

**BOARD OF ZONING APPEALS**

August 2, 2006

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4  
5 *[Present: Cairns, Branham, Tolbert, Brown, Perkins, Perrine and Ashford*

6 Called to order: 1:06 p.m.

7 CHAIRMAN BROWN: - all of the citizens participating today and commend you  
8 for coming out in this hot weather for a meeting. At the outset I'd like to ask Mr. Farrar  
9 from the County Attorney's Office to make some introductory remarks regarding  
10 procedures of the Board.

11 MR. FARRAR: Thank you, Mr. Chairman. Good afternoon. I'm Brad Farrar from  
12 the Richland County Attorney's Office. I'm going to briefly explain the Board's process  
13 and take any questions that you might have. The Board of Zoning Appeals is what they  
14 call a *quasi* court. It's not a court of law but it's similar to a court in terms of its  
15 functioning. You'll have testimony from witnesses. Everybody will come up and speak  
16 at the podium. We'll have some exhibits that will already be in the agenda packet or if  
17 you have some late submissions you can offer those as well. The order of operations,  
18 the applicant, anybody coming up for a special exception or variance has up to 15  
19 minutes to present his or her case. You don't have to take the full amount of time but  
20 you certainly can. You can do whatever's appropriate to present your case. You can  
21 give oral testimony. You can give – if you have a video presentation or if you have  
22 handouts, what have you. You can have your witnesses during that time but it's 15  
23 minutes for the applicant for that presentation. Those in opposition have up to three  
24 minutes each. Sometimes we'll have a completely filled room so we ask for  
25 spokespersons. In this case it's not too bad today. Pretty much anybody who wants to

1 come up in opposition has up to three minutes to state your opposition to that particular  
2 case. And finally, the applicant comes back for up to five minutes of rebuttal. Now  
3 you'll notice the order of operations. The applicant goes first and last. Why is that? It  
4 comes back to the *quasi* court nature of the proceedings. The applicant bears the  
5 burden of trying to convince the Board to grant the special exception or variance. So it  
6 comes to a burden of proof type issue. The testimony will be under oath today. In a  
7 moment I'll swear everybody in as a group. Needless to save time we'll do it as a  
8 group. Keep in mind your testimony is under oath. It is being recorded. We would ask  
9 that you state your name and your address so we know, you know, that for the Record  
10 and where you live relative to the special exception or variance request. If you, you  
11 know, come in from Georgia and want to talk about a Richland County case it's  
12 probably not going to make a lot of sense but if you live, you know, 411 Elm Street and  
13 right next door is the request that's probably relevant. So that's why we need to know  
14 where you're living. Types of evidence the Board will consider, the Board will consider  
15 most things that you want to offer. However, things that are not sworn under oath for  
16 example like a petition that's just a laundry list of names, it's not going to have as much  
17 weight as somebody coming forward and testifying under oath or having a notarized  
18 document. Still look at it but again it comes back to the weight of evidence they'll afford,  
19 accord that particular offering. The effect of the Board's decision. The Board will render  
20 its decision here in open session today. That's somewhat different potentially from a  
21 court. You may have a hearing and you may have to wait several weeks or months  
22 before you get a decision from the court. You'll get a decision today. However, the  
23 decision is what I call a conditional decision. What is the condition? The minutes of the

1 meeting from which the Board's decision was held must be approved before that  
2 decision is final. So for example, you have the August Board of Zoning Appeals  
3 meeting. The minutes from today's meeting very likely will be prepared by the  
4 September meeting. So the next time we come back together the minutes will be  
5 available for the Board to approve. If the Board approves those minutes and sometimes  
6 the Board will have a minor correction. There maybe a typo, that type of thing. If  
7 there's a major or a substantive change to it like they want to revisit a particular case  
8 that could be very important. But if it's just a typo for example and they approve the  
9 minutes then you have a final decision of the Board. At that point you've got a final  
10 decision. However – there's always a however - under state law which has – this is not  
11 the Board's process but this is the state process, this is in Title VI of the *South Carolina*  
12 *Code* - anybody who is aggrieved by a decision of the Board of Zoning Appeals may  
13 appeal that decision to the circuit court. This is not complicated. You just simple state  
14 as a matter of law – not as a matter of fact but as a matter of law - why the Board got  
15 the decision wrong. You'll eventually get a hearing in front of a judge but the judge will  
16 be sitting essentially in an appellate body at that point. There won't be new testimony.  
17 You won't redo the case. You'll look at the Record that happened at this proceeding.  
18 And so you can certainly do that. Now you do not have an indefinite period of time to  
19 file an appeal. You've got 30 days from the date the decision is mailed. So in terms of  
20 comfort knowing when your decision is final when the minutes have been approved and  
21 the appeal period has run you have a final decision of the Board. I think those are the  
22 two most important things I'm going to talk about. The approval of the minutes and the  
23 appeal period. Are there any questions about either of those? Kind of basic but they

1 are important. Okay. The – a couple housekeeping items. If you do have a cell phone  
2 or pager if you could turn that to off or vibrate so we don't pick it up on the tape we  
3 certainly would appreciate that. I get questions from time to time about whether a  
4 person can come and go. Can I get up and leave during the middle of a hearing? You  
5 certainly may. This is an open public hearing. You can come and go as you like. We  
6 just ask that you exit this way. I believe the alarm will go off if you exit that way. We  
7 don't want anybody doing that unless there's a reason to. Please exit out the side door  
8 here and just please be respectful when you do that. Don't make a lot of noise because  
9 we don't want to pick that up again on the machine. The cases will proceed in the order  
10 they're listed on the agenda unless the Board wants to do otherwise. So if you're case  
11 is number nine and you want to, you know, go take care of business, whatever and  
12 come back I can't tell you when your case is going to go but that's the order they'll  
13 proceed. Just make sure you're back by the time your case is called. A couple of items  
14 on the agenda have been deferred. Case number one, special exception Cingular  
15 Wireless on McCords Ferry has been deferred. Case number 10, a Lansing Logan  
16 Hemphill subdivision has been deferred. Those cases very likely will appear in the next  
17 agenda or soon thereafter. You just need to check the County's Board of Zoning  
18 Appeals – I'm sorry - the Development Services section of the County as to when those  
19 cases are coming back up. The only time – make this comment. The Board will be  
20 seated where it is right now unless they decided to go into an Executive Session or take  
21 a recess. Now an Executive Session is provided for under state law under the Freedom  
22 of Information Act. You may have heard of this act. Typically the Freedom of  
23 Information Act deals with getting documents and public records but it also allows a

1 public body, and the Board is a public body, to go into Executive Session for a specified  
2 list of purposes. The only real reason they would do that in this hearing would be to  
3 discuss a legal matter with me or Staff and that's just like talking to your own attorney.  
4 You don't let other people listen to that. You have a right to attorney-client  
5 confidentiality. So you go behind closed doors to discuss that. However, it's no great  
6 mystery of what goes on behind these closed doors. You can't take a vote, you can't  
7 say well gee how are you leaning, what are you, you know, let's take a straw poll. You  
8 can't do that. You've just got to discuss the legal issue that comes up. Knock that out  
9 and you come back out in open session and keep going with the case and the motions  
10 to be - will be taken in open session for all of those things. A couple of other things that  
11 we get from time to time and this kind of goes case specific. We get folks talking about  
12 things peculiar to their neighborhood like well gee we have restrictive covenants that  
13 say you can't do this in our neighborhood. The Board can't enforce restrictive  
14 covenants. That's a private contract between the homeowners, homeowners  
15 association, folks who live in the neighborhood. It doesn't mean they're irrelevant but it  
16 means that this is not the place that can help you with enforcing restrictive covenants.  
17 That's a private right of action. I just mention that because every once in awhile we will  
18 get that. And it also begs the question why would somebody try to do something that  
19 the restrictive covenants don't allow. Again that's a private matter but it's not something  
20 the Board can enforce. If you are going to speak to a case whether you have signed up  
21 for it or not you do need to be on the sign up sheet. If you haven't signed up for that  
22 particular case yet, it's not a problem. Just when I conclude my remarks if you'd please  
23 come up front to the Chairman and get your name on the sheet. This is important so we

1 know how to get in touch with you and we know who testified to complete the Record of  
2 this case. Okay. I think I've hit the highlights. Are there any questions on any of the  
3 things that I've covered here this afternoon? Okay. Very good. If not at this time – do  
4 you have a question? Yes, sir.

5 AUDIENCE MEMBER: Yeah. If you a [inaudible]?

6 MR. FARRAR: Okay, very good. Displaying something if you have an exhibit.  
7 It's kind of, you know, the logistics of this layout here it's kind of difficult to get  
8 everybody to see the item. We will endeavor to either set up the appropriate easel if we  
9 have it or make it such that everybody can see but it's important for the Board to see  
10 because they are the decision makers in the case. But exhibits we usually can get it to  
11 where everybody can see at some point. Yes. Any other questions? If not, whether  
12 you have signed up or not if you plan to testify in a case this afternoon if you would  
13 please stand at this time and raise your right hand. I will swear you in as a group.  
14 Please raise your right hand. Oh, okay. I do need to swear everybody in. I do think  
15 you're right. I think we have veteran attendees. Do you swear or affirm the testimony  
16 you shall give shall be the truth, the whole truth and nothing but the truth so help you  
17 God?

18 AUDIENCE: I do.

19 MR. FARRAR: Please be seated. Thank you very much. I heard yes, I do. If  
20 you said anything other than yes, I do, you got it, right, let me know. Otherwise we'll  
21 consider the group sworn. Thank you very much. We do have a full panel today. All  
22 seven members are present. At this time we'll turn it back to the Chairman. Thank you  
23 very much.

1 CHAIRMAN BROWN: Thank you, Mr. Farrar. Mr. Price, are we ready to  
2 proceed in the first case?

3 **CASE 06-05 SE:**

4 MR. PRICE: Yes, sir. First item is case 06-05 Special Exception. This applicant  
5 is requesting the Board of Zoning Appeals to grant a special exception to permit the  
6 establishment of a continued care retirement community in an RU zoned district. The  
7 applicant is Avery Winder. The location is 916 Kennerly Road. The subject parcel's a  
8 seven plus acre tract and the state is vacant. There's a building on the property that the  
9 applicant stated will be torn down. It is considered to be vacant. The subject property  
10 as I stated has a vacant residential structure. The remainder of the parcel is covered by  
11 a heavy growth of trees. The applicant proposed to construct a 4,000 plus square foot  
12 continued care requirement community. The structure will contain seven bedrooms,  
13 one of the bedrooms will be for a staff member and a 14 x 40 living/sitting room area.  
14 The surrounding area consists of residential. There's some structure that's occupied  
15 and of course there's a couple of communities in there, some institutional and  
16 commercial uses. Just across the street – a little diagonal from the subject property is a  
17 Sunshine House day care.

18 CHAIRMAN BROWN: All right. First person I have signed up is Avery Winder.  
19 Will you state your name for the Board please, or for the Record.

20 **TESTIMONY OF AVERY WINDER:**

21 MR. WINDER: I'm Avery Winder.

22 CHAIRMAN BROWN: All right, Mr. Winder. Would you please explain to us  
23 what it is that you'd like to do?

1 MR. WINDER: Yes, sir. I'm in the process of opening up an independent living  
2 center on the property that he just indicated, 916 Kennerly Road. What we're going to  
3 be conducting is we're going to operate – have individuals basically coming from the  
4 Veterans Hospital who does not have a living facility. And basically they're homeless  
5 but this facility we're going to be operating, they're going to be operating 24 hours.  
6 We're going to provide bedding, feeding and etc. for them. It's going to be a living  
7 center.

8 CHAIRMAN BROWN. This is going to be a 24-hour a day operation?

9 MR. WINDER: Yes, sir.

10 CHAIRMAN BROWN: How many staff members will you have?

11 MR. WINDER: Three.

12 CHAIRMAN BROWN: Are you going to build the structure or are you going to  
13 renovate the existing structure on the property?

14 MR. WINDER: We're getting something built from the ground up, sir.

15 CHAIRMAN BROWN: I'm sorry?

16 MR. WINDER: We're getting something built from the ground up.

17 CHAIRMAN BROWN: Then you're going to demolish the structure that's on the  
18 property?

19 MR. WINDER: Yes, sir.

20 MR. PRICE: Excuse me, Mr. Brown. According to the – what we have right here  
21 is where the existing structure is. It's right near the front of Kennerly Road but the  
22 proposed structure would be back in this area.



1 MS. PERKINS: So is it a continuing care retirement community or is it for  
2 homeless?

3 MR. WINDER: It's going to be an independent living center, ma'am. An  
4 independent living center is – we're going to be housing a total of six individuals and  
5 there's going to be one extra room for staff. There's going to be three shifts that we're  
6 going to conduct.

7 MS. PERKINS: But did you not say that it was going to be used for veterans who  
8 don't have a place to go?

9 MR. WINDER: Yes, ma'am. That is correct. Where, I had talked to the Veterans  
10 Administration to gather some information pertaining to that and I wasn't aware that in  
11 order for you to go to the Veterans Administration there's a waiting list. And we had  
12 helped serve individuals such as that need, and my uncle's one of them, we helped him  
13 as - to receive benefits and also, we also help them to receive a place and house them  
14 in our own personal residence and that's the route we plan on taking.

15 MS. PERRINE: So it's going – people who can take care of themselves, this is  
16 just a home where they can call home? Are you going to have – give out medicines,  
17 this type of thing or?

18 MR. WINDER: Absolutely, ma'am. This is going to be a residence that they're  
19 going to be considered to call home. I have a –

20 MR. FARRAR: Excuse me. While he's getting that we just had a request from  
21 someone in the audience if everybody could just please speak into their microphone.  
22 They're having a hard time hearing everybody. Thank you.

1 MR. WINDER: If you don't mind I have some information I'd like to pass out to  
2 ya'll.

3 CHAIRMAN BROWN: Thank you. Mr. Winder, if you're going to dispense  
4 medicine and so forth I assume you have to have trained personnel?

5 MR. WINDER: That is correct.

6 CHAIRMAN BROWN: You have to be licensed by DHEC?

7 MR. WINDER: That is correct, sir.

8 CHAIRMAN BROWN: Is this under the auspices of any institution or is this  
9 purely a private enterprise.

10 MR. WINDER: It's going to be a private enterprise.

11 CHAIRMAN BROWN: So I assume these veterans or whoever's going to live  
12 there will pay for the privilege of living there?

13 MR. WINDER: Yes, sir. The residents that are going to be living there, sir,  
14 whether they take meds or not we have someone that's already certified to distribute  
15 meds. These individuals that's going to be able to come whether they – if they do not  
16 take meds we'll be able to house six individuals.

17 CHAIRMAN BROWN: Are you going to serve meals?

18 MR. WINDER: Yes, sir. We're in the process right now of communicating with  
19 Meals on Wheels and we're going to distribute meals to them three times a day.

20 CHAIRMAN BROWN: So you're not going to prepare food on the premises, the  
21 food's going to be brought in?

22 MR. WINDER: Yes, sir.

1 CHAIRMAN BROWN: Any questions for Mr. Winder by other Members of the  
2 Board? All right. Thank you, sir. Next person I have signed up is Lisa Winder.

3 MR. WINDER: That's my wife. We was together, sir.

4 CHAIRMAN BROWN: You're just here for moral support?

5 MR. WINDER: Yes, sir.

6 CHAIRMAN BROWN: All right. How about Barbara Winder and Clarence  
7 Winder?

8 MR. WINDER: Just for moral support.

9 CHAIRMAN BROWN: There is no one signed up in opposition? Anyone have  
10 any further questions of Mr. Winder before he sits down?

11 MR. BRANHAM: I've got one. In your packet that you just gave us two things  
12 that I saw and this was of course the first time we've seen this packet. Will provide  
13 washing facilities and one big [inaudible] for individual activities, full kitchen and eating  
14 area. If you're not providing meals what do you need a kitchen for?

15 MR. WINDER: The kitchen would be for them to come and also be able to sit  
16 down and have like – we'll have sitting arrangements for them and also we're going to  
17 also provide whatever they need.

18 MS. WINDER: Like water, sodas – I'm sorry. Light food, something that they  
19 can snack on, something that we can keep as dry food area. They'll have bowls and  
20 stuff and eat cereal and all that kind of stuff.

21 MR. BRANHAM: And then you've got – on the front of it you've got your staff  
22 listed on there and then on this page here you've got a full registered nurse on call  
23 every day. How long will that nurse be - you said on call – that's as she's needed?

1 MS. WINDER: Yes. That's if she's needed, 24 hours.

2 CHAIRMAN BROWN: Any further questions by members of the Board? All right.  
3 Thank you. There isn't – as I mentioned – there is no one signed up in opposition. The  
4 Chair will entertain discussion by Board members.

5 MS. PERKINS: I have one question. You've got 6:00 a.m. to 2:00 p.m. for hours  
6 of operation. I'm not – it's not 24 hours? Well I guess I could discuss it with them.

7 MS. WINDER: I'm sorry.

8 MS. PERKINS: Hours of operation? You've got 6:00 a.m. to 2:00 p.m. and then  
9 2:00 p.m. to 10:00 p.m. and then 10:00 p.m. to 6:00 a.m.

10 MS. WINDER: Yeah. We're going to rotate. It's 24 hours. It starts from 6:00  
11 a.m. and we're just going around the clock –

12 MS. PERKINS: Oh, this is a schedule of your workers.

13 MS. WINDER: Yes, ma'am.

14 MS. PERKINS: Oh, I thought this was – oh, okay.

15 MS. WINDER: That's for the staffing.

16 MS. PERRINE: And your Meals on Wheels are they going to provide three  
17 meals a day?

18 MS. WILDER: Yes, ma'am. I've already looked into it.

19 MS. PERRINE: Okay. Mostly are you planning to have people that maybe not  
20 on medication or they can take their medicine themselves but you're not going to have  
21 to be monitoring them?

22 MS. WILDER: Yes, we are. We do have – we're going to have – it just varies of  
23 who they provide for us. But we do have two employees that we have that are issued to

1 – they have their certificates to distribute the medication if needed even if they're like –  
2 they have to go to a doctor's appointment or something like that they'll be able – we'll be  
3 able to go and take them to the doctor also.

4 MS. PERRINE: And I think you said - and I may have heard wrong - something  
5 about the people when they're sent to you how are you going to get these people to  
6 you? Are you advertising? Are you already working with the VA Hospital with a list or?

7 MS. WINDER: We don't have a list yet. We're in the process of working with the  
8 VA Hospital but we can't do anything until we have the facility up before we, before they  
9 interact with us to give us the patients.

10 CHAIRMAN BROWN: But ultimately the VA Hospital is going to refer these  
11 people to you?

12 MS. WINDER: Yes, sir.

13 MS. PERKINS: And so there is no – I heard you say that there's certification and  
14 I was looking at the employment titles of your employees. Are you going to get – is your  
15 clientele going to be those who take medicine or take it primarily at the same time since  
16 your nurse is going to be on call, or are you telling me that someone without a medical  
17 degree, not certificate, can dispense medication?

18 MS. WINDER: One of our employees do have a medical degree to dispense the  
19 medication. But as far as the patients that we're going to have, we don't know who's  
20 going to need what time, nothing like that. We don't know that yet.

21 MS. PERKINS: But you did say that the nurse was going to be on call?

22 MS. WINDER: Yes. She's a 24-hour call nurse.

1 MS. PERKINS: Okay. So she - okay. So she would be willing to come back –  
2 okay, okay. Stay two hours.

3 MS. WINDER: Yes.

4 MS. PERKINS: Somebody takes their meds at 4:00 and another one at 5:00?

5 MS. WINDER: Yes, ma'am.

6 MS. PERKINS: Okay.

7 CHAIRMAN BROWN: Any further questions? Thank you. Discussion by the  
8 Board?

9 MS. CAIRNS: I would offer that looking at the special exception requirements for  
10 a [inaudible] retirement community that the requirements in terms of the acreage and  
11 the setbacks have all been offered to us in our packet on a site plan such to show that  
12 this particular property does allow the, by rule does allow the establishment of the  
13 special exception and I don't feel that any testimony's been offered that has any  
14 negative implications for this particular property serving for this particular use.

15 CHAIRMAN BROWN: Does that constitute a motion to approve?

16 MS. CAIRNS: So I could turn that into a motion to approve special exception –  
17 but I don't know if there's any more discussion that's needed. That's simply my – the  
18 extent of discussion.

19 CHAIRMAN BROWN. There's been a motion to approve; is there a second?

20 MR. TOLBERT: Second.

21 CHAIRMAN BROWN: It's been moved and seconded that the special exception  
22 be – 06-05 be approved. All in favor signify by raising your hand. Opposed?

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

1 MR. PRICE: Four to three.

2 CHAIRMAN BROWN: Four to three in opposition?

3 MR. PRICE: No. In favor.

4 MR. TOLBERT: In favor.

5 CHAIRMAN BROWN: In favor, all right. Mr. Winder, your request has been  
6 approved. The Zoning Administrator will be in touch with you. Mr. Price, next case,  
7 please.

8 **CASE 06-25-SE:**

9 MR. PRICE: Next item is Case 06-25 Special Exception. The applicant is  
10 requesting the Board of Zoning Appeals to grant a special exception to permit the  
11 construction of a communication tower in an RU district. The applicant is Gary Martek.  
12 The location is 240 Hiram Allen Road. The existing zoning as stated is rural. The  
13 parcel size is it's almost a nine acre tract and the existing use is residential. The subject  
14 parcel contains a residential structure and a number of accessory structures. The  
15 applicant proposes to erect a 120' amateur radio tower. The surrounding consists of  
16 predominantly large tracts that are heavily wooded and undeveloped. Further north of  
17 the subject property is a community of residential structures. As stated this isn't your  
18 typical telecommunication tower as we normally see. This is more for HAM radio but it  
19 fell into the category for a special exception.

20 CHAIRMAN BROWN: I bet anything you're Mr. Martek.

21 **TESTIMONY OF GARY MARTEK:**

22 MR. MARTEK: Mr. Chairman and distinguished guests. I – my name is Gary  
23 Martek. I live on 240 Hiram Allen Road in Blythewood. I'm here today to request a

1 special exception for the establishment of a amateur radio tower. Per the new zoning  
2 ordinances I've carefully studied the definition of communication towers and the special  
3 exceptions to those, and having watched Mr. Charles [sic] Yates last month I tried to  
4 address what he considered was important. As 26-152 establishes the guidelines for  
5 such a tower, I tried to establish the pertinent facts. One is a private non-commercial  
6 use. It's not a revenue generating antenna or system. The proposed tower would be  
7 allocated in the most west area of the property because this happens to be the highest  
8 area or the highest part of the property. What you see there is an existing tower. That  
9 particular tower is 70' right at the top, 55' structurally. Unfortunately it suffers from being  
10 below the average tree line and in several directions it doesn't perform as well as it  
11 would in the clear. So this particular tower supplants that particular one and should be  
12 well in the clear. Again addressing the issues with other tower uses, amateur radio is  
13 not historically compatible with cellular towers. Cellular tower services in themselves  
14 they try to share towers just so they don't have to be sprouting like mushrooms all over  
15 the place. But the large beam antenna rays that typically go on a HAM radio tower  
16 would typically interfere with cellular radio antennas if you co-located them. In other  
17 words that beam antenna for instance or directional antenna rotates once in awhile to  
18 maybe point a signal at Europe or China or Australia. But in doing so the interaction  
19 would cause predictably the cellular tower to suffer maybe outages and service. So  
20 although it's not specifically written by the FCC this is not a normal practice to try to get  
21 onto a cellular tower with amateur radio. And there's also things – the cellular tower in  
22 and of itself the equipment is typically computer controlled, switched to the public  
23 switched telephone network. HAM radio typically has a radio operator right at the



1 transmitter and typically the facilities provide for somebody to go there and start  
2 operating equipment. The – regarding elimination it's below the 200' level so the  
3 FCC/FAA requirements does not establish any need for painting or illuminating the  
4 structure. A seven foot fence will be put around it although there's hardly any evidence  
5 of children or anything around it. I would – I'd go ahead and do that. As far as  
6 landscaping this system, this location is so isolated but there is a county road that  
7 somebody driving by on their way to church or something would see this tower and if so  
8 required I would, you know, go ahead and try to mask that if that becomes an issue. So  
9 that would be the cypress trees. No signs obviously. And then of course the unlikelihood  
10 of 120-day non-use obviously we would remove it. I doubt that happening but. Okay.  
11 In going into the more general parts of special exceptions, on traffic impacts, vehicle, I  
12 do not anticipate traffic impacts. I do not see an affect on pedestrian safety as the  
13 system's isolated. It does not – there'd be no impact on noise, lights, fumes or  
14 obstruction of air flow on adjoining properties. No effect on the aesthetic character of  
15 the environs as stated in this. Since the proposed tower will be well isolated by trees  
16 from direct view of existing neighbors and cypress trees can be used to augment  
17 screening of the view from occasional traffic of the adjoining county road. No affect  
18 from orientation and spacing improvements [inaudible]. The – again the site plan shows  
19 the proposed tower there in the corner. The 120' setback is a fall zone. The actual –  
20 the closest to this house, to my house is 270'. The closest neighbor non-abutting is  
21 540. A neighbor here on this side is almost 740' away. You don't see it. I mean, you  
22 don't see him and he wouldn't see the tower. Let's see. More specifically that's the  
23 proposed layout.

1 CHAIRMAN BROWN: Mr. Martek, I don't mean to cut you off but I think you've  
2 given us more than enough information.

3 MR. MARTEK: Okay.

4 CHAIRMAN BROWN: The only question I would have for you is what's going to  
5 happen to the existing tower that you have there now?

6 MR. MARTEK: It would probably be used in limited capacity. That particular  
7 tower is actually crankable. You can actually crack it down to a small level. And it's  
8 meant by its thing to be temporary.

9 CHAIRMAN BROWN: Mr. Price, does that, does that represent a problem? I  
10 seem to recall something in the ordinance to the effect that you can't have two towers  
11 within 1,000'.

12 MR. PRICE: That second tower that you have here, sir. What is that used for?

13 MR. MARTEK: Well right now it's doing what the proposed tower would do. It's  
14 doing all those services. It's got a beam antenna on top. It rotates. But it would be –  
15 but because just the way it's structured and positioned it's below the average tree line.

16 MR. PRICE: Would you still need this –

17 MR. MARTEK: No.

18 MR. PRICE: - if you're granted - okay. Well so maybe you can make a  
19 stipulation this would be removed if it's granted.

20 CHAIRMAN BROWN: Would that represent a significant problem for you, Mr.  
21 Martek, if that tower had to come down?

1 MR. MARTEK: Well I would prefer to have it up if it doesn't cause a problem. It  
2 would be in a sense of a backup or in case of bad weather or some damage to the  
3 tower from a hurricane or something.

4 MS. CAIRNS: Was a special exception granted to allow that first tower?

5 MR. MARTEK: This tower was actually put up in the early part of 2004. When I  
6 requested the permitting of this tower the zoning hadn't changed. It was – essentially if  
7 it was a project under \$1,000 since I already owned the tower and it moved with me  
8 from Washington State; the concrete was \$600, it did not need a permit.

9 MR. PRICE: I'll need to look at our old code regarding that.

10 MS. CAIRNS: But it's reasonable that it went in without a special requirement  
11 within the rules?

12 MR. PRICE: Yes. Because we found no records of that.

13 CHAIRMAN BROWN: Am I correct, Mr. Price, on the [inaudible]?

14 MR. PRICE: I'm pulling that part section now, Mr. Brown. As I'm turning to that,  
15 Mr. Brown, and of course in 2004, someone else may have, you know, given approval  
16 to it. But I'm almost wondering if during that 2004 time would that – well what we refer  
17 to as a tower now was not categorized more as an antenna and just permitted and, you  
18 know, with the changing of the code and the new definitions that would now be  
19 considered a tower so.

20 CHAIRMAN BROWN: Okay. But the question remains does the ordinance in  
21 fact provide that there not be towers or two communications towers within a 1,000'?

22 MR. PRICE: As I'm looking through the code now I don't see. I do not see that  
23 in the – under Section 26-151. I think that's (C)(47).

1 CHAIRMAN BROWN: What page are you looking under?

2 MR. PRICE: 584.

3 CHAIRMAN BROWN: Maybe I'm trying to create a problem where isn't a  
4 problem.

5 MR. PRICE: Yeah. I think the 1,000' was in the previous code, Mr. Brown.

6 CHAIRMAN BROWN: Okay.

7 MR. PRICE: But you have a good memory.

8 CHAIRMAN BROWN: Any further discussion by members of the Board?

9 MR. TOLBERT: I've just got one. Did you mention about the FCC? Any radio –  
10 I mean, any frequency disturbance in any area of the local -

11 MR. MARTEK: No. Back in the '60s when the equipment was let's say less  
12 quality. Nowadays it's so, it's very rare.

13 MR. TOLBERT: Okay.

14 MR. MARTEK: And it's – and if it does occur I'm obviously obligated by the FCC  
15 to correct it.

16 CHAIRMAN BROWN: Any other questions for Mr. Martek?

17 MS. PERRINE: I have one maybe for Geo. If you could go back to - there. Is  
18 the tower going right here where there looks like a stake or something?

19 MR. MARTEK: Well that's – that could be a guy location and the actually tower  
20 would be to the right of it. I don't know if the picture captures that or not.

21 MS. PERRINE: Okay.

22 MR. MARTEK: But I think – well, let's see. I'm looking at that picture. That's  
23 probably where the tower would be going I think.

1 CHAIRMAN BROWN: Any further questions for Mr. Martek? Thank you, sir.  
2 Any discussion by Board members? Hearing none, I'll entertain a motion.

3 MR. BRANHAM: Mr. Chairman, I'll make a motion that Special Exception 06-25  
4 be approved.

5 CHAIRMAN BROWN: Is there a second?

6 MS. PERRINE: I second.

7 CHAIRMAN BROWN: It's moved and seconded that Case 06-25 be approved.  
8 All in favor signify by raising their hand. Opposed?

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

10 CHAIRMAN BROWN: Mr. Martek, you have your request. Mr. Price will be in  
11 touch with you.

12 MR. MARTEK: Thank you.

13 CHAIRMAN BROWN: Mr. Price, next case, please.

14 **CASE 06-26-SE:**

15 MR. PRICE: The next item is Case 06-26 Special Exception. The applicant is  
16 requesting the Board of Zoning Appeals to grant a special exception to permit the  
17 establishment of a place of worship on property zoned RS LD single-family residential,  
18 low density. The applicant is Renaldo Turner. The location is 438 Rabon Road. The  
19 parcel's about a six acre tract. The wooded – it's a six acre tract. I believe if you look at  
20 the attachment that was given you it's showing it on a three acre tract but the official  
21 record shows there's still a six acre tract. The subject parcel is wooded and  
22 undeveloped. A structure that was dedicated to residential use has been demolished.  
23 The applicant proposes to construct a 5,500 square foot place of worship. The

1 surrounding area is a mixture of single-family residential structures, undeveloped  
2 parcels, commercial and industrial uses. Directly across the street from it I believe is  
3 the gymnastic center which is right here and then as you go down this way, you know,  
4 it's undeveloped and then you get into a couple of homes but everything in here is either  
5 industrial or commercial. And of course there are some homes along Rabon Road that,  
6 you know, they were originally built as homes but they've been converted over the years  
7 to become commercial uses, some of them are non-conforming.

8 CHAIRMAN BROWN: You indicated the applicant is who?

9 MR. PRICE: Renaldo Turner. He's representing the Changing Lives Christian  
10 Center.

11 CHAIRMAN BROWN: All right. I have a Mr. Elbert Ruff signed up to speak.

12 MR. RUFF : Yes, sir.

13 CHAIRMAN BROWN: Are you an authorized representative of Mr. Turner?

14 MR. RUFF: Yes, sir. I represent Chuck Ruff Realty and Development and I'm  
15 here to speak on behalf of Pastor Turner.

16 CHAIRMAN BROWN: Do you have a letter?

17 MR. PRICE: No, sir. I believe the only person – well let's take a look here.

18 MS. CAIRNS: Mr. Price, I have a question.

19 MR. PRICE: Yes.

20 MS. CAIRNS: Just that the survey provided in our packet originally showing a six  
21 acre tract?

22 MR. PRICE: Yes.

1 MS. CAIRNS: That's actually a larger tract that what's shown on the handout  
2 that was given us today?

3 MR. PRICE: Correct.

4 MS. CAIRNS: So has the tract been sub-divided or – I mean, this may very well  
5 be a three-acre tract.

6 MR. RUFF: It's a total of six acres but the church is going to build on three  
7 acres of that six acre tract.

8 MS. CAIRNS: So you're sub-dividing? I mean are you –

9 MR. RUFF: Yes, ma'am. I have an updated survey to show that.

10 MS. CAIRNS: That's what this?

11 MR. RUFF: Yes, ma'am.

12 MR. PRICE: Can I see that?

13 MS. CAIRNS: But I mean has the subdivision been –

14 MS. PERKINS: He doesn't have the letter of representation yet.

15 MR. PRICE: Yes. Yes, he does.

16 MS. PERKINS: He does? Oh, okay.

17 MR. PRICE: Yeah. This is pretty much what I thought. What he has here is a  
18 survey but he does not have a recorded plat of the property so yeah, it's been surveyed  
19 but it's not officially been separated.

20 CHAIRMAN BROWN: So the subdivision of the property hasn't been approved –

21 MR. PRICE: No, sir.

22 MS. CAIRNS: Is the process proper that we rule on a not yet approved tract? I  
23 mean, it might be. I have no idea.

1 CHAIRMAN BROWN: I think we can rule on it and if it's approved it can be with  
2 the condition that the subdivision be approved –

3 MS. CAIRNS: Okay. I just – that's all.

4 MR. PRICE: Yeah.

5 MS. CAIRNS: That's my concern. Okay.

6 CHAIRMAN BROWN: All right, Mr. Ruff.

7 MR. RUFF: Okay. Thank you very much.

8 CHAIRMAN BROWN: Tell us what it is.

9 **TESTIMONY OF RENALDO RUFF:**

10 MR. RUFF: Okay. Thank you very much, Mr. Chairman and Members of the  
11 Board. I'm here to represent Changing Lives Christian Center. Currently they've  
12 outgrown their current worship facility and we're here to request a special exception to  
13 build a worship facility which will be approximately 6,500 square feet. It will encompass  
14 a auditorium to seat about 200 and then also some educational and classroom buildings  
15 also and administration facility. With your permission I'd like to give you a handout  
16 which is an example of what we plan to build. What they're looking at building is called  
17 a sprung instant facility and it's a rather unusual building but it's very cost effective. It's  
18 built – the square footage price is a lot less than a stick built building or a brick building  
19 and with your permission we'd like to have a special request granted in order to  
20 construct that facility. Thank you very much.

21 MR. PRICE: Excuse me, Mr. Chair. I think – before you make any motions on  
22 this I think it needs to be clear on what square footage they're actually requesting  
23 because according to the records they submitted it was for a 5,500 but I believe –



1 CHAIRMAN BROWN: That was going to be my first question.

2 MR. RUFF: It's 55, excuse me.

3 CHAIRMAN BROWN: Okay.

4 MR. RUFF: Yes, sir.

5 CHAIRMAN BROWN: Any questions for Mr. Ruff?

6 MS. CAIRNS: Yes. I have questions.

7 MR. RUFF: Yes, ma'am?

8 MS. CAIRNS: This site plan that we've been provided by [inaudible] Surveying –  
9 this is the intended site plan; is that correct?

10 MR. RUFF: Yes, ma'am. It's approximately I think 100 parking spaces and then  
11 the worship facility and the educational building also. Yes, ma'am.

12 MS. CAIRNS: Some of the conditions that we are required to look at for  
13 approving special exceptions such as your request –

14 MR. RUFF: Yes, ma'am.

15 MS. CAIRNS: - include that, one is that no parking – that the parking area  
16 cannot be located in the front setback and this site plan indicates the parking area being  
17 within the required 25' foot setback.

18 MR. RUFF: Okay.

19 MS. CAIRNS: As well as this side setbacks are set at 30' is one of the conditions  
20 and while this drawing does not show side setbacks using the graphic scale provided by  
21 the surveyor it indicates that the building is within a 30' setback. Excuse me?

22 MS. PERKINS: I don't – yeah.

23 MS. CAIRNS: It's yellow – it's yellow [inaudible].

1 MS. PERKINS: Oh, okay. Because -

2 MR. TOLBERT: Oh, you penciled it in.

3 MS. CAIRNS: I penciled it in. But there is a faint yellow line. Which – the yellow  
4 line is what represents the building; is that correct?

5 MR. RUFF: Well let me see exactly what it is you're looking at.

6 MR. TOLBERT: Is it on there?

7 MR. RUFF: [Inaudible] a lot better.

8 MS. CAIRNES: Oh, yes.

9 MR. PRICE: I believe - well you can why take into consideration the actual plan  
10 that was submitted before you. If you can take it more as a conceptual plan and if there  
11 are any major, you know, let's just say if it was granted approval of course they would  
12 have to meet all the requirements such as the 25 and 30' setback.

13 MS. CAIRNES: I understand that but it seems that if we are giving such specific  
14 conditions upon which to base our determination that we do need to see an example of  
15 how it can be accomplished. I mean, I know in general we don't, you know, we just fall  
16 back on the fact that there's building codes that are going to take care of – I mean, like  
17 the number of parking spaces, that's not within our concern so long as they can do it.  
18 That's building department. But, you know, here it says, you know, conditions include  
19 showing, you know, to me it would say that you have to show that you can fit what you  
20 want to do within these setbacks. And at this point I don't feel that we have that. Yeah.  
21 I mean this clearly shows the building within what would be a 30' setback once scaled  
22 out.

1 MR. RUFF: Okay. If necessary we can have the drawing revised so that it fits  
2 within the code that you're looking for. Yes, ma'am.

3 MS. PERKINS: Was there not a restaurant, Mr. Price, that we allowed for them  
4 to encroach upon the required setback for the drive-in?

5 MR. PRICE: I remember. If you're referring to the one that previously came  
6 before you under the same type request non-conforming to a non-conforming -

7 MS. PERKINS: Yes.

8 MR. PRICE: - I would need to pull the file on that to double check.

9 MS. CAIRNS: But we'd also run into the special exception/variance double  
10 request which I think we determined last meeting is not something – that was a variance  
11 request.

12 MS. PERKINS: But that was for the –

13 MR. PRICE: That was a special exception.

14 MS. PERKINS: Yeah. Cell tower. Wasn't it for the cell tower? Yeah.

15 MS. CAIRNS: Last month are you referring to?

16 MR. PRICE: No. This was awhile – if you're referring to the restaurant down on  
17 601, that was some months ago.

18 MS. CAIRNS: Yeah. That was a non-conforming use to a non-conforming use.

19 MR. PRICE: Right.

20 MS. CAIRNS: That was a completely different -

21 MR. PRICE: Completely – if that's the one –

22 MS. PERKINS: That was out Rabon Road – no, it was a good while ago.

1 MS. CAIRNS: I mean my concern is is that at this point I don't feel that we have  
2 a application that shows the ability to satisfy the conditions. They may be satisfiable but  
3 I don't feel that we have one at this point that shows conditions having been satisfied  
4 before we can grant the special exception.

5 CHAIRMAN BROWN: Well it seems to me that it would be feasible to approve it  
6 with a condition that the final approval is subject to submission of a site plan that meets  
7 the setback requirements.

8 MS. CAIRNS: In general I would have no difficulty with that except for the fact  
9 that our specific conditions indicate these requirements and I don't know if that means  
10 we have to see them to approve them or take them on faith because -

11 CHAIRMAN BROWN: Well the building, the building permit couldn't be issued  
12 unless they met -

13 MS. CAIRNS: Sure.

14 CHAIRMAN BROWN - certain requirements anyway.

15 MS. CAIRNS: I mean, it's part of just the drafting of the code that we are  
16 obligated to follow. One question too.

17 MR. RUFF: Yes, ma'am.

18 MS. CAIRNS: The other portion of the conditions are that the facility be located  
19 on a collector or thoroughfare road. Can you offer to me - I don't know this road  
20 personally at all. What type of road is Rabon Road? Is it a collector or thoroughfare?

21 MR. RUFF: Yes, ma'am.

22 MS. CAIRNS: Okay.

1 MR. PRICE: While you're looking at that. I think it's kind of hard to get, to  
2 measure the setbacks according to what you were given earlier. However, going by this  
3 and which is probably true it seems like they would meet the required 25' setback for  
4 the parking spaces and on the right hand, I guess where the education facilities would  
5 be they would meet those setbacks. However, on the left-hand portion of the property it  
6 seems that that would be the one that wouldn't – at least according to this does not  
7 meet the setbacks.

8 MS. CAIRNS: The 25' setback for the parking – are you measuring to the  
9 parking spaces or to the aisle?

10 MR. PRICE: I'm measuring to the parking spaces.

11 MS. CAIRNS: Because I would argue that the parking area – it says, "No parking  
12 area maybe located" –

13 MR. PRICE: Okay.

14 MS. CAIRNES: - and certainly the drive aisles are parking area –

15 MR. PRICE: Right

16 MS. CAIRNES: - as opposed to the access points which obviously cross the  
17 front setback.

18 MR. PRICE: Correct.

19 MS. CAIRNES: But -

20 MR. PRICE: Okay.

21 MS. CAIRNES: - I would argue that all of the parking area, including the  
22 driveways, drive aisles would have to be outside.

23 MR. PRICE: Okay. Yes. You're right.

1 MS. CAIRNES: So. I mean – I suppose it's the tolerance of the Board if we're  
2 willing to entertain the approval based on the ability to meet all of the requirements if  
3 that's not too vague.

4 CHAIRMAN BROWN: Any further discussion by Members of the Board or any  
5 further questions of Mr. Ruff? If not, sir, you can go ahead and have a seat.

6 MR. RUFF: Thank you very much.

7 CHAIRMAN BROWN: Any further discussion by Board Members? There is no  
8 opposition. Hearing no discussion the chair will entertain a motion.

9 MS. CAIRNES: I offer that Special Exception 06-26 be approved with the  
10 condition that a site plan be offered that shows the 30' setbacks and the 25' setback  
11 from the parking lot be incorporated in the plan as well as the approval of the  
12 subdivision plan of the existing lot such to keep the church lot being three acres.

13 CHAIRMAN BROWN: Is there a second?

14 MR. ASHFORD: I second the motion.

15 CHAIRMAN BROWN: It's been moved and seconded that the Special Exception  
16 06-26 be approved with the conditions as noted. All in favor indicate by raising their  
17 hand.

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

19 CHAIRMAN BROWN: Mr. Ruff, you have your request. Mr. Price will be in touch  
20 with you.

21 MR. RUFF: Thank you very much.

22 CHAIRMAN BROWN: Mr. Price?

23 **CASE 06-27 V:**

1 MR. PRICE: You ready? Next item is Case 06-27 Variance. The applicant is  
2 requesting the Board of Zoning Appeals to grant a variance to exceed the allowable  
3 square footage for a pylon sign in a PDD district, planned development district. The  
4 applicant is Woody Nelson. The location is 2000 Clemson Road. The parcel size is 12  
5 plus acres. The existing land use is commercial. The subject property is an existing  
6 commercial development located at the corner of Hardscrabble Road and Clemson  
7 Road. There's one correction. The applicant proposes to exceed the allowable square  
8 footage for a pylon sign by – it's 19 square feet. It should not be 104.

9 CHAIRMAN BROWN: It's what?

10 MR. PRICE: Nineteen.

11 CHAIRMAN BROWN: Nineteen?

12 MR. PRICE: Nineteen.

13 CHAIRMAN BROWN: One, nine?

14 MR. PRICE: One, nine. The surrounding area is dedicated to various  
15 commercial uses. The properties east and north of the subject property are heavily  
16 wooded and undeveloped. I'm not sure but I think they're also in the wetlands. They  
17 may never be developed but I can't say.

18 CHAIRMAN BROWN: All right. The applicant is Woody Nelson. Mr. Nelson,  
19 could you come forward, please? Please state your name and explain to the Board what  
20 it is you'd like to do, sir.

21 **TESTIMONY OF WOODY NELSON:**

22 MR. NELSON: Okay. I'm Woody Nelson. What we want to do is install a pylon  
23 sign in the driveway where the existing sign is. We want to put up a sign that's large

1 enough to list the tenants. The tenants now are hidden behind the buildings on the out  
2 parcels of the property. The reason why we are not allowed the size by the existing  
3 ordinance is because you have to go by the linear frontage, road frontage of the  
4 property and because of the out parcels we don't have any frontage other than the  
5 driveway itself. The sign that's there is approximately the same size square footage  
6 wise as what we want to install but the problem is it's in a valley where you can't see it  
7 until you're perpendicular to it. So what we'd like to do is have the tenants listed and  
8 put the sign up where people can identify the driveway, you know, way before they get  
9 to that point. The sign that's there has been hit several times people just trying to make  
10 that curve in a hurry and hitting the sign. So – oh there we go. And the other signs in  
11 the area – I've taken some pictures of other signs in the area and I'm sure they probably  
12 have some. Most of them like the Circle K on the corner is 200 square feet. The CVS  
13 Pharmacy is approximately 100. The BP station is about 250 square feet and the best I  
14 can tell the Food Lion is about 240 square feet. So we're not trying to keep up with  
15 what they have, we just actually are asking for the minimum we can get by with and feel  
16 like do the job. There's 12 minor tenants in that shopping center and they're all  
17 concerned because they don't have any exposure from Clemson Road and you can't  
18 see the shopping center at all until you get to that point on Clemson.

19 CHAIRMAN BROWN: Any questions for Mr. Nelson?

20 MS. CAIRNS: It's sort of [inaudible] I'm not really sure. The fact that the  
21 allowable square footage of 125' that's based on the PDD.

22 MR. NELSON: Okay.

23 MS. CAIRNS: It's based on what?



1 MR. PRICE: That's based on our sign ordinance and we – a lot of times  
2 someone will come in for a PDD just to establish a use, at least previously. However,  
3 they would use one of the zoning categories to [inaudible] their establishment and in this  
4 case it was commercial so they still fall under the, I guess now the GC zoning district.  
5 Because it was – well one of the benefits of using the PDD is, we try to tell most  
6 applicants, is you get to call your own shots, your know. Establish what you want your  
7 signage to be. Get all of that approved at one time. But many times they don't do that  
8 so when they don't then we hold them to the closest category for the use that they  
9 propose.

10 MS. CAIRNS: So based on that the implication is 125' of frontage -

11 MR. PRICE: Correct.

12 MS. CAIRNS: - which is what allows 125' sign?

13 MR. PRICE: Yes.

14 MS. CAIRNS: Okay.

15 MR. PRICE: Well it's actually 150 – it would allow 125.

16 MS. CAIRNS: Okay. Okay. One other question for you, I mean, so you – the  
17 current sign you have is much smaller than 125; is that true?

18 MR. NELSON: No. I think it probably is 125. That's – the part of it that you're  
19 not seeing is the part that was hit by the car. The part that identifies the shopping  
20 center itself, Magnolia Point. I don't have a –

21 MR. PRICE: Yeah. That sign used to be a lot bigger if I'm correct; right?

1 MR. NELSON: Yeah. Yeah. Well it was chain of letters that say Piggly Wiggly.  
2 The Magnolia Point letters were approximately the same size but they were on a wall  
3 that was a little bit taller than that next to it. But a car took it out.

4 MS. CAIRNS: In terms of – I mean, one of the things you seem to be doing is  
5 changing fundamentally from a ground sign to a pylon – to these –

6 MR. NELSON: Right.

7 MS. CAIRNS: - [inaudible] signs. I mean is it possible with this completely  
8 redesigned type of sign to have it be 125'?

9 MR. NELSON: Well it is but what, what we're trying to do is – and actually the  
10 letters that say Piggly Wiggly on the sign that we've proposed are smaller than what's  
11 on that sign, and the Magnolia Point letters are smaller than what was there before the  
12 car hit it. But what we're doing is taking a little bit away from both of those and adding  
13 what we feel like is enough to list tenant names.

14 MS. CAIRNS: I mean, is it possible to do what you're trying to do and keep it  
15 within 125'? I mean why can't you make this sign 125'?

16 MR. NELSON: Because we feel that what we've got there is a minimum to be  
17 effective. You see the Magnolia Point letters there are – the lower case letters are not  
18 even a foot tall. So 150 square feet sounds like a lot but when you, you know, when  
19 you look at this sign compared to the neighboring signs it's actually a lot smaller.

20 CHAIRMAN BROWN: Are we talking about 150 square feet or 144 square feet?

21 MR. NELSON: Well I say 150 because I didn't know if you counted the gable on  
22 the top and that's an accent that we want to put in to tie it to the shopping center. The

1 top section of the sign would match the stucco on the wall and then the gable part would  
2 be green standing [inaudible] metal.

3 MR. PRICE: It's 144.

4 CHAIRMAN BROWN: 144.

5 MR. PRICE: Yes, sir.

6 CHAIRMAN BROWN: What the distance from the bottom of the sign to the  
7 ground?

8 MR. NELSON: Five feet I believe it is. It's on the drawings.

9 CHAIRMAN BROWN: Oh, okay. And how far back from the intersection is that  
10 sign set?

11 MR. NELSON: Well that would be determined by the current ordinance and I  
12 don't know exactly what that number is but it wouldn't create a visibility problem.

13 CHAIRMAN BROWN: That's exactly what I was concerned about is the visibility  
14 triangle for that intersection.

15 MR. NELSON: Well I don't think that's going to be a problem. The Magnolia  
16 Point section of the sign that you see there was actually closer to the road. It's on the  
17 left part of the sign you know from the direction we're facing and extended almost to  
18 where the curb is and you can see where the stop line is in the other lane. It's, it is well  
19 back from the street and one of the reasons that we want to raise this – this is a good  
20 picture for it - that bank's, where that bank sign is is a bluff. You just can't see any of  
21 that sign at all until you get perpendicular to it.

22 CHAIRMAN BROWN: Is that current – I think that current Piggly Wiggly sign will  
23 disappear?

1 MR. NELSON: Um-hum (affirmative).

2 MR. PRICE: Due to the height of the sign because it's only going to be a five  
3 foot clearance it would have to be outside of the visibility triangle as we define it. So, it  
4 may actually get pushed back a little further because it's going to go from the property  
5 line. So, it may get pushed back further than actually where that sign is.

6 MS. CAIRNS: The questions that I have center on your ability to show that these  
7 letters are what's required. I think every retailer would like to have the biggest letter  
8 they every could regardless of it's potential need for someone to actually find the spot,  
9 okay? But I mean in terms of what I mean, you know, bigger is better in general for a  
10 sign, right? But what can you offer as to why the letters need to be this size? Why you  
11 can't just make this a little bit smaller and fit the 125'? I mean is there, is there  
12 something you can offer as to why they need to be this size?

13 MR. NELSON: Well I don't want to sound disrespectful. This is a smaller sign  
14 than almost any Piggly Wiggly store sign we've ever used for a pylon and I've been  
15 doing this for 36 years and I know what you can see and what you can't see. These  
16 Piggly Wiggly letters are barely 16" tall. That's just not a very big letter. And, you know,  
17 we want to identify the Piggly Wiggly being the anchor. That's where, you know, the  
18 tenants are telling, you know, they're in the Piggly Wiggly shopping center. They're not  
19 saying Magnolia Point Shopping Center. When you're on that road I don't know  
20 anybody that really knows it as Magnolia Point but it needs to be identified. And we  
21 tried to divide the sign to where it's close ratio to the square footage that the tenants  
22 have. So in other words the minor tenants get the smaller letters. You know, those  
23 letters are approximately four or five inches some of them, you know, depending on

1 what their names are. And I can't say why can't we do – I mean when you say why  
2 can't we do it in a 125 square feet, well we can. But why are we not asking for 175  
3 square feet when almost every other sign in the neighborhood is approximately 200  
4 square feet? I don't think we're asking for anything unreasonable. We just know that  
5 this is a concept we've used and it works.

6 MS. CAIRNS: I mean so that – if the little letters are only four inches tall do they  
7 – I mean, I'm not sure if you're not creating unnecessary visual clutter to where you're  
8 creating a sign that somebody actually trying to read it is going to be distracted by a  
9 sign that's not even truly legible.

10 MR. NELSON: Can I give this to you?

11 MS. CAIRNS: Sure, sure. I don't bite.

12 MR. NELSON: That's the letter with the tenants' signatures asking the sign be  
13 approved and they've seen the sign. You know, they're the people that are squalling to  
14 the developer that they're not being seen. They're hidden by the, you know, by the  
15 other people out there, and for a shopping center that's this size compared to the other  
16 businesses around that have much larger signs, I really just don't think that it's  
17 unreasonable to ask to be visible. And the shopping center is completely hidden from  
18 the corner. There's not a part of that building you can see from the corner. You know,  
19 so we're of the opinion that the Piggly Wiggly sign is going to be the thing that people  
20 are going to be able to see first and then as they get closer then they'll be able to read  
21 the tenant names.

1 MR. TOLBERT: Just a hypothetical question. Since you said Magnolia Point is  
2 not that important. What would happen if you changed the same size as Carolina  
3 Wings to do that? Would that help you meet -

4 MR. NELSON: I'm not quite sure I understand. You want me to do away with  
5 Magnolia Point?

6 MR. TOLBERT: You said that it really was – Piggly Wiggly was the most  
7 important feature about it, that's what they know about it.

8 MR. NELSON: Right.

9 MR. TOLBERT: And Magnolia Point is not that important to you so what would  
10 happen if you reduced the size the lettering on the Magnolia Point to the size on the  
11 Carolina Wings to reduce your space?

12 MR. NELSON: I think it would look a little bit ridiculous.

13 MR. TOLBERT: Huh?

14 MR. NELSON: I just think -

15 MR. TOLBERT: I mean, you said it. I'm just following what you said. You said  
16 it's more important for Piggly Wiggly than about Magnolia Point, right?

17 MR. NELSON: Well I think that most people will tell people that they're in the  
18 Piggly Wiggly shopping center, not Magnolia Point Shopping Center.

19 MS. CAIRNS: I mean, I hate to sort of beat a dead horse but I guess I'm  
20 concerned about approving a special – a variance that allows to put all these little letters  
21 out there that really are going to create too much visual clutter along the side of the road  
22 in terms of putting four-inch letters. Yeah and I would argue that this is a better sign  
23 because it doesn't have ten tenants with four-inch letters.

1 MR. NELSON: But they don't have ten tenants in the building.

2 MS. CAIRNS: But maybe there's – I understand but maybe, maybe you can't  
3 have it all, okay?

4 MR. NELSON: Okay.

5 MS. CAIRNS: That the signs that have itty bitty letters trying to get everybody  
6 out there create – I mean, I would argue that they create a problem with having too  
7 many -

8 MR. NELSON: Okay. Well that shopping center is within 300' of the highway  
9 and every store in it is visible. These people have no exposure at all and that wasn't the  
10 case when they moved in.

11 MS. CAIRNS: Right. But we can't cure issues like that by –

12 MR. NELSON: No, but that's why we're allowed to ask for a variance because if  
13 we see a need then we hope that we can ask for something reasonable and be  
14 approved. I mean, we're not trying to disrupt anything else in the neighborhood. We're  
15 not trying to make a bigger sign than anybody. We're not - I mean, there's plenty of  
16 other signs that are – you can consider them to be clutter or whatever but, you know,  
17 they feel like it's important.

18 MS. CAIRNS: Yeah, I mean. I have no problem with the pylon sign and I have  
19 no problem with having multiple tenants on it. I'm just not sure if it's possible to get ten  
20 tenants with four-inch letters and create something that really –

21 MR. NELSON: Well okay. So -

22 MS. PERKINS: Maybe [inaudible] more than 19 square feet. Is that what you're  
23 asking? Are you asking more than that?

1 MR. NELSON: Yeah. If I needed to come back and ask for more square footage  
2 for the tenants I would do that but I, you know, we're trying to -

3 MS. PERRINE: Didn't you say that he's exceeding the square footage by 19',  
4 not 104?

5 MR. PRICE: It's not 104 so the actual request will be for 19 square feet.

6 MS. PERRINE: Okay. Yeah. I mean -

7 MS. PERKINS: Well maybe you need the 104.

8 MR. NELSON: Okay. Can I change these numbers? It won't take long.

9 CHAIRMAN BROWN: You can change them. Whether you change them  
10 successfully or not is a different question.

11 MR. NELSON: I got you. But it's not a very large sign and like I said there's  
12 other signs that are smaller - excuse me, larger. You know for less square footage of  
13 building on the acreage.

14 CHAIRMAN BROWN: But Mr. Nelson you understand that that's based on their  
15 front footage?

16 MR. NELSON: Yes, sir.

17 CHAIRMAN BROWN: Regardless of whether there's one tenant or 110 tenants?

18 MR. NELSON: Yes, sir.

19 MS. CAIRNS: Yeah. I mean - we offered you - part of my concern is that if we  
20 have, we have to follow criteria to grant a variance. And the fact that your shopping  
21 center happens to have ten tenants as opposed to - I mean if you had six tenants in  
22 essence you wouldn't have to be asking for a variance because you'd have fewer of the  
23 sub-tenants. So I mean we need to have some standard because what happens when



1 somebody comes back who has 20 tenants and wants to put in this enormous sign. I  
2 mean there needs to be something for us to grant this other than –

3 MR. NELSON: Okay.

4 MS. CAIRNS: - today it feels good. I mean I'm not comfortable with that.

5 MR. NELSON: Okay. Well as far as somebody else coming in and asking for a  
6 gigantic sign then that's a lot different than what we're asking for. This is not a gigantic  
7 sign.

8 MS. CAIRNS: Sure.

9 MS. PERKINS: [inaudible] want to know what that is.

10 MS. CAIRNS: Well what are the –

11 MS. PERKINS: This is not you. I'd like to ask the Staff. Geo, what is the – you  
12 said that the subject parcel does not meet all the criteria necessary for granting of the  
13 variance. What is he not meeting? What is this parcel not meeting?

14 MR. PRICE: Which part are you reading? I'm sorry.

15 MS. PERKINS: Your packet that you made up [inaudible].

16 CHAIRMAN BROWN: From the discussion section in the last paragraph  
17 [inaudible]

18 MR. PRICE: Well one of the things that I look at – at least what I try to go  
19 through is I go through each of the standards that you're supposed to use in granting a  
20 variance and of course as you get to the first one, you know, what are the extraordinary  
21 exceptional or conditions, you know, Staff did not observe any out there; that there were  
22 exceptional conditions for this. Or course at the same time as you get there, you know,  
23 if you take them in order then you would pretty much stop at the first one if you found

1 that. However as you get down to say D which is – always seems to be an out now the  
2 granting of it doesn't create a detriment so, but as far as Staff believing – once I got to  
3 the first question that's usually -

4 MS. PERKINS: But you said that you believe that that does not meet all the  
5 criteria and up at the criteria for the variance you were saying that he meets it all, you  
6 don't see any problems.

7 MS. CAIRNS: No, he [inaudible] – there's nothing extraordinary or exceptional .

8 MS. PERKINS: Okay. Okay.

9 MS. CAIRNS: And also part C which is, you know, without granting the variance  
10 is the applicant, you know, prohibited or unreasonably restricted from the use of the  
11 property without the granting of the variance and I don't – I mean that's the criteria that I  
12 feel – let alone the non-exceptional but the fact that without the variance is it an  
13 unreasonable restriction for effectively prohibiting the use of the property? And I think  
14 until testimony's offered to address that criteria it's difficult to just grant the variance.

15 CHAIRMAN BROWN: All right. Any further questions for Mr. Nelson? All right,  
16 sir. I also have a Sharon Thompson signed up. Do you wish to speak, ma'am?  
17 There's no one signed up in opposition. The chair will entertain further discussion.  
18 Hearing none the chair will entertain a motion. Don't everybody speak at once. Ladies  
19 and gentlemen we need a motion

20 MR. ASHFORD: Mr. Chairman, I so move that we give him his request for the  
21 variance that he requested.

22 CHAIRMAN BROWN: To approve, Mr. Ashford; is that your -

23 MR. ASHFORD: Yes, sir.

1 CHAIRMAN BROWN: Is there a second?

2 MR. BRANHAM: I'll second.

3 CHAIRMAN BROWN: It's been moved and seconded that the requested  
4 variance which as amended is for 19 square feet be approved. All in favor signify by  
5 raising your hand. Opposed?

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

7 CHAIRMAN BROWN: Are you opposed, Ms. Cairns?

8 MS. CAIRNS: I abstain.

9 CHAIRMAN BROWN: You abstain, all right. Mr. Nelson, your request is  
10 approved. Mr. Price will be in touch with you. Mr. Price, next case.

11 MR. PRICE: Mr. Chair. I was wondering if we could take probably a three-  
12 minute break?

13 CHAIRMAN BROWN: What's that?

14 MR. PRICE: If we could take a three-minute break? We need someone that  
15 need to get into the back and we don't want them walking through the Board.

16 CHAIRMAN BROWN: Is there a motion for a five-minute recess?

17 MR. TOLBERT: So moved.

18 CHAIRMAN BROWN: Second?

19 MR. ASHFORD: Second it.

20 CHAIRMAN BROWN: All in favor?

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

22 *[BREAK]*

23 CHAIRMAN BROWN: All right. Mr. Price, next case, please.

1 **CASE 06-28 V AND 06-28 V:**

2 MR. PRICE: Okay. As we kind of get into this. The next two cases, 06-28  
3 Variance and 06-29 they're pretty much the same request. So you know because we  
4 have to take them individually but pretty much probably what you do with one you'll end  
5 up doing with the other.

6 CHAIRMAN BROWN: Consider them jointly?

7 MR. PRICE: Yes, sir. Okay. Case 06-28 Variance. The applicant is requesting  
8 the Board of Zoning Appeals to grant a variance to encroach into the required side and  
9 rear yard setbacks on property zoned MH, Manufactured Home. The applicant is Celia  
10 Bowen. The location is 617 Wynett Way. The existing zoning as stated is MH. The  
11 parcel size is a one point two acre tract. The existing land use is residential. The  
12 subject property has two manufactured homes and an accessory building. The  
13 applicant proposes to encroach into the required side yard setback by seven feet. So  
14 essentially for the first case it's about a one foot variance on the side yard setbacks.  
15 The surrounding area is primarily comprised of residential structures, both  
16 manufactured and single-family structures. That's it.

17 CHAIRMAN BROWN: Celia Bowen? You need to state your name, please and  
18 explain to the Board what it is you'd like to do.

19 **TESTIMONY OF CELIA BOWEN:**

20 MS. BOWEN: Yes, sir. My name Celia Bowen and we're here try to re-establish  
21 a property line from the current fence line on the property. I own both pieces of  
22 property. Originally the property was bought as two lots when my mother purchased it  
23 many years ago. Due to her illness we combined that under tax documentation as one

1 lot. I moved there to take care of her. I since moved and want to sell the property to a  
2 young lady that is caregiver to my father that lives in my home. So in order to do that –  
3 in the course of these years we've built the garage in the back so that is why we need to  
4 readjust the property line. We have established a means between the two properties of  
5 privacy fencing with wheelchair accessibility between the two for her to get to to be able  
6 to take care of him. And she is currently renting from me so I'm just trying to provide  
7 her a place of residence, something that she owns without taking my father's property.

8 CHAIRMAN BROWN: Any questions by Board members for Ms. Bowen?

9 MS. CAIRNS: What's the distance between the two homes? The plat doesn't -

10 MS. BOWEN: Total distance from wall to wall would be approximately about 16,  
11 about 16' I would say.

12 MS. CAIRNS: That doesn't – practically that doesn't look possible. I think  
13 because the line – is dimension is 13' looks longer than the distance between.

14 CHAIRMAN BROWN: Is there more questions for Ms. Bowen?

15 MS. BOWEN: Yeah. If you see the photo – you see the privacy fence in the  
16 back there and so I'd say that's approximately about six foot on one side of the fence  
17 and about that, maybe a little more on the other. So 14 to 16', somewhere in that  
18 neighborhood – actually from wall to wall of the two houses.

19 MS. CAIRNS: So – I know it's two variances and it's a little bit bizarre but I'm  
20 trying to figure out exactly - I mean if you split, if you put a new property line  
21 immediately in between the two houses how much of a variance does that force you to  
22 need to get the two – because then you could [inaudible] to accomplish what's  
23 necessary for the garage I would imagine in the back. But I mean it appears – the

1 drawing is difficult. I guess there is a scale written on here. I didn't bring a scale with  
2 me. Whether it truly is one [inaudible] 30 but it looks as if it's maybe only about ten feet  
3 between the two buildings. Because it's my understanding based on reading the  
4 application that you want to just turn the fence into a property line?

5 MS. BOWEN: Correct.

6 MS. CAIRNS: But the fence is – I mean at one point the fence is against the side  
7 of the original structure. It looks as if. I mean I'm going off of –

8 MS. BOWEN: Right. Originally there was no fence. It was – when it was  
9 combined into one piece of property we did not have a fence at all and as – when I got  
10 ready to rent this to this young lady to help my father, I just put up some type of division  
11 because she does have a dog, you know, that stays in the front yard and then leave the  
12 back open to as I said handicapped accessibility in the back by a gate. But originally  
13 the property did not have a fence line between the two.

14 MS. CAIRNS: Yeah. I mean that's not my concern. I mean my concern is that,  
15 you know, to try to get a true understanding of what is the variance request. I mean Mr.  
16 Price offered that it was a one-foot variance which would say to me that you're allowing  
17 – each building is going to have seven feet from a property line and I don't see how –  
18 whether you use the existing fence or draft an entirely new property line that you can  
19 get seven feet from the two structures. I mean it looks like, yeah, that that distance right  
20 there is -

21 CHAIRMAN BROWN. I think what he's saying is the variance needs to be seven  
22 feet.

23 MS. CAIRNS: One foot, okay.

1 MR. PRICE: So there'd be – yeah. The variance request is if there was from the  
2 fence. It's going from the fence [inaudible]. The fence would be the newly established  
3 property line. That's where the variance will be from.

4 MS. CAIRNS: And that's for both? But I mean is it a variance – are both  
5 structures going to be one foot from the fence?

6 MR. PRICE: It looks like one is going to be pretty much at a zero setback. It's  
7 going to be right on the fence and the other once will be – it's one foot at the furthest  
8 point.

9 MS. CAIRNS: So it's asking for a zero property line –

10 MR. PRICE: Zero.

11 MS. CAIRNS: - a zero setback on one.

12 MR. PRICE: 06-29 would be zero. 06-28 would be one – a one-foot setback.

13 MS. CAIRNS: And – I mean the other thing is that all of these conditions were  
14 created by you and your family and so I mean that's – I mean I find the grant, the  
15 request to be extraordinary and when factored in with the fact that all of these were  
16 conditions, you know, that you for personal reasons and I guess ultimately for tax  
17 purposes made it into a single lot and then now coming to us asking for what I feel is a  
18 rather extraordinary variance to have a zero lot line and a one foot set back so as to be  
19 able to undo the advantages that you've taken advantage of all these years, which was  
20 your right. I have no problem with what you've done up until now, you know. But I think  
21 to come to us and say okay we've created this mess and we want all these variances  
22 granted to get us, you know, where we could have been if we hadn't – I don't know. It's  
23 just – I know there's not a question in that and I understand.

1 MS. BOWEN: Right. To kind of help you understand it. When my mother made  
2 this one property versus two at that time she was not ill, thought that she would be the  
3 only person. So she kind of encroached in the center if you would of those two  
4 properties. –

5 MS. CAIRNS: I mean she –

6 MS. BOWEN: Yeah. And then when she became ill and I left work in order to  
7 take care of her that's when I put the doublewide beside her and it was zoned or  
8 approved I should say to do that with Richland County. So we put those there but  
9 originally on buying this property her intention was to live there as one property forever  
10 until she got to where, you know, she needed, you know, unexpected care. So then we  
11 had to kind of make things fit. So I understand what you're saying. It is sort of a mess  
12 but, you know, my point in being here today is to try to give this young lady who wants  
13 to buy a home, who's renting a home but still, you know, I give her a break if you would  
14 on the rent because she takes care of my Dad. So we exchange monies in that regard.  
15 I just want her to have something that she owns and calls her own versus renting.

16 MS. CAIRNS: I mean my concern is though that the perfectly legal and perfectly  
17 acceptable course of action may have gotten you to the point where you don't have a  
18 saleable lot. Right. So I'm just – I'm not comfortable with allowing, you know, because  
19 basically we'd be creating, you know, I just find it an extraordinary request. I  
20 understand how you got here but.

21 CHAIRMAN BROWN: Did this start out as a temporary compassionate use to  
22 put that second dwelling on the property?

23 MS. BOWEN: Yes.



1 MS. CAIRNS: Was that what allowed a second structure on a single?

2 CHAIRMAN BROWN: Yes.

3 MS. CAIRNS: Okay.

4 CHAIRMAN BROWN: Any further questions for Ms. Bowen? All right. Thank  
5 you, ma'am.

6 MS. BOWEN: Thank you.

7 CHAIRMAN BROWN: Cindy Hicks? Did you wish to speak? No one's signed  
8 up in opposition. The Chair will entertain discussion.

9 MS. CAIRNS: Not to repeat what I've already discussed but I just – I mean I just  
10 feel that it's important that the – I mean my inclination is to say that you've got a self-  
11 created issue here that and to undo it is an extraordinary request. I mean setting  
12 setbacks down to zero and one in a permanent structure for the rest of the future is a  
13 [inaudible].

14 CHAIRMAN BROWN: It is unusual.

15 MS. CAIRNS: I mean I do – I'm willing to hear concepts to the contrary but my  
16 inclination is to not vote in favor of such a request largely because of the self-created  
17 conditions.

18 CHAIRMAN BROWN: Additional discussion? Hearing none the Chair will  
19 entertain a motion. We'll take a motion first on Case 06-28.

20 MS. PERRINE: Mr. Chairman, I'll make a motion that 06-28 Variance be  
21 approved.

22 CHAIRMAN BROWN: Motion to approve. Is there a second?

23 MS. PERKINS: Second.

1 CHAIRMAN BROWN: It's been moved and seconded that 06-28 be approved.

2 All in favor signify by raising your hand. Opposed?

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

4 CHAIRMAN BROWN: All right. 06-28 is approved. The Chair will now entertain  
5 a motion on 06-29.

6 MS. PERRINE: I make a motion that 06-29 be approved.

7 MS. PERKINS: Second.

8 MR. PRICE: Excuse me, Mr. Chair. Do I need to read that into the record? Do  
9 you think I need to read this case into the record? 06-29?

10 CHAIRMAN BROWN: Probably so.

11 MR. PRICE: Case 06-29 Variance. The applicant is requesting the Board of  
12 Zoning Appeals to grant a variance to encroach into the required side and rear yard  
13 setbacks on property zoned MH Manufactured Home. The applicant is Celia Bowen.  
14 The location is 619 Wynett Way. The existing zoning as stated is Mobile Home.  
15 There's a one point two acre tract. The existing land use is residential. The subject  
16 property has two manufactured homes and an accessory building. The applicant  
17 proposes to encroach into the required side yard setback by 18', excuse me, by eight  
18 feet which will make it a zero yard setback – zero foot setback, excuse me.

19 CHAIRMAN BROWN: Now I'll ask that you renew your motion.

20 MS. PERRINE: Okay. I make a motion that 06-29 Variance be approved.

21 CHAIRMAN BROWN: And is there a second?

22 MS. PERKINS: Second.

1 CHAIRMAN BROWN: It's been moved and seconded that 06-29 be approved.

2 All in favor signify by raising their hand. Opposed?

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

4 CHAIRMAN BROWN: One opposed. Ms. Bowen, you have your requested  
5 variances. Mr. Price will be in touch with you. Mr. Price, next case.

6 **CASE 06-30 SE:**

7 MR. PRICE: The next item is Case 06-30 Special Exception. The applicant is  
8 requesting the Board of Zoning Appeals to convert a non-conforming use, which is a  
9 commercial radio installation and repair business, to another non-conforming use, an  
10 automotive garage on property zoned RM-MD Multi-family medium density. The  
11 applicant is George McCutcheon. The location is 1750 Andrews Road. The existing  
12 zoning as stated is RM-MD. The parcel size is a little – it's .59 acre tract. The existing  
13 land use is commercial. The subject property has a 1,904 square foot building that was  
14 constructed in 1975 and that's based on the NXG records from the Assessor's Office.  
15 The applicant proposed to re-establish – excuse me. I have convenience store. I'm  
16 sorry. Proposes to establish a garage in place of the commercial radio installation and  
17 repair business. The surrounding area is a community of single-family residential  
18 structures, both manufactured and single-family. The rear of the property is abutted by  
19 a railroad.

20 CHAIRMAN BROWN: All right. The first person I have signed up is George  
21 McCutcheon.

22 **TESTIMONY OF GEORGE MCCUTCHEON:**

1 MR. MCCUTCHEON: Hey. I'm George McCutcheon. I live at 420 Chimney Hill  
2 Road, Columbia and I am the prospective purchaser of this property. Mr. Jack McMakin  
3 is the seller and has owned and operated the building for a long time. Did ya'll get the  
4 report that –

5 CHAIRMAN BROWN: Yeah.

6 MR. MCCUTCHEON: Yup. Got the report that I submitted I guess a week or so  
7 ago. Geo asked for us to make sure we address several issues concerning the  
8 property. The traffic impact. There would be slightly less vehicles – ten vehicles  
9 compared to the old 15 vehicles coming and going each day. We will be working  
10 Monday through Friday. The vehicles and the operation of the vehicles – this, they are  
11 going to be changing oil, changing tires and that kind of thing and air guns are probably  
12 the loudest factor but it's the same vehicles, you know, commercial vehicles going. As  
13 you can see the doors on it are big for, you know, the good sized trucks. Kind of like  
14 FedEx sized trucks is typical of what they'll be working on. We're really not making any  
15 changes to the property itself or excuse me, to the building or the property. We're going  
16 to, you know, kind of clean up. A little bit of the backyard has gotten overgrown recently  
17 but other than that there's not too much to it and the noise impact shouldn't be too much  
18 different from the railroad track - that the rolling cars and horns and things like that. So  
19 we don't feel there's much difference with it. It was an existing building being operated  
20 as a garage and had a licensed permit to be doing that before the zoning code came in  
21 and was placed on top of it saying that it was multi-family which is kind of interesting  
22 that when you get down to Sand Street I think it is where it comes over there everything  
23 beyond it is M-2 and, you know, the railroad back there and obviously a heavy industrial

1 use. But if ya'll have any other questions for me or Mr. McMakin, we'd be glad to  
2 entertain those.

3 CHAIRMAN BROWN: Questions by members of the Board? Mr. McCutcheon,  
4 you indicate that the aesthetic views of the property there'll be no changes but my  
5 experience tells me that whereas a radio repair shop doesn't generate much in the way  
6 of junk or trash, automobile repair places have a tendency to result in an accumulation  
7 of vehicles that don't operate and engines lying around, parts and so forth out in the  
8 street. It seems to me that there's a substantial risk of a pretty significant change in the  
9 exterior appearance.

10 MR. MCCUTCHEON: One of the questions that Geo asked is will there be  
11 trucks parked there, you know, overnight instead of them being fixed and moved out or  
12 the oil changed or whatever. There could be a couple of vehicles parked in the back or  
13 parked inside the building. The building is just deep enough for those trucks to be able  
14 to be parked in but we're not expecting any parts or other things to be left laying around  
15 or having lots of trucks to be fixed up. I don't know how much I can volunteer. The  
16 company that is going to be taking this over is having a contract to work for another,  
17 bigger company. So they're not going to need – they're going to need to get those  
18 trucks out and going and not gonna to need them to be sticking around very long.  
19 They're going to be continuing to fix them and, you know, do light repair.

20 CHAIRMAN BROWN: So you're not going to be operating this business?

21 MR. MCCUTCHEON: No. I'm not operating. I'm the potential purchaser for the  
22 business. First Lease, Incorporated is the potential tenant that's going to be operating  
23 it.

1 CHAIRMAN BROWN: All right.

2 MR. MCCUTCHEON: Basically –

3 CHAIRMAN BROWN: So every vehicle that comes in there is either going to be  
4 operational and out or within the building; is that what you're telling me?

5 MR. MCCUTCHEON: Yes, sir. Yes, sir. It's similar to a Jiffy Lube for  
6 commercial things but - is what they do.

7 CHAIRMAN BROWN: So all the vehicle repairs and I don't mean to belabor this  
8 point, but -

9 MR. MCCUTCHEON: No. This is a difference from – it's – we're not going to be  
10 tearing engines apart and all that other stuff.

11 CHAIRMAN BROWN: The only type of work you do on these is light repair  
12 work?

13 MR. MCCUTCHEON: Correct.

14 CHAIRMAN BROWN: Oil changes –

15 MR. MCCUTCHEON: Oil changes –

16 CHAIRMAN BROWN: - brakes?

17 MR. MCCUTCHEON: - tires, brakes, that kind of stuff.

18 CHAIRMAN BROWN: But no major engine repair -

19 MR. MCCUTCHEON: Transmission and engine – none of that.

20 CHAIRMAN BROWN: - replacement, that sort of thing?

21 MR. MCCUTCHEON: Correct.

22 CHAIRMAN BROWN: More like a – something like a Midas or –

23 MR. MCCUTCHEON: Jiffy Lube.

1 CHAIRMAN BROWN: - a Jiffy Lube.

2 MR. MCCUTCHEON: Right. It's basically a Jiffy Lube -

3 CHAIRMAN BROWN: - on a commercial?

4 MR. MCCUTCHEON: - Jiffy Lube for the commercial instead of individual cars,  
5 exactly.

6 CHAIRMAN BROWN: All right.

7 MR. MCCUTCHEON: I'm glad you asked that for clarification.

8 CHAIRMAN BROWN: Thank you. Any further questions?

9 MS. CAIRNS: Yeah. You offered about needing to clear up some of the  
10 overgrown vegetation in the back. Is that mostly the grasses or whatnot or I mean do  
11 you intend to keep all the buffers?

12 MR. MCCUTCHEON: Right. Right.

13 MS. CAIRNS: There's good buffering.

14 MR. MCCUTCHEON: There is a nice buffer and if you look on the picture what  
15 you can see there is just a little bit open spot just behind it and we need to – what we  
16 wanted to do is kind of clean that up. When you walk out there it's got some grass and  
17 stuff up there.

18 MS. CAIRNS: Okay.

19 GEORGE MCCUTCHEON: These and some small bushes like that. But you're  
20 right. It's nice to have that buffer going back. So you know one of the things we wanted  
21 to do is we don't want to have to build a fence along the back so we wanted to keep that  
22 buffer there anyway along the back to save the expense of building a fence and have a  
23 natural buffer.

1 MR. PRICE: Yeah. Just to point out that if this use is approved that the  
2 applicant will be subject to the landscaping requirements of the Land Development  
3 Code.

4 MS. CAIRNS: Right.

5 MR. MCCUTCHEON: Right.

6 MS. CAIRNS: I just wanted to –

7 MR. MCCUTCHEON: See how that is – how those weeds and stuff are growing  
8 up?

9 MS. CAIRNS: And I can see parts that ought to be removed and parts that ought  
10 not to be removed.

11 MR. MCCUTCHEON: Right.

12 CHAIRMAN BROWN: Additional questions for Mr. McCutcheon?

13 MS. PERRINE: No question for him but I do have a question for Mr. Price and I  
14 may have heard but I didn't hear. On the application I know it says, you know, for an  
15 automobile garage but then further down you've got, "The applicant proposes to re-  
16 establish the convenience store with the addition of commercial . . ."

17 MR. PRICE: Yeah. As I was reading [inaudible].

18 MS. PERRINE: You corrected that? Okay.

19 MR. PRICE: That was a correction.

20 MS. PERRINE: That's what I didn't hear. I thought you did. Okay.

21 MS. CAIRNS: It was an old request. It was a little edit that didn't quite get  
22 finished through.



1 CHAIRMAN BROWN: Any further requests or information from Mr.  
2 McCutcheon? All right. Thank you, sir. Mr. McMakin? Did you have anything you  
3 wanted to add?

4 MR. MCKMAKIN: I'm just here if somebody wants to ask me anything.

5 CHAIRMAN BROWN: Okay. Thank you. The Chair will entertain discussion.

6 MS. CAIRNS: I would recommend that Special Exception 06-30 be approved  
7 with the condition that the – with the understanding that the landscape plans will be  
8 followed and that any trucks needing to be stored overnight would be stored either  
9 inside or behind the structure so as not to be parked – you're not allowed to park the  
10 structure overnight in the front of the building as a means of storage.

11 CHAIRMAN BROWN: Is there a second to that?

12 MR. PRICE: Would you also stipulate this -I believe that you know that the  
13 applicant said to the Record.

14 MS. CAIRNS: [Inaudible] Yes.

15 MR. PRICE: Will the actual type of operation that will take place in there?

16 MS. CAIRNS: Okay.

17 MR. PRICE: You know, for the record.

18 MS. CAIRNS: Including that the intended use is to be light commercial truck  
19 servicing and that any 12 months or discontinued use would terminate the  
20 grandfathering, whatever.

21 CHAIRMAN BROWN: Is there a second?

22 MS. PERKINS: Second.

1 CHAIRMAN BROWN: It's been moved and seconded. All in favor signify by  
2 raising their hand.

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

4 CHAIRMAN BROWN: All right, Mr. McCutcheon. You have your request. Mr.  
5 Price will be in touch with you.

6 **CASE 06-31 SE:**

7 MR. PRICE: The next item is Case 06-31 Special Exception. The applicant is  
8 requesting the Board of Zoning Appeals to grant a special exception to permit the  
9 establishment of a group day care on property zoned RS-MD single-family residential,  
10 medium density. The applicant is Tasha Ellison-Canzater. The location would be 601  
11 Wilmette Road. The parcel size is a little more than a third of an acre. The existing  
12 land use is residential. The subject property has an existing 1,802 square foot, single  
13 family residential structure with a double car driveway that leads to an enclosed portion  
14 of the house. The rear of the property is not enclosed by a fence. The applicant  
15 proposes to establish a family day care for a maximum of 12 children. The ages of the  
16 children would range from newborn to five years of age. The proposed hours of  
17 operation would be 6:30 a.m. to 6:00 p.m. The subject property is located within a  
18 subdivision of single-family residential structures, which is the Highland Forest  
19 subdivision. One of the things I did want to point out about this report and this kind of  
20 came later on. If you look under the criteria for special exceptions under traffic impact if  
21 you get down to the last sentence it says, "The establishment of this day care would  
22 generate approximately 18 additional trips per day." One of the reasons why we got the  
23 18 is because I believe the applicant has three children of her own so they count –

1 accordingly to DSS they would account against her so we were only counting nine.  
2 However, after talking to DSS the, you know, once you grant a special exception for a  
3 certain number that's just how many kids can be kept at a time. It's not like okay there's  
4 a roll of six and only those six can be there all day. So it just says they can come in and  
5 out during hours of operation so I'm actually going to start taking that part out because I  
6 really can't tell you exactly how many trips it would generate a day. One of the things  
7 too I wanted to point out was a little different than most of the day cares we get is that  
8 within here there's also an established use, it's a fraternity house. And I'm pointing that  
9 out because most of the day care requests that come before us are really just  
10 residential uses but this is a fraternity house. I believe it's Omega Si Phi fraternity  
11 house.

12 MS. PERKINS: Mr. Chairman, before we get started I want to say that I'm  
13 familiar with this area but I believe that I can render an impartial decision so I want to  
14 participate.

15 CHAIRMAN BROWN: Thank you. Are you Ms. Canzater?

16 **TESTIMONY OF TASHA ELLISON-CANZATER:**

17 MS. CANZATER: Yes, sir.

18 CHAIRMAN BROWN: Okay. Were you sworn in?

19 MS. CANZATER: Yes, sir.

20 CHAIRMAN BROWN: All right. You didn't sign up so when you finish your  
21 presentation if you'd come and sign the sign in sheet.

22 MS. CANZATER: Oh, okay.

1 CHAIRMAN BROWN: If you would, state your name and tell the Board what it is  
2 you intend to do, please.

3 MS. CANZATER: Okay. My name's Tasha Ellison-Canzater. What I'm asking  
4 the Board for is a special exception for – at the address of 601 Wilmette Road. I  
5 previously was approved for six children at – well at my mother's residence for about -  
6 four years ago through zoning for the maximum of six children which three were mine at  
7 that time also, to which two were included in that three so I only had – I was only able to  
8 keep four. I've just recently moved to 601 Wilmette and at this time I'm just asking that  
9 the Board would I guess – in order for me to kind of keep, continue to do what I was  
10 doing, what I was doing before with a small business as far as the child care program, I  
11 want to continue to do that in my new home. Prior to me moving I believe I followed the  
12 proper protocol to find out whether or not the neighborhood had an association. I spoke  
13 with the president in reference to me moving and about whether or not they agreed or  
14 didn't agree as far as having a day care there. So at that time once I find out that it was  
15 okay I did – we did have a meeting with the board of the association. I did provide you  
16 all with a letter from them. I did speak with the, I guess with the residential people that  
17 stayed around me to find out how they felt about the day care being there. No one at  
18 that time opposed me having the day care so I went forth. As far as the traffic I have,  
19 like I said before I have three so I'm only asking for an additional nine. Being that you  
20 have some families that would have maybe more than one child to one car. So I'm  
21 saying that probably an additional maybe four or five cars. I am located right next to the  
22 Omega house to which that generates more traffic than what I'm asking. So I'm just  
23 here today to ask for that special exception.

1 CHAIRMAN BROWN: How many people do you intend to have helping you with  
2 this day care?

3 MS. CANZATER: Okay. According to DSS it's one up until you have reached  
4 the max of eight. And then anything above that you'd have to have someone else  
5 additional to come in so there would be two of us.

6 CHAIRMAN BROWN: At all times?

7 MS. CANZATER: At all times.

8 CHAIRMAN BROWN: And how many days a week will you be operating?

9 MS. CANZATER: Monday through Friday.

10 CHAIRMAN BROWN: From 6:30 in the morning until 6:00 in the evening?

11 MS. CANZATER: Yes, sir.

12 CHAIRMAN BROWN: Any additional questions for Ms. Canzater?

13 MR. TOLBERT: Ms. Canzater? I think before, when you were approved before  
14 one of the stipulations were there be a fence around your property? One of the  
15 stipulations when you were granted before the special exception? And I looked at that  
16 property and there's still not a fence around. How would we believe this time that you  
17 will put a fence up when you didn't do it the last time?

18 MS. CANZATER: There is – I think prior to that there was no fence on the left  
19 side. That side was fenced in. It was joined with another fence behind us.

20 MR. TOLBERT: There's only a little bit in the back so I mean it's still not  
21 enclosed as I think the stipulation talked about.

22 MS. CANZATER: I'm not sure. I mean as far as you saying enclosing. Enclose  
23 the entire back yard?

1 MR. TOLBERT: Backyard. Um-hum (affirmative).

2 MS. CANZATER: I didn't – it just said erect fence and that was to divide from  
3 that house. On the other side of the house there is a fence that starts on the front and  
4 goes around to the back to part - I guess would be I guess the line for residential from  
5 back there to the next fence that's behind it.

6 MR. TOLBERT: It's not enclosed in though, right? It wasn't enclosed in?

7 MS. CANZATER: On the side from where you can see the road it was not  
8 enclosed in. That side was not enclosed in.

9 MS. PERKINS: So you're telling us that the back yard at 13 Leaf(?) Circle is  
10 fenced on all four sides?

11 MS. CANZATER: It's fenced on two sides. Well from the front side, that side  
12 and the back side. So that would be maybe three sides. You can see if from another  
13 residence. I believe it's a residential – if you're facing the house it'd be to the left. You  
14 can see a fence from there but if you're coming into the circle, into the cul-de-sac at 13  
15 Leaf Circle you won't see a fence on that side. There, there wasn't – I mean

16 MS. PERKINS: It's not enclosed? It's not enclosed?

17 MS. CANZATER: Not four sides.

18 CHAIRMAN BROWN: Additional questions for Ms. Canzater?

19 MS. PERKINS: I have one more. The application from DSS says six children.  
20 And I'm assuming on your application you put 12. Can you tell me the difference  
21 between six children and 12? Were you told that you could keep 12 children?

22 MS. CANZATER: On which application?

1 MS. PERKINS: On the latter, the packet that we have here to Mr. Price from  
2 DSS. It says that you have, providing child care for a maximum of six children and I  
3 think, yeah, you signed up for 12.

4 MR. PRICE: Huh? Which part are you looking – I'm sorry.

5 MS. PERKINS: The letter from DSS.

6 MR. PRICE: Okay. I'm sorry.

7 MS. CANZATER: You should probably – you may have two letters.

8 MR. PRICE: An I apologize.

9 MS. PERKINS: I've got two letters?

10 MS. CANZATER: You should have two letters. There was one that was  
11 submitted the first time for six and I later found out that in order for me to I guess  
12 upgrade I would have to close the one that I'm at 13 Leaf Circle, I would have to close  
13 that and start again. I can't just transfer it. They have to close that one down and start  
14 all over again.

15 MR. PRICE: We have two letters in my package and the original application was  
16 for six and the second letter came –

17 MS. PERKINS: Yeah. The date is – okay.

18 MR. PRICE: - in for 12.

19 MS. PERKINS: May 18, 2006. But it my understanding from Ms. Chavis that  
20 she was only giving you permission for 12 children, I mean for six children. So it is your  
21 testimony today that she's giving you permission for 12 as opposed to six?

22 MS. CANZATER: When we discussed yesterday she was doing, I believe she  
23 went on the one for six. There was a misunderstanding before, between both of us.

1 She sent me both of those letters. Okay both of those letters came from Ms. Chavis.  
2 The first letter was for six, okay? When she told me that I needed to do a –

3 MS. PERKINS: The first letter's for 12; isn't it?

4 CHAIRMAN BROWN: That's right.

5 MS. PERKINS: It's for 12.

6 MS. CANZATER: The first letter is for 12?

7 MS. CAIRNS: The May 18<sup>th</sup> letter is for 12 and the June 7<sup>th</sup> letter's for six.

8 MS. CANZATER: Okay. I'm sorry about the dates. I have the dates mixed up,  
9 okay? She gave me the one for 12 being that she said that I would have to close down  
10 my facility and there may be a 90-day period before she can get in or fire could come in  
11 and approve the facility. I can't be closed for 90 days. So she later sent me one for six  
12 stating that I would have to – she would have to close out the one for six and then we  
13 would have to start over again and then I would have to come back to zoning to go for  
14 12.

15 MS. PERKINS: My question to you is it your understanding that she is submitting  
16 a letter for six children or twelve children?

17 MS. CANZATER: Six.

18 MS. PERKINS: But you're asking for 12, to keep 12?

19 MS. CAIRNS: I think it's – as I understand, correct me if I'm wrong, is that for  
20 DSS's purposes you right now have a permit for six.

21 MS. CANZATER: Right.

22 MS. CAIRNS: They won't give you a second for 12 but they'll give you a second  
23 for six and then transfer these over when this one closes down?



1 MS. CANZATER: Yes.

2 MS. PERKINS: Now as I understand it from Ms. Chavis you're not operable right  
3 now; is that correct?

4 MS. CANZATER: Right. I can't operate.

5 MS. PERKINS: Your license is no longer valid?

6 MS. CANZATER: As of yesterday it's no longer valid.

7 MS. PERKINS: No longer valid.

8 MS. CAIRNS: At Leaf Circle?

9 MS. CANZATER: At Leaf Circle because I have moved from that address.

10 CHAIRMAN BROWN: I don't understand why the approval for 12 children is  
11 dated May 18<sup>th</sup> and the approval for six children is dated June 7<sup>th</sup>.

12 MS. CANZATER: The one for the 12 was – I believe I moved into that house –  
13 I'm trying to think. I think the date that we actually closed on that house because I told  
14 her that I would probably be moving. And once I moved that I wanted to upgrade to 12  
15 because I'm doing six now.

16 CHAIRMAN BROWN: I understand that and both of them are "Re: Ms. Tasha  
17 Canzater at 601 Wilmette Road." But the one that's later in point of time is only for six  
18 children.

19 MS. CANZATER: The one that's more current, right, your saying?

20 CHAIRMAN BROWN: Yeah.

21 MS. CANZATER: Is for six. Right. To which we discussed yesterday and she  
22 said that I would have to do the one for six. I would have to go for the one for six.  
23 She's going to have to –

1 CHAIRMAN BROWN: Are you asking to keep six children or 12 children?

2 MS. CANZATER: Right now, six.

3 CHAIRMAN BROWN: Mr. Price, I'm totally confused.

4 MS. PERKINS: Yeah. I'm confused too.

5 MS. CAIRNS: Is it possible to get a special exception for 12 and yet only be DSS  
6 licensed for six and then be able to upgrade or do they have to be in lock step at all  
7 points?

8 MR. PRICE: Under the former code there's a little – I guess a little head butting  
9 who's going to grant permission first and I believe that's when we came across this  
10 letter from DSS stating that it actually applied. However, as I'm flipping through the  
11 code now it says here, "All other state and federal regulations must be met." I mean  
12 there's –

13 MS. CAIRNS: Well, I mean it would seem to me that if we say 12 is okay, DDS  
14 says six, that means there's six kids.

15 MR. PRICE: Yes.

16 MS. CAIRNS: I mean the lower but I mean can we – could she then whenever  
17 DSS is prepared to bump her up to 12, she's already got her special exception.

18 MR. PRICE: Yes.

19 MS. CAIRNS: So we could grant a 12 child special exception even though DSS  
20 is only going to let her have –

21 MR. PRICE: Exactly.

22 MS. CAIRNS: - up to six. Because, yeah.

23 MR. PRICE: Yeah. I mean.

1 MS. PERKINS: But there are different criterias for keeping six children and 12  
2 children.

3 MS. CAIRNS: Oh, yeah. But our request, as I understand it, our request today is  
4 to see whether from the land use standpoint whether we can approve 12 and if the, you  
5 know, the issues with DSS will be addressed between her and DSS. I mean if we find  
6 that the facility is acceptable for 12, I think that's what we're being asked today is, you  
7 know, to treat it as a 12 child and then her -

8 MS. PERKINS: [Inaudible] so the letter from DSS is of no use, it's invalid, is  
9 that?

10 MR. PRICE: Well it shows us that they've actually applied to DSS and I believe  
11 that's been one of the requirements of the Board previously. At least the previous code  
12 did require that. I don't know if the current code does require that we receive any  
13 notification from DSS that the applicant has applied. And right now I'm just basing that  
14 on Section 26-152(d)(10).

15 MS. PERKINS: What page?

16 MR. PRICE: Page -

17 MS. PERKINS: Page 576?

18 MR. PRICE: No, ma'am. That would be page 600.

19 MS. PERKINS: Okay. Well I would like to say that I, you know, I spoke with Ms.  
20 Chavis because there was some concern as to the six and the 12 and I didn't know that  
21 - whether or not we could do it and there are stipulations for six and 12 children and as I  
22 understood you were told that six children would be it. You didn't have enough time to  
23 do whatever they needed to do for the 12 children.

1 MR. PRICE: If the Board were to grant approval, the letter that would be given to  
2 the applicant, which she does have to present to DSS, would state the number of  
3 children that she was approved for so that would just clear it up.

4 MS. PERKINS: I also talked to her today about the stipulations that were in the  
5 last – they don't approve that and I wanted to know did we go by and check her home to  
6 see if the fence had been put up on all four sides?

7 MR. PRICE: Which one are we talking about?

8 MS. PERKINS: On Leaf Circle.

9 MR. PRICE: We probably didn't.

10 MS. PERKINS: Okay. Because she was kind of out of compliance with that.

11 MR. PRICE: Right. But that was a previous case.

12 MS. PERKINS: It's a previous incident but it shows – it gives some credence, for  
13 me it does, it gives some credence to –

14 MR. PRICE: Well that might have been negligence on our part. Maybe we  
15 should have been checking it. Of course during that time we were short on, you know,  
16 personnel but that's something we've been doing a lot more. As you can see we have  
17 two officers here and we will be checking these a lot more than we probably were able  
18 to in the past.

19 MS. PERKINS: Okay.

20 MS. PERRINE: And I think it's because if she didn't put a fence up at the one  
21 she's in now or on Leaf Circle, there's no fence at this new one so I think that's kind of  
22 like what Mr. Tolbert was talking about earlier. How do we know that she'd put a fence  
23 up in the backyard?

1 MS. CAIRNS: Because Mr. Geo's office, I mean, that's our county code  
2 enforcement issue and if - I mean it's up to the county to make sure that the  
3 requirements get followed. If they -

4 MS. PERKINS: So when we make recommendations and we put stipulations on  
5 them, the county doesn't follow up on them so be it; is that what you're saying?

6 MS. CAIRNS: Well but I think also the applicant has offered that there was some  
7 confusion. It was her understanding she only needed fencing on the one side as  
8 opposed to a fully enclosed and so - I mean, I wasn't at the previous one. I just think  
9 that that's, you know, if she can offer testimony as to that she thought she was in  
10 compliance under the previous fencing requirement and if she wasn't then yeah, it could  
11 be the fault of the county by not following through to more fully explain. Yeah, you  
12 know.

13 CHAIRMAN BROWN: [inaudible] more questions for Ms. Canzater?

14 MS. CAIRNS: I have a couple questions just in terms of some of the - we got  
15 this pack of letters and I'd like to hear from you initially first in terms of some of the  
16 dates as to when some of these events occurred. Because we have three letters that  
17 are all dated June 23<sup>rd</sup> from neighbors of yours that, you know, you typed up the letters  
18 and they agreed with what you had said and signed them and then on, I guess  
19 chronologically I mean there's the July 11<sup>th</sup> letter where one of the previous women in  
20 essence recants her approval. Did you not get -

21 MS. CANZATER: Huh-uh (negative).

22 MS. CAIRNS: Does the applicant not get all the letters that we get?

23 MR. PRICE: You mean the ones against?

1 MS. CAIRNS: Yeah.

2 MR. PRICE: They're in the file. We don't necessarily go ahead and supply them  
3 with [inaudible].

4 MS. CAIRNS: Okay. I'll go to the specific question. There is a letter that was  
5 offered today saying that there was a meeting of the neighbors on July 10<sup>th</sup>. There's  
6 another letter saying that there was a meeting that was supposed to have been called  
7 on July 9<sup>th</sup> but there was no such thing. So there was a meeting on July 10<sup>th</sup> that you  
8 went to?

9 MS. CANZATER: There was a meeting on July 10<sup>th</sup>, yes, ma'am.

10 MS. CAIRNS: Could you offer how many neighbors were present on July 10<sup>th</sup>?

11 MS. CANZATER: I would say approximate about seven or eight people were  
12 there. It was a called meeting about this.

13 MS. CAIRNS: Yeah. I mean do you know how that meeting was offered to the  
14 neighborhood? I mean advertised or how did people find out that there was a meeting  
15 going on, a special meeting on July 10<sup>th</sup>? Do you know?

16 MS. CANZATER: I really don't know. I got a call from the president who said  
17 that they're going to meet at the Omega house at such and such a time and I was there.

18 MS. CAIRNS: Okay. And at that time the neighbors that were present at that  
19 meeting were not in opposition to your operating the day care.

20 MS. CANZATER: Right.

21 MS. CAIRNS: Okay. Thank you.

22 CHAIRMAN BROWN: All right. I also have signed up, Mr. Albert Johnson.

23 **TESTIMONY OF ALBERT JOHNSON:**

1 MR. JOHNSON: My name's Albert Johnson. I live at 718 Carty Drive in the  
2 Highland Forest subdivision. I'm the president of the Highland Forest Homeowners  
3 Association. You have the July 21<sup>st</sup> letter essentially saying that the association at this  
4 special meeting was in agreement with Ms. Canzater's business coming into being. To  
5 answer your question on that meeting was requested by one of our members and at the  
6 time the meeting was requested I explained to that member that I would call everyone  
7 that I could and inform them of the meeting which I did. They came to the meeting. As  
8 far as I'm concerned the meeting was legal but you'll hear I'm sure some opposition  
9 from members of the association. I am in agreement with it from what she has told us  
10 and from what went down at our meeting and I really think that Ms. Canzater and her  
11 business will be a good addition to the community.

12 MR. BRANHAM: I've got a question for Mr. Johnson. How many homeowners  
13 do you have, how many members of the homeowners association do you have?

14 MR. JOHNSON: How many were present at the meeting?

15 MR. BRANHAM: No. How many members are there total?

16 MR. JOHNSON: Total dues paying members we probably have – I can't give  
17 you an exact. I haven't counted that lately but I'd say there were 15 –

18 MR. BRANHAM: Fifteen?

19 MR. JOHNSON: - dues paying members out of 148 homes in the subdivision.

20 MR. BRANHAM: And all 15 were contacted by telephone that there would be a  
21 meeting called.

22 MR. JOHNSON: As many as I could, sir.

1 MS. CAIRNS: Are there provisions to the homeowners association? Do you  
2 have bylaws?

3 MR. JOHNSON: Yes.

4 MS. CAIRNS: Are there provisions – as a homeowners' association, do you  
5 have bylaws?

6 MR. JOHNSON: Yes.

7 MS. CAIRNS: Are there provisions in the bylaws as to how special meetings are  
8 to be called and held?

9 MR. JOHNSON: Yes, there is. No, I can't tell you what that is. I don't – I don't  
10 know for sure.

11 MS. CAIRNS: Yeah.

12 CHAIRMAN BROWN: Is there a requirement for a quorum?

13 MR. JOHNSON: No.

14 CHAIRMAN BROWN: You're saying how many homes are there in Highland  
15 Forest?

16 MR. JOHNSON: There are approximately 148.

17 CHAIRMAN BROWN: And you have 15 members in the association?

18 MR. JOHNSON: Yes, sir.

19 CHAIRMAN BROWN: And that purports to represent the entire development?

20 MR. JOHNSON: That's the way it is.

21 MR. TOLBERT: And those that was present all agreed or is that your opinion or  
22 that committee's opinion agreed to write the letter?

23 MR. JOHNSON: Yes.



1 MR. TOLBERT: Or that's your letter?

2 Mr. JOHNSON: No, no, no, no, no. They didn't – there was no mention of a  
3 letter. Ms. Canzater asked me because she had had a previous letter, which you may  
4 have on file, she asked me for a letter and based upon our meeting I gave her a letter.

5 MR. TOLBERT: And the letter's representing the community or yourself?

6 MR. JOHNSON: No. The letter's representing the action at that meeting.

7 CHAIRMAN BROWN: Why are they written on Mrs. Canzater's stationery?

8 MR. JOHNSON: No. That letter wasn't written on Ms. Canzater's stationery, sir.

9 CHAIRMAN BROWN: The heading on it is, "God's Precious Gifts."

10 MR. JOHNSON: July, July 21<sup>st</sup> letter.

11 CHAIRMAN BROWN: Okay.

12 MR. JOHNSON: Okay.

13 MR. PRICE: Mr. Tolbert, to just kind of clear up – one of the things that I, when I  
14 spoke to Ms. Canzater she had told me about the meeting with the homeowners  
15 association. And so I did I guess made the request of – that she get a, you know, an  
16 official letter from the president stating that they had the meeting, you know, just to kind  
17 of keep that, you know, we had a meeting, no, we didn't [inaudible].

18 MS. PERKINS: So the July 21<sup>st</sup> letter, that's what you're saying?

19 MR. PRICE: Yes. After she told me about the meeting I asked her to get – could  
20 she get that in writing of what their I guess their recommendation was.

21 MS. PERKINS: That's the June 30, 23<sup>rd</sup>?

22 MR. PRICE: July 21<sup>st</sup>.

23 MS. PERKINS: Okay.

1 CHAIRMAN BROWN: Any additional questions for Mr. Johnson? All right.

2 Thank you, sir.

3 MR. JOHNSON: Thank you.

4 CHAIRMAN BROWN: We have a number of people signed up in opposition.

5 The first is something Brown, I think. I can't read the first name. Ruth(?) I guess it is.

6 **TESTIMONY OF RUTH BROWN:**

7 MS. BROWN: Mr. Chair and Board Members, my name is Ruth Brown. I live at  
8 620 Wilmette Road.

9 CHAIRMAN BROWN: Excuse me, Ms. Brown. Will you pull that microphone  
10 down to you a little bit? Thank you.

11 MS. BROWN: My name is Ruth Brown and I live at 620 Wilmette Road and I  
12 have lived there for over 30 years. I have been a faithful member of the homeowners'  
13 association for the last year or so. I've been as active [inaudible] as failing. I have been  
14 advised by my doctor to try and walk early in the morning around 6:00 a.m. before the  
15 streets get busy with the residents hurrying off to work because where I live is hilly and I  
16 don't move very fast. I am a neighbor. I am not only one person in the neighborhood  
17 who is 80 years plus years walk in the mornings for health reason and I beg you please  
18 to deny the request of this family day care center. In my neighborhood it will [inaudible]  
19 my safety for walking. Thank you.

20 CHAIRMAN BROWN: Any questions for Ms. Brown?

21 MS. PERKINS: Were you at a meeting?

22 MS. BROWN: Yeah. I went to the meeting. I went over there to hear what was  
23 said. I didn't answer any questions. I just sat to hear what was said and it was, let's

1 see. It was four men from the community, the president and Mr. [inaudible]. It was six  
2 men in all and two women me – I mean two women with myself. That’s all that was  
3 there and the lady that owned the day care center and some lady was with her.

4 MS. PERRINE: Are some of the other people that were here at that meeting? I  
5 know you said there were two women so it was you and -

6 MS. BROWN: No. One man was there – he was there. No. The other lady,  
7 she’s not here today.

8 MS. PERRINE: Okay.

9 CHAIRMAN BROWN: Any additional questions for Ms. Brown? Thank you,  
10 ma’am. The next person I have signed up is Linda Kennedy, is it?

11 **TESTIMONY OF LINDA KENNEDY:**

12 MS. KENNEDY: Good afternoon to the Chair and Members of the Board. I  
13 would just like to say I’m Linda Kennedy. I live at 608 Wilmette Road, right across from  
14 601 Wilmette Road. As I listened to our president speak, the individual he was talking  
15 about was myself. I found out about – I had no idea that there was going to be a family  
16 day care across the street from me. I tried to approach on three occasions when the  
17 house went up for sale and when the sale sign went down and I saw a gentleman in the  
18 yard, I approached the gentleman to try to welcome him to the neighborhood. I thought  
19 it was a family moving. He told me immediately he was not the homeowner. So, I went  
20 back again which was on a Saturday when the young lady asked to borrow a lighter or  
21 something when my husband was out in the yard. When my husband asked me to  
22 carry the lighter over I approached the young lady and gave her the lighter and it wasn’t  
23 Ms. Canzater. And I asked, “May I speak with the homeowner?” She told me she was

1 somewhere around there and she never came. So I went back home. That afternoon I  
2 went back because the lighter was not put back in my mailbox and I went over and I  
3 asked for the homeowner then and Ms. Canzater did show up. They went and got her.  
4 I spoke to Ms. Canzater because I found out that day from my neighbor when I went  
5 over to visit her that that was going to be a family day care. I was never approached by  
6 Ms. Canzater with a letter or nothing else about the day care. I've been a member of  
7 the homeowners association for 32 years. My husband and I, we are paying members.  
8 We are not able to make all the meetings but we rotate. And when I found out that it  
9 was going to be a family day care and my neighbor told me that our president – that Ms.  
10 Canzater had already talked with the president and he said that it was okay. We don't  
11 normally meet in July so he okayed it and signed a letter from her before anybody knew  
12 anything about it. That's when I approached him on Sunday after I left church, went to  
13 him – went first to our president, our old president. I did not have our president's  
14 number so I went to our previous president to see if she had the number. She called  
15 him and he asked me to come around.

16 CHAIRMAN BROWN: I'm going to have to ask you to wrap up your remarks.

17 LINDA KENNEDY: Okay. And so what I want to say is that I'm the individual  
18 that went to him and told him that he could not sign letters saying it's okay for a family  
19 day care for the community when it has not been brought before the community. And  
20 that's when the call, that's when he said that we could do a called meeting and I asked  
21 him could he get the people together for the call meeting and he said yes. There was  
22 no sign put out. I didn't even attend the called meeting. It was no way that anybody  
23 knew about a call meeting but those individuals that he called. And this will be nuisance

1 and it also would be a problem for a family day care if it be granted across from me.  
2 And Omega house do not have that much traffic because they only be there on  
3 Mondays –

4 CHAIRMAN BROWN: Ms. Kennedy, [inaudible], please.

5 MS. KENNEDY: - and that's it. Thank you.

6 CHAIRMAN BROWN: Next person I have signed up is Gloria Harper.

7 **TESTIMONY OF GLORIA HARPER:**

8 MS. HARPER: Good evening to the Chair and the Board. My name is Gloria  
9 Harper and I live at 619 North Highland Forest Drive and I have been in that North  
10 Highland Forest since 1972. We were one of the original builders out in that area.  
11 During those years I have raised two kids and I have a grandson and it's an area that  
12 we're very proud of and we have tried for so many years to keep it a residential area  
13 that you can be proud of. I have planned to retire and live in Highland Forest and live  
14 knowing that I have a residential neighborhood with friends and family that I have come  
15 to love over the years. I do not wish to see a day care in this community. I particularly  
16 do not wish to see one that's coming in with people who are doing things underhanded  
17 to get it in and I'm of the belief if they're going to do it in the beginning it's going to  
18 continue throughout. So I ask you to please consider helping us keep our neighborhood  
19 the way we have strived so many years to try to keep it so that it can be something that  
20 our children can continue to live in safely but also as we get in our golden years that we  
21 have some place that we can live and really be assured that it's going to be safe. So I  
22 beg you, please deny her request.

23 CHAIRMAN BROWN: Thank you, Ms. Harper. Mary Williams?

**TESTIMONY OF MARY WILLIAMS:**

1  
2 MS. WILLIAMS: Good afternoon, Mr. Chairman and Members of the Board. My  
3 name is Mary Williams and I live at 609 Carty Drive. I am also one of the early morning  
4 walkers and I'm concerned about the impact and traffic and safety that a day care  
5 center would have in the early morning hours in our neighborhood not specifically for  
6 myself but for other elderly members and also for the children on the corner that's  
7 catching the bus. I have lived in this residence for over 30 years and I'm a member of  
8 the homeowners association. I would ask that you look at the letter in which the  
9 president of the homeowners association has a letter directly from him and not the  
10 homeowners association. According to our bylaws and constitution an action cannot be  
11 taken by an officer of the community until the community deems it's okay. We are  
12 notified of meetings and special meetings, called meetings with the posting of signs at  
13 both entrances. On South Highland Forest Drive and on Jodo Drive, in addition to  
14 activation of a telephone committee and a notification of [inaudible]. There was no  
15 notification of a meeting. Therefore I plea with you to please consider the letter from the  
16 president as an individual signature opposed to the homeowners association.

17 CHAIRMAN BROWN: Thank you, ma'am. Mary Burton?

**TESTIMONY OF MARY BURTON:**

18  
19 MS, BURTON: Good afternoon, Mr. Chairman. Good afternoon, County Council  
20 members. My name is Mary Burton and I reside at 737 Wilmette Road, about one, two  
21 – well about one house from where this young lady is trying to put her day care center.  
22 I am opposing to the opening of a day care center that will operate as a business at 601  
23 Wilmette Road, Columbia, which is located in Highland Forest area. The house itself

1 sits on a hill. Sometimes when driving coming off of North Highland making that left turn  
2 right there on North, on Wilmette you cannot see over the little hill where her garage  
3 entrance is. You can't see over that hill. Sometimes there is a car parked right across  
4 the street from her house, from some teens. You have to drive around in the other lane.  
5 I'm looking at the safety of the children that you are going to be keeping. I welcome this  
6 young lady to our community but I do not welcome her business. Also there are retired  
7 people that do walk and hopefully in six years I will be one of them retired and walking  
8 down Wilmette Road. But I just don't agree in having this business in our community  
9 and I'm presenting to you I would like for you guys to please disapprove it. But we do  
10 welcome you to the community [inaudible].

11 CHAIRMAN BROWN: All right. Kenneth Kenny?

12 **TESTIMONY OF KENNETH KENNY:**

13 MR. KENNY: Good afternoon. I'm Kenneth Kenny. I live 112 Charon(?) in  
14 Highland Forest. On the meeting say July 10<sup>th</sup> I was at that meeting. There was a  
15 called meeting. The president did call me and I did attend. We had a discussion. We  
16 talked about it. I had a few questions to ask her about – our main concern was parking  
17 and the hill [inaudible] where kids were getting in and out. It's like Ms. Burton just said  
18 you can't see up that hill real well. I also said I had some more questions. I had to find  
19 out – that I need to find out for where she was previously. I got that information this  
20 past weekend and I got the information from Meadowlake subdivision president. And  
21 he told me that she did not apply – she didn't do everything that she was asked to do.  
22 [Inaudible] ask you to try to disapprove this if possible. I haven't been in Highland  
23 Forest as long as some of these people have. I moved in in '93. But I love that place

1 and I want to retire there. My main concern is that holding up the value of our homes. I  
2 do not want to lose that. Mr. Owens, the president of Meadowlake subdivision, said  
3 there was a problem with traffic. He also said that some kids almost got hit at  
4 [inaudible] kids getting in and out. And I believe what he's told me. He had no reason  
5 to lie. I didn't even tell who the family was; he told me. But I'm just here to [inaudible].  
6 Thank you.

7 CHAIRMAN BROWN: Thank you, sir. Al Goodson?

8 **TESTIMONY OF AL GOODSON:**

9 MR. GOODSON: Good afternoon, Mr. Chairman and Members of the Board.  
10 My name is Al Goodson and I reside at 412 South Highland Forest Drive and I have  
11 lived in the community for 35 years. And I'm also involved with the homeowners  
12 association and for years notifying the community I would put the signs out at the front  
13 entrance and the back entrance. Prior to doing that before we got the signs built I would  
14 go from mailbox to mailbox and notify the whole community. No, everybody in the  
15 community is not going to attend but the ones that do attend every mailbox in the  
16 neighborhood is notified. So to recant that what Mr. Johnson said about he called  
17 everyone and notified that there was a meeting. They had a discussion, they did not  
18 have a meeting because he didn't notify the whole community. I also welcome the new  
19 homeowner to the community but as a single-family owner not as a business. I also  
20 brought a letter from my wife, which I won't read but she disagrees with it and two of my  
21 other neighbors, I'm going to read her name. Her name is Margaret Goodson and she  
22 resides at 412 South Highland Forest Drive and she's also been there 35 years. I have  
23 one from Mrs. Felder who resides at 404 South Highland Forest Drive. She also



1 disagrees with the bringing in the business. And she's been in the neighborhood 33  
2 years. I also have a letter from Ms. Jessie Hare who resides at 315 South Highland  
3 Forest Drive and the two letters that you all have in your records from Ms. Gregg and  
4 Ms. Martin, they weren't able to come here and I brought those to the attention of the  
5 Zoning Board. I would like you to deny the individual the right to bring a business in my  
6 community. Thank you.

7 MR. TOLBERT: A question. Would you have any knowledge of those names  
8 you mentioned being paying members of your homeowners association?

9 MR. GOODSON: Paying members? Okay. I also was the treasurer for seven  
10 years and I relinquished that position back in '97. But no, the treasurer would have a  
11 count of who all paid and I always had that myself. I don't hold no position [inaudible].

12 CHAIRMAN BROWN: Any other questions for Mr. Goodson?

13 MR. GOODSON: I also -

14 MS. PERRINE: Can you give any idea of how many members there are in the  
15 association?

16 MR. GOODSON: I'll put it this way. In the homeowners association they have  
17 probably somewhere around 20 to 25 paying members. Some of the elderly folks like  
18 Ms. Gregg's letter you have, she very seldom attends but they pay their dues. I myself  
19 just getting back on my feet because I'm disabled the last four years and I haven't  
20 attended the meetings like I used to all because of health. So we have that problem  
21 with people attending the meetings.

22 CHAIRMAN BROWN: All right. Thank you, sir.

1 MR. GOODSON: Oh, one more thing. I have two letters that came up from  
2 people who – this is to the Richland County Zoning Board concerning the property at  
3 601 Wilmette Road. Odell Kennedy who was at the meeting; I think his wife spoke.  
4 She forgot to give you this but he disagrees with bringing that business in. And this one  
5 to the Chairman of the Zoning Commission. Ms. Burton(?) opposed to the opening of a  
6 day care center in our neighborhood. Thank you.

7 CHAIRMAN BROWN: All right. Thank you, sir. Ms. Canzater. You have an  
8 opportunity to come back and address the concerns that you heard.

9 MS. CANZATER: I hear that there is a lot of people saying that they don't want, I  
10 guess this family – I won't say it's a center - I mean this is my residential home. This is  
11 where me and my children reside. The only part of this home that would be where I  
12 would be bringing in children that would be paying – that would be there to help me pay  
13 for this house that I just purchased. I mean I wouldn't have – I would never have come  
14 into this community knowing that they opposed it or they didn't agree with it. At the  
15 meeting as Mr. Johnson said that he did call everyone. Mr. Kennedy was at the  
16 meeting. Ms. Kennedy I assume knew about the meeting. He was there – her husband  
17 was there and agreed at that time. As far as the accusation as far as children getting hit  
18 in Meadowlakes that's not true. There has never been an accusation or the county has  
19 never come to my house. I have never had any problems with the Department of Social  
20 Services. If there was a problem I would have been shut down. So there has never  
21 been a problem with the Department of Social Services during the four years that I have  
22 been there. The only reason that I am moving is to have my home, to have a home that  
23 I can call my own to where I can have my small business in this home. As far as

1 children unloading and I guess I would – you said loading and unloading, this is off the  
2 main road. I have plenty of, to where there is – where you see – well, where you see  
3 the driveway where you can let someone in and out of the driveway, there are four cars  
4 that can go there. There are four to five cars that can park in my backyard area, turn  
5 around sufficiently and leave.

6 MS. PERKINS: Are you saying that you've never been cited by DSS; is that your  
7 testimony to us today?

8 MS. CANZATER: I have never been cited for DSS pertaining to –

9 MS. PERKINS: No. I just want to know were you ever cited at your old address  
10 from DSS?

11 MS. CANZATER: I was cited one time for DSS –

12 MS. PERKINS: Why?

13 MS. CANZATER: - for having one child over six and that was one of my children.

14 MS. PERKINS: And you never had any other citations?

15 MS. CANZATER: No, ma'am. I have never had any problems. I believe the  
16 home that he is talking about is located on the top of the hill of Meadowlake Drive.  
17 There are several day cares in the Meadowlake community. There's one across the  
18 street from Mr. Kennedy that is not operating under Department of Social Services  
19 regulations. I'm doing what they request me to do in the right way.

20 MS. PERRINE: Did you purchase this home strictly with the intention of opening  
21 a day care?

22 MS. CANZATER: Yes, ma'am. Opening a day care only in that section but we  
23 are residing in that house.

1 MS. PERRINE: Did you own the other home that you – where you had a  
2 previous day care? Did you own that?

3 MS. CANZATER: No, ma'am. That was my Mom's home. My mother owns that  
4 home. She stays there now.

5 CHAIRMAN BROWN: Anything further Ms. Canzater? Thank you. The Chair  
6 will entertain discussion.

7 MR. TOLBERT: Mr. Chairman, I seem to be a little bit confused, complexed or  
8 whatever. There's a lot of unanswered questions in my mind and I think our ordinance  
9 looks at the welfare of the community and I think we have a major problem here and I  
10 don't know. I'm just hearing things that's going on and I'm not – some things are still not  
11 answered clearly in my mind and I'm just not sure as to are we getting all the facts.

12 CHAIRMAN BROWN: Well I'm concerned that apparently Ms. Canzater didn't  
13 comply with the direction of the Board in the previous location and I'm unpersuaded that  
14 this letter from the president has any real weight to it inasmuch as it appears that few if  
15 any of the homeowners were there and in fact few if any of the homeowners belong to  
16 the association. I'm not convinced that that association really represents the Highland  
17 Forest community as an entity. That's just my feeling. Do other Board members have  
18 any remarks that they wish to present? Hearing none the Chair will entertain a motion.

19 MR. TOLBERT: Mr. Chairman, I make a motion that 06-31 SE be disapproved  
20 based on ordinance 26-56 the welfare of the community because of the dissention and  
21 stuff. I just feel like it's not a good place.

22 CHAIRMAN BROWN: Is there a second?

23 MR. ASHFORD: I second that motion.

1 CHAIRMAN BROWN: It's been moved and seconded that Case 06-31 be  
2 denied. All in favor of the motion signify by raising your hand. Opposed?

3 *[Approved to Deny: Branham, Tolbert, Brown, Perkins, Perrine, Ashford; Opposed:*  
4 *Cairns]*

5 CHAIRMAN BROWN: Sorry, Ms. Canzater, your request has been denied. Mr.  
6 Price will be in touch with you. The next thing on the agenda is approval of the minutes.

7 MR. PRICE: Well this goes along with the approval of the minutes. I believe at  
8 the last Board of Zoning Appeals meeting on the 5<sup>th</sup> of July, at the 5<sup>th</sup> of July one of the  
9 stipulations for Case 06-18 Special Exception that was Cingular Wireless at 1209  
10 Montgomery Lane, one of the stipulations was that we determine on whether the house  
11 at the adjacent property was – what the conditions were of the home. Staff did go out  
12 and visit that site. However, Staff also did – reviewed the ordinance. I'm going to just to  
13 turn to that if you'll just give me - what we were looking at here is under 26-152. I  
14 believe that should be (D)(24)(c)(1). "In no case shall a communication tower be  
15 located within 50 feet of a residential zoning district or an inhabited residential dwelling."  
16 Staff's finding was that the home was not inhabited.

17 CHAIRMAN BROWN: All right. Thank you for that information, Mr. Price. Is  
18 there a motion to approve the minutes for July?

19 MR. BRANHAM: So moved.

20 MS. PERKINS: No. Not yet.

21 MS. PERRINE: No. Not yet.

22 MS. PERKINS: We've got too many mistakes. [inaudible] correct them.

23 MR. TOLBERT: Who's going to do it?

1 MS. PERRINE: I found some and I think Ms. Perkins had some too that I  
2 overlooked but –

3 MR. TOLBERT: Can I go with the first one?

4 MS. PERRINE: The first one – huh?

5 MR. TOLBERT: Let me get the first one because I don't have the ones but the  
6 first one is the date.

7 MS. PERKINS: Yeah.

8 MS. PERRINE: That's the first? Okay. And actually on page one through eight I  
9 think there were duplications but then you take that out and then we had page one  
10 through eight with everything on it. Page eight didn't have – wasn't completed. But  
11 then on page 42, lines three and four we have where Ms. Perkins approved and Ms.  
12 Perkins opposed and it should be Ms. Perkins opposed. Then on page 30, I mean 86,  
13 okay, that's where we're stating that Mr. Ashford, Reverend Ashford was absent but  
14 then on page 87, we have him approving and we have him absent. And then right after  
15 that it says Mr. Ashford is absent. And on page 87 and 88, it's just a little bit confusing  
16 because we start off with the Case 06-23 and we say the applicant is Vicki Crewl(?) but  
17 then on page 88, we have testimony of Christopher Pearson and then a little further  
18 down it says he's building this garage and Ms. Crewl is the homeowner but yet on page  
19 89, Ms. Perkins asks Mr. Pearson if he's the owner and he says yeah. So that was just,  
20 you know, just a little bit confusing to me so I don't know.

21 MS. CAIRNS: I would offer that's exactly what happened. He did – he offered –  
22 he sort of, you know, it was introduced that Ms. Crewl was the applicant and he started  
23 speaking and he offered right off he was the builder. And I remember when the

1 question was asked, okay, so you're the owner and he said, right. And I just I mean it  
2 was – I knew it would be – I mean I felt it would be clear in the record, in the paper  
3 records as to who was who so I didn't bother to correct him at that point. I think he was  
4 just confused as to exactly what was being asked. But I would offer that these minutes  
5 are a clear reflection of what was said by the people at the podium.

6 MS. PERRINE: Okay. And then I know, you know, ya'll are going to have to get  
7 used to me again. When we go back to page 11, I believe on line 16 and 22 and 23,  
8 instead of s-i-g-h-t we mean s-i-t-e – site. It's you know - I'm sorry you know.

9 MR. TOLBERT: Thank you.

10 MS. PERRINE: You're welcome. If we're going to approve them, I don't know.  
11 I'm just the type if we're going to approve something then I just feel it should be correct  
12 and that's I think about all I saw and I think Ms. Perkins had a few that –

13 MS. PERKINS: Yeah. Just – I think they were typographical errors. I think on  
14 page 22, line 15, it's ask, a-s-k instead of as.

15 MR. PRICE: What was that?

16 MS. PERKINS: And on page 49, line 1, a-r-e should be o-r and it should be  
17 going, g-o-i-n-g.

18 CHAIRMAN BROWN: Anyone else have any [inaudible] or corrections? Is there  
19 a motion to approve the minutes subject to those corrections?

20 MR. BRANHAM: So moved subject to the corrections.

21 CHAIRMAN BROWN: Is there a second?

22 MR. TOLBERT: Second.

23 CHAIRMAN BROWN: All in favor? Opposed?

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

2 CHAIRMAN BROWN: All right. Thank you, Board members for picking up on  
3 this. There being no other business before the Board, Mr. Price?

4 MR. PRICE: No, sir.

5 CHAIRMAN BROWN: Meeting is adjourned.

6  
7 *[Adjourned at 4:00 p.m.]*