

BOARD OF ZONING APPEALS
February 3, 2016

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3
4 *Present: Michael Spearman, William Smith, Joshua McDuffie, Susanne Cecere,*
5 *Christopher Sullivan; Absent: Frank Richardson]*

6
7 Called to order: 3:14 pm

8 CHAIRMAN MCDUFFIE: I'd like to call this meeting of the Richland County
9 Board of Zoning Appeals to order, and to recognize that we do in fact have a quorum
10 here today. And, let's see, first item is to adopt the Agenda for the day. Is there a motion
11 to approve today's Agenda?

12 MR. SMITH: Motion to approve the Agenda, December 2, 2015 [sic].

13 CHAIRMAN MCDUFFIE: Alright, Mr. Smith has made a motion to approve the
14 Agenda.

15 MR. SPEARMAN: I second.

16 CHAIRMAN MCDUFFIE: It's been seconded by Mr. Spearman. All in favor?

17 *[Approved: Spearman, Smith, McDuffie, Cecere, Sullivan; Absent: Richardson]*

18 CHAIRMAN MCDUFFIE: The Agenda's approved. Alright, and next item is the
19 Public Notice Announcement so, in accordance with the Freedom of Information Act a
20 copy of today's Agenda has been sent to radio and television stations, newspapers,
21 persons requesting notification, and posted on the bulletin board in the lobby of the
22 County Administration Building. At this time I would like to turn the meeting over to the
23 Board's attorney, Ms. Amelia Linder, for presenting the Rules of Order and swearing in
24 anyone who plans to speak today.

25 MS. LINDER: Thank you, Mr. Chairman. This Board is a *quasi*-judicial body
26 which means the decisions they make today are final subject to if there's a

1 disagreement or you don't, are not happy with the decision the Board makes you can
2 take that to circuit court 30 days after you receive the copy of the Order. The Applicant
3 has up to 15 minutes to speak. If there's anybody in opposition to what the Applicant is
4 requesting they would have three minutes to speak. And if there is opposition then the
5 Applicant has five minutes to again speak. Today we have two cases on the Agenda,
6 we'll take them up as they are ordered on the Agenda. If you plan to testify you will be
7 sworn in, which I will do a little bit later. Please address your remarks to the Board and
8 not to audience members. We do not wanna see any demonstrations or any, you know,
9 ruckus going on in the meeting, just please just testify when you come. We don't have a
10 microphone today so I would just ask everyone to speak loud so we, we are recording
11 everything. This is not quite as formal as a court and the Board will accept exhibits if
12 you have, any documents that you wanna submit they can accept that at this time, and
13 then they would give those documents the appropriate weight. The Board will then
14 make a decision, it could be either approval, approval with conditions, or it could be a
15 denial. If you have a substantial interest in the, in the Board's decision you may request
16 a reconsideration of it if you believe the Board made an error in law. And then you
17 would, if you're not happy with the Board's decision or you think they reached a wrong
18 decision because of some error that they made, you may request a reconsideration.
19 And like I said if you're not happy with the decision you can go to circuit court 30 days
20 after you get a, the decision of the Board is mailed. That would be usually in the form of
21 an order, the order is signed and mailed out after the Minutes are approved, and so if
22 we do not have a meeting in March you may not get a copy of the Order until sometime
23 in April. We would ask at this time that you would mute or silence any cell phones, make

1 sure your name is on the sign-up sheet if you plan to speak. If the Board has any
2 questions that, that I as the attorney need to answer we could go into Executive
3 Session. And at this time I would like to ask anybody that's planning to testify, which
4 means putting something on the Record, to stand so I can swear you in. And at this time
5 would you raise your right hand. Do you swear or affirm that the testimony you shall
6 give shall be the truth, the whole truth, and nothing but the truth so help you God?

7 AUDIENCE MEMBER: I do.

8 MS. LINDER: Everyone answered in the affirmative. Thank you.

9 CHAIRMAN MCDUFFIE: Alright, thank you Ms. Linder. At this time is there a
10 motion to approve the Minutes from last meeting, which was December of 2015?

11 MR. SPEARMAN: Motion to approve.

12 CHAIRMAN MCDUFFIE: Alright, any – but no changes?

13 MR. SPEARMAN: No corrections.

14 CHAIRMAN MCDUFFIE: Okay. Alright, we have a motion to approve the Minutes
15 as, as given. Is there a second?

16 MS. CECERE: I second.

17 CHAIRMAN MCDUFFIE: Alright. Motion's been seconded. All in favor?

18 MR. PRICE: Those in favor: Spearman, McDuffie, Smith, Cecere.

19 *[Approved: Spearman, Smith, McDuffie, Cecere, Sullivan; Absent: Richardson]*

20 CHAIRMAN MCDUFFIE: Alright, the motions [sic] from December 2015 are
21 approved and we will move on to the Public Hearing portion of today's, today's meeting.
22 Mr. Price when you're ready if you would please call your first case.

23 MR. PRICE: Yeah, I'm sorry I have one question.

1 CHAIRMAN MCDUFFIE: Yes.

2 MR. PRICE: Moving forward, and this is for the attorney. Each, each, how long
3 does each person have to speak?

4 MS. LINDER: The Applicant has up to 15 minutes to speak. If you're opposed to
5 what the Applicant is asking you would have three minutes to speak, and then the
6 Applicant has another five.

7 MR. PRICE: Okay, I will have to keep time, we do not have the timer here but I
8 will be keeping the time.

9 CHAIRMAN MCDUFFIE: Okay.

10 **CASE NO. 15-04 V:**

11 MR. PRICE: The first case is, the first item is Case 15-04 Variance. The
12 Applicant is requesting the Board of Zoning Appeals to grant a Variance to encroach
13 into the required side yard setback in the RU District. Those setbacks for the Rural
14 District in this particular case is 20'. The Applicant is Richard Hall, the location is 113
15 Millwood Drive in Eastover, South Carolina. The parcel size is approximately 2.1 acres
16 and the existing land use is currently residential and occupied, and the proposed land
17 use is to build a, a truck cord(?) and storage building. The character of the area is
18 residentially developed. As stated the Applicant's proposing to construct a truck
19 cord/storage building which will encroach into the required side yard setback of 20' by
20 10 ½'. There is an existing concrete slab on the site which is approximately 9 ½' as
21 indicated by the Applicant on his submitted plans, and the plan is to establish the
22 carport over that existing slab. According to the Applicant there are a number of, excuse
23 me, restraints on the property that would, that limit the area where the carport or storage

1 building can be located. And again they're on the submitted site plans. There's a water
2 line running down the middle and on the, I guess if you're facing the home on the right
3 side of the home there are a number of drain fields from previous manufactured homes
4 and also some new land, some new drain fields and a septic tank. From Staff's view we
5 think that the setback can be met but it would require the removal of some trees, and
6 also maybe construction of an additional slab. We'll go through the same pictures and
7 will show you what we're looking at here. Okay, what we're doing we're look at the,
8 looking at the subject parcel at this time. Here's the home and this is the concrete slab
9 that Staff was discussing. This is going according to the site plan that was submitted
10 over in this area the, like I said there was a former structure there that's no longer there
11 and this general area beside it, behind it are the old and new drain, drain lines and also
12 the septic tank. And this is a good view. One of the things Staff was looking at, there're
13 a couple of trees here and there's also a light pole that would kind of direct the new
14 storage building back over the slab. It's Staff's opinion that if these were to come down
15 that the, that the building could be constructed, however, it's up to the Applicant to, you
16 know, try to persuade you from that case. This is facing the rear of the home and there
17 the topography does change, a slope backwards so that would compose a bit of an
18 obstacle to building also in the rear or the back. And also for, what the Applicant's
19 proposing to use the storage building for is also I believe for an 18-wheeler truck so you
20 also have to look at the ability to maneuver it on the property. That's it for Staff.

21 CHAIRMAN MCDUFFIE: Mr. Price, very quickly. The area in which the proposed
22 slab is to go is that, is that adjacent, I mean, it's adjacent to the property line by about 9
23 ½' you said?

1 MR. PRICE: Yes, sir.

2 CHAIRMAN MCDUFFIE: Is there a residence located on the adjacent property
3 or? To your knowledge?

4 MR. PRICE: I believe there is. [Inaudible] I believe there is a residential structure
5 next to it. There's a driveway, I believe there is. The Applicant may be able to speak to
6 that.

7 [Inaudible discussion]

8 CHAIRMAN MCDUFFIE: I was just curious as to exactly what's going where on
9 here. Cause we're talking about generally on the, on the east side of the property there,
10 is that where the, the slabs, the existing slab?

11 MR. PRICE: Yes.

12 CHAIRMAN MCDUFFIE: Is on the east side?

13 MR. PRICE: Yes, sir.

14 CHAIRMAN MCDUFFIE: Okay.

15 MR. PRICE: Actually if you're looking on page 4 I believe you see the cab?

16 CHAIRMAN MCDUFFIE: Yeah, I, I, that's near the red –

17 MR. PRICE: Yes, sir. But that's the general area.

18 CHAIRMAN MCDUFFIE: Alright.

19 MS. CECERE: I have a question, Mr. Price. Now when, where the slab is right
20 now did they have to have a permit to pour that slab?

21 MR. PRICE: I believe that slab was there previously, however, you can pour an
22 at-grade slab as long as it doesn't encroach more than 5' to the property line.

23 MS. CECERE: And it looks like it's what, 7 ½', is that –

1 CHAIRMAN MCDUFFIE: Nine and a half.

2 MR. PRICE: Nine and a half feet, so didn't find any violations there.

3 MS. CECERE: Oh, okay. So it's my understanding that if the slab will be
4 extended, looking from the front of the property, to the right? Is that? No? Well, I guess I
5 need to ask the Applicant.

6 MR. PRICE: I believe the Applicant, I believe that the –

7 CHAIRMAN MCDUFFIE: Yeah then if we need additional clarification maybe it's
8 time to call the Applicant to –

9 MS. CECERE: Yeah.

10 CHAIRMAN MCDUFFIE: So at this time I would like to call Mr. Richard Hall.
11 Thank you, sir. Would you please, please state your name and address for the Record
12 and, and tell us about, about your proposal?

13 **TESTIMONY OF RICHARD HALL:**

14 MR. HALL: My name is Richard T. Hall and I reside at 113 Millwood Drive,
15 Eastover, South Carolina 29044. And in response to some of the questions, the slab is
16 approximately 9 ½' away from the property line and it's not to be extended, it's right size
17 now, and the metal building will be erected. It's more like a carport than a storage is all it
18 is. It's 15' of storage. I would imagine that would be from about the end of this table to
19 about, oh maybe to the end of this chair right here. And that would be the storage
20 space, and the other canopy would be to house the vehicle, the truck. And the metal
21 siding would be the same as the color as my home, the roof, so it would be matching.
22 As was stated earlier there's a steep downgrade going to the rear of the property which
23 would prohibit me from taking the vehicle to the rear. And of course, to the west side of

1 the property is the water lines and the drain lines and septic tanks. And that other
2 structure, that was a previous garage which is tan and brick, and that wouldn't be used
3 at all and it would just be on the east side of the building. And that's it. And I brought my
4 neighbor, there was a question that on the east side was there a structure? Well my
5 neighbor is Mr. Harris and he's okay with the erection of the building and it doesn't
6 encroach on anybody else's property at all, other than the fact that they changed the
7 rules and said now I have to be 20' from the property line.

8 MS. CECERE: Okay, so if I understand this correct, you're going to use the
9 concrete slab – you want to use the concrete slab that is in existence at this time.

10 MR. HALL: Yes.

11 MS. CECERE: And you're going to put a building over this concrete slab.

12 MR. HALL: Yes, ma'am.

13 MS. CECERE: Thank you.

14 CHAIRMAN MCDUFFIE: And you said it's just a, it's merely a canopy, it's not
15 going to have sides? It's just like a post and a –

16 MR. HALL: Well, it will have sides to protect the vehicle from the weather.

17 CHAIRMAN MCDUFFIE: Okay.

18 MR. HALL: But it won't have a front.

19 CHAIRMAN MCDUFFIE: Okay.

20 MR. HALL: The front'll be open like, just like the regular carports you see with the
21 cars in the front and then they got a little storage in the back.

22 CHAIRMAN MCDUFFIE: Okay.

23 MR. HALL: Same exact setup.

1 CHAIRMAN MCDUFFIE: Any other questions for the, for the Applicant?

2 MS. CECERE: Excuse me, one more question.

3 CHAIRMAN MCDUFFIE: No, go ahead.

4 MS. CECERE: Did you pour the concrete slab or was it there when you bought
5 your house?

6 MR. HALL: Yes, ma'am. We poured it. We poured it in October. And at that time
7 we didn't know that we had to be 20' away from the property line. If you'll look at, on the
8 west side of my property we had another building in the back and it's right on my
9 property line. I was totally unaware of the changes. But yes, we did pour that slab in
10 October.

11 CHAIRMAN MCDUFFIE: Any other questions for, for the Applicant at this time?

12 Okay. And we also have –

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

14 CHAIRMAN MCDUFFIE: No, go ahead. Go ahead.

15 MS. CECERE: And explain to me why you think that there is – the only way we
16 can really grant this is if there are exceptional, there is an exceptional or extraordinary
17 condition. Can you explain to me what that is? Either one of those?

18 MR. HALL: Well, the condition is the downgrade of the property. It's, it's kinda
19 hard to see in a photo, but the property, once you come on my property it starts going
20 downhill. And at a certain point the grade gets deeper, and that would prohibit the
21 vehicle from going beyond that point because it wouldn't be able to come back up.

22 MS. CECERE: I understand that. But why, but what would you, what would
23 prevent you from moving it somewhat more to the right to get off the property line?

1 MR. HALL: Well, the trees; there are three or four trees, a clump of trees right
2 there.

3 MR. PRICE: Yeah, we can go, we'll go back to it.

4 MS. CECERE: Okay.

5 MR. HALL: This is on the west side.

6 MS. CECERE: Right.

7 MR. HALL: Okay right here, all those trees, and that light pole they just recently
8 moved it, I had to call Tri-County to come out and move the pole. And if you look at the
9 first picture with the pickup truck in it you'll see a pole behind it? That was the original
10 light pole and we had to move the light pole because you had to be at least, I believe it
11 was 10' away from the electricity, the electrical. So Tri-County came out and they
12 decided to move the pole to its present position. I didn't choose that, that's where they
13 chose to select to put it, it was the best route I imagine from –

14 MS. CECERE: Um-hum (affirmative). And can you tell me what kind of trees
15 those are? Are those like fruit bearing trees or pecan trees or anything?

16 MR. HALL: No, ma'am, I'm, just trees [laughter] just trees with a lotta roots.

17 MS. CECERE: Okay.

18 MR. HALL: I, I'm not very familiar with trees but I think they just old raggedy trees
19 [laughter].

20 CHAIRMAN MCDUFFIE: Is the slab level?

21 MR. HALL: Yes.

22 CHAIRMAN MCDUFFIE: Okay, so we're looking at the drop off there, you can –

23 MR. HALL: Yes, sir.

1 CHAIRMAN MCDUFFIE: - tell it from, from this picture.

2 MR. HALL: Right there, the drop off there, the property goes down, the slab is
3 level. And that's what I was saying, it's, from the street all the way down to the back of
4 my property it's a downgrade.

5 MS. CECERE: And do you know how many feet that new pole is off of the
6 poured concrete?

7 MR. HALL: I'd say at least 35'. Thirty, 35'.

8 MS. CECERE: To the right?

9 MR. HALL: Yes, ma'am.

10 MS. CECERE: Mr. Price, do you know that?

11 MR. PRICE: No, no, ma'am. No, but just kind of looking at what was presented
12 by the Applicant, that I don't believe that the utility pole or the light pole presents any
13 obstacles to moving the storage structure there.

14 MS. CECERE: Thank you.

15 MR. PRICE: I think we're more or less looking at the trees as the issue.

16 MS. CECERE: The trees, okay thank you.

17 CHAIRMAN MCDUFFIE: Alright. We also have Mr. Harris signed up to speak if
18 you wish? And please again state your name and address for the Record, sir.

19 **TESTIMONY OF LEVY HARRIS:**

20 MR. HARRIS: Okay, I'm Levy Harris.

21 MS. CECERE: I don't think he – excuse me, I don't think he stood when, when
22 the swearing in –

23 MS. LINDER: No, he did not get sworn in.

1 MR. HARRIS: Oh, okay.

2 CHAIRMAN MCDUFFIE: Would you care to, care to swear him in now? Thank
3 you, sir.

4 MS. LINDER: Raise your right hand, please? Do you swear or affirm that the
5 testimony you shall give shall be the truth, the whole truth and nothing but the truth so
6 help you God?

7 MR. HARRIS: I do.

8 MS. LINDER: He answered in the affirmative.

9 MR. HARRIS: Well again, I'm Levy Harris, Jr. I'm adjacent to my neighbor Mr.
10 Richard Hall. I don't have any problem with him having the building in the area because
11 we're right between, on the line so it won't affect anything on my side of the property
12 [inaudible] as well, so I don't have a problem with that.

13 CHAIRMAN MCDUFFIE: Any questions for, for Mr. Harris?

14 MR. SPEARMAN: Mr. Harris, what is your address?

15 MR. HARRIS: 107 Millwood Drive.

16 MR. SPEARMAN: So you, you would be to the left of where that truck is on the
17 slab.

18 MR. HARRIS: That's correct, yes. Right there.

19 MR. SPEARMAN: Thank you.

20 CHAIRMAN MCDUFFIE: Alright, any other questions for either the Applicant or
21 for Mr. Harris? Thank you. Mr. Price, I know in the past we've had issues with placing
22 garages or storage buildings in front of the primary residence. Would that not be a
23 concern with the, with the zoning on this property? Rural zoning?

1 MR. PRICE: If we place it in the front as long as they're outside of the required
2 setbacks that would not be an issue. However, as the Applicant has presented on his
3 site plan there's a water line that runs right down the middle of the property so that
4 would prohibit it from being placed in front of the building. But on this particular site as
5 long as it's outside of the required 40' setback it would be [inaudible].

6 CHAIRMAN MCDUFFIE: Okay, I thought we had had an issue in the past where
7 people were wanting to build the, build garages or similar storage buildings in front of
8 the, in front of the residence in terms of –

9 MR. PRICE: We've, we've gone through it and looked at that provision, and
10 [inaudible] with the required setback than –

11 MS. CECERE: Does that, does that apply only to houses or it just –

12 MR. PRICE: Well, actually from when it comes to the required setbacks all
13 structures have to meet the required setbacks. But in particular with a front setback
14 they're the same as far as primary structures and accessory structures. Now, they do
15 vary because of the accessory structures, but for the primary structures you have to
16 meet the required setback.

17 MS. CECERE: Okay.

18 MR. PRICE: And Mr. Chair, also I believe one of the previous cases we did have
19 was one where they were going to encroach into the required setback, which is one that
20 came before you. So those, those are the main issues.

21 CHAIRMAN MCDUFFIE: Are there any other questions for, either for Staff or for
22 the Applicant at this time? Ms. Cecere, would you care to go through the Findings of
23 Fact?

1 MS. CECERE: Be glad to. This is on Variance for Case 15-04. The property is
2 zoned Rural. A notice of the public hearing was posted on the property for which this
3 Variance is sought, yes it was. Was notice published into newspaper of general
4 circulation within the County no less than 15 days prior to this public hearing? Yes it
5 was. Are there extraordinary or exceptional conditions pertaining to the particular piece
6 of property? No.

7 CHAIRMAN MCDUFFIE: Is there any discussion on that point? Alright, there's no
8 discussion on it. Would you care to make a motion?

9 MS. CECERE: I make a motion that, I make a motion that Variance 15-04 be
10 denied.

11 CHAIRMAN MCDUFFIE: Alright, is there a second?

12 MR. SPEARMAN: I'll second.

13 CHAIRMAN MCDUFFIE: Alright. We have a motion to deny the Variance on the
14 grounds that there are no extraordinary or exceptional conditions pertaining to this piece
15 of property and it has been properly seconded. All in favor?

16 MR. PRICE: Those in favor: Spearman, Cecere.

17 CHAIRMAN MCDUFFIE: And opposed?

18 MR. PRICE: Opposed: Sullivan, McDuffie, Smith.

19 *[Approved to deny: Spearman, Cecere; Opposed: Sullivan, McDuffie, Smith.]*

20 CHAIRMAN MCDUFFIE: Okay. Ms. Cecere, your motion, motion fails.

21 MS. CECERE: I'd like to, for someone to make an explanation on that, the
22 people that voted against it. Somebody.

23 CHAIRMAN MCDUFFIE: I guess I, I would –

1 MS. CECERE: You know, please tell me the exceptions.

2 CHAIRMAN MCDUFFIE: - no, I guess I, I would say that given the, the layout of
3 the property and sort of the inability to move towards the center, towards the center line
4 of the property and out of the required side yard setback, you know, as well as the slope
5 of the property would make it difficult, if not impossible, certainly substantially more
6 expensive for the Applicant to place the structure elsewhere on the property.

7 MR. SMITH: And with the approval of the neighbor in that, that surrounding area
8 in this case, [inaudible] also with those issues I believe it should be approved for it. So I
9 make a motion to approve the Variance for Case 15-04, for Mr. Richard Hall, 113
10 Millwood Drive.

11 CHAIRMAN MCDUFFIE: Based on?

12 MR. SMITH: Based on the Findings of Facts.

13 CHAIRMAN MCDUFFIE: We have a motion.

14 MR. SULLIVAN: Second.

15 CHAIRMAN MCDUFFIE: It's been seconded. But we need, if, I think we should
16 probably continue, before we do that maybe withdraw the motion and, and go through
17 the rest of the Findings of Fact.

18 MR. SMITH: Are there extraordinary or exceptional conditions pertaining to the
19 particular piece of property? I say yes. Do these conditions generally apply to other
20 property in the vicinity? No. Would the application of this Chapter to this particular piece
21 of property effectively prohibit or unreasonably restrict the utilization of property
22 because of the aforesaid extraordinary and exceptional conditions? Yes. Will the

1 granting of this Variance be of substantial detriment to adjacent property or to the public
2 good or will it hard the character of the district? No, it will not.

3 CHAIRMAN MCDUFFIE: Yes, ma'am?

4 MS. LINDER: What is the prohibition or restriction that, that restricts utilization of
5 the property? Could you state that, please?

6 CHAIRMAN MCDUFFIE: I think the answer was that based on the slope and the,
7 the layout of both the utility easements and the, and the other utilities, the water and
8 septic, that it would be difficult, if not impossible, to, to relocate the, the proposed
9 structure and get it outside of the required setback.

10 MS. LINDER: So the restriction would be that the, the carport could not be built?

11 CHAIRMAN MCDUFFIE: Right.

12 MR. SMITH: So I'd like to make a motion to approve Variance for Case No. 15-
13 04 based on the Finding of Facts.

14 CHAIRMAN MCDUFFIE: Is there a second?

15 MR. SULLIVAN: Second.

16 CHAIRMAN MCDUFFIE: We have a motion to approve based on the Finding of
17 Facts, it's been properly seconded by Mr. Sullivan. All in favor?

18 MR. PRICE: Those in favor: Sullivan, McDuffie, Smith.

19 CHAIRMAN MCDUFFIE: Okay. And opposed?

20 MR. PRICE: Spearman, Cecere.

21 *[Approved: Sullivan, McDuffie, Smith; Opposed: Spearman, Cecere]*

22 CHAIRMAN MCDUFFIE: Alright, Mr. Hall you have your, you have your Variance
23 and Staff will in touch. Thank you.

1 MR. HALL: Thank you so much.

2 CHAIRMAN MCDUFFIE: Mr. Price, if you would please call your next case.

3 **CASE NO. 16-01 SE:**

4 MR. PRICE: Okay. The next item is Case 16-01, it's a Special Exception. The
5 Applicant is requesting the Board of Zoning Appeals to grant a Special Exception to
6 permit the construction of a communication tower in a GC District, which is General
7 Commercial. The Applicant is Keith Powell and Optima Towers. The location is 1607
8 Dupont Drive, the parcel size is a little bit more than a 1/3 of an acre and it's, from what
9 Staff observed there are, there are two parcels that are before but the parcels will be
10 combined if the Variance [sic] is granted, excuse me, the Special Exception is granted.
11 The parcel, Staff also found that the parcel is kind of used for, looks like some overflow
12 parking for some of the adjacent businesses; there's a, some type of moving service
13 being used and kinda gravel. The Applicant proposes to erect a 140'
14 telecommunications tower within a 2500 square foot leased area. The parcels
15 immediately north of the subject site are residentially zoned and developed. The parcels
16 east, west and south of the site are, are commercial zoned and developed. Again the
17 Applicant is requesting to establish a 140' monopole tower. And it's gonna be within a
18 2500 square foot leased area. In this particular case, I think this is the first one we've
19 had like this where all three conditions of 26-152(D)(22) have to meet. In this case the
20 first, the first provision states that towers abutting a residentially zoned parcel shall have
21 a minimum setback of one foot for each height of the tower as measured from the base
22 of the tower. Provision two requires that towers abutting a non-residentially zoned
23 parcel with a habitable residential dwelling to have a minimum setback of 50'. And

1 provision three, and I believe in the discussion [inaudible] this number but that the
2 actual section's recorded correctly but it states that towers abutting a non-residentially
3 zoned parcel without a habitable residential dwelling shall observe the setbacks of the
4 district in which it is located. And in this case it's GC so the setbacks are 25 front, 10
5 rear, and the sides zero. Of Staff's review of the plans and where the tower will be, is
6 proposed to be located all three provisions will be met as far as setbacks go. It's also
7 stated in the Staff discussion the Applicant must address before the Board the Special
8 Exception requirements of 26-152(D)(22), which he will address on his presentation.
9 The Staff recommends approval of this proposal.

10 CHAIRMAN MCDUFFIE: Alright. Any questions for Mr. Price at this time? If there
11 are none then the Chair would like to recognize Mr. Keith Powell on behalf of Optima
12 Towers, the Applicant.

13 **TESTIMONY OF JONATHAN YATES:**

14 MR. YATES: Mr. Chair, Jonathan Yates, I'll also be talking [inaudible] Mr. Powell.

15 CHAIRMAN MCDUFFIE: Thank you. Please state your, your address as well for
16 the Record.

17 MR. YATES: I might stand here to the side.

18 CHAIRMAN MCDUFFIE: Please.

19 MR. YATES: Thank you very much Mr. Chair, Members of the Board of Zoning
20 Appeals. Thank you so much. Jonathan Yates, my address is 105 Broad Street, 3rd
21 Floor, Charleston, South Carolina. Good to be back before you today. I'm with my good
22 friend Keith Powell of Optima Towers. And first and foremost, and I don't say this
23 enough, we do this work across the State of South Carolina and very rarely do we get to

1 encounter people like Geo, Suzie, Amelia, who actually help us. And I, I know that it
2 sounds trite but it's a rarity where you have Staff when you call they return your calls,
3 they work you through the process and I can't say enough, you have some great people
4 here that you don't find [inaudible] around the rest of the State, so we thank you. What
5 we're doing this afternoon and this is part of a process that we've been on for about a
6 year or so now, T-Mobile is very interested in getting Richland County with in-building
7 residential cover providing necessary wireless [inaudible] to be equivalent to that as you
8 might in Charleston, Greenville, Florence Counties, and really the rest of the State. And
9 there's been some work to be done. Today we're trying to address a deficit that is
10 presently found in the area. The area in question, we're on Dupont Drive, which is right
11 off of Percival. If you come, if you come down Percival there's a, an El Cheapo gas
12 station, next to it's a car lot, there's a tattoo parlor and then there's a rental car place.
13 We're on the backside of that. These are two small tracts, these are leftover tracts from
14 the original development of Woodfield Park [inaudible]. The present use is the parking
15 of that [inaudible] rental trucks and we understand the little [inaudible] in the afternoon
16 but we don't think [inaudible]. It was exactly where T-Mobile needed to be. The deficit
17 area is bounded by Faraway Drive to the north, Overcreek to the south, going over to
18 the east you have the interstate, you have Percival, you have Fort Jackson, and then
19 over to the west you encounter Eastshore and Brookfield. The purpose of the facility,
20 and of all the facilities we've done over the past year, so this is very short, this is only
21 140' monopole so it's relatively short. But what T-Mobile is trying to do is get good in-
22 building residential coverage for folks that live in that area. And they're able to do it by
23 this height. The facility is not only designed for T-Mobile but it's also designed for their

1 three competitors, they make nice friends, we [inaudible]. We hope they're T-Mobile
2 customers and so they're covered [inaudible] but if not we hope the other carriers
3 decide to join and go on and get on there. With that what I'm gonna do is this is a
4 Special Exception, I have a little work to do that I have to put on the Record how we
5 need a Special Exception right here. We've got Keith, I'm gonna use Keith as a little bit
6 of an easel, we'll go to this first Keith. What we're looking at is the §22, requirements in
7 the ordinance. Starting with A, A [inaudible] the districts where you can do a
8 communication facility. One of the districts listed, General Commercial. These
9 properties are zoned General Commercial so we're in [inaudible]. The next requirement
10 is that facilities in Richland County cannot exceed 300'. We are only 140' so we're a
11 good bit, we're less than half of the [inaudible]. Now as Mr. Price talked about, we'll talk
12 about some facts that come in three flavors. The first one is when you have a
13 residentially zoned property adjacent to the facility you have to have a setback of one
14 foot for every foot of height of the tower, measured from the base, to a maximum of
15 250'. Directly across Dupont Drive from the proposed facility is the property of Mr. John
16 Atlas, zoned RS-HD, and we are 140' away from it. In addition if you abut a non-
17 residentially zoned parcel with a habitable residential dwelling on it you gotta be at least
18 50' and we meet that setback also. The final setback which is the most [inaudible], if you
19 abut a non-residentially zoned parcel without a habitable dwelling you gotta meet the
20 underlying district setbacks. In this case the district setbacks for GC are 25 front, zero
21 sides and 10 rear. We, we meet all those setbacks by a nice margin. We're about,
22 almost 92', about 91.8' to the front, we are 30' to the rear butting up to the truck rental
23 place, and on the sides we're 33 and 86.9' so in this case all the setbacks are met. The

1 next question we have is number B and B is a two-part question. We have to first show
2 you that there's nothing we could do to what we call co-locate on. T-Mobile went out,
3 was there anything they could use, an existing tower or suitable tall building so that they
4 could put their equipment on it? If you look at our drawings we showed all the closest
5 towers and in fact the closest tower is .93 miles away, it's 148' facility owned by Crown
6 Castle, and interestingly enough T-Mobile's already on it. This is the next site down.
7 This also explains the lower height, T-Mobile is trying to concentrate to get in the
8 residential building and so they are on actually the closest tower and there was nothing
9 they could do with it. B asks another question, B asks, will you make this facility
10 available for co-location? It's very important in Richland County that when we build a
11 facility like this there's a place for T-Mobile, a place for others. Mr. Powell has certified
12 in writing that he will make it available for at least three other carriers in addition to T-
13 Mobile. The next question is illumination, and this is an issue I talk about with
14 [inaudible]. It's very important for a lotta folks who live near a wireless facility that it not
15 have the air navigation lights on it. We had this reviewed from two ways; we first had
16 Ken Patterson, who is an air space analysis, he reviewed it and determined due to the
17 diminimus height notice the FAA was not required, no light was required. In an
18 abundance of caution, even though we know that Ken is already right because he used
19 to work with the FAA, we still went ahead and submitted it to the FAA and they came up
20 with two important determinations. The first one up here in bold, no hazard to air
21 navigation. And the second one down here, marking and lighting are not necessary. So
22 the fact of the matter is this facility will not carry air navigation lights. Next question
23 which is question F is our facility and there are two parts to [inaudible]. We have the

1 pole itself, in this case 140' unlit monopole, and then you have the area around the
2 ground where the four carriers [inaudible]. On your regulations the ground area must be
3 enclosed by a fence at least 7' in height. On the ground Keith is gonna enclose a 50', a
4 50' area, it's gonna be a 7' chain-link fence but he's gonna take it one foot higher and
5 incorporate three strands of barbed wire as an anti-climbing device to keep wandering
6 kids outta there [inaudible]. Next question is each communication tower shall be
7 landscaped in accordance with the requirements of §26-176. If you go by this property
8 now it's not the prettiest. If you're looking for a Budget Rental Truck it's great property,
9 but it's just sorta wide open. In order to remedy that Keith is come back around the
10 fence line and he's gonna plant 19 Carolina Sapphires around the fence line. They will
11 be 6' at the time of planting and the Carolina Sapphire in this region generally grows out
12 at about 40 to 50', so we're gonna get some vegetation [inaudible]. Next question is
13 about signage. We only deploy on the facility emergency identification signage, and in
14 fact that would be the policy of both Optima Towers and T-Mobile. The only signage will
15 be that signage required by the federal government, by the FCC for cell phone
16 information emergency purposes. Last question, if for any reason the tower goes out of
17 service it has to be removed within 120 days from the date that T-Mobile or whoever is
18 not broadcasting on it. [Inaudible] in your application package you'll see where Keith
19 has committed to [inaudible] if for any reason in the future it is not operating [inaudible].
20 We next have to go on – those are the tower and wireless facilities specific criteria for
21 the Special Exception, we have two layers to review here under 26-152, any Special
22 Exception in Richland County has to go through the following findings. The first one is
23 traffic impact. So when we go to these they're a little more generic cause they're for any

1 Special Exception. Traffic impact, none whatsoever. It takes Keith about 30, maybe 40
2 days to [inaudible] to build the facility out. After that we expect T-Mobile to visit on
3 maybe a quarterly, maybe six times a year for routine maintenance. The routine
4 maintenance visit is by a guy in a white truck or small SUV, mostly [inaudible] he comes
5 and tinkers with equipment. So we will not add onto Percival Road or Dupont Drive any
6 additional traffic, just a couple trips.

7 MR. SPEARMAN: Mr. Chairman, do you mind if I ask Mr. Yates a question?

8 CHAIRMAN MCDUFFIE: Please. Please.

9 MR. SPEARMAN: To follow up right there? That, the visit is for T-Mobile's
10 communications equipment only. Once you get it built out and you have other carriers
11 on there, the same –

12 MR. YATES: About the same amount of visits yes, sir. There used to be more,
13 Mr. Spearman, and now with equipment run so remotely we're seeing average maybe
14 four or six times a year for an hour or two. So if you had four carriers multiplied by four
15 you maybe have 16 or 18 visits a year. Again, light truck so we don't create any
16 additional traffic.

17 MR. SPEARMAN: So the same technician that goes out there to service T-
18 Mobile's equipment doesn't service the other equipment.

19 MR. YATES: No, sir [inaudible]. They don't trust each other. Why I don't know.
20 They compete with each other [inaudible], but so worse case you maybe have 18 visits
21 a year for an hour or so, maybe after a tornado goes through, you know, someone
22 might have to, you know, strip down some fuses. Next question is vehicle and
23 pedestrian safety. This is very important. It's been shown quite clearly that we enhance

1 vehicle and pedestrian safety. What we provide with this wireless infrastructure, we
2 provide effect and immediate access to 911 first responders. Just before this meeting
3 and during this meeting I kept getting this buzzing on my belt where my, my two
4 wireless providers, Verizon here and AT&T, were warning me about what's going on;
5 the possibility of flash flood, and a possibility of tornados so you get those kinda
6 warnings. But more importantly is someone who's either walking in the area or driving
7 and they have an incident, they can immediately call 911. Very important three factors
8 there; one, the call can be made from right where the accident happened. I remember
9 years ago when I was young I grew up in Charleston and I was driving in a remote part
10 of Charleston County, this was back in the '70s, Johns Island. My tire on my car, I was
11 15 years old, my tire blew out. And one of the scariest moments of my life was walking
12 up to this strange door on James Island and knocking, hoping to borrow a phone to call
13 my parents and not knowing how that door was gonna open. That is now my son, who
14 is also 15, if he has a similar situation he can pull out his phone and call [inaudible] the
15 911 operator will be able to talk with him the whole time during the process. If
16 unfortunately he was hurt in the process they'll know exactly where he is. Very
17 important. I do not know and I should have Keith and I apologize, and I don't know the
18 statistics for Richland County but in our own County of Charleston County to our
19 Charleston County consolidated dispatch for 911, and it's an interesting number, 82% of
20 all 911 calls each month come from a wireless [inaudible]. So we're seeing that number
21 it just keeps growing, but in Charleston County, which is a, they're saying nationwide is
22 about 80% average so we're closing in on the 90 to 100% where 911 calls – and it
23 makes sense, you call from where the accident occurred. In addition there's – talking

1 about vehicle and pedestrian safety and you've probably seen some blurbs on it in the
2 news and it's been interesting to me, we're gonna be seeing shortly as the
3 manufacturers roll them out what we call the connective [inaudible]. Connective
4 [inaudible] is gonna do all instincts via wireless from where you can sit in your car with
5 biometric readers and it can tell if you're having a health problem. But more importantly
6 the future of the Connective [inaudible] is cars will start to talk to each other, they'll start
7 to talk to traffic signals and lights and try to avoid collisions. So a lotta neat stuff coming
8 via wireless infrastructure that aids vehicle and pedestrian safety. Next question, C.,
9 and this is important, potential impact of noise, lights, fumes, or obstruction of air flow.
10 The proposed facility creates no noise, no lights, no odors, no fumes, and we don't
11 obstruct any air flow. No effect on property, we have no effect on the property. Next
12 question is the adverse impact of the proposed facility on the character of the
13 surrounding, the environs to include also [inaudible]. Again we have to put it into context
14 where we are in a General Commercial area. We're coming in with a very short, non-
15 illuminated monopole. [Inaudible] towers come in three flavors. We have what we call
16 the guide tower which is what I grew up with, we have broadcast towers where you had
17 a central piece of steel and wires running through [inaudible]. You then had the three
18 sided or lattice towers, and then you have the monopole. What is a monopole? A
19 monopole is just a pylon sign, it's identical to drive by a Hardees or Walmart and they
20 have a pylon sign that they're, they put their signage on it. Here we just hang some
21 communication equipment. So a very short monopole, we're on a busy commercial
22 corridor, and Keith is coming back in with 19 Carolina Sapphires where there's no
23 vegetation now, he's bringing vegetation. Last question, and these are in the standard

1 review for every Special Exception, orientation and spacing and improvement of
2 buildings. What we did here, small piece of property, it was exactly where T-Mobile
3 needed to go, and Keith has been able to pull back, trying to push it closer to the
4 commercial properties behind it; the tattoo operation [inaudible] I've never been to one,
5 the tattoo operation that's on the corner, you have El Cheapos right next to us, we have
6 Hucks Automobiles, and then you have a Budget Rental. So we tried to pull closer to
7 the commercial and keep our distance from Mr. Patterson's residential across the street.
8 So I'm sorry it's a mouthful but as Amelia will tell you, Amelia and I started working on
9 this 20 years ago in Berkeley County on their tower, as it is a Special Exception I have
10 to go through all these criteria to get them on the Record. I'm here for any and all
11 questions.

12 CHAIRMAN MCDUFFIE: Alright, are there any, any questions for the Applicant
13 or for Mr. Yates at this time? Or for Staff at this time?

14 MR. SPEARMAN: Mr. Yates, will y'all be using both parcels?

15 MR. YATES: Yes, sir. Yes, sir. The, eventually the property – these are tiny,
16 they're .17 apiece, .17 apiece, so you have an abandonment of one. What happened in
17 talking to the folks, the Old Columbia Enterprise folks, when Woodfield Park was built
18 out, throughout there there were just some scraps left. So we have a property line here,
19 .17, .17, we'll just abandon the property lines to the site plan as it goes through Richland
20 County.

21 MR. SPEARMAN: So y'all are going to combine both lots?

22 MR. YATES: Yes, sir.

23 MR. SPEARMAN: Okay.

1 MR. YATES: Yeah, we'll just abandon the central property line, you will end up
2 with 1/3rd of an acre lot.

3 CHAIRMAN MCDUFFIE: Will they, will they continue to be used for things like
4 Enterprise Rental Truck or Budget Rental Truck parking or, or will they be –

5 MR. POWELL: Nobody's approached me about anything other than the
6 communications tower, so there's no agreement [inaudible].

7 MR. YATES: Now I will say, and Keith might get mad at me, in talking to the
8 Councilmember for that district I did say [inaudible] so Keith, that's on you [laughter].
9 We'll let him deal with that, we'll let him deal with that.

10 MR. SPEARMAN: So y'all have control of, of both lots, is that correct? Plus
11 you're gonna abandon the –

12 MR. YATES: Yes, sir.

13 MR. SPEARMAN: - property line, okay.

14 CHAIRMAN MCDUFFIE: Any other questions for the Applicants at this time?
15 Alright, and we did have a Ms. Sara Cameron signed up to speak? Did you say you –

16 [Inaudible]

17 CHAIRMAN MCDUFFIE: Okay, thank you. Alright, at this time Mr. Spearman
18 would you care to go through the Findings of Fact?

19 MR. SPEARMAN: This is the Finding of Fact for Special Exception 16-01, SE.
20 The current tax map number is 168150909 and lot 10, two lots side by side. The
21 property's zoned General Commercial. Notice of the public hearing was posted on the
22 property. Notice was published in a newspaper of general circulation within the County
23 not less than 15 days prior to the public hearing on this matter. Yes. Will the proposed

1 tower have a maximum height of less than 300'? Yes, the, 140 plus a lightening
2 arrester, is that correct, Mr. Yates?

3 MR. YATES: 140, are you gonna have lightening protection?

4 MR. POWELL: There'll be a lightening rod on it.

5 MR. YATES: Yeah.

6 MR. SPEARMAN: Five, six feet, something like that?

7 MR. YATES: Yes, sir.

8 MR. POWELL: Five feet.

9 MR. SPEARMAN: If it – number 4(a) is not applicable, 4(b) is not applicable, 5(a)
10 is not applicable, 5(b) is not applicable, 5(c) is yes, they will meet all the minimum
11 setbacks on property zoned General Commercial.

12 MS. LINDER: I have a question, Mr. Price.

13 CHAIRMAN MCDUFFIE: I had a question about that.

14 MR. SPEARMAN: Okay.

15 MS. LINDER: Was it abutting residential?

16 CHAIRMAN MCDUFFIE: I thought it was abutting residential.

17 MR. PRICE: Yes.

18 CHAIRMAN MCDUFFIE: So 5(a) is applicable.

19 MR. SPEARMAN: Excuse me.

20 MR. PRICE: Just the, it'd be 5(a) – (a), (b), and (c) in this case, the three, all
21 three provisions will apply to this particular tower.

22 MR. SPEARMAN: And all three provisions will be met.

23 MR. PRICE: Yes, sir.

1 MR. SPEARMAN: By testimony of the Applicant. The Applicant has shown proof
2 of co-location and the Applicant is willing to allow other carriers to co-locate on the
3 proposed tower once it is put in service. Will the proposed tower meet the illumination
4 requirements? That's not applicable cause the, the height is 140' plus the lightening rod.
5 No shrub lighting, the lighting package is not applicable for this particular tower. Will the
6 communications tower and associated buildings be enclosed within a fence of at least 7'
7 in height? The Applicant answered yes. Has the Applicant agreed to landscape the
8 communication site in accordance with the requirements of §26-176 of the Richland
9 County Land Development Code? Yes, the Applicant has agreed to do that. Has the
10 Applicant agreed to place no signage to any portion of the communications tower unless
11 the sign is for the purpose of identification, warning, emergency function, or contact, or
12 other as required by applicable state, federal, and federal rule, law, and regulations?
13 The only signage that will be there is what is required by the federal and state
14 government. In this case it'd be the federal government. Has the Applicant agreed to
15 dismantle and remove the communications tower within 120 days of the date the tower
16 is taken out of service? Yes. Will traffic be impacted by this proposal? It will be but very
17 minimal, maybe 15 to 20 visits annually. Will the proposed, will the proposal effect
18 vehicle and pedestrian safety? No. Has, is there a potential impact for noise, lights,
19 fumes, or obstruction of air flow on adjoining properties? No. Does the proposed
20 communications tower have an adverse impact on the aesthetic character of the
21 environs? No, it does not. And lastly, is the orientation and spacing of improvements or
22 buildings appropriate? Yes, the Applicant said they wanted to combine both properties

1 and do away with the middle property line which will give the, both properties combined
2 about .34 of an acre. That's the Finding of Facts, Mr. Chairman.

3 CHAIRMAN MCDUFFIE: Alright, would anyone care to make a motion then?

4 MR. SPEARMAN: I move to approve Special Exception 16-01 SE.

5 CHAIRMAN MCDUFFIE: Based on the Finding of Fact?

6 MR. SPEARMAN: Based on the Finding of Facts, thank you Mr. Chairman.

7 MR. SMITH: I'll second that.

8 CHAIRMAN MCDUFFIE: Okay, we have a motion by Mr. Spearman and
9 seconded by Mr. Smith. All in favor?

10 MR. PRICE: Those in favor: Sullivan, Spearman, McDuffie, Smith, Cecere.

11 *[Approved: Sullivan, Spearman, McDuffie, Smith, Cecere, Absent: Richardson]*

12 CHAIRMAN MCDUFFIE: Okay, that's everyone. So the motion is approved. Mr.
13 Powell, Mr. Yates, you have your Special Exception and Staff will be in touch. Thank
14 you.

15 MR. YATES: Thank you for meeting with us [inaudible].

16 CHAIRMAN MCDUFFIE: Alright, is there any other business at this time?

17 MR. PRICE: No, sir. As of this time we do not have any applications for next, for
18 the, for next month.

19 CHAIRMAN MCDUFFIE: Okay.

20 MR. PRICE: So looks like the next time we see you will be April.

21 CHAIRMAN MCDUFFIE: Okay. If there's no other business then this meeting is
22 adjourned. Thank you.

23

1

[Meeting Adjourned at 4:04pm]