

BOARD OF ZONING APPEALS
October 2, 2013

1
2
3
4 *Present: Joshua McDuffie, Michael Spearman, Frank Richardson, William Smith,*
5 *Susanne Cecere, Sheldon Cooke, Christopher Sullivan]*

6
7 Called to order: 1:07 pm

8 CHAIRMAN MCDUFFIE: I'd like to call this meeting of the Richland County
9 Board of Zoning Appeals to order. In accordance with the Freedom of Information Act a
10 copy of the Agenda was sent to radio and television stations, newspapers, persons
11 requesting notification and posted on the bulletin board located in the lobby of the
12 County Administration Building. At this time Amelia Linder, the Board's attorney, will
13 give the Rules of Order.

14 MS. LINDER: Thank you, Mr. Chairman. Good afternoon, gentlemen. I believe
15 we have just one case today and that will be yours. As you know, this Board is a *quasi-*
16 *judicial* board, and so when they make a decision it's gonna be a final decision. And if
17 you're unhappy with that decision you go to circuit court. You as the Applicant will have
18 up to 15 minutes to speak and present your case. There doesn't appear to be any
19 opposition here today, but if there should be somebody coming in they would have three
20 minutes to speak. And then you would be able to rebut the opposition, you would have
21 five minutes. When you testify you'll be under oath. Conduct your, or present your
22 testimony to the Board Members and not to members of the audience, please. If you
23 have any documents you want to submit you may do so. And the Board again can make
24 approval or disapproval or they could approve with conditions and they have a lot of
25 discretion in how they regard your request. Okay, we'd ask if you have a cell phone that

1 the cell phones be turned off or muted. Make sure if you're planning to testify that your
2 name is on the signup sheet. Do you have the signup sheet?

3 CHAIRMAN MCDUFFIE: I do.

4 MS. LINDER: Should the Board have any kind of legal questions we may go into
5 Executive Session but I do not anticipate that happening. Does anyone have any
6 questions? If not, then I'm going to swear in everybody that's planning to testify so if you
7 would stand, please, raise your right hand. Do you swear or affirm that the testimony
8 you are about to give is the truth, the whole truth, and nothing but the truth, so help you
9 God?

10 AUDIENCE MEMBERS: I do.

11 CHAIRMAN MCDUFFIE: Thank you very much. At this time we'll move on to the
12 approval of Minutes from the May 2013 Board meeting. Has everyone had an
13 opportunity to read the Minutes? Are there any, any corrections?

14 MR. SPEARMAN: I have a couple, Mr. Chair.

15 CHAIRMAN MCDUFFIE: Okay.

16 MR. SPEARMAN: Page 11, line 11, it's referring to Chairman Palmer. And then
17 on page 34, line 19, should be Ms. Instead of Mr.

18 CHAIRMAN MCDUFFIE: Alright. Are there any other corrections? Alright, is there
19 a motion to approve the Minutes as amended?

20 MR. SMITH: I make a motion to approve the Minutes of last meeting. As
21 amended.

22 MR. RICHARDSON: Second.

23 CHAIRMAN MCDUFFIE: And it's seconded. Alright, all in favor?

1 *[Approved: Spearman, Richardson, Smith, McDuffie, Cecere, Cooke, Sullivan]*

2 CHAIRMAN MCDUFFIE: Alright, the Minutes from May 1st are approved
3 unanimously. And at this time we will move on to the public hearing portion of today's
4 meeting, and turn the meeting over to Mr. Geo Price, the Deputy Planning Director and
5 Zoning Administrator.

6 MR. PRICE: We do have one change to the Agenda and that would be Case 13-
7 07 V, it's a variance for a height limitation on a sign. That particular case has been
8 deferred.

9 CHAIRMAN MCDUFFIE: Okay. Alright, Mr. Price, please call your first case.

10 **CASE NO. 13-05 SE:**

11 MR. PRICE: Okay, the first item is Case 13-05 Special Exception. The Applicant
12 is requesting the Board of Zoning Appeals to grant a special exception to permit the
13 construction of a communication tower in a GC district. The Applicant is ClearTalk. The
14 Applicant is proposing to erect a 160' communication tower. I believe, and the Applicant
15 would need to clear up one thing for us, I believe it's gonna be within a 2,000 square
16 foot compound area. Just want to make sure that matches with what they've submitted
17 in the package. The immediate area consists of commercial, residential and institutional
18 uses. Staff visited the site and we confirmed that the required setbacks according to
19 §26-152(D)(22)(c)(iii), that, excuse me, that'll be (c)(i) and (iii), both be met with the
20 submittal, as indicated. Cause in this particular case they do abut residential and
21 commercial, so two of the criteria would apply to it. And that would be it from Staff. I
22 believe you also, I gave you a copy of the, of the plans for it and the sheet pages are at

1 the bottom on the right, so if we need to we can refer to those, but I will also have them
2 up on the screen.

3 CHAIRMAN MCDUFFIE: Alright, anything else?

4 MR. PRICE: That would be it.

5 CHAIRMAN MCDUFFIE: Okay. At this time I'd like to call the Applicant, Mike
6 Feigenbaum, right? Alright, please, yeah please state your name and address for the
7 Record.

8 **TESTIMONY OF MIKE FEIGENBAUM:**

9 MR. FEIGENBAUM: Mike Feigenbaum from ClearTalk, 2 Sandy Springs Court,
10 Columbia, South Carolina. Is that better? I'll repeat it. Mike Feigenbaum, ClearTalk
11 Wireless, #2 Sandy Springs Court, Columbia 29210. I'm here, you know, Mr. Price has
12 accurately described, you know, what we would like to do over here at this particular
13 property. I'm here primarily to answer questions and, and make sure that the Board has
14 all the information that they need. The primary reason why we need this particular site
15 is, you know, for Brice field and for the fairgrounds and for a lot of commercial activity
16 and some student housing in this area. We're currently in this particular area, we're
17 located upon a Diamond Communications Tower, American Tower site, and a Crown
18 Castle site, and you know, even though we're doing that co-location we still have this
19 hole and we're kind of getting hit pretty hard with capacity issues. So that kind of made
20 it necessary for us to search for another site in the particular area to, to fill that hole and
21 provide good service to, to our customers. We're, as Mr. Price also said, we're looking
22 to construct 160' monopole tower. Those are much less visually obtrusive than the
23 lattice tower that, you know, we see all the time. And, you know, and in the General

1 Commercial area I think it, you know, at least from my point of view, the, you know, it's
2 the right kind of tower for the, for the general aesthetics of the area. So the property on
3 which we're building this has a warehouse, and not much else. We're building this, you
4 know, pretty much as far away from the rights-of-way as we can, up against the railroad
5 right-of-way, and so again, in order to be as inobtrusive as possible, yet still fulfill, you
6 know, the objectives of the particular site. So that's the, that's what I have to say on, you
7 know, about this site in general and, and as I said, I'm open to any questions anybody
8 might have.

9 CHAIRMAN MCDUFFIE: Are there, does anyone on the Board have questions
10 for the Applicant at this time?

11 MR. COOKE: Yeah, just out of curiosity, sir, you said you have some co-
12 locations going on within that area.

13 MR. FEIGENBAUM: Yes.

14 MR. COOKE: What's the proximity to this current tower that you're proposing
15 today?

16 MR. FEIGENBAUM: I'm gonna ask our RF Engineer, Bill Howard. He can
17 address that much better than I can. I'm gonna ask Bill to –

18 MR. COOKE: Were you sworn in?

19 MR. HOWARD: Yes.

20 MR. COOKE:

21 **TESTIMONY OF BILL HOWARD:**

22 MR. HOWARD: William Howard at 912 S. Edisto Avenue, Columbia, South
23 Carolina. I thought you might ask that question so I actually reviewed this before I came

1 in. The closest tower is a, is the Diamond Communication Tower, which has since been
2 acquired by ATC, American Tower Company. We went on it when it was owned by
3 Diamond, but that's 4,800' feet away. Then we are on a Crown Castle Tower on
4 Highway 48 and that's 4,900' away. And then the third closest co-lo that we are on is a
5 ClearTalk owned tower, which was the tower we constructed behind Capital Karate on
6 Rosewood. And that's 1.3 miles away.

7 CHAIRMAN MCDUFFIE: Whose tower was that?

8 MR. HOWARD: ClearTalk Wireless. We tried to co-lo on a Crown Castle site
9 there but it's one of those stealth towers, so the antennas go inside a [inaudible] and all
10 three slots were taken up by Verizon, T-Mobile and AT&T, so.

11 CHAIRMAN MCDUFFIE: Which tower was that?

12 MR. HOWARD: That's the one on Rosewood behind Capital Karate.

13 CHAIRMAN MCDUFFIE: Okay.

14 MR. HOWARD: Yeah, it's a flagpole, so.

15 MR. COOKE: And that's the one that's 1.3 miles away?

16 MR. HOWARD: Correct.

17 MR. COOKE: Well you're the expert, Mr. William, what's your last name?

18 Howard. With all, with this type of saturation, so you still need another -

19 MR. HOWARD: Correct. We operate with only 10 megahertz of spectrum in this
20 market.

21 MR. COOKE: Okay.

22 MR. HOWARD: So what that allows, we only have two channels. And right now
23 we're using one for voice and one for data. Most of the other players have at the very

1 least 30 megahertz, so three times what we have. So what that allows them is much
2 more capacity. They can handle many more calls from one single site than we can,
3 since we only have 10 megahertz. Unfortunately we need more sites, particularly in an
4 area like this where, you know, housing is numerous, lots of, Mike mentioned, student
5 housing in that area, and then obviously when there's a ballgame.

6 MR. COOKE: And the multiple sites give you the capacity that you're looking for.

7 MR. HOWARD: The capacity, correct. Instead of, you know, one person will be
8 on, basically the crowd will be sharing more sites.

9 MR. COOKE: Okay.

10 CHAIRMAN MCDUFFIE: In addition to the, to the capacity constraint you were
11 just mentioning – watch your mic – in addition to the capacity constraint you were just
12 mentioning, I noticed in your Application and I've noticed this before in both the
13 Application and in the testimony, that the AWS system operating in the 2100 megahertz
14 band gets, needs –

15 MR. HOWARD: Attenuates more, correct.

16 CHAIRMAN MCDUFFIE: Yeah, it's –

17 MR. HOWARD: It does not propagate as far as say 1900 megahertz or the ideal
18 would be 800 megahertz.

19 CHAIRMAN MCDUFFIE: Just theoretically, if, how many more sites and how
20 much taller would they have to be in order to, to build out a network, you know, that
21 would be comparable to a, to a cellular or a PCS network? Just, you know, percentage
22 wise or –

1 MR. HOWARD: It really depends on the number of users, you know, obviously
2 subscribers. Verizon has, I wouldn't even want to hazard a guess at the number of
3 subscribers that Verizon has in Columbia. We have 10,000, and you know, coming into
4 the market, we weren't quite sure where our pockets of subscribers would be, where we
5 would have more or less. But now through, you know, monitoring traffic patterns and
6 things of that nature and just, you know, the zip codes of our subscribers, we can see
7 where we will need more towers. One place we need a couple more is in the northeast.
8 And then we are looking to, basically we satisfied most of our capacity issues in
9 Columbia now. Now we're just looking to expand out into say, far out into Richland
10 County toward Sumter, and then Lexington County.

11 CHAIRMAN MCDUFFIE: Alright, well I mean, we're dealing with Richland County
12 here today, so I guess I'm just sort of wondering, assuming you all arrive at some point
13 at a, at a steady state of subscribers or a slower rate of growth than you probably are
14 experiencing as a, as a new start up, you know, what's the final build out of the, of the
15 Richland County network going to look like?

16 MR. HOWARD: As we head out, as you head out, say Garners Ferry towards
17 Sumter, we are looking, maybe two more sites before you hit Sumter County, perhaps.
18 Then we would like to also, down the road, head up towards Winnsboro, so in that
19 direction perhaps two or three.

20 CHAIRMAN MCDUFFIE: I mean, but what would you, what would a company
21 like Verizon, how many, how many sites would they be operating out of, versus what's
22 your end state going to look like? You know, how many towers are you gonna need?

23 MR. HOWARD: That's an impossible number to –

1 CHAIRMAN MCDUFFIE: Okay. I, I'm sorry I'm trying to pin you down, but –

2 MR. HOWARD: - I mean, I would just be making something up.

3 CHAIRMAN MCDUFFIE: - would you need, but for the, the AWS system, I mean,
4 would you need 20% more sites to –

5 MR. HOWARD: Oh, no, I –

6 CHAIRMAN MCDUFFIE: - to max out the network? Or 10% more sites?

7 MR. HOWARD: We actually, well we're using, we have a certain vendor that
8 makes an antenna for us that Verizon probably wishes they had when they built out
9 Columbia. But it's a super high grain antenna, so that does give us a leg up, you know,
10 it kind of mitigates some of the issues we have at, you know, at 2100 megahertz. We
11 actually, when we came into this market because it was already a mature market with
12 quite a few towers around, we were able to pick and choose the ideal site list so to
13 speak, whereas Verizon, since they basically are the reason for the towers, didn't have
14 the inventory to pick from. So they probably have quite a bit more overlap than we do.
15 We have a, an extremely efficient network.

16 CHAIRMAN MCDUFFIE: More optimized?

17 MR. HOWARD: Correct, correct. Because I did have such a huge amount of co-
18 location possibilities to choose from at the onset. So.

19 CHAIRMAN MCDUFFIE: Roughly how many co-located sites do y'all operate
20 and roughly how many –

21 MR. HOWARD: I think we have about 38 co-location sites in our network.

22 CHAIRMAN MCDUFFIE: And roughly how many towers do y'all either have right
23 now in operation or under construction?

1 MR. HOWARD: We have 52.

2 CHAIRMAN MCDUFFIE: Okay. So 52 and then what –

3 MR. HOWARD: Fifty-two on air.

4 CHAIRMAN MCDUFFIE: - and then what was, the previous number was?

5 MR. HOWARD: Thirty-eight co-lo's, but then we are also on about six rooftops.

6 CHAIRMAN MCDUFFIE: Okay. So 44 plus 52ish?

7 MR. HOWARD: We have 52 total on air.

8 CHAIRMAN MCDUFFIE: Oh, okay.

9 MR. HOWARD: On air. And then we do have -

10 CHAIRMAN MCDUFFIE: But that includes those 38 co-lo's and the rooftops.

11 MR. HOWARD: We have about 10 in development in Lexington County.

12 CHAIRMAN MCDUFFIE: Okay. Are there any other questions for the Applicant?

13 Nothing? Alright, at this time I'd like to look at the Findings of Fact. Would somebody

14 care to – Mr. Cooke?

15 MR. COOKE: Yes, Mr. Chairman.

16 CHAIRMAN MCDUFFIE: Would you care to go through the Findings of Fact?

17 MR. COOKE: I would, sure will. Yes, sir. At this time will the proposed tower have

18 a maximum height of less than 300'? That would be a yes. The proposed tower will be

19 located on – okay, it's not gonna be located on a building so we don't have to worry

20 about (A) and (B) of number 4. Is the base of the proposed tower located at least one

21 foot from a residential zoning district for each foot of height of the tower? Staff, we did

22 say that this was in a industrial.

23 CHAIRMAN MCDUFFIE: General Commercial?

1 MR. COOKE: General Commercial, is that correct?

2 MR. PRICE: Yes, sir. The parcel where the tower's gonna be located is in a
3 General Commercial district.

4 MR. COOKE: But is it residential?

5 MR. PRICE: However, the parcels north of the site are zoned Residential, so it
6 had to be at least 160' away and as indicated on sheet, I believe it's C(1), that's been
7 presented to you, they will be at least 160' away.

8 MR. COOKE: Okay, thank you. So is the base of the proposed tower located at
9 least 50' from a nonresidential zoning district? Okay, that's gonna be yes, cause it has.

10 MR. PRICE: That's not applicable.

11 MR. COOKE: Alright, so we can move on to 6, is that correct, Mr. Chairman?

12 CHAIRMAN MCDUFFIE: Correct.

13 MR. COOKE: Alright, has the Applicant shown proof of an attempt to co-locate in
14 an existing communication tower? Did the Applicant show the alternative towers,
15 buildings or other structures were not available for use within the Applicant's tower site
16 search area that was structurally capable of supporting the intended antenna or meet
17 the Applicant's necessary criteria or provide a location free of interference from other
18 communication towers? I want to say yes, but they already co-located, is that correct?

19 CHAIRMAN MCDUFFIE: Well, but the Applicant or –

20 MR. COOKE: Did they show proof?

21 CHAIRMAN MCDUFFIE: Mr. Howard did mention that there were no suitable, or
22 mention the surrounding towers that they were using or attempting to use.

1 MR. COOKE: One question for Staff if I can while I'm going through these
2 questions. What, again what are we using as proof? Are we –

3 MR. PRICE: We're relying on the expert testimony of the Applicant.

4 MR. COOKE: So we're relying on Mr. Howard's testimony?

5 MR. PRICE: Yes.

6 MR. COOKE: Okay. Is the Applicant willing to allow other users to co-locate on
7 the proposed tower in the future, subject to engineering capabilities of the structure?
8 And I'm going to say yes to that. Will the proposed tower meet the illumination
9 requirements of regulatory agencies such as the Federal Communication Commission
10 or the Federal Aviation Administration based on the information we have in our packet?
11 I want to say yes. Has the Applicant agreed to have no nighttime strobe lighting
12 incorporated on the tower unless required by the FCC or the FAA or other regulatory
13 agency? I'm gonna say yes. Will the communication tower and associated building be
14 enclosed within a fence at least 7' high? Yes, they will. Has the Applicant agreed to
15 landscape the communication tower site in accordance with the cite of §26-176? And
16 I'm pretty sure they will agree to that. Has the Applicant agreed to place no signage to
17 any portions of the communication tower unless the sign is for the purpose of
18 identification, warning, emergency functions or contact or other as required by
19 applicable state or federal rule, law or regulation? Yes. Has the Applicant agreed to
20 dismantle and remove the communication tower within 120 days of the date the tower is
21 taken out of service? I'm pretty sure they have complied to that, yes. Will traffic be
22 impacted by this proposal? And I want to say no based on the information we've
23 reviewed. Will this proposal affect vehicle or pedestrian safety? No. Is there a potential

1 impact of noise, light, fumes or obstruction of air flow on adjoining property? No. Does
2 this proposed communication tower have an adverse impact on the aesthetics character
3 of the environs? No. Is the orientation and spacing of improvements or building
4 appropriate? I would like to say yes. With that being said, going over the Facts and
5 Findings, Mr. Chairman, I would like to move to approve the Special Exception, Special
6 Exception 13-05 SE, based on the Findings of the Facts.

7 CHAIRMAN MCDUFFIE: Alright.

8 MR. SMITH: I second.

9 CHAIRMAN MCDUFFIE: Alright, so based on the Finding of Fact we have a
10 motion that has been seconded to approve Special Exception 13-05. All in favor?

11 MR. PRICE: Those in favor: Spearman, Richardson, Smith, McDuffie, Cecere,
12 Sullivan and Cooke.

13 *[Approved: Spearman, Richardson, Smith, McDuffie, Cecere, Cooke, Sullivan]*

14 CHAIRMAN MCDUFFIE: And that is all of us, so. Mr. Feigenbaum, you have
15 your Special Exception and Staff will be in touch.

16 MR. FEIGENBAUM: Thank you very much. I appreciate the time of the Board
17 today. One thing I might add, you know, just a side note I didn't mention earlier. You
18 know, the – we always build these things for co-location and this one is designed to
19 accommodate at least three other carriers. And I, you know, I mean, I don't have the,
20 the definitive crystal ball but I'm, you know, the way that it works is that there's always
21 more and more demand for these sorts of facilities and this will most certainly help, you
22 know, other carriers as well. We've recently, you know, gotten involved in the Connect
23 South Carolina initiative here and, you know, they're doing an assessment for providing

1 some additional broadband services to underserved, you know, communities and the
2 whole effort I believe is designed to, to have Richland be, have Richland County be a
3 technologically, a leader in that sort of technology on a nationwide basis. So we're
4 involved in that and this is all kind of, all dovetails in the end. We just wanted to, to
5 make the Board aware of that kind of stuff and let you know that, you know, not only are
6 we here doing our thing, but we're also trying to be part of improving, you know, the
7 general communications landscape for everybody. Cause it's really an important thing;
8 with great communications comes a lot of economic opportunity. Thanks a lot.

9 MR. COOKE: Thank you.

10 CHAIRMAN MCDUFFIE: At this time is there any other business before the
11 Board?

12 MR. PRICE: Just, Tracy, if you don't mind, do you want to tell them about the
13 Neighborhood Conference? Tracy Hegler, our Director, is gonna tell you about our
14 upcoming Neighborhood Conference, which I'm sure you're all invited to.

15 MS. HEGLER: Sure. Oh, definitely, certainly invited. It's next Saturday, it's our 9th
16 annual Neighborhood Planning Conference. It's put on the Neighborhood Improvement
17 Program. It's at the Columbia Metropolitan Center downtown from 8:30 to 2:30. Our
18 keynote speaker is Ellen Dunham Jones, she's out of Georgia Tech and she has written
19 books and is an acclaimed expert on how to redevelop graying and dying strip centers.
20 So kind of how to take some of these places across the landscapes that are no longer
21 viable and are not economically working and redevelop them in a different manner. So
22 she's our keynote speaker but we have a number of sessions, excellent slate of
23 sessions to attend and it will count towards your training.

1 CHAIRMAN MCDUFFIE: The 5th or the 12th?

2 MS. HEGLER: That's the 12th, so next Saturday. I know it's a busy time of year
3 but we have about 100 to 120 citizens attend. And the real purpose of the conference is
4 to kind of give back to our neighborhood leaders who do so much throughout the year
5 and it's just a way to give them some special training and kind of some, a good time to
6 meet with other leaders and neighborhood citizens around the county. But it's really
7 grown into quite a fantastic event. It's a really highly professional session, so.

8 CHAIRMAN MCDUFFIE: Thank you.

9 MS. HEGLER: Sure.

10 MR. SULLIVAN: Yeah, I have actually attended two of them and y'all do a
11 fabulous job, so keep up the good work.

12 MS. HEGLER: Thank you.

13 CHAIRMAN MCDUFFIE: Mr. Spearman?

14 MR. SPEARMAN: Geo, do we have any additions or deletions to the Land
15 Development Code, and if so can you just mail them to us and we can swap out page
16 by page?

17 MR. PRICE: Yes. Mr. Price will do that. [Laughter]

18 CHAIRMAN MCDUFFIE: Alright, Is there any further business at this time?

19 MR. PRICE: No, actually if y'all just give us a minute after the meeting, after you
20 adjourn, Branden Madden, he's very involved with the Neighborhood Conference, he's
21 actually gonna bring you some information just so you'll have that before you. And he
22 should be up in just a second.

1 CHAIRMAN MCDUFFIE: If there's no further business, then this meeting is
2 adjourned.

3

4

[Meeting adjourned at 1:40pm]