

BOARD OF ZONING APPEALS

February 6, 2008

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3 *[Present: Chairwoman Perkins, Harold Branham, Elaine Perrine, Joseph McDuffie,*
4 *Susanne Cecere, Peggy Simons; Absent: Torrey Rush]*
5

6 Called to order: 1:00 p.m.

7 CHAIRWOMAN PERKINS: I would like to call the February meeting of the Board
8 of Zoning to order. The item, the second item on the Agenda, Rules of Order are not
9 going to be given as there are no new hearings. Is the Board in agreement with that?
10 We only have reconsiderations. There is one other item that I would like to put on the
11 Agenda right after Other Business and that is the adoptions of Rules of Procedures
12 submitted to the Board in November, 2007. I think we never voted on those Rules of
13 Procedures. Is there a motion?

14 MR. MCDUFFIE: I'll motion to put the adoption of the Rules of Procedure from
15 November, 2007 on the Agenda.

16 MS. CECERE: I'll second.

17 CHAIRWOMAN PERKINS: Okay it has been moved and second that the
18 adoptions for the Rules of Procedure be put on the Agenda. All those in favor please
19 have a show of hand?

20 *[Approved: Branham, Perrine, Perkins, McDuffie, Cecere; Absent for vote: Simons;*
21 *Absent: Rush]*

22 MR. PRICE: Call it out. Branham, sorry, Perrine, Perkins, McDuffie and Cecere.

23 CHAIRWOMAN PERKINS: All those opposed? Okay the next item on the
24 Agenda is the election of officers. [Inaudible] what's the Board's pleasure?

1 MR. MCDUFFIE: I'll move that we proceed with the election of officers based on
2 the quorum that we have today.

3 MS. CECERE: I'll second.

4 CHAIRWOMAN PERKINS: Okay I'll open the -

5 MR. FARRAR: I just want to mention something. You might, Madame Chair,
6 you might want to do this after you do the reconsiderations so you don't have a different
7 Chair making rulings on cases that are kind of pending. That's just a suggestion, you
8 can do it now if you want to, but.

9 CHAIRWOMAN PERKINS: Okay. Hearing legal counsel suggestion, what is the
10 Board's pleasure?

11 MR. MCDUFFIE: I want to withdraw my motion.

12 CHAIRWOMAN PERKINS: Okay is there another motion to move the election of
13 officers to the last item on the Agenda?

14 MR. BRANHAM: So moved.

15 CHAIRWOMAN PERKINS: Second?

16 MS. PERRINE: Second.

17 CHAIRWOMAN PERKINS: All those in favor, have a show of hands?

18 *[Approved: Branham, Perrine, Perkins, McDuffie, Cecere, Simons; Absent: Rush]*

19 MR. PRICE: All those in favor are Branham, Perrine, Perkins, McDuffie, Cecere.

20 MS. SIMONS: Should I vote? Does it matter, okay.

21 MR. PRICE: Simons.

22 CHAIRWOMAN PERKINS: The next item on Agenda is Other Business.
23 Reconsideration of Case 07-38 SE.

1 **CASE 07-38 SE:**

2 MR. PRICE: Yes, and they'll actually receive actually, you should have received
3 two documents requesting a reconsideration. There was one sent from the, I guess the
4 Fish and Wildlife Service and that was by Timothy Hall. And you also received one from
5 the Friends of Congaree Swamp and that was under John Greggo, who is the
6 President. You've received both of those documents.

7 CHAIRWOMAN PERKINS: Is there a motion?

8 MR. MCDUFFIE: I'll move to reconsider, I'll move to reconsider Case 07, Case
9 07-38, is that correct?

10 MR. PRICE: Could you just state some reasons behind that?

11 MR. MCDUFFIE: I think that, I move to reconsider Case 07-38 SE based on
12 some, some misrepresentation and possible mistakes of fact.

13 MR. PRICE: What misrepresentation would that be?

14 MR. MCDUFFIE: I think we were misrepresented on the proximity of the tower to
15 the park in, in earlier evidence that we were given, and I also think we were, we had
16 some misrepresentation about the height of the tower.

17 MR. PRICE: As far as the height was, that was addressed I believe during the
18 last hearing. I stated what the height was and the applicant stated that was the height.

19 MR. MCDUFFIE: But I do believe there was some, some potential conflict about
20 the proximity of the tower to the park, is that correct Mr. Price?

21 MR. PRICE: I believe that's what's stated here.

22 MR. MCDUFFIE: Okay. So I think that would be enough.

1 CHAIRWOMAN PERKINS: So are you saying that we received conflicting
2 information that needs to, to evaluate the credibility of the applicant and the information
3 has been received on the tower's compatibility within the zoning district?

4 MR. MCDUFFIE: Yes.

5 CHAIRWOMAN PERKINS: I will need assistance from legal in assigning the
6 appropriate, I'm sorry I took away your -

7 MR. MCDUFFIE: No, go ahead. You're doing just fine.

8 CHAIRWOMAN PERKINS: - I took away your, I'm sorry [inaudible]. I'm out of
9 order.

10 MR. MCDUFFIE: No go, continue.

11 CHAIRWOMAN PERKINS: Is that what you said though?

12 MR. MCDUFFIE: That's what I said.

13 CHAIRWOMAN PERKINS: Is there a second to that motion?

14 MS. CECERE: I second.

15 CHAIRWOMAN PERKINS: Okay.

16 MR. PRICE: I just wanted to get some clarification. No, I'm just -

17 CHAIRWOMAN PERKINS: Oh, I'm sorry, okay. There was a motion to move to
18 reconsider 07-38S E as the Board has received conflicting information that needs to be
19 evaluated to the credibility of the applicant, additional information has been received on
20 the tower's compatibility with the zoning district. All those in favor of that motion please
21 have a show of hands?

22 *[Approved: Perkins, McDuffie, Cecere, Simons; Opposed: Branham, Perrine; Absent:*
23 *Rush]*

1 MR. PRICE: Those in favor, Perkins, McDuffie, Cecere, Simons.

2 CHAIRWOMAN PERKINS: Those opposing?

3 MR. PRICE: Those opposed, Branham, Perrine.

4 CHAIRWOMAN PERKINS: Okay, so we will put that on the Agenda for next
5 month.

6 **CASE 07-54 SE:**

7 MR. PRICE: Yes, ma'am. Okay the next item is Case 07-54, which, I'm sorry -

8 CHAIRWOMAN PERKINS: We didn't get any information [inaudible].

9 MR. PRICE: Right. That request, that request actually came from one of the
10 Board Members. Torrey Rush, I actually spoke to him late last night, he thought he was
11 gonna be here in time to make his, make the request for a reconsideration but he was
12 unable to get back from out of town so he did email me a letter and he asked that I read
13 to, into the Record for the Board. "Geo, would you read the following statement into the
14 Minutes of the BOZA meeting. I have been approached by several community
15 members in the Fairfield Road area concerning a Special Exception to allow a salvage
16 yard on Old Fairfield Road. The community members have expressed to me that they
17 had concerns about the project and wanted their concerns to be heard by the Board of
18 Zoning Appeals. Due to the lack of visibility of the zoning public notice sign for Case
19 07-54 SE and the lack of notice for the community I am recommending and making a
20 motion that Case 07-54 SE be reconsidered. Torrey Rush."

21 CHAIRWOMAN PERKINS: Parliamentary procedure, Mr. Farrar, I guess that
22 was read into the Record. What does it say about a Board Member's presence? I'm
23 sorry I'm having to make you get out the [inaudible].

1 MR. FARRAR: Board Member's presence for what purpose?

2 CHAIRWOMAN PERKINS: Reconsideration, making a motion to reconsider.

3 MR. FARRAR: It doesn't alter the rule. What, what it is essentially he's not here
4 to make that motion so if you want to receive his statement in absence and somebody is
5 inclined to make a motion based on that you can. I mean, it's still gonna have to have a
6 motion, a second and, and a majority to, to put the item on for reconsideration. What
7 you've got at this point is he's not present, he hasn't asked, I don't think he asked for it
8 to be deferred, he just asked for the information to come before you. So you still have
9 to have the motion.

10 CHAIRWOMAN PERKINS: Thank you very much.

11 MR. FARRAR: Yes, ma'am.

12 CHAIRWOMAN PERKINS: Is there a motion for Case 07-54 SE? And also I
13 guess we, we take Mr. Torrey's email to Mr. Price as information to the Board?

14 MR. BRANHAM: I've got one question Madame Chairman, if I may ask. Based
15 on his letter he said several people in the community had approached him. If it was not
16 properly, if the notice was not properly given and properly exposed, how would these, if
17 there weren't here to oppose it to start with, how would they know to opposed it, how
18 would they want a reconsideration from a Board Member?

19 MR. MCDUFFIE: And, and also is it appropriate for the members of the
20 community to approach the Board directly or is that, does that constitute *ex parte*
21 communication?

22 MR. BRANHAM: Right, that's exactly right. That's my question.

1 MR. FARRAR: Now you've got a bylaw that pertains to *ex parte*
2 communications, it's Article 6 and so what you've got really is, it depends on the nature
3 of the contact, you know, if a person bumps into a Member and just, you know, has a
4 conversation and, it depends on the circumstances. If somebody comes to the Member
5 and says, Gee, we'd like this case to be decided this way, and wants to talk about a
6 case, that's a little different than, you know, I didn't, I wasn't aware the case was heard.
7 And if that's all the nature of the information you're talking about notice or procedure as
8 opposed to this is what I want to say about the case. Now if they said, you know, I
9 didn't know the case had been called and here's what I want to tell you about the case
10 then that moves more towards kind of a sliding scale of that's, that's more of an
11 improper contact. Probably harmless in terms of the person knowing and they just
12 probably don't know that's something they're not supposed to do, it's a *quasi* judicial
13 body you're not a court but you do have a bylaw that says, you know, you don't need to
14 be inundated with people trying to sway, sway you one way or the other on a case. So
15 it's important to know whether or not it was just an inquiry about whether or not a case
16 was on your docket as opposed to here's how I want the case to be decided. So, I
17 mean, I don't know.

18 CHAIRWOMAN PERKINS: [Inaudible]

19 MR. FARRAR: Yeah, I mean, if it's, as Mr. Branham's saying, if it's a notice
20 situation or it wasn't posted that's, that's procedural as opposed here's how I want the
21 case to be decided.

22 CHAIRWOMAN PERKINS: Well, even at that rate and hearing that and whether
23 or not it was *ex parte* communication I think that at this particular one I would move to

1 revisit, reconsider 07-54 SE to alleviate the appearances of harm by the Board by Staff
2 Member. And that would be my reason for wanting to rehear the case.

3 MR. MCDUFFIE: Mr. Price, could you refresh our memory a little bit about this
4 case? The property I believe was in the Fairfield Road area but it did not front at
5 Fairfield Road, is that correct?

6 MR. PRICE: Correct. The property did not front on Fairfield Road it was on Old
7 Fairfield Road and then it was a road, dirt road evidently it's not travelled very much
8 because I didn't see any homes along Old Fairfield Road. By, according to the Land
9 Development Code we're required to post the property -

10 MR. MCDUFFIE: The property was in fact properly posted.

11 MR. PRICE: It was. But there may be some times when, you know, a case like
12 this where no matter how you post the property it's gonna be hard to provide some type
13 of visibility to, you know, the people in that area. [Inaudible] the post of Fairfield Road
14 on somebody else's property and you can imagine how that would have come off but –
15 the calls, you know, You're on my property but that's, you know, that's, this is just one of
16 those cases and a lot of times we have, you know, rumors, rumor gets around, word of
17 mouth. You may hear about something before it happens in which, you know, we get a
18 lot of calls I hear something's coming or you may have, they may have heard about this
19 after because it doesn't take but one person to come in and then talk to the community.
20 Now I can't get into how Mr. Rush was contacted, however [inaudible] who's on the
21 Board, his name could have been thrown out there.

22 CHAIRWOMAN PERKINS: As I recall too I think if I remember, if I recollect
23 correctly he was concerned about that piece of property and how things were going to

1 be fixed on that property and I think a Staff member got up and he may have intended
2 to defer it to, so that the Board could actually see a site plan and I don't know whether
3 that is true or not. I had questions about gathering information and I think there was
4 someone that took the podium and said that, what the Board should do is grant this man
5 the Special Exception and that the Staff would see to the other things. Now I have a
6 problem with that and that was my concern about that and that's why I moved to do it,
7 but I didn't get a second.

8 MR. MCDUFFIE: Madame, Madame Chair, I'd like to make a motion that given
9 that the property was properly posted and typically unseen by the members of the
10 community -

11 CHAIRWOMAN PERKINS: Well, there is a motion on the floor.

12 MR. MCDUFFIE: Oh there is, oh, I'm sorry I didn't realized that you moved.

13 CHAIRWOMAN PERKINS: It didn't get a second so I guess it, it, I guess I need
14 to restate it. I move to reconsider 07-54 SE to alleviate the appearance of coercion of
15 the Board by Staff member and again I will, I don't know where this fits under error,
16 under Rules 3.7(A), I don't know where it fits under that.

17 MR. BRANHAM: What are we gonna do different if we, if we rehear it as far as
18 posting?

19 CHAIRWOMAN PERKINS: Well, what I think I did was there were concerns as
20 to whether or not he did not say, you know, what he would do to screen off the, the
21 building. I think, and at a hurried amendment to the adoption of the bill I went to say I, I
22 couldn't close up the, the materials that he was going to store. I don't think that, he said
23 six to seven parking spaces, and I don't know exactly what that means, six or seven

1 parking spaces. He's going to have to have loading and unloading and so to me I don't
2 have a clear picture of what he's going to present there. That's, that's my problem.

3 MS. CECERE: I think that the Board's concern was also there was really no site
4 plan that he presented except the drawing that his son did that, actually he said was just
5 really not the actual plan and if we're gonna grant this Variance or Exception then we
6 have to have, I think most people that come before us already have a plan of what it's
7 going to look like and, and, and that would, we can base our information on that.

8 MR. MCDUFFIE: I thought he did have a, a site plan. It may not have been like
9 a final plan but I thought that it did meet the requirements for, you know, what he
10 needed to present to us.

11 MR. PRICE: I think what he presented could, more conceptual.

12 CHAIRWOMAN PERKINS: [Inaudible] he said it was just an architecture his son
13 was, I think he presented somewhat -

14 MR. MCDUFFIE: I think the concerns though, for this Board were, were whether
15 or not it was, what the visibility was gonna be and what kind of screening was gonna be
16 in place. And I think we addressed those.

17 MR. KOCY: I might offer a suggestion. I think perhaps I added the confusion at
18 the last hearing and I didn't mean to so let me try to be a little more articulate today. I, I,
19 my recommendation to the Board is, for this particular case and other cases like it, your
20 charge is to view how this use on this property will affect the surrounding community
21 and that's what you should be focusing on. Will it create excessive traffic in the
22 neighborhood that the roads aren't prepared to handle, will there be noise or dust or
23 other, other activities that'll affect the surrounding properties, will it be an eyesore that

1 people outside this parcel will diminish their home values and impact their quality of life?
2 If the answer to those questions is no, then the site details about how tall will the
3 plantings be, that's already in the code. We, Geo and I will make sure that the existing
4 code, if you allow a commercial use in a residential zone, we'll make sure that the
5 necessary screening and the buffers and the fence heights and the parking areas are all
6 laid out property, properly. But I, I think that, what I would suggest that the Board
7 concentrate on, and this case last month, this gentleman said I believe he was going to
8 have 15 to 20 cars in the site at any one time. For me that means you've got to get the
9 cars there, that's gonna be traffic and they might be on the back of a flat bed truck, so
10 that's truck traffic. Will this little dirt road handle truck traffic? Will that be an impact on
11 the surrounding properties when it's going in and out and in and out? Those are
12 questions that I would have liked to have heard answers to but I didn't hear asked.

13 CHAIRWOMAN PERKINS: Exactly.

14 MR. KOCY: Not how tall will the trees be to screen the property, the question is
15 you will provide a buffer to the applicant because the code requires that. So we'll, we'll
16 deal with that but what our code does not deal with is impact on the surrounding
17 properties.

18 CHAIRWOMAN PERKINS: And I went to visit the site after the meeting and
19 there are houses, you know, directly behind that. So I, you know, prior to the visit I did
20 not know that there were homes. And Geo you said that there aren't home, there is a
21 house and I think even in the Minutes he addressed properties to the left and right of
22 him, he said someone in his family used to own it but he doesn't know who owns it now.
23 So I think if the Minutes will clear, you know, clear that up.

1 MR. KOCY: Right. And other questions he's going, it's an auto salvage
2 operation, they disassemble cars, how do they do it? If they use air impact wrenches,
3 that's air compressors and drills going [whhzzz, whhzzz]. How are they going to screen
4 that sound from impacting surrounding properties?

5 CHAIRWOMAN PERKINS: And I would tend to agree with you.

6 MR. KOCY: So those are, those are valid questions that I don't remember being
7 part of the discussion last time.

8 CHAIRWOMAN PERKINS: [Inaudible] there's a motion on the floor to reconsider
9 Case 07-54 SE. All those in favor of reconsideration please have a show of hands.

10 MR. PRICE: There's a second.

11 CHAIRWOMAN PERKINS: Oh, I'm sorry.

12 MS. CECERE: Second.

13 CHAIRWOMAN PERKINS: Okay. All those in favor please have a show of
14 hands.

15 *[Approved: Perkins, Perrine, Cecere; Opposed: Branham, McDuffie]*

16 MR. PRICE: Those in favor Perrine, Perkins, Cecere.

17 CHAIRWOMAN PERKINS: Okay all those opposed? Peggy wasn't here.

18 MR. PRICE: So those opposed will be?

19 CHAIRWOMAN PERKINS: Two.

20 MR. PRICE: Branham and McDuffie.

21 CHAIRWOMAN PERKINS: Okay, so we will put that, the motion has passed.
22 We'll put that on next time. The last case -

1 MR. PRICE: Well, I mean, before, I guess is there anything that the applicant
2 would need to supply prior to us putting him, putting them on the next Agenda?

3 CHAIRWOMAN PERKINS: Well, one of the things is, is that I think we will offer
4 the suggestion as to accessibility of the road by flat bed trucks, you know, moving the
5 parts in and out, noise impact on the surrounding community about how he's
6 dismantling cars [inaudible].

7 MR. PRICE: Okay.

8 MS. CECERE: What about a site plan?

9 CHAIRWOMAN PERKINS: And a site plan.

10 MR. PRICE: Okay, okay.

11 CHAIRWOMAN PERKINS: The next item.

12 **CASE 08-06 V:**

13 MR. PRICE: The next item for reconsideration is Case 08-06. That was one of
14 our sidewalk waivers that was, sorry, I need to pull that file again. It's Jimmy Herndon,
15 once again that's Case 08-06V, a Variance. The applicant, let me kind of gives a quick
16 history of our last week or so that I've been dealing with the applicant. We've spoken to
17 him regarding his reconsideration request. At first he had someone, I guess, he had a
18 letter from a Brian Cheek from Cheek Properties he did submit a letter asking for a
19 reconsideration. I then replied to his email request stating that it needed to be, to
20 address one of the issues of one of the rules of 3.74 of your Rules of Procedure. Didn't
21 hear from them for a while and I did email again asking what was the status of his
22 reconsideration, didn't hear anything. Today, seems like around 12:16 we received an
23 email, which is, I believe you have a copy of that now, asking for a reconsideration for

1 sidewalks on Clemson Road and Quality Court. Just from the consideration, excuse
2 me, from the conversation I've had with Mr. I believe it's Herndon, his real concern is
3 more Clemson Road rather than Quality Court, but, at least according to his letter he
4 says for the sidewalks on Clemson Road and Quality Court.

5 CHAIRWOMAN PERKINS: In his email [inaudible] he says, this is on the basis
6 of misstating of fact. What, can you give us, what does that mean?

7 MR. PRICE: I, you know, I really, I can't address that specifically without make,
8 trying to make this my request so I'm kind of careful on that. From going out to the
9 sites, I'm not sure if any of y'all have actually, you know, physically gone to the site, but
10 according to Mr. Herndon the Department of Transportation does not want sidewalks on
11 Clemson Road. I believe we've heard that from other cases also and that specifically
12 would be in the right-of-way. So they aren't, he's gonna push it, push the sidewalks
13 onto his private property, which, you know, looking from the road, that is pretty deep in
14 there and I believe his argument was where, where he would have to locate the
15 sidewalks you would go to a certain point on the property and you would just drop. So,
16 he was, he seemed to express concerns about having sidewalks that would lead to that.

17 MR. MCDUFFIE: He would then be required to bring a lot of fill to build that
18 sidewalk up, is that what -

19 MR. PRICE: He couldn't, no, we're talking about the area that the sidewalk will
20 lead to. I mean, from, from just being out there, I mean, you would almost have to put a
21 rail at the end of it just to, or some type of barrier from going in and his other argument
22 of course was that the other properties, the one that was abutting him was already
23 developed. That would have been across Quality Court, was developed without

1 sidewalks so where would the sidewalks on Clemson Road lead. I believe during the
2 last hearing I did state that I might, you know, from a Staff standpoint I did feel that it
3 was appropriate to grant a Variance for sidewalks on Quality Court because the rear
4 portion of, of that area has not been developed yet. So, you know, in essence she
5 could grant a Variance not allow, not requiring him to provide sidewalks on Quality
6 Court, which would be the front part but then you're going to have that same request
7 come for ever other development that comes back there.

8 CHAIRWOMAN PERKINS: I think the other issue I think the Board addressed
9 some of those issues that you had because we were talking about future development
10 and as I understand I guess a point, I guess I would need Ms. Lindler's [sic] expert
11 advice on - several cases that we received last month indicated that the Highway
12 Department, the Department of Transportation did not want the sidewalk into the right-
13 of-way. As I reviewed the Minutes of last month and, and I guess Ms. Lindler [sic], and
14 we haven't approved the Minutes yet, but it seems to me that Ms. Lindler [sic], and
15 please correct me if I'm wrong so I can get my warped thinking off the chart, that that
16 was not law, that that was germane, basically to the midlands area I think you said or,
17 they could do that. I mean, what would be the rationale of them not, the Department of,
18 you don't know that the Department of Transportation, was that your statement to the
19 Board?

20 MS. SHERRY-LINDER: I think what the point has become is that DOT has
21 always put the sidewalks on the right-of-way and for some reason now the last
22 timeframe that I've been in Richland County, they are not allowing them to go on the

1 side, in, in the right-of-way. So it's a question for them, which we are asking at the
2 district level as well.

3 CHAIRWOMAN PERKINS: So it's not, you're saying that that's not law then, it's
4 just -

5 MS. SHERRY-LINDER: I would not presume to speak for that entity that DOT,
6 that would be something they would have to address and we are in the process of trying
7 to find that answer out because I've always placed the sidewalks in the right-of-way.
8 Everywhere else I've look in the State of South Carolina. I don't know if maybe there's
9 some, something that's changed since then, in the last two years I don't know. But I
10 would not want to address their requirements and how they decide where the sidewalks
11 go and it may even be case by case, I do not know what those criteria are but we are
12 working on finding that out. What we've been doing is asking, because our ordinance
13 requires it, put the sidewalks on their land, within their property line.

14 MS. CECERE: Mr. Kocy, do you have any -

15 MR. KOCY: I have seen nothing in writing from DOT saying that they do not
16 approve of sidewalks, it's just oral incidents we're hearing from applicants saying oh
17 DOT doesn't want this.

18 MS. CECERE: Oh okay, okay. They don't know actually if that's fact, because
19 my, the way I look at this is, you know, okay now we want sidewalks okay. One guy
20 says well it's, I can't put it here, it's, you know, it drops off too much and then the next
21 person is required to have a sidewalk and as you're driving down the road, now here's a
22 piece of sidewalk and here is, and I assume that Planning and County Council had in
23 their vision that this is going to beautify the midlands or Richland County and, and make

1 this all to look like the same thing. To me it would be like you granted one person
2 because there's too much of a drop off saying no you can't have, you, you don't have to
3 have the sidewalk but the next person who's land levels out, yes you do. But, does that,
4 yeah.

5 CHAIRWOMAN PERKINS: Continuity there.

6 MS. CECERE: Yeah.

7 MR. KOCY: All I know is that if an applicant can get a road to his property and a
8 sidewalk runs adjacent to a road, if he tries and it doesn't take all that much effort to,
9 whatever, whatever his right-of-way he has to put pavement on to get his car there, give
10 me a little extra so I can walk there safely on the sidewalk.

11 MS. CECERE: Thank you.

12 MR. PRICE: But once again we do take these case by case. I don't think you
13 can actually put a blanket sidewalk over Richland County because the point of a
14 Variance is that you look at each individual parcel and if there are any extraordinary or
15 exceptional circumstances that are presented to you then that, those are usually the
16 grounds for you granting a Variance. So while, I mean, I'll agree County Council has a
17 number of requirements in this code design standards but you're still allowed to come to
18 the Board.

19 CHAIRWOMAN PERKINS: But it's incumbent upon applicant to prove to us the
20 extraordinary and it can't be something imposed by the applicant himself and I think
21 that, you know, that would at least that's what I know [inaudible].

22 MR. KOCY: Because I don't want to isn't a valid reason. I'm from Missouri,
23 show me a topic graphic map that says that the topography here makes the sidewalk

1 difficult. It's up to the applicant to prove to me that a sidewalk, which I think makes
2 good sense, does not make good sense in this specific application. And because I don't
3 feel like it or oh because it's steep, well you have to quantify what steep is.

4 CHAIRWOMAN PERKINS: Okay. There were two members who were not
5 present, go ahead I'll -

6 MR. FARRAR: Let me just say something, because I'm not a planner and I, and
7 I know there's lots of planning reasons for things but what, what you did here last time
8 and you can do whatever you want to in this case but why aren't there sidewalks along
9 the interstate? Not such a good idea.

10 MR. MCDUFFIE: That'd be a safety reason.

11 MR. FARRAR: And that's what you heard last time, they don't want people
12 walking along Clemson Road period. And so that's an exception to what you're hearing.
13 So, I mean, it makes great sense if we have people walking to have sidewalks but the
14 point is they don't want you walking on that road period. And so that's what you heard,
15 so, I mean, what you're getting is sound planning, guidance from the Planning Staff but,
16 but you, you've got some other things at work like safety. And that's what you heard
17 one of the applicants, and it may not have been this case but everybody said DOT
18 doesn't want them in the right-of-way but we don't know their rationale is for that but it
19 could be safety.

20 CHAIRWOMAN PERKINS: Well I think in, in one of the things the, the
21 presentation was in response to that, Mr. Farrar, was that there was some mentioning of
22 some part of Clemson Road having five lanes and the enormous amount of traffic and I
23 think the rebuttal was, it was just opposite both issues were safety. It was safety for

1 people who would walk from that area to another area and having the five lanes of
2 traffic and then the other area of safety as presented by, you know, some of the
3 applicants would have been that it was safety because of the amount of, you know, how
4 many lanes were there and, and the speed limit. And that it wouldn't be safety, so, you
5 know, it becomes kind of difficult to weight – go ahead.

6 MR. PRICE: Well, I don't want to get off track here because it seems like what
7 we have here is we have the reconsideration request for 550 Clemson Road, which is
8 the one but it seems like a lot of our conversation is going to other parts of Clemson
9 Road for other cases that came in. So, I mean, I'm sure this would be a great
10 discussion and we can, you know, we do have Staff here and everyone else involved
11 but maybe we should deal with the reconsideration request we have before us first and
12 then maybe come back and discuss that.

13 CHAIRWOMAN PERKINS: Yeah, but we don't have a reason. I mean, I don't, I
14 don't, I don't have in this, unless there is someone who wants to make a motion to
15 reconsider it. I don't see any reason. We can take this email as we did the previous
16 email for information if they're just making suggestions to us. And so I'm ready for, if
17 we've had enough debate and you're ready for the question. Is there a motion?

18 MR. BRANHAM: Well, I was looking for some clarification, Madame Chairman,
19 because I, I'm just trying to think back and I can't remember what I had for lunch today
20 so I can't be much good for last month's meeting. But did we not, in our determination,
21 we denied his request. That was both, and then it was some discussion about, about
22 denying Clemson Road and making, and -

23 MR. PRICE: Quality Court.

1 MR. BRANHAM: Yeah, I'm just trying to remember.

2 CHAIRWOMAN PERKINS: It was, and he did talk about the sloping of the land
3 and we went to address issues, you know, there has been a lot of building and if
4 somebody comes in and infill it then you would have, as she said that wouldn't be a
5 continuation of, because he's just gonna have his building there at this point in time and
6 then there's development.

7 MR. BRANHAM: So, so the denying of the motion to grant the Variance or
8 Special Exception, that included both Clemson Road and Quality Road, okay, Quality
9 Court.

10 CHAIRWOMAN PERKINS: And I think his argument was there was something
11 across the street that did not require that, you know, that was a whole new ballgame
12 before they [inaudible].

13 MR. BRANHAM: I go by there every day, thank you I appreciate it though. I'm
14 just trying to remember the circumstances, yeah.

15 MR. MCDUFFIE: And if I may in regard to what Mr. Farrar said, and I wasn't
16 here last week [sic] so I am not, really not qualified to vote on the reconsideration of the
17 case but, but, but I think there's a difference between a, a, you know, a state highway or
18 I assume that's what Clemson Road is or a county road and, you know, controlled
19 access highway like the interstate. And it certainly, I know that Richland County is
20 going to great lengths to be pedestrian and also bicycle friendly and there's been some
21 very, you know, recent incidents of, you know, of deaths because of the fact that a lot of
22 our roads are not very friendly to let's say anything other than automobiles. And, and,
23 and people that, that don't have access to an automobile or don't want to use an

1 automobile certainly have a, you know, right to have safe passage over, over our roads.
2 And the safety issue I, I think, you know, obviously a restricted access highway is
3 something that's, you know, vastly different than a, than a state, federal or county road,
4 so.

5 CHAIRWOMAN PERKINS: Okay, is there a motion to reconsider or not
6 reconsider? Mr. Price, I think we do have to, even if we don't reconsider it, we have to
7 have a motion to that effect, or Mr. Farrar?

8 MR. PRICE: No.

9 CHAIRWOMAN PERKINS: We don't have to have one? Okay, we don't. Well
10 there is no motion.

11 MR. BRANHAM: I will make a motion Madame Chairman.

12 CHAIRWOMAN PERKINS: Okay.

13 MR. BRANHAM: I will make a motion not to reconsider Special Exception we're
14 speaking about.

15 CHAIRWOMAN PERKINS: Second?

16 MS. CECERE: Second.

17 CHAIRWOMAN PERKINS: There's a motion on the floor not to hear, not to
18 reconsider Case 08-06 V, all those in favor of that motion have a show of hands?

19 *[Approved: Branham, Perrine, Perkins, Cecere; Abstained: McDuffie, Simons; Absent:*
20 *Rush]*

21 MR. PRICE: Those in favor are Branham, Perrine, Perkins, Cecere. Who's
22 opposed?

1 CHAIRWOMAN PERKINS: Those against? Of course two Board members that
2 are left not here so I guess we will not hear that case again. The next item on the
3 Agenda is the adoption of the Rules of Procedure submitted to the Board in November,
4 2007. Mr. Farrar, could I ask you to come up to the podium one more time and just kind
5 of explain to the Board again, refresh their memory on what we changed on the, was it
6 Rules of Procedure or bylaws, okay, bylaws. It was changes to 3.5.

7 MR. FARRAR: Do you have a copy of what – the cover letter, cause I'm not –
8 okay, this was, I sent a cover letter to the Board members on November 8, 2007. You
9 had two amendments that you wanted to consider. First was 3.3 on evidence, what we
10 did there was with the passage of *SC Code §6-29-1145* I believe that was in, last
11 summer. That was the one dealing with restrictive covenants. It used to be for years
12 that the County did not, was not in the enforcing restrictive covenants business and in
13 fact I believe in the Land Development Code it still states that the County enforces, or
14 does not enforce restrictive covenants. That's probably, gonna need to be amended if it
15 hasn't already, which is not y'all's, that's, County Council that has to deal with that but in
16 the bylaws, I'm sorry, the Rules of Procedure 3.3 all we did was take out the last
17 sentence, which says the Board may not enforce neighborhood or private restrictive
18 covenants. Now you have, I don't know if you use necessarily the phrase enforcement
19 responsibility but now if, if the County planning agency which would encompass
20 Planning Department and any Boards and Commissions would be part of the general
21 planning of the County has actual knowledge of a restrictive covenant you, that's
22 relevant now where it used to not be. So you can, you can now consider that in your
23 decisions and the onus is not on you to go out and dig and search for this, I mean, the

1 applicant has to bring it forward or someone in opposition has to bring it forward or if the
2 Staff has actual knowledge. And that was the thing that was concerning to the counties
3 because the original draft of that legislation I believe basically didn't clarify, I mean, they
4 kind of made it sound like, you know, we've got to go out and start researching the
5 courthouse records to see if there are restrictive covenants in every neighborhood. And
6 that was kind of a nonstarter so they did change that and made it actual notice, so that's
7 the first one, that's simply a deletion of the last sentence of 3.3. The 3.5 is Disposition
8 of a Case and I think this evolved over a long period of time that we've had a problem
9 with a tie vote situation. And you can see, I think I fit it all on one sheet here, proposed
10 amendment to Rule 3.5, created a new section called an impasse cause we've kind of,
11 we've had this in the, in the past and so for example we're going back to 3.5(B), we just
12 flatly stated any motion that receives a tie vote is considered to have failed for lack of a
13 majority. And that, that states what is *Robert's Rules* in essence with lack of majority
14 but we never really had that clarity before. But then I went on and put 3.5(C), put a
15 couple of scenarios that we've had that have come up a lot. Tie vote on a motion to
16 approve, for example and then nobody offers a motion to deny, that just, sometimes that
17 happens and so I, I basically set out what happens there in cases where there is a
18 motion to approve a request for either Special Exception or Variance or to affirm an
19 administrative decision, those are the three types of things that y'all, y'all deal with, and
20 such motion to approve or affirm results in a tie and thus a failure for lack of majority,
21 and there is no motion to deny the request in the same case, okay so then what do you
22 do. Well the Chair or, in his or her absence the Vice Chair may declare the case to
23 have been denied for lack of majority on the motion to approve or affirm with no other

1 motion having been offered. Nothing in the rule prohibits the Board for continuing a
2 case for any purpose authorized by law or by these rules or bylaws. So what that
3 basically does is if you get to an impasse situation there's a motion to, to approve it's a
4 tie vote, it dies and everybody just kind of, there's, there's nothing else that happens
5 and the Chair just, I mean, you either wait forever or you can declare it an impasse.
6 And so that's what that allows; 3.5(C) sub item (2) is just the opposite, tie vote to deny,
7 no motion to approve offered. So it's the same scenario, so what this basically does is it
8 clarifies the result of a tie vote and it gives two different scenarios that are common to
9 the Board that would allow the Chair or Vice Chair to basically to declare the case as an
10 impasse. And I think that, I mean, if you read the rule you're kind of saying gee is this
11 better than what we had before, it's, it's a lot to explain the scenario but if you have that
12 scenario tie vote, no other motion offered what do you do and this answers that and it
13 answers that. So those are the two, I'll give this back to you so you can look at it but
14 that's, that's pretty much the explanation.

15 [Inaudible discussion]

16 CHAIRWOMAN PERKINS: Mr. Farrar's, explanation of those amendments.
17 What's the Board's pleasure?

18 MS. PERRINE: I make a motion to approve -

19 MR. PRICE: I'm sorry, I can't hear.

20 MS. PERRINE: I move that we approve these changes to 3.3 and the one 3.5.

21 MR. MCDUFFIE: I second.

22 CHAIRWOMAN PERKINS: There's a motion on the floor to adopt the
23 amendments of the Rules of Procedure evidence and disposition that has been – what

1 is, it's been moved and second. All those in favor of that have a show of hands.
2 Opposed?

3 *[Approved: Branham, Perrine, Perkins, McDuffie, Cecere, Simons; Absent: Rush]*

4 MR. PRICE: Branham, Perrine, Perkins, McDuffie, Cecere, Simons.

5 CHAIRWOMAN PERKINS: So that has passed. Should we go into the approval
6 of the Minutes? [Inaudible]

7 MS. PERRINE: But we couldn't approve -

8 CHAIRWOMAN PERKINS: Yeah, with the exception of the two cases. You want
9 to make a motion based on what you've given her to correct?

10 MS. PERRINE: Yeah. Or did you -

11 MS. CECERE: No, I mean, you've already made the corrections?

12 CHAIRWOMAN PERKINS: Yeah. [Inaudible]

13 MS. PERRINE: I make a motion that we approve the January Minutes with,
14 there were some corrections that were given. And approving the Minutes of January
15 with the exception of Case 07-38 and Case 07-54, because we'll be reconsidering
16 those.

17 MR. BRANHAM: Second.

18 CHAIRWOMAN PERKINS: There's a motion on the floor to approve, for the
19 approval of the Minutes of the January meeting with the exceptions as noted. It has
20 been properly moved and second, all those in favor of that motion show of hands.
21 Opposed?

22 *[Approved: Branham, Perrine, Perkins, McDuffie, Cecere; Abstained: Simons; Absent:*
23 *Rush]*

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MR. PRICE: Branham, Perrine, Perkins, McDuffie, Cecere.

CHAIRWOMAN PERKINS: So the Minutes are already docketed. Well, we're down to the last order of business. Election of officers. The floor is open.

MS. CECERE: I make a nomination that Chairman Perkins continue as the Chair on the Zoning Board.

MR. MCDUFFIE: Just, just for clarification when is, when is, when do the current office terms expire?

CHAIRWOMAN PERKINS: I think in September, mine expires in September. And whoever the Vice Chair is will, if that is the nomination.

MR. MCDUFFIE: I will second.

CHAIRWOMAN PERKINS: Wait a minute.

MR. MCDUFFIE: She made, she made a nomination. I second the nomination.

CHAIRWOMAN PERKINS: Oh well I, I thought from, I did open it to throw names out there.

MR. MCDUFFIE: Oh I thought, I thought she was making a nomination, which would require a second.

MR. PRICE: No.

MR. MCDUFFIE: It's not a vote, it's just a nomination.

MS. PERRINE: Madame Chair, I'd like to nominate Harold Branham.

CHAIRWOMAN PERKINS: Harold Brabham [sic] and Margaret Perkins. Is there any other nominations? Is there a motion to close it?

MS. CECERE: I make a motion to close it.

1 CHAIRWOMAN PERKINS: Is there a second?

2 MR. MCDUFFIE: I'll second.

3 CHAIRWOMAN PERKINS: Okay there is a, Harold Brabham [sic], excuse me,
4 for Margaret Perkins and Harold Brabham [sic] and I guess [inaudible].

5 MR. PRICE: Okay.

6 CHAIRWOMAN PERKINS: You have some concerns?

7 MR. PRICE: No, no I didn't know if you felt comfortable calling out your own
8 name for an election.

9 CHAIRWOMAN PERKINS: Well, I mean, I didn't.

10 MR. PRICE: Okay, well I can do it for you.

11 CHAIRWOMAN PERKINS: Thank you very much. You're so kind.

12 MR. FARRAR: Y'all need to go ahead and close out nominations.

13 CHAIRWOMAN PERKINS: He did. There was a motion to close it out, Suzanne
14 did it and he second that.

15 MR. FARRAR: Okay, but you need to vote on that motion.

16 CHAIRWOMAN PERKINS: Okay. All those in favor of that motion, I mean,
17 closing the, yeah, closing the nominations.

18 *[Approved: Branham, Perrine, Perkins, McDuffie, Cecere, Simons; Absent: Rush]*

19 MR. PRICE: Branham, Perrine, Perkins, McDuffie, Cecere, Simons. Okay we
20 have two nominated for the Chair of the Board of Zoning Appeals. Those in favor for
21 Margaret Perkins?

22 *[Approved for Margaret Perkins: Perkins, McDuffie, Cecere, Simons]*

1 MR. PRICE: We have Perkins, McDuffie, Cecere, Simons. Those in favor for
2 Harold Branham?

3 *[Approved for Harold Branham: Branham, Perrine]*

4 MR. PRICE: Branham, Perrine. So the Chair is retained. Now we need a Vice
5 Chair.

6 MS. CECERE: I'd like to make a nomination for Mr. McDuffie as the Vice Chair.

7 CHAIRWOMAN PERKINS: Second.

8 MR. PRICE: Any other nominees? You can close it. We have a motion from
9 Suzanne Cecere nominating Joshua McDuffie for Vice Chair. There are no other
10 nominations. We can close the nomination process; need a motion and second.

11 CHAIRWOMAN PERKINS: I move that the nomination process be closed.

12 MS. CECERE: Second.

13 MR. PRICE: Vote, everybody in favor of, okay.

14 *[Approved: Branham, Perrine, Perkins, McDuffie, Cecere, Simons; Absent: Rush]*

15 MR. PRICE: Branham, Perrine, Perkins, McDuffie, Cecere, Simons. Okay.
16 Those in favor of Joshua McDuffie for Vice Chair, raise your hands.

17 *[Approved: Branham, Perrine, Perkins, McDuffie, Cecere, Simons]*

18 MR. PRICE: Branham, Perrine, Perkins, McDuffie, Cecere, Simons. Okay and
19 do we have a Secretary?

20 CHAIRWOMAN PERKINS: That was something that I wanted to kind of bring up
21 a Secretary as well as Parliamentarian but I've been using Mr. Farrar as the
22 Parliamentarian because it is really kind of difficult. Who acts as our Parliamentarian,
23 Mr. Price [inaudible]?

1 MR. PRICE: Do we have one, do we have one?

2 CHAIRWOMAN PERKINS: Who?

3 MR. PRICE: I mean, I was asking did we have one?

4 CHAIRWOMAN PERKINS: I think we need one. That we can have one, you
5 know, you can have one.

6 MR. PRICE: I mean, as a Chair, you kind of serve in that capacity, don't you?

7 CHAIRWOMAN PERKINS: Yeah but I mean that's a bit much trying to -

8 MR. KOCY: Who owns the book?

9 CHAIRWOMAN PERKINS: I think everybody wants it, that's why [inaudible].

10 MR. KOCY: Who owns it?

11 CHAIRWOMAN PERKINS: The Board, the Board owns the book.

12 MR. PRICE: Who asked for the book?

13 MR. KOCY: Who's holding the book? [Laughter]

14 CHAIRWOMAN PERKINS: This desk. On a serious side usually there is a
15 Parliamentarian and that's okay if I, Mr. Farrar, I've used him thus far and if there's no
16 objection to it, or Mr. Kocy.

17 MR. KOCY: I would suggest that any legal headaches you might have as a
18 Board, would not come from lack of following Parliamentary procedure but lack of
19 following legal procedure.

20 CHAIRWOMAN PERKINS: Okay.

21 MR. KOCY: So I would suggest you might want to defer to legal counsel.

1 CHAIRWOMAN PERKINS: Okay, okay, okay. And that's fine with me. Is there,
2 is there any other business [inaudible]? If not this meeting is adjourned.

3

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[Meeting Adjourned at 1:58 p.m.]