

**BOARD OF ZONING APPEALS**

April 5, 2006

[Present: Cairns, Branham, Tolbert, Brown, Perkins, Perrine, Ashford]

Called to order: 1:00 p.m.

CHAIRMAN BROWN: I'd like to call the April meeting of the Board of Zoning Appeals to order. I welcome all of you and I'd like to ask Mr. Brad Farrar from the County Attorney's office to make a few opening remarks.

MR. FARRAR: Thank you Mr. Chairman. Good afternoon and welcome to the Board of Zoning Appeals April meeting. The Board hears Special Exceptions and Variances, two types of cases that you will hear today. The Board is what they call a *quasi* court, it's almost like a court of law but it does not have the same functions or powers as a court. It's similar to a court in that the Board will hear evidence and testimony and they'll render a decision. Now sometimes in court cases you have to wait a while to get a decision. You'll actually have a decision in these cases today barring some continuance or deferment of the matter. So you'll have a decision and I'll talk in a moment about the effect of that decision. Sometimes in a court you might have to wait several weeks or months for the judge to issue the opinion, so that, that's somewhat different. The order of presentation, the applicant has up to 15 minutes to present his or her case. You don't have to take the full time but you certainly can. This does not include questioning time. If the Board wants to extend the times with questioning, they certainly can do that. Those in opposition have three minutes each to state why they're opposed to the specific request. Sometimes when we have a full, full house we talk about how it's nice to have spokes persons if there's a lot of opposition, but in this case

1 it shouldn't be a problem today, we don't have that large of a crowd. And then those,  
2 the applicant can come back for up to five minutes of rebuttal. Now if you notice the  
3 order of presentation it's applicant, opposition, and applicant at the end. The reason for  
4 that is it pertains to the court like nature of this proceeding. The applicant has the  
5 burden of proof to establish why he or she should get the Variance or Special  
6 Exception, that's simply what, what that pertains to. The testimony given will be under  
7 oath and in a moment I will swear everyone in as a group and save some time on that.  
8 Just keep in mind testimony is under oath. It's also recorded so we ask that you speak  
9 into the microphone so we can pick it up on the sound system. This could be important  
10 for you later on if you need to appeal your decision or if you want a record of the  
11 proceedings. You can certainly do anything that's appropriate to present your case.  
12 Sometimes people have video presentation or they'll have some material they want to  
13 distribute that's, that's certainly fine. Most of the exhibits are already in the agenda  
14 packet, if you have some last minute submissions the Board will certainly consider  
15 those, but keep in mind they have not had a chance to look at them at this point if  
16 you've got last minute items. The effect of a Board's decision, the Board will either vote  
17 to, to approve or deny or maybe have some approval with some conditions to the  
18 specific request. The decision of the Board is not final until the minutes from which that  
19 decision was made have been approved. Now the minutes usually are approved one  
20 month after the hearing, so in other words in the May meeting of the Board of Zoning  
21 Appeals you very likely would have the approval of the April minutes that we're going to  
22 have today. And the reason I tell you this is I'm the attorney for the Board, I don't  
23 represent anybody who's going to come before the Board, but just as a, a information

1 item, if you take some action in reliance on the decision today before it becomes final,  
2 you're basically doing that at your own peril. And I'll give an example, say the Board,  
3 you come before the Board for a request a one foot variance, two foot variance to put a  
4 carport in your side yard. I mean, it doesn't sound like that, that big of a request, there's  
5 nobody in opposition, the Board unanimously approves it and you, you're happy about  
6 that. That afternoon you call the contractor, ask him to come out and pour concrete,  
7 etc. Well in the mean time, your neighbor who was not present at the hearing, but was  
8 out of the country for two weeks, comes back and sees this, you know, building or this  
9 structure going up in the side yard and they have questions about it. They weren't  
10 present for the hearing, didn't know about cause they were out of the country, it's a  
11 legitimate excuse. They may come to the county and say, "Well, you know, I didn't  
12 know about this hearing can we reconsider it?" Any member of the Board can vote to  
13 reconsider that decision based on new information, which the information would be the  
14 evidence or testimony from the affected neighbor. So essentially, you know, and you  
15 can have your case reconsidered. This is unlikely but it is a possibility so I mention it,  
16 usually you are going to know if there is opposition in what you're trying to do, you'll be  
17 able to handicap that pretty well. Once the minutes have been approved you have a  
18 final decision of the Board and the county process is over. However, and there's always  
19 another however with an attorney, there's a process under state law by which someone  
20 who is aggrieved by a Board decision can appeal that decision and you appeal that to  
21 circuit court at 1701 Main Street, you eventually get a hearing in front of a single judge,  
22 but that judge sits as kind of an appellate court, like a court of appeals. They'll be no  
23 new evidence or testimony, they'll just review what the Board did, they'll review the

1 record. And if they find that as a matter of law the Board erred in some respect you  
2 may have that decision overturned. Now a person does not have an indefinite period of  
3 time in which to appeal, you have 30 days from the date the decision of the Board has  
4 been mailed. So once that period has run, once the minutes have been approved you  
5 have a completely final decision of the Board. I think those are the two most important  
6 things I'm going to talk about, are there any questions about either of those? Okay,  
7 very good. A couple housekeeping items, if you do have a cell phone or pager if you  
8 could turn that to off or vibrate so we don't pick that up on the system we'd appreciate  
9 that. Also we get questions sometimes can, can you, can you get up and leave, come  
10 and go? This is a public hearing, you're free to come and go as you like. The exit is  
11 here, we'd ask that you not go out that way, I believe that may set off the fire alarm.  
12 Just go this way, you certainly can come and go we just ask that you do it quietly so we  
13 don't disrupt the proceedings. And rarely this happens, but sometimes a person is  
14 really dissatisfied with the decision of the Board. If you're dissatisfied just file an appeal  
15 and take it up that way. Please don't get into some exchange with the Board that's  
16 inappropriate cause that's, that's not going to change your case and it's going to lead to  
17 bigger problems potentially. So just, once your case is over, win, lose or draw, if you'd  
18 please step out that would, that would be the most helpful thing for the process. The  
19 only time the Board is not seated where it is right now would be if the Board takes a  
20 recess, which they may do if the hearings go on for a while, or the other option to that is  
21 if the Board wants to meet in Executive Session to discuss a matter with Staff. Under  
22 the Freedom of Information Act, even a public body gets to talk to it's attorney or Staff if  
23 it has a question dealing with a legal, contractual, or employment matter or various

1 other issues. The only thing the Board will want to talk about in Executive Session  
2 would, might be a legal issue pertaining to a case. So if that occurs, someone will make  
3 a motion, they go into Executive Session, if that's seconded the Board will go into  
4 chambers, Council chambers. A brief, brief discussion with the attorney, you can't take  
5 any action in Executive Session. You can't say, "Well how are you guys leaning? Let's  
6 take a straw poll." You can't do any of that, you can just discuss the legal issue. Then  
7 they come back in open session and continue with the case. Other than that, though,  
8 the Board will be where they are today until they get through the agenda. I don't know  
9 how long the agenda will take. The number of cases today, yours will be called in order,  
10 so just make sure if you do step out you, you get back in time for your case once it's  
11 called. I believe that - oh one other thing, the Board of Zoning Appeals consists of  
12 seven members, all of whom are here today so we have a full panel. It takes four to  
13 conduct business and we have seven. I believe that is, that is it. If you have not signed  
14 up for a case that you want to speak on, you need to be on a sign up sheet. This is  
15 important for our records and if we need to get in touch with you. If you have not  
16 already signed up, that's not a problem, you can do it before your case is called once,  
17 once I conclude the remarks here at the beginning. Just make sure you're on the sign  
18 up sheet. With that said are there any questions about anything I've covered? Okay, if  
19 you are going to speak to a case today, whether you have signed up for it or not, if you  
20 will at this time please stand and raise your right hand I will swear you in as a group.  
21 Okay, do you swear or affirm the testimony you shall give should be the truth, the whole  
22 truth and nothing but the truth so help you God.

23 AUDIENCE: I do.

1 MR. FARRAR: Please be seated. If anybody said anything other than yes or  
2 you got it, please let me know otherwise we'll consider the group sworn and I'll turn it  
3 back to the Chairman at this time. Thank you.

4 CHAIRMAN BROWN: Thank you Mr. Farrar. Are either Lottie Powers or Carla  
5 Coletrain here? Would you please come forward and sign in ma'am? And if there's  
6 anyone else who indicated they intend to speak and has not yet signed up if y'all would  
7 come and do the same please. All right, Mr. Price, are you ready? Apparently not.

8 MR. PRICE: Good to have you back.

9 CHAIRMAN BROWN: Thank you.

10 **CASE 06-12 SE:**

11 MR. PRICE: The first case is Case 06-12 Special Exception. The applicant is  
12 requesting the Board of Zoning Appeals to grant a Special Exception to permit the  
13 establishment of a school with an additional building on property zoned M-1. The  
14 applicant is Glen Caulk, the location is 300 Arbor Lake Drive. As stated the existing  
15 zoning is M-1, which is Light Industrial. It's about a 13.6 acre track existing land use is  
16 an office with a flex space. The subject parcel is a 99,580 square foot building with  
17 45,500 currently used for office use. The property is located between I, between  
18 Interstate 1-20, excuse me 277 and Farrow Road. The applicant's proposing to  
19 establish a school with the current structure and in the future construct a  
20 gymnasium/auditorium. The current office uses will be relocated and as stated if  
21 granted this request. The only tenant only this policy will be the school.

1 CHAIRMAN BROWN: All right thank you. The first person I have signed up is  
2 Glen Caulk. If you could state your name for the record and then tell the Board what it  
3 is that you're seeking to do please.

4 **TESTIMONY OF GLEN CAULK:**

5 MR. CAULK: Yes sir, thank you. My name is Glen Caulk, good afternoon. Mr.  
6 Chairman, ladies and gentlemen of the Board, I'm an attorney with Nelson, Mullins,  
7 working for the Bishop of Charleston, a Corporation Sole. Most of you folks probably  
8 know it as the Catholic Church, probably also know that the Catholic Church operates  
9 Cardinal Newman High School. The church is currently looking at the property that Mr.  
10 Price showed and is considering using a portion of that property to relocate Cardinal  
11 Newman High School. The track as already said is zoned M-1, which allows the, or  
12 which sets forth a Special Exception as school use and it's my understanding that you  
13 will look to four primary criteria for the determination of this Special Exception. The first  
14 would be parking, and I'm not taking them in any particular order, I just happen to have  
15 written them down this way. So certainly feel free to stop me at any point you've got  
16 any questions and I'll be introducing the second speaker as, as well. Mr. Price, excuse  
17 me, have you had the opportunity to share these?

18 MR. PRICE: I have not.

19 MR. CAULK: All right, if I may do that. I'm just going to hand these to you, if you  
20 wouldn't mind handing them down I would appreciate it. Parking is the first issue; the  
21 current location has available roughly 440 parking places. Where Cardinal Newman is  
22 located right now there are 140 parking places, so clearly we would not be needing  
23 additional parking and would not be pressing any issues as far as the current use or

1 zoning of the property. Even if we were to assume, I might add these are faulty  
2 assumptions, but even if we were to assume that every tenth grader, every eleventh  
3 grader, every twelfth grader drove to school and we had a staff of 100, and again all of  
4 those are faulty assumptions, we'd still have over 100 parking places left on the  
5 property. So I, I do not see this as increasing any parking burden on the property as it  
6 currently exists. In fact I would argue that should we use the property as it was  
7 designed, that would be as a business office space, that there would be a greater need  
8 for parking than if we use it as a school. Secondly would be traffic. I would argue that  
9 traffic would actually be lighter than if it were used as a fully utilized office space and  
10 that would be because one, we are having less parking than if it were used as a, an  
11 office space, which of course simply means less cars would be traveling in and out of  
12 there. Secondly, as you probably know, school traffic and business traffic are, are  
13 typically different. School traffic would be at 8:00 usually and around 3:00 usually.  
14 Business traffic is typically between, at 9:00 and at 5:00. So I would argue that use of  
15 this property as a school would actually spread the burden, the traffic burden throughout  
16 the park over different times and lighten the traffic load as opposed to if it were used for  
17 an office. The other two criteria deal with noise, lights, fumes, airflow, all of which I, I  
18 don't think really are applicable in this instance. As Mr. Price indicated there will be  
19 some construction, but all of the construction will be within the existing footprint. So if  
20 you're standing on the street, looking at the property today or looking at it post  
21 construction, you're going to see basically the same thing. The footprint won't change  
22 except for there's a, a potential that, and if you'll look and I think it's the last page of  
23 your handout, you'll notice that the building that we're looking at is roughly a doughnut

1 shape. And as you can see, there may be some future classrooms built there. Unless  
2 you're looking down the corridor that's on the screen now, you won't see any change in  
3 the building, so, you know, as far as noise, lights, fumes, airflow, etc. I just don't see  
4 that as an issue. Likewise, aesthetics, view, etc., I just don't see as an issue because  
5 again you're going to see the building and the building will look like the building. It'll just  
6 be used inside in a different manner than it was initially intended and is currently  
7 allowed without the Special Exception. Accordingly, I propose that this Board grant this  
8 Special Exception. And now I'd like to introduce Peter Brown who is going to talk  
9 generally about the school, the school's needs, its attendance and anticipated growth  
10 and basically general support of this Special Exception.

11 CHAIRMAN BROWN: Let's hold on Mr. Brown for just one moment -

12 MR. CAULK: Yes sir.

13 CHAIRMAN BROWN: - in case the Board has questions for you.

14 MR. CAULK: And, and I was going to offer to either answer questions now or we  
15 can answer them together at the end, whichever you prefer.

16 CHAIRMAN BROWN: I think we'll take your questions now if there are any.

17 MR. CAULK: Yes, sir.

18 CHAIRMAN BROWN: Any Board members have questions for Mr. Caulk?

19 MR. TOLBERT: There's but one way in and out of this where you plan to be  
20 right?

21 MR. CAULK: Yes, sir.

22 MR. TOLBERT: Okay, and that's by the traffic light?

23 MR. CAULK: I believe that there's a traffic light there, there is a traffic light.

1 MR. TOLBERT: And you said this would, would not have any impact on, on,  
2 traffic won't have any impact in that area when you've got the retirement system there  
3 as well right?

4 MR. CAULK: Right and, and what I mean by that, and please, please don't  
5 misunderstand me, clearly we're going to have more traffic there than we will today.  
6 What my suggestion is, is that if the Special Exceptions is granted that school traffic  
7 would not increase the traffic above what full use of the currently zoned property, full  
8 use of that property would be. So another words if that entire building was full of office  
9 spaces that there would actually be more traffic than if that building is utilized as a  
10 school. So clearly yes, there will be an increase in traffic *per se*, but this Special  
11 Exception would not increase that traffic flow.

12 CHAIRMAN BROWN: If I understand your application correctly this High School  
13 building or what you've categorized as a doughnut shaped building has not yet been  
14 constructed is that correct?

15 MR. CAULK: No sir, that's not correct. That is in place.

16 CHAIRMAN BROWN: Okay.

17 MR. CAULK: That building is in place. The construction that would occur would  
18 be of the gymnasium and then in, internal changes to the building. And then the reason  
19 I said doughnut shaped is there are future classrooms that may be built within the hole  
20 of the doughnut, if you will.

21 CHAIRMAN BROWN: I understand, but so it's just internal configuration that'll -

22 MR. CAULK: Yes sir that's correct. In fact you can on the third page of the  
23 handout you can see an aerial photo of the building and then on the fourth page is a

1 schematic of the, of the building. Are there any other questions? I'll be happy to come  
2 back up if, if that changes. Thank you.

3 CHAIRMAN BROWN: Thank you Mr. Caulk. Mr. Brown.

4 **TESTIMONY OF PETER BROWN:**

5 MR. BROWN: Thank you. My name is Peter Brown and Cardinal Newman High  
6 School has been located on Forest Drive for approximately the last 50 years. About 10  
7 or 12 years ago it incorporated the seventh and eighth grade, grades that that would  
8 have previously been in our feeder schools. The feeder schools that we currently have  
9 for Cardinal Newman High School consist of the Catholic schools of St. Joseph's, St.  
10 Peter's, St. Martin de Porres, and St. John Newman. We also get a lot of kids from  
11 either other public schools as well as Timmerman. Currently those schools have almost  
12 1,400 students in those schools and out of that we end up with about 400 to 450 that  
13 eventually come to Cardinal Newman for the six classes. Over the last five years we've  
14 had an increase in population from about 375 to currently 428 and next year we've got  
15 enrollment expected of 450, which is basically our capacity at the current location on  
16 Forest Drive which consists of two main buildings, one is a converted convent of the  
17 nuns that used to be here and the second one is the main school that's been there for  
18 the last 50 years. It has about 55,000 square feet of, of functional space as well as a  
19 football field and 11 acres. We're basically out of room at that current location for what  
20 our needs are especially with the expanding dynamics of Forest Drive and the  
21 construction that's going on and all the different shops and stores and restaurants and  
22 everything else that's being built in the area around Trenholm Plaza and the Forest  
23 Drive area, all the way down to Richland Mall. So the Diocese of Charleston has been

1 looking actively for the last five to seven years for a suitable site for a new High School.  
2 Part of that was we were not able to find what we thought at one point was a suitable  
3 site and the decision was made to go ahead and purchase new athletic fields  
4 somewhere in the area, which just happened to be, to have been accomplished last  
5 year is about a half a mile away from the Fontaine Business Park. During that process  
6 the thought became of looking at the Fontaine Business Park to actually look at that as  
7 a new campus for the site of Cardinal Newman. Of course, we've gone through that  
8 over the last year or so and gotten to the point where we're looking at seriously at  
9 putting the school here and this becomes basically at least a 50 year plan for Cardinal  
10 Newman High School to serve the community and serve the school needs of, of not  
11 only the Catholic children that go to the elementary Catholic schools but also, you know,  
12 other children as well considering that right now Cardinal Newman is only about 68%  
13 Catholic. So this serves truly as a, as a real, not only a service to, to the current  
14 population but to an increase population of kids that will be able to get a useful  
15 education out of this school. Thank you.

16 CHAIRMAN BROWN: Questions for Mr. Brown? All right thank you sir. I have  
17 no one signed up in opposition. If there are no questions for either of the speakers then  
18 we'll entertain a discussion at this point. Discussion by members of the Board?

19 MR. TOLBERT: Mr. Chairman I, after listening to testimony, I do agree, I know  
20 the area over there and I don't, and like he stated that the traffic would not be too much  
21 impact, but considering the train sometimes it does have - nothing we can do about that  
22 is changing the flow of that traffic, which could impact it back to 277. But overall I think  
23 it would not impact because as he said the traffic there would be, if we had businesses

1 and it was I think three different areas in there that would be business so - and not there  
2 so I don't think that really will impact it.

3 CHAIRMAN BROWN: All right, any other discussion? Hearing none the Chair  
4 will entertain a motion.

5 MR. TOLBERT: Mr. Chairman, I make a motion that 06-12 be approved.

6 CHAIRMAN BROWN: Is there a second?

7 MR. BRANHAM: I second.

8 CHAIRMAN BROWN: We moved and seconded that Case 06-12 SE be  
9 approved. All in favor indicate by raising your hand. Opposed?

10 *[Approved: Cairns, Branham, Tolbert, Brown, Perkins, Perrine, Ashford]*

11 CHAIRMAN BROWN: Mr. Caulk, you have your Special Exception. Mr. Price  
12 will be in touch with you. Mr. Price next case please.

13 **CASE 06-15 V:**

14 MR. PRICE: Next case is case 06-15 Variance. The applicant is requesting the  
15 Board of Appeals to grant a Variance to encroach into the required side and rear yard  
16 setbacks in an RU zoned district. The applicant is Scott Armstrong. The location is 113  
17 Beaver Dam Road and as stated the existing zoning is Rural the parcel size is a little  
18 more than half an acre but we have it as .58 acre tract. Existing land use is residential.  
19 The subject property has an existing two-story residential structure. The applicant  
20 proposes to construct a 14 x 14 square foot accessory structure that will encroach into  
21 the required 20' yard, 20 side yard setback by 12' and the required 20' rear yard  
22 setback by 5'. The surrounding area is comprised of parcels devoted to residential use.  
23 In the discussion I believe I actually had the wrong numbers there and I left off the rear,

1 but the actual request is for an encroachment into 12' into the side and 5' into the rear.  
2 One of the things I've pointed out during the discussion part of the agenda, and it seems  
3 like we do this every month, is the parcel used to be zoned D-1, new code comes in,  
4 eliminates the D-1 zoning district. Now we have rural which actually increases the, not  
5 only the lot area requirements, but also the setback requirements. However, I did note  
6 that with the building being next, about 8' from the property line even under the old  
7 zoning ordinance and this property being zoned D-1, it still would have required at least  
8 a, Variance encroachment and, excuse me, and a Variance to encroach into the side  
9 yard setback by at least 2'.

10 CHAIRMAN BROWN: Okay thank you. Mr. Armstrong come forward please,  
11 state your name for the record and explain to the Board what it is that you're seeking.

12 **TESTIMONY OF SCOTT ARMSTRONG:**

13 MR. ARMSTRONG: Thank you Board members. My name is Scott Armstrong.  
14 What I am seeking is the Variance on the side yard setback based on the ordinance of  
15 the, of the zoning codes. My efforts started in early March. I came down with my blank  
16 check for a permit application. I figured there was a building permit application. I was  
17 told that since it was only 196 square feet, not 200, I didn't need that, but they asked  
18 that I go next, to the next counter and make sure I meet the setback requirements. So I  
19 went to the next counter in early March and I was told that it was a 20' setback. And as  
20 the gentleman explained, I was told the zoning had changed from D-1 to the rural  
21 zoning. It was clear to me that the setback was 20 based on the code. I asked if I could  
22 get the zoning changed or do a Variance. I was, I was kind of given some advice to go  
23 for the Variance, so that's, that's why I'm here today, that as opposed to get the zoning

1 changed. What I did do, though, that evening is I looked at the code a little bit further  
2 and I called the same lady that I had talked to that morning the next morning and  
3 explained that I thought my interpretation of the zoning was that in the front section of  
4 the zone it states the 20' clearly, and I'm not disagreeing with that, but at the same time  
5 that is for a principal use and when it, when you go back to the §185 that it refers to it  
6 gives more explicit zoning for accessory structures and if you go back to your Ordinance  
7 §185, this is, and I read this to her and I asked her to please follow with me because I  
8 felt like the setbacks should be 10' and not 20 which what I, I was told the day before.  
9 So she opened the code and we went through the first section of, of §26 and then we  
10 went to this, which said 20' for a side yard and then we, then we went through together  
11 over the phone the §185 specifically, specifically §26-185 Item, guess it would be 2,  
12 General Standards Elimination. It is the second page in §185, and for an accessory  
13 structure I read to her that it says it has front yard requirements, side yard requirements,  
14 rear yard and it stated that accessory uses in structures may be permitted in rear yards,  
15 which mine is tucked in the back corner based on the plan that you have for my permit  
16 is provided there located not less than 10' from any property line. Which my  
17 interpretation of that is any property line being the side or the rear. So in talking with  
18 her about that I still agree that I was asking for a Variance from the 10' to the 8', but I  
19 felt like the code was not 20' from the side it was 10 from the rear and, from both, on  
20 that corner from the rear and the side. She put me on hold for about 15 minutes, and  
21 that was fine, still working and she came back and said she had met with the Zoning  
22 Administrator and they agreed that I had got a discrepancy in the zoning ordinance.

1 And I said, "Well do I get any points for that?" And she said, "No, you can still come  
2 visit us."

3 MS. CAIRNS: It's far too many of them.

4 MR. ARMSTRONG: Yes. So anyway, she said that it was a discrepancy and  
5 that you go with the more restrictive, which I agree with, that's the way it's written up.  
6 But looking at it some more I, I am still asking for the Variance to be 8' from the side and  
7 15, 8 for the side and 15 for the back, but I feel like my Variance is not from a 20'  
8 distance, but it's from a 10' distance and the 20' really prohibits me from doing that just  
9 because of, esthetically if you're at the picture on the screen, I have a side-load garage  
10 from the left and that view is from my driveway. If I try to meet the 20' I would have to  
11 move that over about 12' to the right and it's going to be shoved up against the trees  
12 and where I have some larger pines, so it's going to really look kind of funny to be 20'  
13 off the property line there. So, anyway that's really my story and I'm still asking for the  
14 Variance to be 8'. The progress of this is I've, I've dug some of the footers myself so I  
15 could lay it out and figure out what type of building I wanted and I, I stopped there  
16 purposely and went to get the permit and found out that it was more of a setback issue.  
17 So, I guess I'm either going to proceed like this or if there is an adjustment in the  
18 setback or just continue after I get a, a ruling from the Board. That's all I had and I can  
19 answer any questions, but I thank you for your time.

20 CHAIRMAN BROWN: Questions for Mr. Armstrong?

21 MR. TOLBERT: Where are your utility easements, on the back?

1 MR. ARMSTRONG: There are no utility easements. I, I called, I called No Dig  
2 and if you can see to the right of that Birch tree, there's a blue tarp on the, the jungle  
3 gym.

4 MR. TOLBERT: Yeah.

5 MR. ARMSTRONG: He can go back to that other photo, from the - there is an  
6 over, there are no utility easements back there. The power line comes in from the back  
7 and it comes in from the back line to the back of my property to my box and it is to the  
8 right of that, that jungle gym with the blue tarp on it. And I had it, I had it located and it's  
9 an underground power line, there are no other utilities there.

10 CHAIRMAN BROWN: No water lines?

11 MR. ARMSTRONG: No sir, everything's to the front.

12 CHAIRMAN BROWN: No gas?

13 MR. ARMSTRONG: I had it all marked.

14 MR. TOLBERT: But that is the power easement back there, though, right?

15 MR. ARMSTRONG: I would expect there is an easement that goes along with  
16 that, yes sir, and I would not be encroaching with that. If, even if I, if there was a need  
17 to shift it to the 20' setback it would still be well away from that line that is designated.  
18 They put a red line on the ground.

19 MR. TOLBERT: I mean, that just shows the direction of your line, not where the  
20 easements are back there, right?

21 MR. ARMSTRONG: Correct and I'm not aware of any easement there. It's  
22 probably some type of perpetual easement for utilities no different than a, a cable line or  
23 a phone line.

1 CHAIRMAN BROWN: These easements are usually a minimum of 10' width of,  
2 not just a red line.

3 MR. ARMSTRONG: Correct. With that I am not sure if that, if moving that would  
4 require an encroachment onto that, but I would not look to build it that close to that line  
5 because of where the big tree is. So that wouldn't be an issue ultimately, if it had to go  
6 there.

7 MS. CAIRNS: I have a question about the zoning to the, on the adjacent parcels.  
8 There's some discussion in your application about it.

9 MR. ARMSTRONG: Yes.

10 MS. CAIRNS: In, I mean, this, the one that's now or formerly McLeod, this side.

11 MR. ARMSTRONG: Yes, up the hill, yes.

12 MS. CAIRNS: You say that both of these are zoned RS-MD.

13 MR. ARMSTRONG: No ma'am, the one in the back is a flag lot, he actually is to  
14 my right and he has a flag lot in behind me. There's actually behind the barrel and  
15 behind that old fence he has a shed back there on the flag part of his lot, to the left.  
16 Based on the zoning map it is, it is low density and if the same, the way I interpret the  
17 zoning is the same people, if they had this same application issued to build on the other  
18 side of this property line, their setback would be 5'.

19 MS. CAIRNS: Well that's what I'm, I mean can, can you tell us what the zoning  
20 is I, I think it's critical what the zoning is to the adjacent lots?

21 MR. PRICE: Okay. As stated if you're, okay, to the right of this home is zoned  
22 rural and the way that property, it is like a flag lot, it runs down the right side of his  
23 property and also it's, it's in the rear of his.

1 CHAIRMAN BROWN: That's on the right.

2 MR. PRICE: On the right, yes sir.

3 MS. CAIRNS: That's the right and the rear.

4 MR. PRICE: On the left, on the left hand side of his property, it is zoned single-  
5 family residential.

6 MS. CAIRNS: It's RS -

7 MR. PRICE: LD

8 MS. CAIRNS: - LD. What are the setbacks for that?

9 MR. PRICE: Twenty-five front, 20 rear, a combined total of at least 16' with no  
10 side less than five.

11 MS. CAIRNS: Oh, no less than five.

12 MR. PRICE: Yes, that's for, that's for the principal structures. So like usually,  
13 usually with the accessory structures that's five and five from, that's from the rear and  
14 the side.

15 MS. CAIRNS: I mean I, I guess it's not necessarily a question, but I think it's  
16 discussion for the Board. I find that the fact that the property now or formerly McLeod  
17 would only have to give a 5' accessory setback would mean that this, along this  
18 property line with such a discrepancy between he and, you know, this property having a  
19 20' that one having a 5' and neither of them being obnoxious uses. I mean his, his  
20 requirement setback is not that he is considered it an obnoxious use, like an industrial  
21 or something. But I think allowing him to go into this as a, as a Variance on the side  
22 setback is, I find easy to grant just, not because of the change in the zoning code but  
23 because the neighboring parcel who has a similar zoning has only a 5' setback. I mean,

1 his neighbor could come and sit 5' away and their both, they're all residential lots,  
2 they're just zoned differently for other reasons. So that's sort of -

3 CHAIRMAN BROWN: Have you discussed this with the McLeod's, Mr.  
4 Armstrong?

5 MR. ARMSTRONG: No, sir. I have, I've discussed it with my back neighbor, our  
6 rear yard neighbor, but I have not discussed it with the McLeods.

7 CHAIRMAN BROWN: Other discussion or questions?

8 MR. TOLBERT: I have a question for Mr. Price. Is there any way to determine  
9 the utility setbacks there? Where the utilities are coming into this property?

10 MR. PRICE: I'm sure there is a way, normally we don't really get into that that  
11 much.

12 CHAIRMAN BROWN: I'm not sure that's really our concern.

13 MR. TOLBERT: I know I'm just trying to see -

14 CHAIRMAN BROWN: You know, it's Mr. Armstrong's concern if he happens,  
15 happens to build on that utility easement and SCE&G gets mad he's going to move his  
16 building back.

17 MR. ARMSTRONG: Yeah, I had it marked and it is, it's probably 40' from that  
18 red mark and I'm a pipeline engineer myself and that's accurate to about 3'. If you had  
19 an engineering firm it was accurate, about 18" and that easement should be no more  
20 than 10', like you said, either side. And the last thing I want to do is get in any of that  
21 guys power lines.

22 CHAIRMAN BROWN: Additional questions or discussion? Hearing none the  
23 Chair will entertain a motion.

1 MS. CAIRNS: I would make a motion that the application 06-15 V be approved  
2 to allow him to set the building within 8' of the side property line and as shown on the  
3 plat, I guess it's greater than 15, that's kind of odd, but as shown on the drawing in the  
4 package, I move that we approve it.

5 MR. ASHFORD: I second that motion.

6 CHAIRMAN BROWN: There's a second, it's been moved and seconded that the  
7 Variance be granted based on the diagram shown on the plat submitted by the  
8 applicant. All those in favor of the motion signify by raising - all those in favor of the  
9 motion signify by raising their hand. Opposed?

10 *[Approved: Cairns, Branham, Tolbert, Brown, Perkins, Perrine, Ashford]*

11 CHAIRMAN BROWN: Mr. Armstrong, you have your request. Mr. Price  
12 will be in touch.

13 MR. ARMSTRONG: Thank you very much.

14 CHAIRMAN BROWN: Next case Mr. Price.

15 **CASE 05-86 SE:**

16 MR. PRICE: All right, the next case is 05-86 Special Exception. The applicant's  
17 requesting the Board of Zoning Appeals to grant a Special Exception to permit the  
18 establishment of a group daycare on property zoned RS-MD, Single Family Medium  
19 Density. The applicant is Vicky Murray. The location is 3624 Hoyt Street. And as  
20 stated the property is zoned Single Family Medium Density. The track is about a fifth of  
21 an acre and its existing land use is residential. The subject property has an existing  
22 single-family residential structure. A fence encloses the property. There isn't a, a  
23 clearly defined driveway on the property, as you can see by the cars, there's a, there's a

1 gate, but there isn't a clear driveway. The applicant proposes to establish a family  
2 daycare for a maximum of six children. The ages of the children would range from  
3 newborn to five years of age. The proposed the hours of operation would be 24 hours a  
4 day. The subject property is located within a subdivision, a single-family residential  
5 structure that's in the Alta Vista Community.

6 CHAIRMAN BROWN: Vicky Murray please come forward and state your name  
7 for the Record and tell the Board what it is you'd like to do.

8 **TESTIMONY OF VICKY MURRAY:**

9 MS. MURRAY: Hi my name is Vicky Murray and I'm here for a Special Exception  
10 for establishment of a family daycare of caring for six children. The ages though have,  
11 have changed since, because this, it's been a year since I've actually applied. But the  
12 ages will be two years to five years old and the hours will from 6:00 a.m. to 6:00 p.m.  
13 And also since that picture was taken last year, that fence that the car is in front of has  
14 been removed, that gate has been removed so that there could be entry into the yard if  
15 the parents choose to drive in rather than drive up along side the fence line.

16 CHAIRMAN BROWN: How many people will, will anyone be helping you with  
17 these children or will you be the only employee?

18 MS. MURRAY: Well right now it's just myself. My mom has recently moved out  
19 here and, I mean, she'll be assisting me if needed.

20 CHAIRMAN BROWN: Do you have any children of your own?

21 MS. MURRAY: No, sir.

22 CHAIRMAN BROWN: You're saying now the hours are going to be from 6:00 in  
23 the morning until 6:00 in the evening?

1 MS. MURRAY: 6:00 a.m. to 6:00 p.m.

2 MS. PERRINE: And the ages you said two years?

3 MS. MURRAY: Two years to five years.

4 MS. CAIRNS: Is the, did you put fencing back up such that you still have a  
5 fenced in back yard?

6 MS. MURRAY: The fencing in the back hasn't changed; it's still there.

7 MS. CAIRNS: I mean is, are there gaps on the sides or is it -

8 MS. MURRAY: No it's fenced in completely.

9 MS. CAIRNS: Okay. So there's fences that run up against the side of the  
10 house?

11 MS. MURRAY: Yes.

12 CHAIRMAN BROWN: Have you discussed your proposal with any of your  
13 neighbors?

14 MS. MURRAY: Yes I have.

15 CHAIRMAN BROWN: They have no objection to it?

16 MS. MURRAY: None.

17 MS. CAIRNS: Is, with the removal of the fence, is there a drive now?

18 MS. MURRAY: It's just that, that gate there that's actually kind of bent; we just  
19 took the gate off.

20 MS. CAIRNS: But I mean is there a gravel driveway or an asphalt -

21 MS. MURRAY: Yes, it's, it's, it's just a dirt path that goes straight up into, into the  
22 yard. It's no grass right there, that's just dirt right there in front of that fencing.

1 MR. PRICE: I was going to ask, is it kind of like the, you know, if you just keep  
2 driving a car long enough after a while it becomes, you start to show a driveway.

3 MS. MURRAY: Exactly.

4 CHAIRMAN BROWN: It's an unimproved drive -

5 MR. PRICE: Yes.

6 CHAIRMAN BROWN: Additional questions for Ms. Murray? Thank you, ma'am.  
7 There is no one signed up in opposition. The Chair will entertain a discussion on Ms.  
8 Murray's request. Okay.

9 MR. BRANHAM: Mr. Chairman, I'd like to make a motion that Special Exception  
10 05-86 be approved as stated by the applicant.

11 CHAIRMAN BROWN: Is there a second?

12 MS. PERRINE: I second.

13 CHAIRMAN BROWN: And moved and seconded that request 05-86 SE be  
14 approved.

15 MS. CAIRNS: Wait now, I'm just, I'm curious about the issue of the fact that  
16 there's not any dedicated drive on the property in terms of where the children get loaded  
17 and unloaded and how vehicular - it seems like that's one of the criteria by which we  
18 need to have some establishment as to how the children are dropped off such to not be  
19 using public right-of-way to do it.

20 MR. PRICE: Well actually the code, the way the code used to read, it clearly  
21 stated that you could not do it in the right-of-way. The way the code reads is now is just  
22 that you, client pick up and drop off shall not obstruct traffic flow on adjacent public  
23 roads. So, you know, I mean I'm not -

1 MS. CAIRNS: So in other words if, if it's a sufficiently minor road, the use of the  
2 road doesn't obstruct, is that the -

3 MR. PRICE: That, you know, that is up to you and your interpretation.

4 CHAIRMAN BROWN: Or even if you could pull to the edge, to the shoulder or  
5 something like that.

6 MS. CAIRNS: Okay, okay.

7 CHAIRMAN BROWN: Do you have any other concerns?

8 MS. CAIRNS: That may be sufficient discussion, I just didn't know.

9 CHAIRMAN BROWN: The Chair will now entertain a vote on the motion to  
10 approve. All in favor indicate by raising your hand. Opposed?

11 *[Approved: Cairns, Branham, Tolbert, Brown, Perkins, Perrine, Ashford]*

12 CHAIRMAN BROWN: The request has been approved Ms. Murray.

13 MR. PRICE: Was that, was that everyone?

14 CHAIRMAN BROWN: That was everyone. The Zoning Administrator will be in  
15 touch. Next case Mr. Price.

16 **CASE 05-89 SE:**

17 MR. PRICE: Okay the next case, excuse me, next case is case 05-89 Special  
18 Exception. The applicant is requesting the Board of Zoning Appeals to grant a Special  
19 Exception to permit the establishment of a family daycare on property zoned RS-MD,  
20 Single Family Medium Density. The applicant is Shirley McImmon. The location is 94  
21 Johnny Lorick Road. As stated property is zoned Single Family Residential Medium  
22 Density. The parcel is close to a fifth of an acre. The existing land use is residential  
23 and the property has an existing single family residential structure on it. A single car

1 driveway leads to a garage and there is also an area to the left that may accommodate  
2 additional parking, it's a little concrete pad as you can see there. The rear of the  
3 property is enclosed by a fence. The applicant proposes to establish a family daycare  
4 for a maximum of 12 children. The ages of the children would range from two to four  
5 years of age. The proposed hours of operation are 7:00 a.m. to 6:00 p.m. This is  
6 located in the Carson Hill Subdivision. Under the case history a Special Exception,  
7 case 05-62 Special, SE, was previously granted for the establishment of a daycare for  
8 six children. So this would be essentially a request to, for an additional six children on  
9 the property.

10 CHAIRMAN BROWN: Ms. McImmon if you'd come forward please tell the Board  
11 what it is you're seeking to do and state your name for the record please.

12 **TESTIMONY OF SHIRLEY MCIMMON:**

13 MS. MCIMMON: My name is Shirley McImmon. I am requesting Special  
14 Exception to operate a home daycare for a maximum of 12 children. I'm currently  
15 operating a home daycare for six children. Because of the, I've been in child care for  
16 over nine years, I understand the, the need for quality child care and due to the referrals  
17 of my current parents, I would like to accommodate six more children. I understand that  
18 traffic may be a, a concern and what I propose to, to do to eliminate some of the traffic  
19 is offer pick, drop off and pick up for six children.

20 CHAIRMAN BROWN: You need to sign in sir and you need to be sworn. All  
21 right, Mr. Mcimmon.

22 **TESTIMONY OF REGINALD MCIMMON:**

1 MR. MCIMMON: Thank you Board. My name is Reginald Mclmmon I am the  
2 husband of Shirley Mclmmon. We have looked at the situation and what we have  
3 proposed to do as she said was to have a drop off, we have six parents that are willing  
4 to go with the drop off. We do understand that safety is definitely a concern and that we  
5 also are concerned about neighbors. Our neighbors have worked with us well. They've  
6 had no problems over the past year and we have six children that will love to have drop  
7 off service, so it works very well. We have a van to accommodate. We have parents  
8 that have the child protective features so we're really ready.

9 MS. CAIRNS: What you describe as a drop off, it also means a pick up service?

10 MR. MCIMMON: It's a pick up.

11 MS. CAIRNS: Okay.

12 MR. MCIMMON: In the morning, I'm sorry. It, it'll be, drop you off to the house,  
13 but it is pick up.

14 MS. CAIRNS: You'll go pick them up at their place.

15 MR. MCIMMON: We'll pick them up at their place, which is really convenient for  
16 the parents.

17 MS. PERKINS: How many employees are you going to have? You, you, you, as  
18 I understand it you're keeping six children now.

19 MS. MCIMMON: Yes, I am. Currently right now cause of six, DSS does not  
20 require any, any, yeah, I mean it's, you're required to have an emergency person, but  
21 with 12 you are required to have additional help.

1 MS. PERKINS: My concern is how, okay, if you're, do you have any way, let me  
2 ask this, the county have any way of policing or making sure that that, that the drop off,  
3 is that what you're calling it? A drop off or pick up -

4 MS. MCIMMON: If that's a concern, traffic's a concern.

5 MS. PERKINS: Well, how would you, I mean, with six people perhaps I could  
6 see, but I, if, if they don't, I don't see 12 cars, you know, arriving. I understand you're  
7 saying that you're going to pick up.

8 MS. MCIMMON: Yes, ma'am.

9 MR. MCIMMON: Well ma'am actually it's a four-car drive. You can't tell from  
10 that picture but the way that car's parked, but those are for, that's space for four cars.  
11 That's a van, with a van and a car [inaudible] parking spaces. That fits four cars  
12 comfortably.

13 MS. PERKINS: Is there anyway that, back to my original question, is there  
14 anyway of knowing, that the county, how would they, you know, if we did do, places?

15 MR. PRICE: We could, we could essentially do, let's say if there was a complaint  
16 on it, we'd just wanted to kind of follow up on it, it would almost takes us to do some  
17 type of surveillance, you know, over a couple of days, you know, to ensure that okay,  
18 here's a van, they're dropping off six, you know, they're bringing at least, you know, no  
19 more than six kids for drop off and then we'd also have to count the number of kids that  
20 are being dropped off by their parents. So, I mean it, it can be done.

21 MS. PERKINS: But it would be very -

22 MR. PRICE: I don't know how, you know, how we could reasonably conclude it.

1 MS. PERKINS: Yeah, that was my main purpose of finding out to see how  
2 cumbersome that would be, because that doesn't look like enough turn around space to  
3 me. I think before we looked at traffic and that backing into it and how would they turn  
4 around without, what was your suggestion? Well you said the drop off.

5 MS. MCIMMON: Said the, yeah. I mean, currently I'm doing six right now and  
6 they come easily with the four-car space right there and it's not a problem.

7 CHAIRMAN BROWN: But your representation is if you do additional six your, six  
8 of them will be picking up -

9 MS. MCIMMON: So it wouldn't increase the traffic.

10 CHAIRMAN BROWN: I think normally the policing of that normally is when the  
11 neighbors get upset is there's too much cars coming in and out.

12 MR. PRICE: Well one of the things I was going to, you know, I guess you say  
13 have it in your, your packet, you know, just a way this road kind of runs. It's not really a,  
14 I mean it could be used as a cut through you see where Johnny Lorick Road, it  
15 continues right in here, but that becomes a gravel road that runs out to Kennerly Road.  
16 I don't think it's really used that often as a cut through, but there's a cul de sac over  
17 there to your left which would be over in here and that's the entrance. And I believe I  
18 stated nearly, there's like 17 homes in that community and really that's really Johnny  
19 Lorick Road and Johnny Lorick Court, that's where they serve the 17 people, that's not  
20 used as a, as a means for anybody to cut through.

21 CHAIRMAN BROWN: Ms. McImmon, I assume your neighbors are familiar with  
22 what you're proposing.

23 MS. MCIMMON: Yes, they are.

1 CHAIRMAN BROWN: And they have no problem with your -

2 MS. MCIMMON: They have no, no problem with it because due to the fact that  
3 the majority, all my neighbors they work and my business is operated during the hours  
4 where they are at work.

5 CHAIRMAN BROWN: I see. Any additional questions for the McImmon's?  
6 Hearing none the Chair will entertain a discussion. Thank you, you can have a seat,  
7 thank you. Any discussion? Hearing none the Chair will entertain a motion.

8 MR. BRANHAM: Mr. Chairman, I would like to make a motion that the Special  
9 Exception of Case 05-89 be approved.

10 CHAIRMAN BROWN: Is there a second? I'll second it. It's been moved and  
11 seconded that Case 05-89 SE be approved.

12 MR. PRICE: Excuse me, Mr. Chair, on that motion will that include the  
13 representation of the client that six kids will be picked up?

14 MR. BRANHAM: Right, that is exactly right. As stated by the applicant.

15 MR. PRICE: Okay.

16 CHAIRMAN BROWN: Okay, thank you Mr. Price. It's been moved and  
17 seconded that the case be approved with the condition as mentioned. All those in favor  
18 signify by raising their hand? Opposed?

19 *[Approved: Cairns, Branham, Tolbert, Brown, Ashford; Opposed: Perkins; Abstained:*  
20 *Perrine]*

21 CHAIRMAN BROWN: Did you –

22 MS. PERRINE: No, I didn't get to hear enough of it, so.

1 CHAIRMAN BROWN: Oh okay, it's been approved with one nay vote and one  
2 abstention. Ms. McImmon's, Mr. Price will be in touch with you. All right next case  
3 please.

4 MR. PRICE: Did you abstain, Ms. Perrine?

5 MS. PERRINE: Yes, I didn't hear enough of it. I mean I had to, to leave so that's  
6 why.

7 **CASE 06-06 SE:**

8 MR. PRICE: Okay, just wanted to be sure I wrote that down. Okay our next  
9 case is Case 06-06 Special Exception. The applicant is requesting the Board of Zoning  
10 Appeals to grant a Special Exception to permit the establishment of a family daycare on  
11 property zoned RS-LD, Single Family Low Density. The applicant is La Ronda Carson.  
12 The location is 2929 Ulmer Road. As stated the property is zoned RS-LD. The parcel  
13 is .22, approximately a .22 acre tract. The existing land use is residential. The subject  
14 property has an existing single-family residential structure. The driveway leads to the  
15 home and the rear of the property is enclosed by a fence. The applicant proposes to  
16 establish a family daycare for a maximum of 12 children. The ages of the children will  
17 range from newborn to 12 years of age. The proposed hours of operation are 7:00 a.m.  
18 to 6:00 p.m. This is located with a subdivision, a single-family residential structure, I  
19 believe it's East Pine Subdivision, at least as indicated by the annex view. The case  
20 history is that a Special Exception was granted previously for the establishment of a  
21 daycare for six children. I'll get the slides for you.

22 CHAIRMAN BROWN: Ms. Carson, come forward please, state your name and  
23 explain to the Board what it is you'd like to do.

1 **TESTIMONY OF LA RONDA CARSON:**

2 MS. CARSON: Hello, my name's La Ronda Carson and I'm requesting a Special  
3 Exception for the establishment of a family daycare for 12. Right now I'm, I'm a  
4 registered home - I've been registered since 2003 and I'm presently I keep six children,  
5 right now I just keep, I usually keep five and, but I want to increase to 12 because my  
6 goal is, my ultimate goal is to open a daycare center. And right now economically it's  
7 kind of hard to move into a center when you only have six children. My hours are 7:00  
8 to 6:00 a.m. I have talked to my neighbors. I even have gotten reference from  
9 neighbors. My neighbor that lives to my, well to the left of this, to this, this side, to the  
10 left side of my house, her, she has applied for her son to do after school care and also if  
11 I was to increase the group I have talked to my neighbors that have teenage daughters,  
12 you know, to employ them as far as, you know, just for assistance, you know, to help  
13 them have a part time job. My back yard is fenced and if you can see in the front of the  
14 house there's a little, I had a drive, that's a driveway space on the bottom left, yeah.  
15 And I took, I'm doing it over, it was tarped down and it had woodchips on it, but the  
16 woodchips after a while, you know, they started decreasing and so I'm going to put  
17 down, the tarp back down and put some gravel. But right now the parents can use that  
18 as a, you know, the K-turn to turn out of the driveway. And there is another home on  
19 my block also that has a group daycare also.

20 MS. PERKINS: You were here before and you were keeping special needs  
21 children.

22 MS. CARSON: Yes I had applied to, but I never did get any special needs  
23 children.

1 MS. PERKINS: You did not?

2 MS. CARSON: No.

3 MS. PERKINS: So you -

4 MS. CARSON: But I, but I do take, if there, if there is someone with special, I  
5 don't discriminate against people with special needs.

6 MS. PERKINS: How would you accommodate, you know what, I'm sorry, I'm  
7 asking her a question.

8 CHAIRMAN BROWN: Go ahead.

9 MS. PERKINS: How would you accommodate six additional cars coming in and  
10 turning around without, I, I don't see -

11 MS. CARSON: Well the, facing the front where you see the wood strips, that's  
12 the area for them to do a K-turn and where the, the green van, that's my van, but in front  
13 of the white car, my parking space, it can, it goes all the way back to, on the side of the  
14 house where I can park my van and I can get six cars just on that space where my van  
15 is until, you know, six cars right there. And most parents I've, since I've been doing it  
16 have never come at the same time.

17 MS. PERKINS: I can understand the six, but the likelihood of more than,  
18 showing up with 12 additional, I mean, six additional cars that would present a problem  
19 for me.

20 MS. CARSON: Now I'm just, I just have six, I do pick up for after schoolers.

21 MS. PERKINS: Well let me ask you this, I think I heard you say in your  
22 statement that it is your hope to open up a daycare center and you do understand  
23 you're asking six and that's twelve students.

1 MS. CARSON: But not a daycare center in my home, a day, an outside, I want  
2 to eventually -

3 MS. PERKINS: Yeah you, with one additional child, 13 you could open up one,  
4 but that's not in your home is that -

5 MS. CARSON: Well right now in order for me to, you have to have like with six  
6 children you can't, it's hard to save up enough money too to me, for me is to open a  
7 business I, I would think that you would need at least six months money saved up to  
8 pay for the mortgage and you have to have, even if you pay the rent of the facility you  
9 have to go the Zoning Board, that's time you have at Zoning Board you have to go to.  
10 You have to, you know, get all your fire inspections, DHEC inspections; you still have to  
11 pay rent on the facility. So having the 12 children, that would give me time, of course to  
12 employ someone else, but that would give me time, at least six months if I had the 12  
13 at one time to save up enough money so that I can have that money put aside for, so I  
14 can open up my center.

15 CHAIRMAN BROWN: Additional questions?

16 MS. PERRINE: One. I think you said something about you would have, hire  
17 teenagers to help?

18 MS. CARSON: No that's just for after, part time, not, I know I would have to,  
19 have to, with this group you have to have a full time person, but you can also hire  
20 children as young as 14, not to do the main work. They would have to be supervised,  
21 but just if I wanted to help a young person out just for them to have a part time job, that,  
22 that would be like a third person.

23 MS. PERRINE: So, okay so you've got somebody else helping you now?

1 MS. CARSON: Not right now, I'm only a family, you don't have to have a second  
2 person when you just have six children.

3 MS. PERRINE: Well if you have the 12, are you going to have somebody else?

4 MS. CARSON: Yes, I already have, I've even had, I've even, believe it or not,  
5 had parents that want to spend more time with their children that said that they were will  
6 to work with me full time.

7 CHAIRMAN BROWN: Additional questions from the Board members? All right,  
8 thank you ma'am. Discussion? Hearing none the Chair will entertain a motion.

9 MR. ASHFORD: I move that, that 06-06 Special Exception be approved.

10 CHAIRMAN BROWN: Is there a second?

11 MR. BRANHAM: Second.

12 CHAIRMAN BROWN: It's been moved and seconded that Case 06-06 SE be  
13 approved. All in favor signify by raising their hand. Opposed?

14 *[Approved: Branham, Brown, Ashford; Opposed: Cairns, Tolbert, Perkins, Perrine]*

15 CHAIRMAN BROWN: Four opposed, three in favor. Is there a, a motion, that  
16 motion is defeated. Is there another motion?

17 MS. PERKINS: I move that 06-06 Special Exception request be denied based on  
18 I don't think that there's ample space to accommodate 12 children.

19 CHAIRMAN BROWN: Is there a second to that motion?

20 MS. PERRINE: I second.

21 CHAIRMAN BROWN: It's been moved and seconded that Case 06-06 S - no  
22 ma'am, I'm sorry you can't. It's been moved and seconded that Case 06-06 SE be  
23 disapproved. All in favor signify by raising their hand? All opposed?

1 [Approved to deny: Cairns, Tolbert, Perkins, Perrine; Opposed: Branham, Brown,  
2 Ashford]

3 CHAIRMAN BROWN: I'm sorry your request has been denied. Mr. Price will be  
4 in touch. Mr. Price, next case.

5 **CASE 06-08 SE:**

6 MR. PRICE: Okay the next case is Case 06-08 Special Exception. The  
7 applicant is requesting, excuse me, the applicant is requesting the Board of Zoning  
8 Appeals to grant a Special Exception for the establishment of a family daycare on  
9 property zoned RS-LD, Single Family Residential Low Density. The applicant is  
10 Geraldine Strack. The location is 101 Fenrin, I believe, Drive. Once again that existing  
11 zoning is RS-LD. The parcel is about .40 acre tract, give or take. The existing land use  
12 is residential. The subject property has an existing single-family residential structure  
13 and an extended driveway leads to a garage. The rear of the property is not enclosed  
14 by a fence, but on certain portions of it, it is closed by landscaping - well when I get to  
15 the rear you'll see that. The applicant proposes to establish a family daycare for a  
16 maximum of six children. The ages of the children will range from newborn to three  
17 years of age. The proposed hours of operation are 7:00 a.m. to 4:30 p.m. This  
18 property, this property is located in the Wood Branch Subdivision. There is no previous  
19 case history for this parcel.

20 CHAIRMAN BROWN: Mr. Price, you say you had some photographs of the rear  
21 of the property.

22 MR. PRICE: Oh, I'm sorry, here we go.

1 CHAIRMAN BROWN: All right, the first person I have signed up is Rick and  
2 Missy O'Connor. Ms. Strack, I'm sorry, will you come forward please?

3 **TESTIMONY OF GERALDINE STRACK:**

4 MS. STRACK: I'm Ms., I'm Ms. Strack and I'm here for a request for a Special  
5 Exception to establish our family daycare center. My hope is to be a licensed daycare  
6 provider for six children, the children being from two years, I mean, infant from two  
7 years, to three years. I will be keeping schoolteacher's children so that will be ten  
8 months out of the year. The hours, my operating hours would be 7:30 in the morning to  
9 4:30 in the afternoon. My driveway is fairly deep, at least four to five cars can park  
10 comfortably in it and backing out would not be a problem. There's nothing, you know,  
11 you know, blocking the view of it and there's very little traffic on my street. My back  
12 yard is not fenced, as Mr. Price noted, but I have very heavy landscaping completely  
13 around the yard. I also have a double deck, which he showed and it has gates on it.  
14 And I live in a community where there is a homeowner's association and I've spoke to  
15 several members of the homeowner's association and it would not be a problem. In  
16 closing, caring for children has not only been a passion and joy, but a big service to  
17 people in our area. I hope that you will continue to let me do this service. And I thank  
18 you for your time. And this is my husband.

19 CHAIRMAN BROWN: Mr. Strack did you have anything that you want to add?

20 **TESTIMONY OF MR. STRACK:**

21 MR. STRACK: No other than the fact that I'm just here for support. We've been  
22 married for over forty years and that uniquely qualifies her to have the patience to be in  
23 this business. She's a very extraordinary lady.

1 CHAIRMAN BROWN: I'm sure. Can I see the photograph again of the deck,  
2 Geo, please? Thank you. Is that a gate across?

3 MS. STRACK: Yes and there's another opening on the other side, which is  
4 gated also.

5 CHAIRMAN BROWN: That answers my question on that, thank you. Additional  
6 questions for Ms. Strack?

7 MS. CAIRNS: Do the children go in the yard at all to play? I'm just wondering.

8 MS. STRACK: In the back.

9 MS. CAIRNS: But there's no, there's no fencing off the driveway.

10 MS. STRACK: No, but it's, it's heavily landscaped in the back. There's a  
11 driveway, there's hedges and [inaudible]

12 MS. CAIRNS: I mean, I understand that the bulk of the yard it hedged, but  
13 there's nothing that keeps the children from getting from the backyard onto the  
14 driveway.

15 MS. STRACK: No, but I could gate that area.

16 CHAIRMAN BROWN: That's a concern I share. I don't know exactly how thick  
17 that hedge is, but I, I've never seen a hedge I didn't think kids could probably get  
18 through that had the –

19 MS. STRACK: Not those.

20 MS. CAIRNS: You never went to my Grandma's house.

21 MR. STRACK: You can't walk through these hedges.

22 MS. STRACK: Huh-uh (negative), no.

23 CHAIRMAN BROWN: I'm sorry?

1 MR. STRACK: You can't walk through the hedges, they're, they are a natural  
2 barrier.

3 MS. STRACK: There, there's hedges and then there's hedges in front of it. So  
4 there's two sets of hedges.

5 MS. PERRINE: What kind of hedges are they?

6 MS. STRACK: Indian Hawthorns and I don't even know what the others are.

7 MR. STRACK: And Boxwoods.

8 MS. CAIRNS: I'm not going through that.

9 CHAIRMAN BROWN: Additional questions for the Stracks? All right, oh I'm  
10 sorry.

11 MS. PERRINE: And, I have one. Have you already, you've been operating?

12 MS. STRACK: Yes I have, closed down.

13 MS. PERRINE: How long -

14 MS. STRACK: When was I closed down?

15 MS. PERRINE: How long had you been operating?

16 MS. STRACK: About 14 years.

17 MS. PERRINE: And you were just -

18 MS. STRACK: I was closed down in November, yes.

19 CHAIRMAN BROWN: Ms. Strack if you've been operating for 14 years, why are  
20 you coming to the Board now?

21 MS. STRACK: Well this is a passion of mine keeping children and I hope that I  
22 can do it again. I hope I can do it and make it right and, and do this again.

23 CHAIRMAN BROWN: Why did you close down in November?

1 MS. STRACK: I was closed down by Social Services somebody made a  
2 complaint. And when she came out there was six children.

3 MS. PERKINS: Because you didn't have the necessary paperwork, zoning or -

4 MS. STRACK: Right. And I'm hoping now to make that right.

5 CHAIRMAN BROWN: And further questions? All right, thank you very much.  
6 Now, Rick and Missy O'Connor.

7 **TESTIMONY OF RICK O'CONNOR:**

8 MR. O'CONNOR: Mr. Chairman, ladies and gentlemen, I'm Rick O'Connor and  
9 this is my wife Missy. As new parents I cannot emphasize how important it is for us to  
10 have quality childcare. We've all submitted letters and we're all here today in support of  
11 Gerry. When we found Gerry, it was God sent for us. We were in different church  
12 programs, we were in different daycares and this environment is totally, it's a loving  
13 environment, a structured environment. These kids eat home cooked meals. It's totally  
14 different than anything we've ever, ever experienced, okay. Our two year old daughter  
15 looks at Gerry as a second Grandmother to her and when she was shut down in  
16 November, to this day, everyday she asked to go to Gerry's house and I ask that y'all  
17 and, out of the kindness of your heart vote for the Variance or for this, this, this proposal  
18 to, to vote in favor of it.

19 **TESTIMONY OF MISSY O'CONNOR:**

20 MS. O'CONNOR: I do want to say one thing as well. I, I am a teacher and Gerry  
21 does keep teacher's children. And for us to go to work and try to give the best childcare  
22 for the community's children I can honestly say that I know that our children are getting

1 the best childcare at her house. And as a teacher, I'm saying the best education for  
2 them as well. Thank you for you time.

3 CHAIRMAN BROWN: All right, thank you, any questions for the O'Connor's? All  
4 right thank you, Sally Turbeville.

5 **TESTIMONY OF SALLY TURBEVILLE:**

6 MS. TURBEVILLE: My name is Sally Turbeville, thank you for your time. I am a  
7 neighbor of, of Gerry's. I live, our properties back up to each other and there has never  
8 been any problems. And it's saddening that she's not with the children because it gave  
9 me great pleasure of watching the children, you know. And I have had on several  
10 occasions to interact with the children and the love and the care that I see with the  
11 mothers and the fathers and Gerry and the children is a blessing to me. And I hope that  
12 you will allow her to continue doing this.

13 CHAIRMAN BROWN: All right, thank you ma'am. Any questions for Ms.  
14 Turbeville? Thank you. Chris Loch.

15 **TESTIMONY OF CHRIS LOCH:**

16 MR. LOCH: My name is Chris Loch, thank you for your time. I wanted to just  
17 reiterate what Rick O'Connor said. I've got a two-year-old son and I've got a baby on  
18 the way in two weeks. We've had no plans or strategies to find anybody else. There is  
19 nobody else in our, in my wife and I's eyes to keep our kids. My son loves Gerry very  
20 much and I just don't have any other, I don't want to have to go another route. If there's  
21 anything ya'll can do to get us back where we were and we're very, very pleased with  
22 her services and I just hope all this works out.

1 CHAIRMAN BROWN: Thank you sir. Any questions for Mr. Loch? Thank you,  
2 Teresa Farrell?

3 **TESTIMONY OF TERESA FARRELL:**

4 MS. FARRELL: Good afternoon, Teresa Farrell and I'm the Director of Guidance  
5 at Spring Valley High School. My daughter Alexis goes to Gerry's for the last while. I've  
6 seen too many teachers leave the education field because they don't have a safe  
7 environment to send their children to and Gerry provides this safe environment. A lot of  
8 teachers don't want to send their children to a daycare where they line up the children  
9 and they have to sleep that way. And I protect my daughter, I see all sorts of  
10 dysfunctional families and I protect my daughter and I believe that Gerry provides that  
11 safe, nurturing, welcoming atmosphere and environment for my daughter. I hope you  
12 let her continue.

13 CHAIRMAN BROWN: Questions for Ms. Farrell?

14 MR. TOLBERT: Ms. Farrell, how did you feel when this was shut down?

15 MS. FARRELL: Devastated.

16 MR. TOLBERT: What did you think, what was your opinion?

17 MS. FARRELL: I, I didn't understand why because she provides such great care  
18 and I've seen things that happen to children when they aren't cared for and I knew that I  
19 had faith in her, I just didn't understand why that would happen.

20 CHAIRMAN BROWN: Any additional questions for Ms. Farrell? Thank you  
21 ma'am. Charles Small? Is he in here? Okay, all right, thank you. Will Batson? Jay  
22 Geddings?

23 **TESTIMONY OF JAY GEDDINGS:**

1 MR. GEDDINGS: My name is Jay Geddings. Ms. Strack is my mother-in-law,  
2 probably fair to tell y'all that, but we, my wife and I have two children and she helped us  
3 with both of those, probably more often than she liked. But just, I've been in their family  
4 for 12 years and I've just observed seeing the love she's given every kid and I mean at  
5 the end of every school year, the parents, Ms. Strack, I mean, the kids are upset and I  
6 just, if you could see the family love and atmosphere that they even give each other I  
7 think you would, you would, think you would probably approve this. But she's taken  
8 great care of my kids. She's been a fantastic mother-in-law as well. The back yard I  
9 wanted to speak on, you're asking what kind of bushes they were. They're  
10 Pittosporums, there's Pittosporums, there's Wax Myrtles back there, there's some very  
11 thick Indian Hawthorns and everything so it's, it's extremely thick and you couldn't even  
12 crawl through it. So, you were asking that earlier.

13 CHAIRMAN BROWN: Questions for Mr. Geddings? All right, thank you sir.  
14 Carol Beatty.

15 **TESTIMONY OF CAROL BEATTY:**

16 MS. BEATTY: Good afternoon, my name's Carol Beatty and I'm the  
17 grandmother of one of the children that Gerry has kept and my daughter is a school  
18 teacher and this little girl just loves going there. And I know she gets exceptional care  
19 and everything is just clean and meticulous and my daughter could not teach if Gerry  
20 did not keep her child. So, anyway, thank you.

21 CHAIRMAN BROWN: Questions for Ms. Beatty? Thank you ma'am. That  
22 completes the people signed up to speak on this case. There is no one signed up in  
23 opposition. The Chair will entertain a discussion. Hearing - I'm sorry.

1 MS. CAIRNS: I just, just the requirement of the fenced in yard I just feel that  
2 there might be a need to add a fence across the drive. I don't have any problem with  
3 the natural barrier sufficing in the back, but I just think that as the children running about  
4 in the yard that there should be some protection from running into the driveway.

5 CHAIRMAN BROWN: Okay, point well taken. Any additional discussion?  
6 Hearing none the Chair will entertain a motion.

7 MR. PRICE: Mr. Chair, I just wanted to point out, you know, from going out there  
8 and seeing the, visiting the site, right here a little open area, and I guess you can see  
9 that kind of leads to the street and I believe the other area is on the gate, you'll probably  
10 see that from the right, right back there as you actually access the rear of the property.  
11 So I mean that's, those will probably be the two areas that need to be -

12 MS. CAIRNS: Are those on opposite sides of the house?

13 MR. PRICE: Yes. The other part was on the rear on your left and then there's  
14 that so -

15 CHAIRMAN BROWN: I was under the impression that was the same opening.  
16 There are two different?

17 MR. PRICE: Yes.

18 CHAIRMAN BROWN: Okay. Ms. Strack is that a problem for you?

19 MS. PERRINE: I have a question for Geo. I don't know exactly how to ask this,  
20 was there a neighbor or somebody in the neighborhood that complained or do we  
21 know?

22 MR. PRICE: I wouldn't know that because I believed as she stated DSS was the  
23 one that closed her down as opposed to, to zoning.

1 MS. PERRINE: Okay. Can I ask Ms. Strack do you -

2 CHAIRMAN BROWN: Could you come back to the podium please ma'am?

3 MS. PERRINE: - do you know?

4 MS. STRACK: I don't know. I don't know.

5 MS. PERRINE: And then it was just someone from DSS that came to your  
6 home?

7 MS. STRACK: Yes, I think it was a neighbor but I don't know. So that, I, I have a  
8 signed petition and, and a handout from my neighbors on my street and there was  
9 100% support from them, so.

10 MS. PERKINS: So did you make application, or you make an application back to  
11 go through DSS or you don't have to do that?

12 MS. STRACK: I can't do anything until zoning.

13 MS. PERKINS: Yeah, that's what I'm asking, so okay.

14 MR. PRICE: I mean a lot of the, a lot of the applicants that'll come, that are  
15 coming before you today and I believe you, you can go all the way back to Ms. Murray,  
16 now she was not there for a year, but she was close. As we tried to get that little part in  
17 the ordinance amended to bring daycares before you and I believe Ms. Strack actually  
18 came to us a while ago, probably right after she was closed down by DSS. I guess she  
19 resubmitted and of course we actually had to hold the application.

20 MS. PERRINE: Do the parents of the children that you were taking care of, do  
21 they live like close beside where you are?

1 MS. STRACK: Pretty, pretty close, yes. Some, one lives in Wood Creek or  
2 Wood Lake I think but they're in the area, they're all schoolteachers. So they teach in  
3 Richland Two. Windsor and Spring Valley and North Springs.

4 MS. PERRINE: Okay.

5 MS. PERKINS: I, I think one of the questions well in my mind when I ask you  
6 about that was that, you know, was there a reason other than your operating, you know,  
7 out of the ordinance as opposed to anything since you care so much about children, you  
8 know, I heard the testimony. That was one thought that went through my mind and then  
9 why you were closed down.

10 CHAIRMAN BROWN: Any additional questions while Ms. Strack is at the  
11 podium? All right, thank you. Any further discussion? Hearing none the Chair will  
12 entertain a motion.

13 MS. CAIRNS: I make a motion that we approve Special Exception 06-08 with the  
14 condition that appropriate fencing be applied to completely enclose the back yard with a  
15 combination of natural hedges and fencing.

16 CHAIRMAN BROWN: Is there a second?

17 MS. PERKINS: Second.

18 CHAIRMAN BROWN: It's been moved and seconded that Case 06-08 SE be  
19 approved with the condition that the entire back yard be enclosed with either fencing or  
20 natural hedges. All in favor of the motion signify by raising their hand? Opposed?

21 *[Approved: Cairns, Branham, Tolbert, Brown, Perkins, Perrine]*

22 CHAIRMAN BROWN: Ms. Strack, you have your Special Exception. Mr. Price  
23 will be in touch with you.

1 MR. BRANHAM: Mr. Chair, I'd like to move for a five-minute recess.

2 CHAIRMAN BROWN: It's been moved for a five-minute recess is there a  
3 second?

4 MR. TOLBERT: Second.

5 CHAIRMAN BROWN: All in favor?

6 *[Approved: Cairns, Branham, Tolbert, Brown, Perkins, Perrine, Ashford]*

7 CHAIRMAN BROWN: Okay, if you'll excuse us for just a couple of  
8 minutes.

9 *[Recess]*

10 CHAIRMAN BROWN: Is there a motion to go back into open session?

11 MR. TOLBERT: So moved.

12 MS. PERKINS: Second.

13 CHAIRMAN BROWN: All in favor, please raise your hands?

14 *[Approved: Cairns, Branham, Tolbert, Brown, Perkins, Perrine, Ashford]*

15 CHAIRMAN BROWN: We'll call the meeting back to order. Mr. Price, next case  
16 please.

17 **CASE 06-09 SE:**

18 MR. PRICE: The next case is Case 06-05 Special Exception. The applicant is  
19 requesting the Board of Zoning Appeals to grant a Special Exception to permit the  
20 establishment of a family daycare on property zoned RS-MD, Single Family Medium  
21 Density. The applicant is Lottie Powers. The location is 223 Sunnydale Drive. The  
22 existing zoning as stated is RS-MD. The parcel is a little more than a fifth of an acre.  
23 The existing land use is residential. The subject property has an existing single-family

1 residential structure and an inclining driveway leads to the home. The rear of the  
2 property is not enclosed by a fence. The applicant proposes to establish a family  
3 daycare for a maximum of 12 children. The ages of the children would range from  
4 newborn to 12 years of age. The proposed hours of operation are 6:00 a.m. to 6:00  
5 p.m. The subject property is located in the New Castle West Subdivision. There's a  
6 case history on this. Special Exception Case 97-006 SE was previously denied for the  
7 establishment of a daycare for six children.

8 MS. PERKINS: You said 06-05 is it 06-05? The number 06-09 I think you said  
9 06-05.

10 MR. PRICE: Oh I'm sorry it's 06-09.

11 CHAIRMAN BROWN: All right Ms. Powers, come forward, tell the Board what it  
12 is you're wanting to do please.

13 **TESTIMONY OF LOTTIE POWERS:**

14 MS. POWERS: My name is Lottie Powers and I need to, I want to, I'm, currently  
15 I'm operating a, a 12 children, but when my children, when I get them I keep the from  
16 infants until they're like school age. So when they're school age, when they're school  
17 age it's like all these children leave at one time and my census drops barely, but it still,  
18 the overhead and all is there and I would, it would be easier to like, you know, for to go  
19 home and I would - and I loved teaching the children, that's my main thing because the  
20 children that I take care of I like, you know, to teach them because most of them have  
21 young mothers. And so I teach them and I do what I can to be there to, you know, help  
22 the parents out.

23 CHAIRMAN BROWN: Now I understand you're keeping 12 children now?

1 MS. POWERS: Yes, sir.

2 CHAIRMAN BROWN: And what's your authority for doing that?

3 MS. POWERS: Oh I, I am, I'm licensed.

4 MR. PRICE: I don't believe she's, if I'm correct she's not keeping the 12 children  
5 at this location, you're at another location.

6 MS. POWERS: No, no, yes.

7 CHAIRMAN BROWN: Oh I see, okay.

8 MS. PERKINS: So what, what, you're keeping 12 children at another location?

9 MS. POWERS: Yes.

10 MS. PERKINS: So are you occupying two homes, who's home is it?

11 MS. POWERS: No, I've been there over nine years. This is my home.

12 MS. PERRINE: Are you just, you're working for someone else?

13 MS. POWERS: No, I'm not.

14 MS. CAIRNS: What's the other location?

15 MS. POWERS: The other location is, it's, it's on Sunny, it's on Steadham  
16 Avenue, I've been there for nine years.

17 MS. CAIRNS: Which is your home, this one?

18 MS. PERKINS: So is it out of the county's jurisdiction or something, is that what  
19 you're telling us? We're trying, I'm trying to figure out, you have 12 children that you're  
20 keeping now.

21 MS. POWERS: I don't have a total of 12, I only have six.

22 MS. PERKINS: Okay.

1 MS. POWERS: That's what I'm saying that's when they put them in the public  
2 school, the census goes way down because my children, I basically raise them in there  
3 and when they get to a certain age you have something like four or five going out into  
4 the school system and here you have a -

5 MS. PERKINS: Okay, I'm, I still don't understand, you have to bear with me a  
6 little bit cause I'm still confused.

7 MS. POWERS: Yes, ma'am.

8 MS. PERKINS: I understand that you don't have 12 children that, but do you live  
9 in this other house?

10 MS. POWERS: No, ma'am.

11 MS. CAIRNS: Is it a home?

12 MS. POWERS: Yes, but they, I'm renting this -

13 MS. PERKINS: So, hold it, hold it, don't, let me ask you, okay, you don't live in  
14 that house?

15 MS. POWERS: No.

16 MS. PERKINS: Who lives in that house?

17 MS. POWERS: No one.

18 MS. PERKINS: So you, it's rental property or something?

19 MS. POWERS: Yes.

20 MS. PERKINS: That you rent?

21 MS. POWERS: Yes.

22 MS. PERKINS: To keep children in it.

1 MS. POWERS: Yes. They said I'm going to, I've been there a long time and I  
2 was granted the [inaudible] children there. I'm licensed.

3 MS. PERKINS: Is it in the, is it in the county?

4 MS. POWERS: Well I get my license through the city, you know, but I get, you  
5 know, DSS license also, but.

6 CHAIRMAN BROWN: But it's located in the City of Columbia?

7 MS. POWERS: Yes, yes, you can say that. It's close to downtown.

8 MR. PRICE: What, what's the address of the place.

9 MS. POWERS: It's 404 Steadham Avenue, right off Duke Avenue.

10 MR. PRICE: What is that address again?

11 MS. POWERS: 404 Steadham Avenue.

12 [Inaudible discussion]

13 MS. CAIRNS: So you, so, I think, so what you're proposing to do is take the  
14 children that you're currently keeping at 404 Steadham and just relocate that into your  
15 home?

16 MS. POWERS: Yes.

17 MS. CAIRNS: And get all the - okay. So it's one daycare that's trying to  
18 relocate, okay.

19 MS. POWERS: Yes.

20 MR. BRANHAM: Why are you doing that?

21 MS. POWERS: Well when, just like I was saying when, it's not always 12  
22 children there and I have a heavy overhead and when, when my census drop way down  
23 sometimes I only have three or four children.

1 MR. BRANHAM: So where are you going to get the other six to put in your  
2 home?

3 MS. POWERS: Sir?

4 MR. BRANHAM: Where do you plan to get the other six that you, that you're  
5 asking for a Special Exception to keep in your home?

6 MS. POWERS: Well at some time when I was there I had 12. I've had 12, it's  
7 not that I'm going have, you know, I would like to zone for 12, but the majority of the  
8 time you have them coming and you have them going. They never really all, you know,  
9 stay.

10 MS. PERRINE: Well if, if you're at a place now where you can have 12, right?

11 MS. POWERS: Um-hum (affirmative).

12 MS. PERRINE: Why do you want to -

13 MS. POWERS: Like I was saying, when your census drops you've got three or  
14 four children, but your overhead remains the same.

15 MS. PERRINE: So if you move to a different location -

16 MS. POWERS: If I move to my home because I, I'm, currently I'm doing two of  
17 everything.

18 MS. PERRINE: Oh, okay.

19 MS. POWERS: And with the grace of God I've survived for nine years.

20 MS. PERKINS: So if your census dropped -

21 MS. POWERS: I'm at home it's a different story.

1 MS. PERKINS: Okay, when your census dropped and you don't have 12  
2 children at all times, what particular, how many months out of the year do you have 12  
3 children?

4 MS. POWERS: Well sometimes it's only -

5 MS. PERKINS: Give me an average.

6 MS. POWERS: - three or four, sometimes it's only three or four.

7 MS. PERKINS: That you have 12 to watch.

8 MS. POWERS: That I have 12 children.

9 MS. PERKINS: So why ask, why ask for twelve children as opposed to six?

10 MS. POWERS: Well the whole area, it's a, it's a whole different area, you know.  
11 Where I am now that's one type of area, but where my home is, it's a whole different  
12 area.

13 MS. PERKINS: Meaning?

14 MS. POWERS: The different type people we have.

15 MS. CAIRNS: Is it, is it that you sense that with the home daycare in this location  
16 the ability to keep 12 children will be easier because of being in a residential location?

17 MS. POWERS: Yes, yes.

18 CHAIRMAN BROWN: And there will be more demand for it is that?

19 MS. POWERS: Yes.

20 MS. PERKINS: How would you, I, I have the same problem. If, you know, the  
21 likelihood of parents showing up, I don't think you can accommodate them, your  
22 driveway from what I'm looking at.

1 MS. POWERS: That, that driveway you can put actually six cars on it. And then  
2 right there beside the house you can put another car and then my neighbor that's right  
3 there in between, right on the side of Mr. [inaudible] on the side of that is, you can put  
4 [inaudible] car and then my neighbors they, they don't have no problem with using their  
5 driveway. And then as far as coming out, I, I turn after you come out, because the  
6 traffic is not heavy on my street at all, at all and when you come out you can actually  
7 turn right there in the yard, like I come out through right there sometimes. But, you  
8 know, my property extends a little further over than the drive cause I don't have no  
9 problem [inaudible] on my grass. I have no problem with that. But it'll accommodate  
10 more than 12, just they can park right there and come on -

11 MS. PERKINS: Okay even if they could, even if, I don't see it and I understand  
12 that. How would they turn around and come out of there?

13 MS. POWERS: I just told you, they could turn around right there.

14 MS. PERKINS: But if you had six cars there, how would the two in, towards your  
15 house, how would they turn around and, and come out of your drive?

16 MS. POWERS: I just said, right there they, all they have to do is turn. Like that  
17 car sitting right there and my car, all I have to do is right there [inaudible] and most the  
18 time I come out right back through there.

19 MS. PERRINE: Do you own this property?

20 MS. POWERS: Yes ma'am, it's my, it's my house.

21 MR. BRANHAM: How many people live in that home?

22 MS. POWERS: What the neighbors?

23 MR. BRANHAM: No, in that home.

1 MS. POWERS: Well right now, by the time, when I'm approved or whatever, by  
2 that time it's only my daughter who is going to help me, you know, clear out, you know,  
3 cause I'm clearing out rooms and stuff, and her son, they're there. She'll be moving  
4 back in her house, you know, before, even, I don't know how soon this would be even if  
5 and when it happened, but that's all that's there. Otherwise it's just me, yeah I live  
6 alone.

7 CHAIRMAN BROWN: How much of the house is going to devoted to the -

8 MS. POWERS: I have, I've already given the living room suit away and I have  
9 another, have a front, there's two bedrooms right there that will be used, so that's a total  
10 of three rooms back there and then I have my kitchen and den, you know, for a TV time  
11 or whatever. I have a huge bedroom and in the front of that is a whole other room there  
12 that could be used for TV time or something like that, so.

13 CHAIRMAN BROWN: How many bedrooms are in this house?

14 MS. POWERS: It's three.

15 CHAIRMAN BROWN: Well one of those would be your bedroom, isn't that  
16 correct?

17 MS. POWERS: Yes, but just like I said it's quite huge. They can use the whole  
18 house, it doesn't matter to me, except that, just that little area.

19 MR. TOLBERT: What do you plan to do for the outside to, for protection?

20 MS. POWERS: Well I already have my fence. I already have that, you know, to  
21 fence in and, what you call that, what you call, the mulch or whatever. I would be using  
22 some of that, but that right there will be gone right there. That's my grandson's  
23 basketball goal, that'll be gone. But I'll use, you know, grass or something like that, but

1 right now I'm thinking about the little soft mulch like and I, you know, what you talk about  
2 other things for the children to play on stuff like that?

3 CHAIRMAN BROWN: Is that a doghouse I see in the back yard?

4 MS. POWERS: No, that's a storage house.

5 MS. PERKINS: On your application you said, you, you checked that you didn't  
6 have a fence in, in the yard, in the rear yard.

7 MS. POWERS: I didn't what?

8 MS. PERKINS: You checked no.

9 MS. POWERS: Checked no what?

10 MS. CAIRNS: For the fence.

11 MR. TOLBERT: No fence.

12 MS. POWERS: It's no fence, I said I already have the fence, it's to be put up. I  
13 just, I already have a fence put up, I said I already have the fence for the yard. Yes I  
14 already have it.

15 MS. PERRINE: You don't have the fence up, you've just got the fencing  
16 material, is that right?

17 MS. POWERS: Yes, yes ma'am.

18 CHAIRMAN BROWN: Any further questions for Ms. Powers? All right, thank  
19 you ma'am. There's no one signed up in opposition. The Chair will entertain a  
20 discussion.

21 MS. PERKINS: Mr. Price did I, did I hear you say that at this location she had  
22 applied for a Special Exception or is it at the other location?

1 MR. PRICE: No, it was at, according to our records at this location in '97 a  
2 Special Exception was requested and it was denied by the Board.

3 CHAIRMAN BROWN: Personally I'm concerned, there doesn't seem to be any  
4 good plan for taking care of these children. And I haven't heard any kind of detail and  
5 I'm also concerned, share the concern that I think Ms. Perkins has with trying to have  
6 potentially 12 cars coming and going to that location given the, the terrain if you will and  
7 the topography on the lot. Both of those, it just doesn't seem to be any clear cut plan for  
8 taking care of these children, but that's, that's my personal concern. Further  
9 discussion? Hearing none the Chair will entertain a motion.

10 MS. PERKINS: Mr. Chair, I'd like to make a motion to deny Special Exception  
11 06-09 based on, you know, there are no clear plans for taking care of the children and I  
12 don't see how [inaudible] 12 cars. I was basically saying what he said, I'm sorry. I just  
13 think it should be denied.

14 CHAIRMAN BROWN: Is there a second?

15 MR. BRANHAM: I'll second.

16 CHAIRMAN BROWN: We've moved and seconded that the Case 06-09 SE be  
17 denied. All in favor of the motion signify by raising their right hand? Opposed?

18 *[Approved to deny: Cairns, Branham, Tolbert, Brown, Perkins, Perrine, Ashford]*

19 CHAIRMAN BROWN: I'm sorry Ms. Powers your request has been denied. Mr.  
20 Price will be in touch with you. Mr. Price next case.

21 **CASE 06-10 SE:**

22 MR. PRICE: The next case is Case 06-10 Special Exception. The applicant is  
23 requesting the Board of Zoning Appeals to grant a Special Exception to permit the

1 establishment of a family daycare on property zoned RS-HD, which is, excuse me, I  
2 have Medium Density, it's actually High Density. The applicant is Carla Coletrain. The  
3 location is 325 Beechwood Lane. As stated, the existing zoning is Single Family High  
4 Density. The parcel size is a little more than a fifth of an acre. The existing land use is  
5 residential. The subject property has an existing single-family residential structure on it  
6 and an inclining single car driveway leads to the home. The rear of the property is not  
7 enclosed by a fence. The applicant proposes to establish a family daycare for a  
8 maximum of six children. The ages of the children would, would range from newborn to  
9 eight years of age. The proposed hours of operation are 7:00 a.m. to 6:00 p.m. The  
10 subject property is located in the Raintree Subdivision. And there is no case history for  
11 this parcel.

12 CHAIRMAN BROWN: Ms. Coletrain if you'd come forward and state your name  
13 and tell the Board what it is you want to do please.

14 **TESTIMONY OF CARLA COLETRAIN:**

15 MS. COLETRAIN: My name is Carla Coletrain. I'm here for, to request Special  
16 Exception to open an in-home family daycare. I live in Raintree, 325 Beechwood Lane  
17 in Raintree Acres. Prior to moving to this house we lived in Willow Creek Apartments  
18 and I had an in-home daycare there for the past three years. Moving here that canceled  
19 my license and I never had to go through zoning before so this is my first time doing  
20 this, but I have cared for children in my home as well as in the school districts before.  
21 We are in the process of doing things to the house where I am going to add a fence, but  
22 I didn't want to do, do that if I wasn't going to get approval for the daycare in my home  
23 right now. If I do get approval then we are going to put up a fence, because I do care

1 for children. I have one that came with me and she just refused to go anywhere else, so  
2 I kind of put myself on the line to care for her and she's here with me, the little baby  
3 there. These are my nieces and nephews and I don't have children of my own, but I  
4 always have somebody's child at my house cause they don't like going home. And I do  
5 wish that you grant me permission to do this out of my home, because I do offer quality  
6 child care for children and I would like to be a stay at home mom, so doing that I would  
7 like to care for other people's kids as well.

8 CHAIRMAN BROWN: Do you currently have any children of your own?

9 MS. COLETRAIN: I don't have any children of my own.

10 CHAIRMAN BROWN: Questions for Ms. Coletrain?

11 MS. PERKINS: How would you provide, how would they, how would someone  
12 exit your home now, as when you lived in an apartment complex they could just back  
13 out so how would you accommodate? They can't back out now.

14 MS. COLETRAIN: When we back, when we come down the driveway  
15 sometimes we back out to the point where it's right behind the mailbox. Those trees  
16 that you see there, we are clearing out the back yard getting ready, preparing for putting  
17 up fencing and doing the back yard, because I'm going to have a play area in the back  
18 anyway because children are always at my house. But you can back out and come  
19 across the front of the yard, because we are going to put in a circular drive, we're just  
20 not going to do it right now because of finances, so.

21 MS. PERKINS: I think that's a moot question.

22 MS. CAIRNS: How many, from your house, I'm sorry, from your house to the cul  
23 de sac, how many more homes are there?

1 MS. COLETRAIN: I think it's three houses. I think it's three houses to the left of  
2 me. Yeah, there's three houses to the left of me on the left hand side. I'm not sure  
3 about the across the street.

4 MS. CAIRNS: I mean, so you're end of the street gets very low traffic?

5 MS. COLETRAIN: Yes. There's hardly any traffic. You can actually, I have my  
6 children sit and count the cars because there's not any traffic that comes and goes. I  
7 don't know if the people are home, but I do talk to the neighbor that's next door to me  
8 they are a detective, I think a detective and an investigator. And I talk to them prior to  
9 moving there and then there's some people that live in the cul de sac across the street  
10 from me that I spoke with prior to moving there because we kind of, I kind of came to  
11 the neighborhood to see how it was before we moved in the neighborhood and they're  
12 pretty friendly people. And, you know, I told them what I wanted to do and they had no  
13 problems with it and then there's another lady that lives like right across from me on the  
14 corner. She had a daycare I think there at one point and then she closed it because her  
15 husband was sick.

16 CHAIRMAN BROWN: Further questions for Ms. Coletrain? Are there going to  
17 be any, you said two employees. It'll be you and someone else caring for the children?

18 MS. COLETRAIN: Yes me and my, my husband and my Aunt. He works two  
19 days when he's off. So I have two days off during the week and then if he or myself  
20 can't be there then my Aunt comes in to help us out.

21 CHAIRMAN BROWN: Further questions for Ms. Coletrain? All right thank you  
22 ma'am. Any discussion from the Board? Hearing none the Chair will entertain a  
23 motion.

1 MS. CAIRNS: I make a motion that the Board approve Special Exception 06-10  
2 with the condition that the back yard be fenced in so as to meet the requirements of that  
3 part of the code.

4 MS. PERKINS: Second.

5 CHAIRMAN BROWN: It's been moved and seconded that Case 06-10 SE be  
6 approved with the condition that the required fencing for the back yard be installed prior  
7 to operating the daycare. All in favor signify by raising their hand?

8 *[Approved: Cairns, Branham, Tolbert, Brown, Perkins, Perrine, Ashford]*

9 CHAIRMAN BROWN: All right Ms. Coletrain you have your request. Mr. Price  
10 will be in touch with you. Next item on the agenda is approval of the March minutes.

11 MR. PRICE: Excuse me, before we go to that I will be sending, if we can just  
12 kind of go back up to the other business, I will be sending y'all some information. I don't  
13 know how much it really applies to the Board, this is more for the Planning Commission,  
14 but there's going to be a, what is it, yeah a seminar, what's her name? Yeah Kathy  
15 Hazelwood will be in to discuss the ethics regarding I guess sitting on a Board or a  
16 Commission even though I think most of that topic is going to cover the possible seating  
17 of the Planning Commission such as having designated seats for each commission, you  
18 know, architect, planner, lawyer, that type.

19 CHAIRMAN BROWN: Who's gonna do that?

20 MR. PRICE: Kathy Hazelwood.

21 MR. FARRAR: She's the general counsel for the State Ethics Commission. You  
22 know, she'll come in and probably terrify you thinking everything you do is, you know,  
23 some problem with the Ethics Act, but she's a really nice lady. She'll give you, it's

1 probably, and it's like Geo says more for the Planning Commission. There are some  
2 potential ethical, you know, conflict of interest issues that come up principally that's  
3 probably not a bad idea, but I don't know, how long is it a couple hours or?

4 CHAIRMAN BROWN: When is that going to be?

5 MR. PRICE: It's going to be on the 20<sup>th</sup> of April. As I stated I will make copies of  
6 the packages, packages and get them to you.

7 MS. CAIRNS: What time, what time?

8 MS. PERKINS: What time?

9 MR. PRICE: That's probably, probably 4:00 o'clock.

10 MS. PERKINS: And it's going to be here?

11 MR. PRICE: Yes.

12 CHAIRMAN BROWN: But you'll send this with further information?

13 MR. PRICE: Yes.

14 CHAIRMAN BROWN: Anything further?

15 MS. CAIRNS: I, I would like under Other Business I know Chairman Brown  
16 wasn't here last meeting, but - and as I understand it's within our authority as Board  
17 members, but we approved a Variance 05-106 last Board meeting, which I feel it would  
18 be most appropriate for the Board to reconsider their approval. A review of the minutes  
19 clearly, it was a request for a Variance, which requires an articulated hardship and the  
20 applicant offered no hardship outside of the, the issue that he may need to redesign his  
21 plan if he didn't get the approval. It was to eliminate the 5' setbacks as required by the  
22 landscaping plan. It was the parking lot down, the sort of Gamecock's parking lot and I  
23 just would like to formally request that the Board reconsider the approval of that. I think

1 that it could, it's, I mean, there was no articulated hardship and yet we approved it and  
2 I'm not so sure that that's a good precedent.

3 CHAIRMAN BROWN: Okay so you want to make a motion that that case be  
4 reconsidered?

5 MS. CAIRNS: If that's yeah, if that's how to appropriately.

6 MS. PERKINS: I second that.

7 CHAIRMAN BROWN: You second that?

8 MS. PERKINS: Yeah, I'll second.

9 CHAIRMAN BROWN: I'm going to call for the vote in a second, but I'm going to  
10 abstain from voting cause, since I wasn't here -

11 MS. CAIRNS: Correct I understand you were not here.

12 CHAIRMAN BROWN: - for the, the original hearing. It's been moved and  
13 seconded that the Case, and I'm not sure what the case number is, but I'm sure that Mr.  
14 Price knows. I don't have the minutes.

15 MS. CAIRNS: It's, it's, it was 05-106 V.

16 CHAIRMAN BROWN: That Case 05-06?

17 MS. CAIRNS: 106.

18 CHAIRMAN BROWN: 05-106 be reconsidered. All in favor of that motion signify  
19 by raising their hand? Opposed? All right well that's only four votes. Wait a minute  
20 let's vote again, I'm confusing myself here. The motion is to reconsider the case, all in  
21 favor of the motion to reconsider signify by raising their hand. And that's four. Those  
22 opposed to the reconsideration? Two, all right.

1 *[Approved: Cairns, Tolbert, Perkins, Ashford; Opposed: Branham, Perrine; Abstained:*  
2 *Brown]*

3 CHAIRMAN BROWN: Motion is approved. Mr. Price if you'll notify the applicant  
4 that there has been a motion by the Board to reconsider that Variance request.

5 MR. PRICE: Okay and it will be on our next month's agenda for, to rehear that  
6 case?

7 CHAIRMAN BROWN: Right.

8 MR. ASHFORD: It'll be when? It'll be when?

9 MR. PRICE: It'll be on next month's agenda.

10 CHAIRMAN BROWN: It's my understanding that the ordinance no longer  
11 requires the articulation of a specific hardship is that, am I mistaken in that?

12 MS. CAIRNS: All right, it's page, I even have it marked. Page 81 is the standard  
13 for a Variance.

14 MR. FARRAR: It's interesting because, I mean, I've looked at Variances over the  
15 years and you're never going to see the word "hardship" in there. I mean, I think people  
16 look at that and say the extraordinary and exceptional conditions pertaining to the piece  
17 of property under the standard and review of subsection 26-57(F)(2)(a), you know, but  
18 you're not going to see, you know, to hear the question what's the hardship it does not  
19 really apply. You also have some conceptions about, and this is actually in the code,  
20 about you can't have financial consideration be a hardship and that's inconsistent with  
21 the case law. You obviously can consider that, you just can't make that the exclusive  
22 basis. So, I mean, there's some problems with, with interpreting the Variance criteria,  
23 but you do have the standard of review that's at, that's at subsection (2)(a) through (d)

1 and you're supposed to make a specific finding with respect to each one. So, I mean,  
2 that's, that's the criteria, but in terms of the actual word "hardship" that's not, that's not  
3 in the code. And I don't think it ever has been in the code.

4 CHAIRMAN BROWN: Well in any event the motion's been made and approved.  
5 Mr. Price, if you'll notify the applicant and put that case back on the agenda.

6 MS. PERKINS: So wait, hold it, let me, let me ask you. So you're saying that, it  
7 clearly does not allow you, when, when you're granting of a Variance and their, what we  
8 call "a hardship" you don't have to do that anymore?

9 MR. FARRAR: No, what I'm saying is that's kind of a short hand way to refer to a  
10 part of the criteria.

11 MS. PERKINS: Oh, okay.

12 MR. FARRAR: But, I mean, but in terms of, if you say what is your hardship  
13 under Section whatever, it has to specifically say, it does not say that in the code. It's,  
14 it's, you have this four prong criteria and you can certainly, like I say, 2(a) I think  
15 probably is the one that gets tagged with the, with the hardship, but it, it's essentially  
16 what is unique about your property that requires it. So and that, that could be a  
17 hardship but then we kind of use that word and carry it over and then it goes on to, well,  
18 you know, you can't exclusively have a financial hardship and, you know, if somebody  
19 comes in and says if I don't get this particular thing it's going to cost \$100,000,000.00,  
20 well, I mean, I think you would be miscarrying your obligation if you didn't consider that.  
21 I mean, obviously you've got to consider the financial impact, you just can't come in and  
22 say, well, you know, I can make a lot more money if I did this property a certain way,  
23 therefore grant me this. We if that's the only reason you're doing it, that's not going to

1 fly, but if that's one of a number of reasons I would not suggest you turn a blind eye to  
2 something like that. But again it just goes off on the hardship tangent, I mean it's, it's  
3 not going to say that specific word, but it's certainly -

4 MS. PERKINS: Apart of.

5 MR. FARRAR: - a synonym of some things that are in there probably yes.

6 CHAIRMAN BROWN: Our next item is the approval of the March minutes.

7 MS. PERKINS: We can't approve them.

8 CHAIRMAN BROWN: That's right we can't approve them.

9 MS. CAIRNS: That's what I was wondering.

10 CHAIRMAN BROWN: We can approve them with the exception of that case.

11 MS. CAIRNS: That's yeah, I mean, I would move to approve the minutes with  
12 the exception of Case 05-106 for which we've already -

13 CHAIRMAN BROWN: Okay. It's been moved that the March minutes be  
14 approved with the exception of that portion of the minutes.

15 MR. ASHFORD: I second that motion.

16 CHAIRMAN BROWN: Okay, all in favor? All right.

17 *[Approved: Cairns, Branham, Tolbert, Brown, Perkins, Perrine, Ashford]*

18 CHAIRMAN BROWN: Anything further Mr. Price?

19 MR. PRICE: No, sir.

20 MR. TOLBERT: Mr. Price I'd like to comment on the Staff that's preparing the  
21 case, they're giving a lot, we had a lot more information, don't have to do a lot more  
22 research so it ought to be appropriate that we do recognize you every now and then.

1 We get on you a lot, so we want let you know even though you running a little battery  
2 low, but everything else is done good, but the Staff has done a great job.

3 CHAIRMAN BROWN: Well, that may be a little strong, but -

4 MS. PERKINS: We appreciate, we, we like you a lot.

5 CHAIRMAN BROWN: The April Board of Zoning Appeals meeting is adjourned.

6

7

*[Adjourned at 3:10 p.m.]*