT: Have you considered any other ordinate plans as for,
19 like rather than, Mike if you could get back to that. Okay, had you considered pulling
20 into there and making a spot to pull in there and let them back to the driveway and then
21 go out?

22 MS. JOHNSON: I have that one too. I have two options.

23 CHAIRMAN TOLBERT: And which option did you send in?

1 MS. JOHNSON: I sent in three options actually. I sent in three options.

2 CHAIRMAN TOLBERT: Can we see option two and three?

3 MS. PERKINS: Yeah. It's not in the packet.

4 MS. JOHNSON: But one I turned in when I turned in the application.

5 CHAIRMAN TOLBERT: This is option one?

6 MS. JOHNSON: That's two.

7 MS. PERKINS: Mr. Price, we don't have option one. I don't have in my packet.

8 MR. PRICE: She did turn in another option here.

9 CHAIRMAN TOLBERT: That one, this one the worse than and this is one?

10 MS. JOHNSON: That's one.

11 CHAIRMAN TOLBERT: Where, let me see three.

12 MS. JOHNSON: Three, they back, pull in and they can back up on the side.

13 CHAIRMAN TOLBERT: Yes, ma'am, okay. [Various discussions] Ms. Johnson,
14 while they're looking at the picture, do you have kids of your own?

15 MS. JOHNSON: Yes, one 14 year old.

16 CHAIRMAN TOLBERT: Fourteen year old.

17 MS. JOHNSON: Yes, sir.

18 CHAIRMAN TOLBERT: Are you going to be the only one responsible, the only
19 one working there?

20 MS. JOHNSON: For to start off yes, sir. I'm looking for help.

21 CHAIRMAN TOLBERT: Okay, alright, any other questions for Ms. Johnson?

22 Okay, thank you Ms. Johnson.

23 MS. JOHNSON: Thank you.

1 CHAIRMAN TOLBERT: There's no one signed up in opposition, the Chair will
2 now entertain a discussion. I'll just make mine, I looked this and I'm glad she came up
3 with another option because one and two just didn't appeal to me at all. Her option
4 three is more of a safety than the other one, cause the other one you're talking about
5 coming across a ditch and that would be even more hazard to the traffic in that area.
6 So it's going to be bad enough as it is, with another subdivision right next to her house
7 entering and exit there so. That was my main concern.

8 MR. YOUNG: Yeah, traffic in that location also, definitely my major concern. I
9 go by there several times a day. I've seen the traffic build up in the mornings with the
10 egress, exiting off of Farrow from Brickyard to the 50 to 80 homes in that neighborhood
11 coming out. I've seen the kids standing there in the mornings, bus stop, so traffic in just
12 that location is a, now I don't know, we'd be definitely be adding fuel to the fire at that
13 location.

14 MS. DORSEY: I agree with Mr. Young. That Farrow Road to imagine even
15 going forward out of, not backing up onto Farrow, but even going forward and trying to
16 make a left, Farrow Road is, especially at those times, coming home, 5:00 traffic, is
17 already a nightmare and there are more subdivisions planned for that area. There's an
18 apartment complex planned right down the road. Fuel to the fire is absolutely the word
19 for it. Again, it's a location problem and I appreciate what the applicant did to solve the
20 driveway issue, but the traffic issue isn't solvable for me.

21 MR. BROWN: I think we all share the same concern, so far as the traffic
22 situation in that particular area. I'm not sure any plan, however well thought out, is
23 going to really alleviate the safety aspect for which is paramount really.

1 CHAIRMAN TOLBERT: Any other discussion? No other discussion, Chair will
2 now entertain a motion.

3 MS. DORSEY: I move that case number 05-44 Special Exception be denied on
4 the basis of traffic impact.

5 MR. YOUNG: Second it.

6 CHAIRMAN TOLBERT: It has been motioned that 05-45 SE be denied based on
7 the traffic impact, all in favor of that motion by raising your hand, opposes?

8 *[Approved to Deny: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

9 CHAIRMAN TOLBERT: Motion has been denied. Next case.

10 **CASE 05-46 V:**

11 MR. PRICE: The next item is Item H, Case 05-46 Variance. The applicant is
12 requesting the Board of Appeals to grant a special exception to reduce the number of
13 required parking spaces in a PUD-2, Planned Unit Development zoned district. The
14 applicant is Jack Carter. The location is on Longtown Road, this is the part, that I think,
15 the Mungo PUD. The subject property is currently being developed for a mixed use
16 development. The applicant proposed to reduce to the required off street parking to 21,
17 oh excuse me, from 21 spaces, by 21 spaces, that's from 234 to 170. This is for a
18 school, an elementary school. As I stated right now the surrounding properties are
19 dedicated to a mixture of residential, commercial, and institutional uses; some have
20 already been established and others are just proposed at this time.

21 CHAIRMAN TOLBERT: Mr. Price, I've got a question before I even get started.
22 No site plans or nothing, to give us some, what, when we got out and look at, no

1 indication on what we're looking for. I have no idea, all I know they want to reduce and I
2 have no, nothing to go by. Dakhaus, are you going to be the presenter?

3 MR. DAKHAUS: Yes, sir.

4 CHIARMAN TOLBERT: Please for the Record state your name, your address,
5 any information you'd like to share with the Board on what you plan to do with this
6 project.

7 **TESTIMONY OF DONALD DAKHAUS:**

8 MR. DAKHAUS: My name is Donald Dakaus, [Inaudible] Wilkinson, 1501 Main
9 Street and [inaudible] Geo went through, this is an elementary school for Richland
10 County School District 2. We're requesting a variance of the county's required parking
11 for an elementary school. The site is located at Longtown Road and Lee Road. It's part
12 of the Mungo development PUD, in terms of defining the site. Site topo has about 40' of
13 fall across the site. It slopes from southeast to northwest. It's approximately four, 24
14 acres. The site vegetation is mostly scrub oaks but there are a few pines on the site.
15 The proposed layout has an elementary building, about 45,000 square feet. It will
16 initially open with less than 700 students. The proposed layout shows a split access, in
17 terms of a bus loop and the main parent drop-off loop. The zoning, from our
18 calculations, came out to be 234 spaces and we're providing 170 spaces. At - right now
19 the School District has the exact same elementary school. It is located on Rimer Pond
20 Road, Round Top Elementary School, and it is functioning well and only has 156
21 spaces on it. This elementary school is, it has more parking spaces than any of the
22 other elementary schools in the District right now. We believe the - from the layout that
23 we have maximized the site with the balance of leaving the required buffer for

1 landscaping as an undisturbed, natural vegetation. SCDOT's and the Office of Schools
2 Facility, stacking turning lane requirements, the School District's need for parking
3 spaces and open green space [inaudible] to maximize [inaudible].

4 CHAIRMAN TOLBERT: Okay, you - I think, if I'm looking at this, you're going to
5 reduce it by 64 spaces; you're going to reduce 64 spaces right?

6 MR. DAKHAUS: Yes, sir.

7 CHAIRMAN TOLBERT: Did I hear you state the reason that we needed to do
8 this?

9 MR. DAKHAUS: The reason for is the [inaudible] in terms of its function and
10 facilities that they just don't need more than 170 .

11 MS. PERKINS: You don't, okay, you're saying, okay and you're not needing
12 them because you're proposing a school with 600 students, times two, and if you have a
13 PTA meeting, or something like that?

14 MR. DAKHAUS: That's not the criteria.

15 MS. PERKINS: I just asked.

16 MR. DAKHAUS: No, the zoning ordinance has criteria and -

17 MS. PERKINS: Yes, sir, that, yeah, I, okay.

18 MS. DORSEY: You brought up Rimer Pond. Did Rimer Pod receive a reduction
19 in parking, based on, did they receive a variance to reduce parking? No, they didn't.

20 MR. BROWN: [Inaudible]

21 MS. DORSEY: I'd just like to note the difference between Rimer Pond Road and
22 Longtown.

23 CHAIRMAN TOLBERT: Are you directing a question or are you asking what -

1 MS. DORSEY: No, I'm just making a statement.

2 MR. BROWN: What did you say Ms. Dorsey, I'm sorry?

3 MS. DORSEY: There's a huge difference between Rimer Pond Road and
4 Longtown, in terms of volume of traffic, number one and I'm trying to establish, he
5 mentioned, Mr. Dakhaus said, he - to justify this he was comparing this with Rimer Pond
6 Road and the required parking on Rimer Pond Road, and I don't understand that Rimer
7 Pond Road, or the school on Rimer Pond Road, Round Top, did not get a variance for
8 parking. Round Top did not get a variance for parking.

9 MR. MIKE SPEARS: I don't know of one. It's my understanding that at the time
10 this school was, when Round Top was brought on line that maybe the state oversaw
11 these type situations and Richland County did not review schools, it's only been - yeah,
12 Round Top's been open for a couple of years now. Right across the street from Major
13 Lee's house.

14 MS. DORSEY: Right, okay.

15 MR. SEAN BUSBEE: Ms. Dorsey, Staff has just started receiving school plans
16 for review they were reviewed by the State and I think that they've, there starting to try
17 to get the county approval versus the state approval, so we are reviewing them now,
18 whereas in the past, I've been here for two years and we really didn't start looking at
19 any schools up until, I would say six to eight months ago.

20 MS. DORSEY: Okay, I don't want, I'm not going to compare - what I'm getting at
21 is I'm not going to compare Longtown Road and Rimer Pond Road because it's
22 completely different characteristics and expectations of traffic.

1 CHAIRMAN TOLBERT: So am I to understand that by the ordinance, base on
2 what we read in the ordinance, the 234 required spaces, that's based on the ordinance
3 requirement as of now? Okay, and he's asking for a reduction and I can't see the
4 hardship in the reduction and I hadn't heard one.

5 MR. BROWN: A hardship for the reduction?

6 CHAIRMAN TOLBERT: Yeah. Is there, did you, well let me just ask it direct.
7 What is the hardship that you want to present to the Board for the reduction?

8 MR. DAKHAUS: Alright, as stated on our application, the area of available
9 parking is limited. Community interest such as buffers, landscaping, storm water
10 detention areas take up additional space. The School District and SCDOT, as well as
11 the Office of School Facilities have requirements of separating bus loops and students
12 drop offs [inaudible] large stacking distance.

13 MR. BROWN: So is it your representation, Mr. Dakhaus, that the available
14 space, exclusive of areas that are earmarked for buffering, won't permit the additional
15 parking?

16 MR. DAKHAUS: The - won't permit it as designed, but there is areas where the,
17 or drive lanes coming in are 24' wide so it allows for an overflow situation if that arises.
18 When I compare it to Rimer Pond Road and parking facilities associated with it was,
19 was the functioning of it during after hours and from the School District things function
20 well.

21 MS. DORSEY: After hours.

22 MR. DAKHAUS: After hours, which, you know, that's going to be your heavy
23 time when parents are coming up there for programs and such as that.

1 CHAIRMAN TOLBERT: Then maybe I'm missing something. If you're looking at
2 the main entrance, I know to the right of the parking lot that's a detention area, I
3 understand that. To the left of that, why couldn't additional parking be placed in that
4 area?

5 MR. DAKHAUS: This right here?

6 CHAIRMAN TOLBERT:

7 MR. DAKHAUS: It's designated for their play area. They needed a, it's not
8 noted here, but it is a -

9 CHAIRMAN TOLBERT: Well I, it wasn't noted so - you didn't note it so we didn't
10 know what that area. In the back area, back here, on the backside where this is, yes,
11 sir.

12 MR. DAKHAUS: This area here is designated for, they prepare, in terms, before
13 they can expand, for portables; this area that they designate for portables, portable
14 classrooms.

15 CHAIRMAN TOLBERT: Then that brings up another issue wouldn't it? That
16 would be more required parking if you put that back there, right?

17 MS. DORSEY: Absolutely.

18 MS. PERKINS: That's right, and it's not marked on your, could you go back to
19 the mic please?

20 CHAIRMAN TOLBERT: So if you saying that that area is going to be designated
21 for portables then you're asking for another situation, cause you're going to, that's going
22 to require more additional parking.

23 MR. DAKHAUS: Right, at that time, we'd have to come back and -

1 CHAIRMAN TOLBERT: Okay.

2 MS. PERKINS: So if you're saying at that time then do you have space that at
3 that time that you could put more parking spaces? I heard your comment when he said
4 that, you said "at that time." So what does that mean? At that time means, suggests to
5 me, yeah you can come back and add some more.

6 MS. JACQUELINE MYERS: My name is Jacqueline Myers, I represent Richland
7 School District 2. We are the actual applicants, Jack Carter is my boss, I'm not signed
8 up but I can address some of the questions.

9 CHAIRMAN TOLBERT: Well then we need to sign you up and swear you in
10 because I don't remember seeing your hand go up.

11 MS. MYERS: Yes, I did get sworn in.

12 CHAIRMAN TOLBERT: Oh you did? Okay, alright. Ms. Myers, for the Record
13 state your name, your address and any information you'd like to share with the Board on
14 this project please.

15 **TESTIMONY OF JACQUELINE MYERS:**

16 MS. MYERS: My name is Jacqueline Myers. I'm with Richland School District 2,
17 124 Risdan Way, which is our Support Services Center. One of the things that this
18 does not reflect is that this property falls 40' from front to back. There is a steep slope
19 here and a steep slope here, with a retaining wall. We're trying to do a balancing act
20 with laying out the school at and elevation and a situation where we can still have some
21 playground areas and a lot of green space around the school. There is a slope that will
22 come down here on these areas as well, to come into this area. This school is more
23 parking than we've ever provided at an elementary school and though we've asked for

1 more parking, because our needs do continue to increase, but it works well at others
2 that have less parking. One of the challenges that we have is DOT requires us to have
3 a lot of off street stacking area for the parents to come in and out when they pick up
4 their kids, so what we do is we provide this very long loop that goes all the way around
5 the school and we've also laid out the parking areas to where if this is not enough,
6 which this meets there standard, just this alone, but if this is not enough we can even
7 loop the stacking parent cars through this area and back out again and this is about
8 double the stacking that we have at any of our other schools. We're also paying extra
9 for this to be a two-laned road going the whole way around and that can be used for
10 parking at any PTA meeting or after school, you know, function that is at night, so that
11 would almost double our parking just using our internal road alone.

12 MS. PERKINS: Again, my question would be, he said that there is space over
13 there for portables. Tell me what is the, your best guess of how many portables you
14 would put out there and what, where is the property since it's sloping and I don't
15 understand all of what you said, but where would the spacing be for the additional
16 parking spaces if the portables were there? And please talk into the mic because she
17 needs to put that on Record.

18 MS. MYERS: We are trying to build an area that will be stubbed out for future
19 portables. We are continuing to grow rapidly in the northeast area and our goal is to,
20 honestly, build the schools fast enough to where we can get out of having to provide
21 portables. But if for some reason we have a bond referendum that fails or something,
22 we would have no choice but to bring in portables to put out into these areas. At this

1 point our goal is to have zero portables on any of our new school sites but reality
2 sometimes is that doesn't happen.

3 MR. BROWN: How many classrooms are in a portable?

4 MS. MYERS: It can be, it's one, you can either have a single or a double.

5 MR. BROWN: I think the point that she was trying to make is that for each one of
6 those portables that are put in, an additional parking requirement is generated as well.

7 MS. MYERS: Yes, sir. But we currently have a staff, if you get by our schools
8 during the day time, generally the staff, the drivers who actually park at the school are
9 probably around 80 people, when a school is maxed out. So, during the day the
10 majority of the parking places are available. The most traffic problem we have is when
11 the parents are arriving to drop off and when they're going to pick them up and DOT is
12 comfortable that we have adequately addressed that with this plan; they have reviewed
13 it as well.

14 CHAIRMAN TOLBERT: Ms. Myers, I got a question for you, back where the
15 basketball court at, if you say that's a slope down the hill, what type of elevation are you
16 going to do to put a basketball court in and why could not an elevation be put in there to
17 house a play area?

18 MS. MYERS: We do have a retaining wall to, going around the structure.

19 CHAIRMAN TOLBERT: I see the retaining, I see the retention pond back there,
20 but I'm saying if you've made that sacrifice for a basketball court that will go to the
21 corner building, why couldn't you do the same for a playground area, so that you can
22 still meet, in the front, or the side there in the front, that you can still meet enough
23 parking requirement?

1 MR. DAKHAUS: The playground area is the size of an elementary school type
2 soccer field and that is approximately –

3 CHAIRMAN TOLBERT: Please speak in the mic so they can – we need all this
4 recorded.

5 MR. DAKHAUS: The dimension is approximately 180 by 200.

6 CHAIRMAN TOLBERT: What's the size of the basketball court, up top there?

7 MR. DAKHAUS: Looks like about, on the large side 50 by 100.

8 CHAIRMAN TOLBERT: Okay, any other question?

9 MS. MYERS: If I may, one consideration is we do have limited funding for all of
10 these schools and we're trying to build them within, to make them, to spend the money
11 where it's appropriate and the parking has worked very well with less parking at the
12 other schools and we have recently just become under Richland County regulations and
13 although we can, I'm sure we can give up some other things to add parking if it's
14 required. We would ask that you consider our variance if possible.

15 CHAIRMAN TOLBERT: Okay, any other questions? Thank you. There is no
16 one signed up in opposition, the Chair will now entertain a discussion. One of my
17 concerns here is that we don't get all the information to be able to make these
18 judgments by because if that was a playground that's going to be noted on this site and
19 at least the playground should have been a part of the plans, site plans that were
20 submitted to us for consideration, because without even having this in our package I
21 wasn't even aware that that was a playground area. So, I'm looking for a convenience
22 of parking to meet the ordinance, so the site plan, just didn't have it all on there.

1 MS. DORSEY: I've got a concern about, it seems that we would be reducing the
2 parking at the exact times it would be most needed. When you need extra parking or
3 pick up of children, you're telling us to reduce it in a already really congested area and
4 all I can see is backflow out onto the street and – just a minute - I'm concerned that
5 we're even having to consider it, that the parking requirements weren't taken into
6 account with the planning of the school. I've never known a school that hasn't had a, at
7 times that you need parking, when you're picking up kids, you generally need more
8 parking spaces not less and I don't see how that reduces that need.

9 AUDIENCE MEMBER: Can we address that?

10 MS. DORSEY: Ask the Chair.

11 CHAIRMAN TOLBERT: Yes, one of you can come back and address that
12 please.

13 MS. MYERS: The pickup and drop off needs are specifically addressed by the
14 stacking, by the long loop that we have.

15 MS. DORSEY: What about the parents that stop and park to pick up their kid?

16 MS. MYERS: We do not have any that do that. That is a rare occasion. Most of
17 them are queued in line and that moves on forward and we do our best to keep them
18 moving at a rapid pace.

19 MS. PERKINS: You say, we do not have that. We do not have a parent parking.
20 Where is that location that you don't have a parent parking?

21 MS. MYERS: We always provide parent parking, but for stacking and for taking
22 kids to school they drive up to the door and let the children in or out. There's staff after
23 hours who are standing there to, they actually radio in the name, in many cases, when

1 the person is further down the line so that the child is there and an available to
2 immediately get into the car.

3 MS. PERKINS: Okay.

4 CHAIRMAN TOLBERT: Okay, any other questions? The capacity of the school
5 is what 700, is that what -

6 MS. MYERS: Seven hundred and five.

7 CHAIRMAN TOLBERT: Seven hundred and five. And the loop for dropping off
8 is to keep the overflow from backing into the street, is that correct?

9 MS. MYERS: Yes, sir, as required by DOT and we have exceeded their
10 requirements.

11 CHAIRMAN TOLBERT: I didn't want to ask it but I'm going to ask it anyway.
12 Why was not the, you indicated the basketball court, why was it not indicated on your
13 plans that were submitted for playground?

14 MR. DAKHAUS: It's not a playground; it's an athletic field.

15 CHAIRMAN TOLBERT: Excuse me?

16 MR. DAKHAUS: It's an athletic field, soccer field, but yes it's been omitted, didn't
17 get it on the plans.

18 CHAIRMAN TOLBERT: Well then that changes the whole, many of the aerial of
19 there. You said first playground now you're saying a soccer field. I mean, I'm confused;
20 which one is it, is it a soccer field or it's going to be a playground area? And you do
21 realize the necessity for having parking for spaces and you're also talking about adding
22 portables back here and those portables going to create more space based on the

1 ordinance, to create more space for parking. So, if we do this, what will we have left for
2 parking if this area is going to be designed for a soccer field?

3 MS. PERKNIS: And let me, I want to ask this, is it not in, so you didn't even, on
4 the site planning, you just automatically took them out and was it corrected at the
5 Planning Commission? You didn't draw the actual number of, was it inclusive in that
6 site plan?

7 CHAIRMAN TOLBERT: The parking?

8 MS. PERKINS: The total number of required parking spaces. Was it inclusive in
9 this site plan, the total number?

10 CHAIRMAN TOLBERT: It's reduced in this site plan.

11 MS PERKINS: Okay, so it wasn't included.

12 MR. DAKHAUS: Not any of the expansion stuff, no, ma'am. [Inaudible
13 discussion]

14 CHAIRMAN TOLBERT: Alright, any other questions? Okay, thank you. Since
15 no one is signed up in opposition, the Chair will now entertain a discussion. The Chair
16 will now entertain a discussion.

17 MR. YOUNG: I think that we're making it a lot more complicated than it probably
18 is. This is the first school that's come before us and I'm sure there are a lot of people
19 getting paid a lot of money to make sure this is going to work based on their experience
20 and all the new schools we've had come up in our area recently. They looked at that
21 calculation, saw that the parking worked, they increased it for this one. I can
22 understand the concept with the looping, the widened streets. I don't think there's going
23 to be a perfect fit, but this, schools is going to be a little unique to us and, just like the

1 prior case we had, it's in that gray area and we hadn't dealt with one. The ordinance is
2 specific with the number of parking for whatever the square footage is, is not going to
3 really apply to something like this. The state, for whatever reason, has put this on the
4 county now. But for that same reason, the state hadn't had any problem approving less
5 parking that hadn't come through us and being familiar with the schools and I've been
6 in, I still get caught up in that loop quite often and the system seems to work. I've seen
7 it work. Like I said, there isn't going to be a perfect fix but based on the lay of the land
8 and what they're dealing with, engineering requirements, DOT requirements and
9 spending money, you know, as effective as you can, I think they've done a good job and
10 if it works based on their research and comparing them to other newer schools within
11 the last few years, then I definitely have no problem agreeing with the reduction in the
12 parking.

13 MS. DORSEY: You just mentioned ordinance, doesn't our ordinance address a
14 certain requirement for schools not just, this isn't just based on square footage, the
15 parking requirement. The parking requirement ordinance directly addresses schools.

16 MR. PRICE: Yes.

17 MR. BROWN: Yes.

18 MS. DORSEY: Okay, so it's not like some -

19 MR. YOUNG: How did they get around it before, if it's in the ordinance, the
20 schools are still built in the county?

21 MS. DORSEY: Because the state was doing it.

22 MR. YOUNG: So they just over -

23 MR. PRICE: They didn't come to us.

1 MR. YOUNG: So they didn't have to take into regard what was in the county
2 Ordinance?

3 MR. PRICE: No, sir.

4 MR. FARRAR: And also, you know, as much of a fan as we may be of our own
5 ordinance, if there is a state or federal law that impacts upon a criteria we have in our
6 ordinance, that's going to take precedence over our ordinance and it certainly bear upon
7 the application of it. So, to the extent there was testimony about DOT and other state
8 requirements is what I heard, that may directly impact upon their ability to field the
9 number of required parking spaces and that's certainly not the making of the applicant.
10 That's imposed from a superior or a presidential level of government, if you will and
11 that's something you might want to think about in your hardship.

12 MR. BROWN: I've got one additional question. What's the number of faculty,
13 teachers and staff that are employed at this school?

14 MS. MYERS: There will be 39 classrooms with teachers. We'll also have
15 administrative staff, some assistance and the cafeteria staff?

16 MR. BROWN: How many, that's my question. My question is how many?

17 MS. MYERS: Eighty is our, is probably when the school is maximized.

18 MR. BROWN: How many?

19 MS. MYERS: Eighty.

20 MR. BROWN: Eight?

21 MS. MYERS: Yes, sir.

22 MR. BROWN: No they're required by our at 234 but I was thinking in terms of if
23 we had your full compliment of teachers and administrative staff there and say each one

1 of them drove, how many places would you have left and you'd have another 90 parking
2 over.

3 MS. PERKINS: Is that a minimum, if I'm understanding, administrative is thinking
4 about other persons, nurses, [inaudible].

5 MR. BROWN: I assume administrative encompasses all of those people. I'm
6 sort of inclined to agree with Mr. Preston, Mr. Young I mean. We're new at doing this,
7 they've been building, the state's been building schools for a long time and they may not
8 do it perfectly but I think what they've done in the past has been at least adequate and
9 most of the load here is going to be in cars that aren't parking really, they may be
10 pausing in order to pick up children but they aren't going to be coming in and parking
11 and I don't think, I'm a little removed from elementary schools, but I'm sort of inclined to
12 agree with Mr. Young.

13 MS. DORSEY: It's not been my experience that, we don't have a looping school
14 and there's a lot of parking and when it's most needed there's not enough. I'm
15 concerned about that, that this would really work and it's not, as Mr. Tolbert brought up,
16 it's not considering expansion. Now, we're not experts and we don't pretend to be and
17 I'd love to put this in the hands of those who are but what is it different about the
18 ordinance that we're supposed to apply? Is it wrong? Does the ordinance need to be
19 changed? I mean, it seems like every school that's built now would need a variance in
20 parking, because somehow our ordinance doesn't fit the needs of the school, or the
21 District, or the community or Richland County. So what I know, I have the ordinance to
22 go by. I think we're stuck in a very bad plan and we're trying to make allowances for a
23 bad plan.

1 CHAIRMAN TOLBERT: Mr. Price, if at any point that they put the portables out
2 there, will they have to come back for the additional parking if we, if this somehow get
3 approved today?

4 MR. PRICE: Yeah, I will say yes. I mean, it would be an addition, if they –

5 CHAIRMAN TOLBERT: We can't hear you.

6 MR. PRICE: I guess it depends. If they submitted it through the county, yes. If
7 they went through the state, no.

8 CHAIRMAN TOLBERT: That brings up another question then, which one would
9 they do?

10 MR. PRICE: I can't answer that.

11 CHAIRMAN TOLBERT: Mr. Farrar can you shed some light on that?

12 MR. FARRAR: I'm certain that they would to through the state if they could.

13 CHAIRMAN TOLBERT: So then we'll be out the loop all together.

14 MR. FARRAR: That's, I mean, I don't know what their strategy is going to be, but
15 it sounds to me like the state has already passed, you know, pretty favorably on them.

16 CHAIRMAN TOLBERT: That kind of answered the question I had. If we do one
17 thing, they're going to do another, so, where are we?

18 MS. PERKINS: I don't know.

19 CHAIRMAN TOLBERT: Alright, any other discussion? No other discussion, the
20 Chair will now entertain a motion. The Chair will entertain a motion.

21 MR. YOUNG: I'd move that case number 05-46 Variance be approved with the
22 hardship being their requirement to, in order to build a facility to comply with restrictions

1 and limitations based on them, in accordance with state requirements, DOT
2 requirements and District, well outside the District.

3 MR. BROWN: Second.

4 CHAIRMAN TOLBERT: It has been motioned and seconded that 05-46 V be
5 approved with the stipulation stated in the motion. All in favor of that motion by raising
6 your hand. Opposes?

7 *[Approved: Yates, Brown; Opposed: Dorsey, Tolbert, Perkins; Absent: Myers]*

8 CHAIRMAN TOLBERT: I need a motion for a denial. I need a motion for a
9 denial. Need a motion for denial? Motion for denial? Chair will make a motion that 05-
10 46 V be denied based on the hardship not stated in the laws on the county ordinance.
11 Is there a second? No second? Mr. Brad, do I have to redo the motion all over again?
12 On the approval?

13 MR. FARRAR: You need to do something.

14 CHAIRMAN TOLBERT: Okay.

15 MR. FARRAR: Because you made a motion to approve it and it didn't pass and
16 so you've got to declare that to be a denial of the case or you've got to put on the
17 Record that you denied it.

18 CHAIRMAN TOLBERT: I made a motion for the denial and nobody seconded?

19 MR. FARRAR: Nobody seconded, so you've got to declare the case, you know,
20 whatever status you want to declare it at this point. If you want to continue to solicit
21 other motions, doesn't sound like any are coming, or if you want to declare the case to
22 be at this point denied, or whatever, you know, procedural posture. If you want to carry
23 it over to the next meeting, I mean, however you want to dispose of it at this point.

1 CHAIRMAN TOLBERT: And that's my discretion to determine or is that a voted
2 discretion?

3 MR. FARRAR: I mean, you need to make a ruling on the status of the case at
4 this point.

5 MR. BROWN: Mr. Chairman, you made a motion to deny, which no one
6 seconded. On the original motion it was a second and it was a vote of 3 – 2 against it.
7 If no one's going to second your motion, I'm going to renew the motion that case 05-46
8 V be approved.

9 MR. YOUNG: I second it.

10 CHAIRMAN TOLBERT: It has been motioned and seconded that 05-46 V be
11 approved. All in favor of the motion with the stipulation stated in, the hardship stated in
12 the motion, all in favor of that motion by raising your hands. Opposes?

13 *[Approved: Young, Tolbert, Brown; Opposed: Dorsey, Perkins; Absent: Myers]*

14 CHAIRMAN TOLBERT: Motion's granted. Next case.

15 **CASE 05-47 V:**

16 MR. PRICE: Next case, next item is Item I, Case 05-47 Variance. The
17 applicants requesting the Board of Appeals to grant a variance to reduce the required
18 number of parking spaces. I'm going to do a little explaining on this one. The property
19 is currently zoned C-3. They're presently going through rezoning for, to make this C-1.
20 The ordinance does not allow for elementary schools in a C-3 zone, those are
21 prohibited, so they're rezoning. So, if the Board chooses to approve this variance
22 request, of course, the stipulation would be that the rezoning would have to take place
23 first.

1 CHAIRMAN TOLBERT: What happens if it's not rezoned?

2 MR. PRICE: Well that's what I said, your stipulation would be that that it's based
3 on approval of rezoning.

4 MS. DORSEY: No, that's putting the cart before the horse.

5 MR. BROWN: I agree.

6 CHAIRMAN TOLBERT: It needs to be rezoned before then we would have,
7 because we would be prejudging the situation before it takes place. I mean, the zoning,
8 as you stated, does not require it in C-3 and they need to get the zoning changed before
9 it even could be presented to us.

10 MS. DORSEY: All I'm getting out of these cases is that we're granting variances,
11 or being expected to grant variances for poor planning and this is beyond that.

12 MR. DAKHAUS: May I say something?

13 CHAIRMAN TOLBERT: Well, hold on a second, we're trying to decide, before
14 we hear the case, we want to hear the merits of what we're listening to here, because if
15 we're going to listen to a case that we have our, we have no merits on making a
16 decision pending what - the zoning changing, we're not doing anything here.

17 MS. DORSEY: That's ridiculous.

18 MS. PERKINS: They're overstepping. I think they should go through the Zoning
19 Department and get rezoned and then if there's a question about parking.

20 MR. DAKHAUS: We're scheduled February 7th.

21 MR. BROWN: You're scheduled what, February 7th what, to go to the Planning
22 Commission?

23 MR. PRICE: Yes.

1 MR. BROWN: Well then it's another month an a half after that before there's a
2 decision. Going to the Planning Commission is step one. I move this be deferred until
3 such time as a decision is reached by Planning Commission and County Council on the
4 zoning issue.

5 MR. YOUNG: I second.

6 MR. PRICE: So you want to defer this until third reading by Council, if that is the
7 direction?

8 MR. BROWN: This is way premature.

9 CHAIRMAN TOLBERT: It has been motioned and seconded that case number
10 05-47 V be deferred to after Planning –

11 MS. PERKINS: Third reading of –

12 MR. BROWN: Third reading.

13 CHAIRMAN TOLBERT: Third reading? Oh, okay, to after Council's approval for
14 rezoning. All in favor of that motion?

15 MR. PRICE: Just a little clarification, is that until third reading or until minutes are
16 approved?

17 CHAIRMAN TOLBERT: Until the minutes are approved.

18 MR. BROWN: Until the rezoning is complete, let's put it that way.

19 MR. PRICE: Okay.

20 CHAIRMAN TOLBERT: Okay, may I, for the lack of time again, may I have that
21 motion again?

22 MR. BROWN: I move that this case, 05-47 V, be deferred until such time as the
23 rezoning is approved and completed.

1 MR. YOUNG: Second.

2 CHAIRMAN TOLBERT: It has been motioned and seconded that 05-47 V be
3 deferred to completion of rezoning. All in favor of that motion by raising your hand?

4 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

5 MR. PRICE: Was that five up?

6 CHAIRMAN TOLBERT: Five, yes. Is there another one?

7 MR. PRICE: No.

8 **CASE 05-48 SE:**

9 MR. PRICE: The next item is Item J, Case 05-48 Special Exception. The
10 applicant is requesting the Board to grant a special exception to permit the
11 establishment of a manufactured home on property zoned RG-2. The applicant is
12 Veronica Argo. The location is Flintlake Road. The subject property is vacant and
13 undeveloped. The surrounding, well the applicant proposes to place a manufactured
14 home on the property. The surrounding area is a mixtures of single-family dwellings
15 and manufactured/mobile homes and undeveloped parcels. Basically, across the
16 street, I think there's a mobile home park currently, yeah, Urban Mobile Home Park.

17 MR. BROWN: Mr. Price has any one looked at the potential building envelope of
18 this property and whether she can in fact fit a mobile home into it or not?

19 MR. PRICE: Yeah, I've kind of taken a look at that Mr. Brown. It can be done,
20 it's going to have to be pushed, you know, closer to one side, but -

21 MR. BROWN: You know you've got a primary and a secondary front on that
22 property?

23 MR. PRICE: Right.

1 MR. BROWN: You don't have, I'm skeptical of whether it can be placed on the
2 property without a variance.

3 MR. PRICE: Well one of the things that, and a lot of that depends on the size of
4 the manufactured home they look to place there and also, you know, considering that
5 when you have that secondary front, because there will be no rear yard that allows a lot
6 more leeway as far as placing it further back into the property.

7 MR. BROWN: Agreed, but has anyone looked at whether a standard singlewide
8 could be place on this property and meet the setback requirements?

9 MR. PRICE: No, sir.

10 MR. BROWN: It seems to me like that's the threshold question, before we even
11 look at putting it on here, is will it fit?

12 CHAIRMAN TOLBERT: Is there no site plan for this? Is there a site plan?

13 MR. PRICE: You should have one.

14 CHAIRMAN TOLBERT: We don't have one in our package. We've got a, the
15 plat but don't have the site plan.

16 MR. PRICE: Oh, okay. Well, I mean the site plan would just show you with the
17 structure.

18 CHAIRMAN TOLBERT: Yeah and how it would meet the setback requirements
19 and stuff, wouldn't it?

20 MR. PRICE: That would normally be done when there is a structure on the
21 property.

22 CHAIRMAN TOLBERT: I can't hardly hear you.

1 MR. PRICE: I said that's normally done when there's a structure on the property.
2 I mean, right now all I can show is just the parcel.

3 CHAIRMAN TOLBERT: Alright, okay, Ms. Argo, for the Record please state your
4 name, your address – excuse me?

5 MS. PERKINS: What about entertaining the thing, whether or not a singlewide
6 would actually -

7 CHAIRMAN TOLBERT: In our discussion. Let her go ahead and present her
8 case?

9 MS. PERKINS: Well I'm saying if you do that and you deny it, I mean, if it don't
10 fit in there.

11 MR. PRICE: Ms. Argo, were you sworn in?

12 CHAIRMAN TOLBERT: We can defer it.

13 MS. PERKINS: Yeah. It might be better to do that.

14 MR. BROWN: But somebody needs to get out there and see if it'll fit before this
15 lady goes on and buys a mobile home and then lo and behold it won't fit on the
16 property, and I would hate to see something like that happen.

17 MS. PERKINS: And see if it'll fit, spends her money, yeah, and be coming back
18 up here. Geo, are you certain that a singlewide trailer can fit the dimensions before,
19 you know, because I would hate to do that, even if I said yeah and then she goes out
20 and buy it and then you go out and do your measurements and then she doesn't meet
21 it.

22 MR. PRICE: No, I mean, I cannot be certain of that at this time.

23 MS. PERKINS: Is there any way that we, that the county -

1 MR. BROWN: Well what we could do is, if we were inclined to approve it, is put
2 a condition on it that a mobile home permit not be issued until the appropriate agency
3 within the county determines that in fact it can be put on the property and meet the
4 setbacks.

5 MR. PERKINS: The only, and then, that she wouldn't go out and buy one, yeah.
6 See I wouldn't want her to go out buy one.

7 MR. BROWN: Well I don't either, that's the last thing in the world -

8 MS. ARGO: Excuse me, but am I allowed to speak?

9 CHAIRMAN TOLBERT: Yes, we're going to get to it. We're just trying to clarify
10 some things.

11 MS. DORSEY: Is there, would she have to put a well in here is there water going
12 through, septic tank? [Various discussions]

13 MS. ARGO: I can answer all those questions if you allow me to speak.

14 CHAIRMAN TOLBERT: Okay, Ms. Argo, please for the Record state your name,
15 your address, any information you're going to give about what you're planning to do on
16 this parcel of land.

17 **TESTIMONY OF VERONICA ARGO:**

18 MS. ARGO: Yes, my name is Veronica Argo. I'm at 412 Maingate Drive,
19 Columbia, South Carolina. This lot is a part of the Urban Mobile Park that we've
20 purchased and it is across the street from a mobile home. The mobile home that I am
21 planning to move there is Urban Mobile Home Park and it's also on a small lot; which is
22 the size of the plat that I have here and it will fit. This is a pie shape and the water will
23 be city water and sewer also. So, whatever function that was needed for this mobile

1 home is there. Also, for the light, electricity, phone, cable, it's all, you know, in that
2 vicinity.

3 CHAIRMAN TOLBERT: Are you going to meet all the setback requirements
4 once it's put on there?

5 MS. ARGO: Which means?

6 CHAIRMAN TOLBERT: Front, side, back? Are you going to meet this? See, if
7 they come out and check it and you don't meet this then you're in a different dilemma.

8 MS. ARGO: Well my husband can speak on - because he more observant of
9 that position than I am.

10 CHAIRMAN TOLBERT: Sir, come sign in. Do you swear to tell the truth, the
11 whole truth, nothing but the truth so help you God?

12 MR. ARGO: I do.

13 CHAIRMAN TOLBERT: Okay

14 **TESTIMONY OF EUGENE ARGO, JR.:**

15 MR. ARGO: I understand what you're saying about the property -

16 CHAIRMAN TOLBERT: Please for the Record state your name, your address.

17 MR. ARGO: My name is Eugene Argo, Jr. I live at 412 Mangate. What she is,
18 we bought this property from the mobile home park. We from New York and we bought
19 this property to put a mobile home on it. Well, I could've put a Jim Walter home on it,
20 but after I find out I was buying another home, which I decide, well okay we take this
21 property, the mobile home we have, we'll take this property – take this mobile home and
22 put in on that particular piece of property. So I heard you ask her about can we meet

1 the stipulation about the front, back, sides. We have enough property there to do that.
2 There's no doubt.

3 CHAIRMAN TOLBERT: So do you realize that if it does not meet, you know
4 what the conditions that puts you in, right?

5 MR. ARGO: Yes, I know. I know. I mean, I owns a corporation in New York so I
6 know the situation.

7 MS. PERKINS: Could you tell me what the setback requirements are?

8 MR. ARGO: Well I know, you know, you're asking for your front, you're asking
9 for your back.

10 MS PERKINS: How much?

11 MR. ARGO: You know, I don't know how much you ask in front, back but -

12 MS. PERKINS: So how do you know it fits? I'm just asking. I'm trying to protect
13 you in a sense. I'm not being, you know, I just don't want you to pay the expenses,
14 have the trailer moved over there and it doesn't fit the setback requirements. That's
15 what I'm trying, we're not, you know wife, it was all in good for you not for, you know,
16 something that we're arbitrarily sitting up talking about.

17 MR. ARGO: Sure and I appreciate it.

18 MS. PERKINS: But if you know it and, you know, it gets that way and if they go
19 out and check and it doesn't fit, you know you're going to have to move it?

20 MR. ARGO: Well sure, I understand this.

21 MS. PERKINS: And you're prepared for that expense?

1 MR. ARGO: Well I'm prepared for anything happen there, you know what I
2 mean? But what I'm saying to you, this trailer's going to be lined up right along with the
3 other trailers at the park.

4 MS. PERKINS: Okay, you convinced me, sir.

5 MR. ARGO: Now, what I'm saying to you, this trailer will be lined up with the
6 other trailers at the park.

7 MS. PERKINS: They're no trailers over there. Across the street.

8 MR. ARGO: Yeah, see I bought this from that mobile home park.

9 MS. ARGO: Well actually this was a part of the park.

10 MR. ARGO: Yeah. It was zoned out because they ran the road through there,
11 Flintlake, they took some of the property and so it was cut off that way, because they
12 put the road through it.

13 MS. DORSEY: Did it used to have a trailer on it?

14 MR. ARGO: No, it never had a trailer on it.

15 CHAIRMAN TOLBERT: Any other questions?

16 MS. PERKINS: Nope.

17 CHAIRMAN TOLBERT: There's no one signed up in opposition. The Chair will
18 now entertain a discussion.

19 MR. BROWN: Mr. Chairman, I remain unconvinced that the trailer can be placed
20 on this property and meet the setbacks. But we've done our best, I think, to make sure
21 that we're trying to ensure that the Argo's understand what our concern is and that our
22 concern is not to make life difficult for them, but to make life less difficult for them. But,
23 sometimes you can only protect people from themselves to a certain extent and so as

1 along as they're aware of what they've got to contend with, I think that's all we can do. I
2 certainly don't have any qualms about placing a mobile home on that particular piece of
3 property, but I think there's a reason that there hadn't been one on it previously and a
4 reason that the mobile home park was willing to sell that particular piece of property to
5 them. But, having said all of that -

6 CHAIRMAN TOLBERT: I agree, I mean, that's all that you can do. The applicant
7 is making an appeal to the Board and based on the merits that we have before is the
8 only thing that we can vote on, anything else beyond that's on their own, own doing.
9 Any other discussion?

10 MR. YOUNG: I'm just looking at the overlay trying to figure out, on this aerial,
11 where exactly is that lot?

12 MR. BROWN: It's in that little white triangle I believe.

13 MR. PRICE: Yes, right across from Loxlee Hall. [Various discussions]

14 MR. TOLBERT: So that property was part of the mobile home park but it was
15 zoned something else?

16 MR. BROWN: No, I don't think it's zoned anything else, it's just detached
17 because of the road running through it.

18 MS. DORSEY: Why didn't it have a mobile home on it?

19 MS. PERKINS: That was my question to Mr. Brown. I was like – that was the
20 reason why it was sold to them probably. But he said he knew.

21 CHAIRMAN TOLBERT: Okay, for the – the applicant has already stated his
22 concerns and position in this, so we have no other choice to go forward with what we
23 have to do in this project. After that discussion, the Chair will now entertain a motion.

1 MR. BROWN: Chairman I move that case 05-48 SE be approved with the
2 condition that all of the setbacks pertinent to the RG-2 zoning district can be met.

3 MS. PERKINS: Second.

4 CHAIRMAN TOLBERT: It has been motioned and seconded that 05-48 SE be
5 approved with the recommendation that it meets all setback ordinance, according to the
6 property at that location. All in favor of that motion by raising your hands. Opposes?

7 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

8 CHAIRMAN TOLBERT: Motion has been granted and the Zoning Administrator
9 will be in touch. Next case. Chair will entertain a motion for a five minutes recess.

10 MS. PERKINS: Aye.

11 MR. BROWN: Second.

12 CHAIRMAN TOLBERT: All in favor of the motion for a five minute recess by
13 raising your hand.

14 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

15 CHAIRMAN TOLBERT: Okay, take a five minute recess

16 *[RECESS]*

17 CHAIRMAN TOLBERT: Is there a motion to go back into an open session?

18 MR. BROWN: So moved.

19 MS. PERKINS: Second.

20 CHAIRMAN TOLBERT: It has been motioned and seconded that we go back
21 into open session. All in favor by raising your hand.

22 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

23 CHAIRMAN TOLBERT: Okay, Mr. Price next case please.

1 **CASE 05-50 V:**

2 MR. PRICE: Next item is Item L, Case 05-50 Variance. The applicant is
3 requesting the Board of Zoning Appeals to grant a variance to reduce the required front
4 yard setback for parking in a C-3 zoned district. The applicant is Patrick Palmer. The
5 location is 7450 Two Notch Road. The subject property has an existing 3,756 square
6 foot commercial structure that was building 1967. The applicant proposes to demolish
7 the existing building and construct an 11,325 square foot building dedicated for retail
8 use. The subject property is located along Two Notch Road. The surrounding property
9 is dedicated to a mixture of commercial uses.

10 CHAIRMAN TOLBERT: Mr. Palmer, or Mr. Rogers, which one?

11 **TESTIMONY OF TIM ROGERS:**

12 MR. ROGERS: I'm going to do the talking, at least to start off with Mr. Chairman.

13 CHAIRMAN TOLBERT: Alright, Mr. Rogers for the Record state your name and
14 information. I would like the Board to know that I do know Mr. Rogers from building in
15 the community with Ridge Wood Foundation, but that has no way would interfere with
16 my judgment on this case.

17 MR. ROGERS: Thank you, Mr. Chairman. My name is Tim Rogers. I'm a
18 lawyer here in Columbia at 508 Hampton Street, 29201 and our law firm represents Mr.
19 Palmer in this matter. And with your permission, I would just point out to you Mr.
20 Chairman and Ladies and Gentlemen, this parcel of property is located on the east side
21 of Two Notch Road, headed north. It is, if you're familiar with the property you know
22 that it abuts on the west to Two Notch and on the east, the railroad track bed which runs
23 parallel to Two Notch Road all along that stretch between Decker Boulevard and I-20,

1 which is where this parcel is located. It, and so therefore because of the constrictions
2 on both sides of the property, it creates essentially the circumstance that brings us
3 before the Board. As of this point the property is not occupied and it's not utilized and
4 the applicant proposes, as Mr. Brown said, as Mr. Price said, to take that structure down
5 and to replace it and to have it, to be utilized as a retail/commercial structure. In
6 addition to having hard edges on the east and west side, it's also and irregularly shaped
7 lot. There's almost a 35' differential between lengths on the sides of the property lines,
8 which further constrict the ability to accommodate the necessary parking with the
9 redevelopment. And that is the nature of the request. It is in order to accommodate the
10 parking spaces to allow the encroachment into the 10' setback along Two Notch Road
11 for establishing parking spaces. It, the Staff, as reflected in the Report, confirmed that
12 that does not create any visibility problems in terms of traffic along Two Notch Road. It
13 is also consistent, as a matter of fact, with the utilization of other commercial structures
14 on that stretch of Two Notch, which is, of course, all they are along that stretch of Two
15 Notch is commercial activity. The Staff also made one recommendation as to a special
16 condition, which would attach, if the Board sees fit to grant the variance, and that is that
17 it would be conditioned upon no widening of Two Notch Road. We are willing to accept
18 that as a proposed special condition, of course, along with all the other provisions which
19 are required in the code. Mr. Palmer is here, of course, and either one of us will be
20 happy to respond to any questions that any of the Members may have.

21 CHAIRMAN TOLBERT: Mr. Rogers: That statement you just made about
22 widening off Two Notch Road, are you talking about just the driveway or are you talking
23 about - I wasn't quite sure what that meant.

1 MR. ROGERS: Well, I think the point is that if the Board grants the variance,
2 there remains a 13' right-of-way strip between the edge of the property line and the
3 roadway and that accommodates a variety of functions, not the least important of which,
4 obviously, is visibility for the traffic along Two Notch Road. So, if Two Notch Road were
5 magically extended into that 13' strip, I think it might affect the view of the Staff and
6 perhaps the Board. So they proposed that as special condition to attach and we have
7 no problem or opposition to that at all, willing to accept that.

8 CHAIRMAN TOLBERT: I didn't see no sketch of the plan. Mr. Price is there a
9 sketch of the plans in this?

10 MR. ROGERS: We had submitted one, Mr. Chairman, and we were talking
11 between ourselves, wondering if there had been one reproduced for the package, we do
12 have a large rendering which we can put up on the easel for the Board to see if you
13 would like us to do that. Would you like us to do that?

14 CHAIRMAN TOLBERT: I'd like to see it.

15 MR. ROGERS: Alright. While he's putting that up there, Mr. Chairman, I
16 neglected to say that the applicant owns the property to the south of this parcel and so
17 the abutting property to the south of the parcel is owned by the applicant. And I just say
18 that for purposes of referenced, what does the neighbor think? The property to the
19 north is a Jiffy Lube facility. I'm sure you're familiar with it and we have conferred with
20 the owner and the management there and they have authorized us to say to the Board
21 that they support the proposal. I have nothing in writing to that, but did want to convey
22 to the Board that we had conferred with them and they're happy to see us develop it as
23 opposed to it continuing to be the way it is right now.

1 CHAIRMAN TOLBERT: So am I to understand that the parking is in the -

2 MR. ROGERS: The parking is in the front area, Mr. Chairman, as you can see.
3 It's in the area between the new development and the roadway, the railroad is right on
4 the back.

5 MS. DORSEY: Can I ask that since this is going to be torn down why can't
6 something be constructed that just fits the requirements of the ordinance, without having
7 to, you're asking later for a variance on parking as well for this property.

8 MR. ROGERS: Well, of course, that is a separate request, as you know Ms.
9 Dorsey, but I think that the main problem is that because of the, I mean, you could, of
10 course, theoretically construct a smaller facility and not have to utilize the area within
11 the 10' strip. The problem would be whether or not you could do that viably and it's the
12 applicant's position that that would not be an option for him because of the limited
13 amount of space that he has in order to produce this facility that he proposes to
14 produce, he would have to access a portion of that 10' strip.

15 MS. DORSEY: But that would in turn necessitate a variance in parking.

16 MR. ROGERS: Well it wouldn't necessitate a variance, we're asking for a
17 variance but that's a separate request.

18 MS. DORSEY: Right.

19 MS. PERKINS: Am I to assume the building that he's proposing to construct
20 needs to be that size in order for him to operate as a business and be profitable, is that
21 what you're saying?

22 MR. ROGERS: I think that's a good paraphrase; yes, ma'am.

23 MS. PERKINS: Okay.

1 CHAIRMAN TOLBERT: Any other questions? Thank you, Mr. Rogers. Mr.
2 Palmer was going to speak on this case or -

3 MR. ROGERS: He's available if anyone has any questions for him, Mr.
4 Chairman.

5 CHAIRMAN TOLBERT: Thank you.

6 MR. ROGERS: Thank you, sir.

7 CHAIRMAN TOLBERT: There's no one signed up in opposition. The Chair will
8 now entertain a motion, I mean entertain a discussion, I'm sorry.

9 MR. BROWN: I think probably everybody on the Board is familiar with this
10 location. Putting something in there that is new and represents an improvement to the
11 property will certainly represent an improvement to that area over that boarded up
12 gasoline station, I guess a convenience store or whatever it was.

13 MS. PERKINS: You know, I would have to agree that it probably would be an
14 overall improvement, and that he is saying, what I understood him to say and I
15 paraphrased him, was the business that he plans to put there would need the amount of
16 square footage in order for it to be profitable for him.

17 MS. DORSEY: This is my slippery slope, right here. I think you have a space,
18 you have ordinances that apply and it's what's required of that space. And I can't
19 understand granting a variance to fit the lack of space when you just build a building to
20 fit your space, that's all.

21 CHAIRMAN TOLBERT: Any other discussion? No other discussion, the Chair
22 will now entertain a motion.

23 MR. BROWN: Mr. Chairman, I move that case 05-50 V be approved.

1 MS. PERKINS: Second.

2 CHAIRMAN TOLBERT: It has been motioned and seconded that 05-50 V be
3 approved. All in favor of the motion by raising your hands. Opposes?

4 *[Approved: Tolbert, Brown, Perkins; Opposed: Young, Dorsey; Absent: Myers]*

5 CHAIRMAN TOLBERT: I didn't get that was that three? Three – two? Okay, the
6 motion has been granted. Mr. Price next case.

7 **CASE 05-51V:**

8 MR. PRICE: The next case is Case 05-51 Variance. The applicant is requesting
9 that the Board grant a variance to reduce the required front yard parking in a C-3 zoned
10 district. The applicant is Patrick Palmer. The address, this time, is 7356 Two Notch
11 Road. The subject property is undeveloped and vacant. The applicant proposes to
12 construct a 6,242 square foot building dedicated for residential, retail use, excuse me.
13 The property is located along Two Notch Road amongst a mixture of commercial uses.

14 CHAIRMAN TOLBERT: Mr. Rogers, I think you know the procedure.

15 **TESTIMONY OF TIM ROGERS:**

16 MR. ROGERS: By the way, I also have aerial photographs and I brought enough
17 for each Member of the Board if you think it would be useful.

18 CHAIRMAN TOLBERT: You go ahead do your, present your - for this case, you
19 have to do it for case; present who you are , what you plan to do and you can pass out
20 that.

21 MR. ROGERS: Yes, sir. Alright, Mr. Chairman, I'm Tim Rogers. I'm a lawyer
22 here in Columbia, I'm at 508 Hampton Street, 29201. And my law firm represents the
23 applicant in this case, Mr. Palmer. This is, as you may note from the Staff workup and

1 from the photographs that I have distributed, it is in, it is a similar circumstance to the
2 one that I just described to the Board. It's in a close location, it is on the other side of
3 the O'Neill Court Extension and Decker Boulevard, but it is along the same frontage on
4 Two Notch Road, between Decker and I-20 and it is also bordered on the east side by
5 the big, raised railroad track, that I'm sure you're all familiar with. It is a little bit smaller
6 size parcel and with the Board's permission, I'd get Mr. Palmer to put up the rendering
7 showing the proposed development.

8 CHAIRMAN TOLBERT: Mr. Rogers, before you go I just need to make, I'm
9 confused. I thought this parcel here that you're taking out down between O'Neill and
10 Decker, is that not, am I not -

11 MR. ROGERS: Yes, sir, and if I misstated that, I apologize.

12 CHAIRMAN TOLBERT: Because you said O'Neill and it's more down to the
13 other end toward Decker then, isn't it?

14 MR. ROGERS: Right, yes, sir. The one that the Board just approved is between
15 O'Neill and I-20. This is between O'Neill and Decker, just below that and I apologize for
16 misstating that. [Various discussions]

17 CHAIRMAN TOLBERT: Go ahead. I'm sorry.

18 MR. ROGERS: No, sir. Well I'm sorry for confusing the issue, but they are very
19 close to each other on that stretch of Two Notch Road, separated by the O'Neill Court
20 Extension. Like the other parcel, it is bordered on the west side by Two Notch,
21 bordered, as I said, on the east side by the railroad track bed. It is now vacant. There
22 is no structure on it, the structure that you see before you is proposed to be constructed.
23 It would be a retail/commercial facility. The limitations on the lot would require, in order

1 to accommodate the required number of parking spaces, it would be necessary for us to
2 ask the Board to grant us a variance which would allow us to construct the parking
3 spaces within the 10' parking setback that is otherwise a requirement in the code.
4 Again, you have the approximate 13' border between the edge of the property line and
5 Two Notch Road. I think through inadvertence, the same, well yeah they did, the same
6 recommendation on a special condition that the Staff made on the other parcel that I
7 mentioned, they made on this parcel. We accept that and ask you to adopt that as a
8 part of the variance if you see fit to grant it. And we would ask your favorable
9 consideration.

10 CHAIRMAN TOLBERT: An the railroad tracks toward the backside of that -

11 MR. ROGERS: Yes, sir. Abuts on the property line. Substantial elevation on the
12 railroad track bed, as I'm sure you're familiar, Mr. Tolbert, if you hadn't seen it
13 previously.

14 CHAIRMAN TOLBERT: Questions?

15 MS. DORSEY: Can you utilize this property without doing this?

16 MR. ROGERS: What I, my response to that, Ms. Dorsey, would be that I don't
17 think that, it would not be feasible for my client to develop the property without acquiring
18 the variance. I mean we have, obviously the development has, you know, has been the
19 product of an evaluation and analysis. And if I could point out, my client manages other
20 retail/commercial property in the area and, like the gentlemen from the Light House has
21 a lot of experience in that regard, and I know that you're familiar with the fact that other
22 property in the area accommodates parking within the same proximity to the roadway

1 that we're proposing. So I would respectfully say that the answer would be, no we
2 cannot, that this is required.

3 MS. DORSEY: You cannot utilize it or you can't utilize it the way you want to?

4 MR. ROGERS: Well I mean, obviously the answer to the question would be the
5 second category that you posit. I mean it's, certainly there are some conceivable uses
6 that you could put it to. But in order to develop it and utilize it in this manner and
7 provide the number of parking spaces that the code would otherwise require and there's
8 no request on this space for any variance in that regard, we would need to be able to
9 utilize that additional square footage.

10 CHAIRMAN TOLBERT: Any other question?

11 MR. BROWN: I've got a question, just a clarification maybe. What you're really
12 doing, Mr. Rogers, you're not changing the setback, you're simply getting a variance to
13 the portion of the ordinance that won't permit parking within the first 10'?

14 MR. ROGERS: That's exactly right, yes, sir.

15 MR. BROWN: The setback remains intact.

16 MR. ROGERS: For all other purposes yes, sir, that's absolutely correct.

17 CHAIRMAN TOLBERT: Any other questions? Chair will now entertain a
18 discussion. Any discussion? No discussion, the Chair will now entertain a motion.

19 MR. BROWN: Mr. Chairman, I move that case 05-51 V be approved with the
20 condition that in the event of the widening of Two Notch Road that the variance will
21 become void.

22 MS. PERKINS: Second.

1 CHAIRMAN TOLBERT: It has been motioned and seconded that 05-51 V be
2 approved with the stipulation stated if abandonment be disregarded be disregarded – be
3 not voided on Two Notch Road. All in favor of the motion by raising your hand.
4 Opposes?

5 *[Approved: Tolbert, Brown, Perkins; Opposed: Young, Dorsey; Absent: Myers]*

6 CHAIRMAN TOLBERT: Okay.

7 MR. BROWN: Mr. Chairman, I'd like to go back and reopen 05-50.

8 CHAIRMAN TOLBERT: You want to make an amendment to the motion?

9 MS. PERKINS: Second.

10 MR. BROWN: Yes.

11 CHAIRMAN TOLBERT: Alright, you may.

12 MR. FARRAR: She needs to second that; she needs to second his motion.

13 MS. PERKINS: I did.

14 MR. FARRAR: I'm sorry, I didn't hear it.

15 CHAIRMAN TOLBERT: Yeah.

16 MR. BROWN: I'd like to move that the motion that I made in 05-50 be amended
17 to include to the condition that the widening of Two Notch Road will void that special
18 exception.

19 MS. PERKINS: Second.

20 CHAIRMAN TOLBERT: All in favor of that addendum to the motion by raising
21 your hand. Opposes?

22 *[Approved: Tolbert, Brown, Perkins; Opposed; Young, Dorsey; Absent: Myers]*

23 CHAIRMAN TOLBERT: Alright, next case Mr. Price:

1 **CASE 05-52V:**

2 MR. PRICE: The next case is M, Case 05-52 Variance. The applicant is
3 requesting the Board to grant a Variance to reduce the number of required parking
4 spaces in a C-3 zoned district. The applicant is Patrick Palmer. The address is 7450
5 Two Notch Road. The subject property has an existing 3,756 square foot commercial
6 structure built in 1967. The applicant is going to demolish that building and construct an
7 11,325 square foot building dedicated for retail use. The applicant proposes to reduce
8 the required number of parking spaces from 38 to 33. That's a reduction of 14%.

9 CHAIRMAN TOLBERT: Mr. Rogers?

10 **TESTIMONY OF TIM ROGERS:**

11 MR. ROGERS: Mr. Chairman, as Ed McMahon used to say to Johnny Carson,
12 "This is the last matter that you have to consider." I know you're glad to hear that. This
13 refers to the first of the presentations that I made. It – the only issue is the reduction in
14 the required number of parking spaces from 38 to 33. I would just submit to you that I
15 would respectfully characterize that as a diminimus reduction in the requirement. I
16 would also offer, if you – for your consideration, if you will, the experience of my
17 applicant in managing other retail property in the area. With the dimensions that we're
18 dealing with here and the experience on the number of employees and number of
19 customers that are typically present in any of the facilities that's envisioned to be
20 constructed, we would offer to you that we believe that the 33 spaces will adequately
21 accommodate that traffic and we would, for essentially the same reasons that we put
22 before you previously, respectfully request you to grant this variance.

23 CHAIRMAN TOLBERT: Questions? Any questions?

1 MS. DORSEY: I have a question for Mr. Price. Does the county not consider
2 number of employees and customers when setting out the requirements for parking in
3 the ordinance?

4 MR. PRICE: I'm not sure. There's a formula in our – in the parking section of the
5 code.

6 MR. BROWN: It's done on square footage, isn't it?

7 MR. PRICE: Yes.

8 MS. DORSEY: Okay.

9 CHAIRMAN TOLBERT: Questions? No one signed up in opposition. The Chair
10 will now entertain a discussion. No discussion? The Chair will now entertain a motion.

11 MS. DORSEY: If I can go back to discussion for just a moment.

12 CHAIRMAN TOLBERT: You may.

13 MS. DORSEY: If the county doesn't consider the purpose that a building is going
14 to be used for, and we go by the retailer or the builder and go by his judgment as for
15 what it's to be used for, we don't know based on this what it's to be used for. What I'm
16 getting at is this makes absolutely no sense. If the county is setting up requirements for
17 parking, requirements for, you know, you have a space for square footage and we're
18 constantly granting variances without, in my mind, without cause, just so the applicant
19 can utilize it the way he wants to utilize it. And I don't understand why we bother having
20 these requirements if we just base it that way. And that's the end of my discussion.

21 MR. PRICE: Well, I mean, once again we're getting into that gray area. I think
22 there's a difference between – I think some of the uses that Mr. Palmer has for his
23 businesses –

1 MS. DORSEY: I agree –

2 MR. PRICE: As opposed to let's say a mall where, you know, you're going to
3 have people just parked and they're going to be there, not all day, but just depending,
4 and walk around –

5 MS. DORSEY: Excuse me – I agree that there's differences between what Mr.
6 Palmer has in mind and what the lighting place had in mind. They made it clear that
7 they were going more for warehouse space. I think Mr. Palmer has retail in mind and I
8 don't know how we can make that prediction about – I'd rather, on some of these cases
9 I'd just rather follow the ordinance is all I'm saying. I trust that when the ordinance was
10 put in place, as I'm being asked to trust that the state oversees things and knows what's
11 best, I've got to trust that there was some reason when the ordinance was put in place,
12 they were looking out for the best, for the county and I'm finding less and less reason,
13 except for the desire of the applicant, to grant these things.

14 MS. PERKINS: Well the other part of the law is is that he did say retail. He did
15 say he was going to do it for retail and I can see, you know, for I guess with vacant land
16 and infill and putting in something that would be complimentary, hopefully
17 complimentary [inaudible], the space there. The other thing that – and I didn't listen I
18 guess, is my question to him would have been – and I guess it's Mr. Rogers, would
19 have been, if it's commercial, if it's retail, I'm sorry, if it's retail then what formula? It's
20 the same question that I had before. You're in the retail business. Are you using – to
21 say that you're going to have that many less customers – I guess –

22 MS. DORSEY: Well, I think he's the developer. He's not the store owner, am I
23 correct?

1 MR. PRICE: Well I guess we can just rely upon his expertise as stated. He
2 owns a couple of areas very similar to this along Two Notch Road. I mean, I'm sure – I
3 cannot state, you know, whether the parking would be appropriate or not, but I'm sure
4 he would know from his previous businesses what's appropriate.

5 MS. DORSEY: Then why bother having the ordinance?

6 MR. PRICE: I mean, this was a – well –

7 CHAIRMAN TOLBERT: Any other discussion? No other discussion, the Chair
8 will now entertain a motion.

9 MR. BROWN: Mr. Chairman, I move that case 05-52 V be approved.

10 MS. PERKINS: Second.

11 CHAIRMAN TOLBERT: It has been motioned and seconded that 05-52 V be
12 approved. All in favor of the motion? Opposes?

13 *[Approved: Tolbert, Brown, Perkins; Opposed: Young, Dorsey; Absent: Myers]*

14 CHAIRMAN TOLBERT: Okay, the motion is approved. Next case, Mr. Price.
15 Next on the agenda.

16 MR. PRICE: The approval of the January 5, 2005 minutes.

17 MS. PERKINS: I move that we approve them.

18 MR. BROWN: Second.

19 CHAIRMAN TOLBERT: It has been motioned and seconded that the January
20 minutes be approved. All in favor of the motion by raising your hand. Opposes?

21 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

22 MR. PRICE: Alright, oh look, here we go again. The Election of Officers. The –
23 you can choose to proceed with the Election of Officers. I must point out that at the

1 February 1st meeting, County Council meeting, that they did appoint a new member for
2 the Board of Zoning Appeals, so you do have that option of waiting until March. At least
3 you'll have six members there; we hope to have all six members.

4 MR. BROWN: The new member isn't going to know the current members
5 anyway. I'm not sure what purpose we serve by waiting.

6 MR. PRICE: Well the new member is Harold Branham.

7 MR. BROWN: Oh, Harold Branham.

8 MR. PRICE: I mean, you know, you can wait until he comes in March and
9 hopefully you'll have six, but then there's no guarantee that all six people will be here in
10 March, so you can put it off again to April.

11 MR. BROWN: I move that we go ahead.

12 MS. PERKINS: If you hurry up cause I've got to go.

13 CHAIRMAN TOLBERT: We did this last year. We did this last year.

14 MS. PERKINS: Y'all are going to have four members; I've got to go.

15 CHAIRMAN TOLBERT: Okay, are we going to do it by ballot or how are we
16 going to do it?

17 MR. FARRAR: You've got to do it in open session.

18 CHAIRMAN TOLBERT: Okay.

19 MS. PERKINS: Ms. Dorsey, you want to – I nominate you. Is it open? I'm sorry.

20 CHAIRMAN TOLBERT: Yeah, it's open. Ms. Dorsey was nominated. Anyone
21 else?

22 MS. DORSEY: Ms. Perkins, I respectfully decline the nomination for the Chair,
23 but thank you.

1 CHAIRMAN TOLBERT: Mr. Brown? Any other nominees?

2 MS. DORSEY: I nominate Mr. Young as Chairman.

3 CHAIRMAN TOLBERT: Okay. Any other?

4 MR. YOUNG: I nominate the Chair stay the same.

5 MR. BROWN: He can't.

6 MS. PERKINS: Oh, now you can't do that now, Preston.

7 CHAIRMAN TOLBERT: My two years are up.

8 MR. YOUNG: His two years are up?

9 CHAIRMAN TOLBERT: Yeah.

10 MR. YOUNG: I nominate Mr. Brown. I'd be glad to serve as the Vice-Chair.

11 MS. PERKINS: Okay, so be it. I move all that. I agree with all that.

12 CHAIRMAN TOLBERT: I think we have to do it –

13 MS. PERKINS: Oh, I'm sorry.

14 CHAIRMAN TOLBERT: Yeah, okay. All in favor of Mr. Brown as Chair, please
15 raise your hand.

16 *[Approved: Young, Dorsey, Tolbert, Perkins; Not Voting: Brown; Absent: Myers]*

17 CHAIRMAN TOLBERT: That's four to – four votes. You can vote for yourself.

18 MR. BROWN: Alright, I'll vote for myself.

19 CHAIRMAN TOLBERT: Five for Mr. Brown. That's the majority. The floor is
20 now open for nominations for Vice-Chair.

21 MR. BROWN: I nominate Mr. Young.

22 MS. PERKINS: Second.

1 CHAIRMAN TOLBERT: Any other nominees for Vice-Chair? We declare the
2 nominations closed. All in favor of Mr. Young as Vice-Chair?

3 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

4 CHAIRMAN TOLBERT: Five. I saw in the rules and guidelines we're supposed
5 to have a secretary from the Board or secretary from the Staff. How does that work?

6 MR. BROWN: We've always used the Zoning Administrator as the secretary.

7 CHAIRMAN TOLBERT: Is that the way it works? But no that – it says in here
8 that you need to have a secretary from the Board itself. Doesn't it say that down in
9 there?

10 MR. BROWN: It says it can either be –

11 CHAIRMAN TOLBERT: It doesn't say anything about either/or now.

12 MR. PRICE: I don't know, maybe I have a old copy. If you turn to page two
13 where it says 'Secretary'.

14 MR. BROWN: That it be an officer of the governing authority or of the Board.

15 CHAIRMAN TOBLERT: So what we doing?

16 MR. PRICE: Is that new what y'all have? Which one are y'all reading?

17 MR. BROWN: Reading the new by-laws.

18 MR. PRICE: Oh, those haven't been approved yet.

19 MR. BROWN: What do the old one's say?

20 MR. PRICE: The old one says the secretary need not be a member of the
21 Board. The secretary may be the Zoning Administrator, subject to the direction of the
22 Board [inaudible].

1 CHAIRMAN TOLBERT: So if we haven't approved the new rules and the
2 procedures, then we are going to go with the old procedures?

3 MR. BROWN: I move that the Zoning Administrator be appointed as the
4 secretary.

5 MS. DORSEY: Second.

6 CHAIRMAN TOLBERT: All in favor of that motion?

7 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

8 MR. PRICE: I decline. No, just kidding.

9 CHAIRMAN TOLBERT: I don't think you got a choice.

10 MR. BROWN: Do you like working?

11 CHAIRMAN TOLBERT: Okay, next on the agenda? *[Various discussions]* We
12 were supposed to approve the by-laws and everybody's had a copy. Is it something
13 that we need to go along again? Can we go ahead and -

14 MR. PRICE: I think because right now I don't know if we've had a chance to
15 discuss certain aspects of it, unless you just want to – unless you're happy with the
16 wording that's in there – oh, I'm sorry. Unless you just want to approve everything that's
17 in there, or if you want to wait. We're hoping for a lighter load, you know, so we have a
18 chance to kind of review it. If there's some questions about certain sections you may
19 want to change or amend then we can do that.

20 CHAIRMAN TOLBERT: That's what I was going to ask. If there's any changes
21 that, as the Board meets, the need to we can amend those to the by-laws and the
22 procedures, can't we?

1 MS. PERKINS: No, he's saying if you're adopting them, he's saying before
2 adoption of them for us to go individually [inaudible]

3 MR. YOUNG: After we have a lighter load on the agenda.

4 MS. PERKINS: Yeah. That's what he's – is that what you're saying?

5 MR. BROWN: What are you saying, Geo?

6 MR. PRICE: We would like to kind of just go over it a little bit. Maybe, you know,
7 as a group as opposed to –

8 MS. DORSEY: Discuss it. [Various discussions]

9 MR. BROWN: Oh, I agree.

10 CHAIRMAN TOLBERT: Let me just ask, let me just, for clarification, because
11 that's why we were mailed these out in the mail right after the last meeting for us to go
12 through. If you noted the corrections, we could do it cause we're going to keep –

13 MS. PERKINS: Well, if that be the case, Mr. Chairman, I'm going to ask that I be
14 excused and consider y'all's opinion about the –

15 CHAIRMAN TOLBERT: Well, we're going to put it to vote, so before you leave
16 we'll know what we're going to do. All in favor of tabling the by-laws and Rules and
17 Procedures until next meeting for discussion raise your hands. Opposes?

18 *[Approved: Young, Dorsey, Tolbert, Brown, Perkins; Absent: Myers]*

19 CHAIRMAN TOLBERT: We're going to discuss it at the next meeting. Anything
20 else?

21 MR. PRICE: The adjournment.

1 CHAIRMAN TOLBERT: I declare the meeting of February Zoning Board of
2 Appeals closed. Thank you, and welcome Mr. Brown, sir.

3

4

[Adjourned 4:55 p.m.]