

1 **RICHLAND COUNTY BOARD OF ZONING APPEALS**
2 **December 1, 2010**

5 *[Present: Joshua McDuffie, Elbert Meetze, Susanne Cecere, Sheldon Cooke, William
6 Smith; Absent: Elaine Perrine, Torrey Rush]*

7 Called to order: 1:15 pm

10 CHAIRMAN MCDUFFIE: Alright, I'd like to call this meeting of the Richland
11 County Board of Zoning Appeals to order. And in accordance with the Freedom of
12 Information Act, a copy of the Agenda was sent to radio and TV stations, newspapers,
13 persons requesting notification and posted on the bulletin board located in the lobby of
14 the Richland County Administration Building.

15 MS. LINDER: Thank you. Good afternoon ladies and gentlemen. Welcome to
16 this meeting this afternoon on the first day of December. I guess the weather's
17 appropriate for today. This Board is a *quasi* judicial board. Decisions that they make,
18 once they hear the case it's going to be a final decision. You do have the right to take
19 the – once they make a decision, an order will be issued and that will happen after the
20 Minutes are approved at next month's meeting. Once you get that order, you've got 30
21 days to appeal the order if you're unhappy with it. Okay? The Applicant will go first and
22 will have up to 15 minutes to present their case. If there's any opposition to what the
23 Applicant wants, they will have up to three minutes to speak. After all opposition has
24 spoken the Applicant can rebut for their position and will have five minutes to rebut that.
25 We're going to take up the cases, I'm assuming on the order that they're listed in our
26 Agenda today, I believe we have three cases. Please, if you plan to come to the
27 podium to talk to the Board, you will be given an oath to tell the truth and then once you

1 come to podium, you're case will be called. Address your comments to the Board, not
2 to the audience. The testimony that you give is going to be recorded. If you have any
3 evidence that you'd like to submit you may do so. It's not quite as formal as a court, we
4 are again *quasi* judicial. It is a final decision. I would ask if you need to leave the room,
5 do so quietly. If you have a cell phone, please turn it off or vibrate. Is there anybody
6 that has any questions about how we're going to proceed today? If not, if you're
7 planning to testify, I would ask you stand at this time. Raise your right hand. Do you
8 swear or affirm the testimony you give shall be the truth, the whole truth and nothing but
9 the truth so help you God?

10 AUDIENCE: I do.

11 MS. LINDER: You may be seated and Mr. Chairman, you may begin.

12 CHAIRMAN MCDUFFIE: Alright at this point, I will move to look at approval for
13 the Minutes from October 2010. Has everyone had an opportunity to read the Minutes?
14 Are there any corrections or changes anyone sees in the Minutes? If not, could I get a
15 motion to approve?

16 MR. SMITH: I motion to approve the Minutes.

17 CHAIRMAN MCDUFFIE: Okay, a second?

18 MS. CECERE: Second.

19 CHAIRMAN MCDUFFIE: Alright. So moved. All in favor?

20 [Approved: *Meetze, McDuffie, Cecere, Cooke, Smith; Absent: Perrine, Rush*]

21 CHAIRMAN MCDUFFIE: Alright the Board is unanimous and the Minutes from
22 October 2010 are approved. At this point, we will move on to the public hearing portion
23 and at this point if Mr. Price would please call the first case.

1 **CASE NO. 10-21 V:**

2 MR. PRICE: Alright the first item is Case 10-21 V. This is a variance by Gary
3 Davis. The location is 615 Rimer Pond Road and the Applicant is requesting the Board
4 of Zoning Appeals to grant a variance to encroach into the required side yard setback
5 on property zoned RU. The parcel size is about an acre and is used residentially.
6 Subject property has an 850 square foot residential structure, at least according to
7 county records, that was constructed around 1960. The Applicant is proposing to
8 construct an addition to the existing structure which will encroach into the required side
9 yard setback by five feet. The area is comprised of single-family residential dwellings.
10 Staff met with the Applicant and – staff met with the applicant, we also met with him on
11 site to discuss options that were available to them. As you can see here's the structure,
12 the existing structure and as you can see is currently about 10' from the property line
13 and due to the date that it was developed this was done prior to, you know, any zoning
14 regulations regarding setbacks. Within the Code it does allow a residential structure to
15 be expanded 10' along that non-conforming setback but in this particular case, if you
16 kind of look at the angle of the property line and also the angle to the house, they were
17 going to end up going closer, so that option was not available to them. This is the
18 existing structure, this is the side and as you can see, there is an air conditioning unit.
19 And they wanted to place it from back in this particular area, I guess where the steps
20 are. We talked to the Applicant about putting the home, excuse me, the addition more
21 on the rear of the property. As you can see in this – well, I guess you can't really see,
22 but in this particular area here, that's where the septic tank is, so they are unable to put
23 it there. We talked about maybe even putting it on this particular side, which would be

1 where the driveway is, but according to the Applicant, what that will cause is more of a
2 burden on the inside of the home, because you would end up having to cross over two
3 bedrooms to get to the additional room, as opposed to going to the other side where
4 you just have direct access. And that is it for Staff's presentation.

5 MR. COOKE: Mr. Price, can you go back to the area where he's planning on
6 putting it?

7 MR. PRICE: It's going to be right here.

8 MR. COOKE: Right.

9 MR. PRICE: You can see, it's right behind this air conditioning unit –

10 MR. COOKE: Okay.

11 MR. PRICE: - and also right in this area. As you can kind of see, I think he may
12 have staked out the area a bit.

13 MR. COOKE: Yeah.

14 MR. PRICE: Can you see a flag – like right here and right here. So it's going in
15 this particular area.

16 MR. COOKE: Okay. Thank you, Mr. Price.

17 CHAIRMAN MCDUFFIE: Mr. Price, how close is the structure to the – the
18 current residential structure is 10.1' from the side property line?

19 MR. PRICE: Yes.

20 CHAIRMAN MCDUFFIE: And that there's a require 20' side setback so it's about
21 10' -

22 MR. PRICE: Yes, sir. It's –

1 CHAIRMAN MCDUFFIE: - and he's proposing to go about another five feet, is
2 that correct?

3 MR. PRICE: Yes, sir. Like we said, you know, one of the things we discussed
4 was, you know, why go out an additional five feet but as I said, any really addition that
5 goes along with the existing structure is going to encroach more into the required
6 setback.

7 CHAIRMAN MCDUFFIE: So five foot is sort of the maximum that it would go
8 out?

9 MR. PRICE: Yes, sir. In addition – I'm sorry, like I said, one of the things we try
10 to do now, especially more with the Applicant, is to discuss all options. In speaking to
11 the Applicant that this property next door to him is family, is owned by a family member,
12 but he's been unable to really get in contact with – I'm sorry, he was able to get in
13 contact but they haven't made a decision as to what they want to do with the home. So,
14 he was actually going to try to, you know, purchase some more land to bring this into
15 compliance, but was unable to do that at the time.

16 MR. COOKE: I'm assuming the property on the right side, is that correct?

17 MR. PRICE: Yes, sir.

18 MR. COOKE: Okay.

19 CHAIRMAN MCDUFFIE: And at this point, they're not here and signed up in
20 opposition, so –

21 MR. COOKE: Right.

22 MR. MEETZE: Now, the property next door here, that's an old abandoned
23 building or an old barn.

1 MR. PRICE: Which one?

2 MR. MEETZE: On the right.

3 MR. PRICE: Okay. That is, I believe it's a – there's a residential structure on the
4 property, yes sir.

5 MR. MEETZE: Is it abandoned or empty?

6 MR. PRICE: I don't know if it's occupied now, but it is for residential use.

7 CHAIRMAN McDUFFIE: Alright. If we could have the, call the Applicant to
8 speak at this time. And please state your name and address for the Record.

9 **TESTIMONY OF GARY DAVIS:**

10 MR. DAVIS: My name is Gary Davis and I live at 615 Rimer Pond Road. And
11 the reason I'm trying to apply for this variance here because like I say, I got the septic
12 tank back there, around there. The line run around and come down where the driveway
13 at. And he asked about that end and I told them on the end right there it would be kind
14 of tough to get through where the house is – it's only 20' across the back. And what we
15 saw out that back door was the only place that we could really go out there and make it
16 – anyway, we wanted the room because we're trying to adopt a little boy we've been
17 had ever since he was two months old and he's five years old now, actually six years
18 old now. And so, that's why we really want this, and see and we didn't realize when the
19 house was built back in the 60's, you know, we didn't realize the variance and all that
20 stuff where the house is sit is only about, I believe it's 10' on the back and about 14' the
21 front from the line. And saying that property next door actually is my sister's home and
22 she don't live there now. The house is there, it's vacant. She live in Atlanta and she
23 told – I talked to her about it and she not worrying about it. And she said her daughter,

1 she got a daughter up in Alaska and she might move back but she doubt it cause she
2 just bought a house in Alaska about a couple of years ago. And I asked about maybe
3 selling it to me and she told me she might let me know. And seeing that's the main
4 reason that we doing it.

5 CHAIRMAN MCDUFFIE: Are there any questions for the Applicant or for Staff at
6 this time? Would someone care to go through the Findings of Fact?

7 MR. COOKE: Sure. Are there extraordinary and exceptional conditions
8 pertaining to the particular piece of property? I would say yes, Mr. Chairman, due to the
9 fact the location of the septic tank restricts the location of the addition, that, the
10 additional add on to the home and also the fact that the structure was developed prior to
11 the land development regulations. It's already in the setback more than 10'. Do these
12 conditions generally apply to other properties in the vicinity? I would say, no. No, sir,
13 not at this time. Will application of this chapter to this particular piece of property
14 effectively prohibit or unreasonably restrict the utilization of the property because of
15 aforesaid extraordinary and exceptional conditions? The answer to that would be, yeah.
16 Would the granting of this variance be of substantial detriment to adjacent property or to
17 the public good or will it harm the character of the district? The answer to that would be
18 no. So Mr. Chairman, at this time, I would like to make a motion that we move to
19 approve Variance 10-21 based on the Findings of the Facts.

20 CHAIRMAN MCDUFFIE: Okay, so we have a motion is there a second?

21 MR. SMITH: I'd like to second.

22 CHAIRMAN MCDUFFIE: We have a second, all in favor?

23 MR. PRICE: Those in favor, Meetze, McDuffie, Cecere, Cooke, Smith.

1 [Approved: Meetze, McDuffie, Cecere, Cooke Smith; Absent: Perrine, Rush]

2 CHAIRMAN MCDUFFIE: Mr. Davis, you have your variance and Staff will be in
3 touch. Thank you very much. Mr. Price, when you're ready, go ahead and call your
4 next case.

5 **CASE NO. 10-22 V:**

6 MR. PRICE: Okay. The next item is case 10-22 V. The Applicant is Neel Shah.
7 The Applicant is requesting the Board of Zoning Appeals to grant a variance to exceed
8 the maximum height for a pylon sign in a GC District. The location is 8910 Farrow
9 Road, parcel size is a little more than three acres and existing land use is commercial.
10 It is a newly constructed hotel which would be the Hilton Garden Inn. The Applicant
11 proposes to exceed the maximum height for a pylon sign in the GC District by 29.59'.
12 The area is comprised of commercially and institutionally developed parcels. Got to go
13 over a couple of things here. The site here – excuse me, this is the site, you know, it's
14 being constructed at this time.

15 MR. COOKE: What's that?

16 MR. PRICE: Picture of the hotel.

17 MR. COOKE: That's the hotel?

18 MR. SMITH: Yeah.

19 MR. PRICE: What I'm doing, I'm going to go back real quick because I think
20 what the point of the Applicant states is the reason why they're asking for the variance
21 is because of this parcel right here. They're stating that, you know, the growth of trees
22 and they need their sign to be above that essentially. And this is the site where the tree
23 line is. And one of the things to remember is that the sign will have to be on private

1 property and be in the right-of-way. And also, it's required to be five feet back from the
2 property line, so you know, you're looking at the sign being more in this particular area
3 as opposed to being –

4 MR. COOKE: Out there.

5 MR. PRICE: - closer to the street. This is just a view looking in the other
6 direction, I guess, going north down Farrow Road. And, you know, this is at the
7 entrance right, and this is actually where I'm standing taking this picture is in the right-
8 of-way. So, the sign wouldn't be here, it would be further back of course. The Applicant
9 did state that – make sure I have this here - that due to the neighboring property's
10 foliage, which is a direct result of the Watershed Environmental Project by DOT, and
11 therefore future changes are highly unlikely and the neighbor applied his home to
12 watershed was Willis Gas and Power lines. I called Department of Transportation and
13 was unable to, I haven't received a call back from them, you know, to refute or, you
14 know, that accusation or, you know, even to confirm it. But I did speak to one of the real
15 estate agents cause there was a sign on that parcel and I did speak to them, and one of
16 the things that he did confirm to me that was that DOT they put a culvert there and that
17 right there – and that property is primarily wetlands and in his professional opinion, he
18 thinks it, you know, it could be developed, anything could be developed he said, but it
19 would take an engineering marvel to really get, you know, after awhile, once you look at
20 all of the, you know, the financial impact just to bring it into, you know, to meet all the
21 requirements to develop in the wetlands.

22 CHAIRMAN MCDUFFIE: It may not be imminently developed.

1 MS. CECERE: Yeah, so basically what you're saying is it could not – possibly
2 would not ever be sold.

3 MR. PRICE: That's what the – well, I can't go into that. But, the gentlemen I
4 spoke to said it's going to be interesting to see what happens to that parcel. Once
5 again, I don't want to say that it will not be developed, because, you know, anything
6 could happen.

7 MR. COOKE: So, is it Staff's thoughts that the real estate agent validated the
8 statement that the Applicant is making that it's highly unlikely?

9 MR. PRICE: There are some conditions to that property that will make the
10 development of it highly unlikely, or at least very difficult.

11 MR. COOKE: Okay.

12 MR. PRICE: Yeah, and you know, based on, you know, I think, we did
13 recommend denial but we base it really on the criteria but the one issue that Staff was
14 unable to determine or at least come to terms with, was okay if the variance is granted
15 because of the existing conditions of the property, the neighboring property, but then
16 later on that property is developed, what happens to the sign? You know? But then, like
17 I said, just speaking to a few people, the chances are that it may not be developed. It's,
18 we just couldn't come to terms with that.

19 MS. CECERE: Is it likely that those trees could be cut for, like if somebody's
20 property – is it enough money to cut for timber or no? It's not big enough for that.

21 MR. PRICE: I don't know if they would timber it. You know, once again, that's
22 someone else's property. They may like the look of it now, maybe it looks better to sell
23 it rather than to go in there and clear cut it; at least to cut part of the trees. Cause, I

1 mean, they could cut some down, it would grow up but if they were to take them out we
2 would need some type of engineering plans, you know, because it's grading, specific
3 grading that we would need. So, I don't know if they would go through all of that just for
4 an abutting property.

5 MR. COOKE: Now, there are other signage in that area, you know, Cracker
6 Barrel and Wendy's but they don't have the issue that this property has because of the
7 unlikelihood of the adjacent property being developed.

8 MR. PRICE: Yeah, I'll show you, I apologize; I was looking at this today. We'll
9 put on the wetlands and, you know, the flood zone layers. Eventually it will come up.
10 As you can see, this is the site. This is the, right in here –

11 CHAIRMAN MCDUFFIE: That's the next door parcel.

12 MR. PRICE: - this is the neighboring parcel that they talk about. As you can see
13 here, it is, it shows a lot of wetlands on the property and also a little bit of flood zone.
14 The parcel across the street and some others they were developed, they've been there
15 for a little while but I don't know if it applies throughout, you know, any new
16 development in this particular area.

17 CHAIRMAN MCDUFFIE: Mr. Price, maybe this would be more appropriate for
18 the Applicant but I'm trying to figure out exactly where on this plat here they're
19 proposing to locate that sign.

20 MR. PRICE: Yeah, I believe the Applicant may be able to –

21 CHAIRMAN MCDUFFIE: On Page 20 of the packet, but maybe you could just
22 point it out on the [inaudible] there.

1 MR. PRICE: It is going to be right – I can show it better over here - but right in
2 here, at least according to the site plan that I have and I'm hoping that y'all have a copy
3 of that – in this particular area.

4 CHAIRMAN MCDUFFIE: So somewhere along the Farrow Road frontage near
5 the curb cut?

6 MR. PRICE: It should be right here, because the way it's showing on the site
7 plan, even with the parking spaces, so right in this particular area. I'm sorry, I don't –

8 MR. COOKE: So Mr. Price, are you saying that the other – how can I put this –
9 the other signage that is in that area may not necessarily have the same, but they do
10 have the height stipulations, is that correct?

11 MR. PRICE: I'm sorry the -

12 MR. COOKE: The other signs cause there's a, I think a Residence Inn that's -

13 MR. MEETZE: Marriott.

14 MR. COOKE: Okay. Thank you. There's a Marriott that's around the corner
15 next to the Cracker Barrel and I think their signs are fairly high, I think.

16 MR. PRICE: There was a provision in the Code –

17 MR. COOKE: Uh-huh (affirmative).

18 MR. PRICE: - in our Code where parcels that abutted an interstate highway
19 could go a little higher, you know, so they could get visibility from the interstate. So, that
20 would explain why that may be –

21 MR. COOKE: That's why.

22 MR. MEETZE: How high is the Cracker Barrel sign?

23 MR. PRICE: I'm not sure, sir.

1 MR. COOKE: It's off the road; it's off the highway but it –

2 CHAIRMAN MCDUFFIE: Okay. Are there any more questions for Staff before
3 we call the Applicant up?

4 MR. SMITH: I have a question for Staff. In regards to the sign face area, what
5 would be the square footage? Because I understand what it would be if it was denied
6 but the height being almost 80' -

7 MR. PRICE: Actually, that's one thing I didn't mention in the Staff Report that
8 what they're showing actually [inaudible] from a square footage standpoint. And based
9 on the information I got from the plat that was supplied they would actually be allowed
10 250 square feet. So it's from a square footage standpoint, it would have to be reduced.

11 MR. SMITH: Okay.

12 MR. PRICE: But from a height standpoint, you know, that's just what they're
13 requesting.

14 MR. SMITH: Okay, so at the height of 79', we're looking at less percentage of
15 the 250 that you have that will be if they were denied.

16 MR. PRICE: If you were to grant this variance, unless, and I think the variance
17 really is for height, and so we just want to kind of just turn this into a height and square
18 footage request but they would be allowed, what they are requesting will go up to 79' 7"
19 inches and the maximum square footage would be 250 square feet.

20 MR. COOKE: Okay.

21 CHAIRMAN MCDUFFIE: Does the, does typically the square footage of the sign
22 vary based on the height?

1 MR. PRICE: No, sir. The square footage is determined by the linear frontage of
2 the property.

3 CHAIRMAN MCDUFFIE: By the, by the, [inaudible] the road. So, why would we
4 be even discussing the size of the sign?

5 MR. PRICE: No, I just wanted to point that out because I noticed that on the,
6 when I was looking at the information that was provided by the Applicant that this
7 actually exceeds what [inaudible] for square footage.

8 CHAIRMAN MCDUFFIE: That's showing about 300 –

9 MR. MEETZE: Three Hundred square feet.

10 CHAIRMAN MCDUFFIE: But just to be clear at this time, we are only
11 considering a variance for the height of the sign –

12 MR. COOKE: That's correct.

13 MR. PRICE: Yes.

14 CHAIRMAN MCDUFFIE: - and not for the square footage of the sign, it would
15 still need to meet the Code requirements.

16 MR. PRICE: Yes.

17 CHAIRMAN MCDUFFIE: Okay. At this time, I'd like to call Ms. Rebecca Van
18 Camp who's here representing the Applicant, Mr. Neel Shah I understand. Please state
19 your name and address for the Record.

20 **TESTIMONY OF REBECCA VAN CAMP:**

21 MS. VAN CAMP: My name is Rebecca Van Camp and my address is 334
22 Industrial Park Road [inaudible]. And I'd like to first off apologize for the square footage;
23 that would be scaled out since we're only going for height. The main issue, the reason

1 that he feels that this should be granted for his property is first off is in his opinion, from
2 what he has found out it's extremely unlikely that the property next to his will ever be
3 developed. We actually went and looked at it and it is a valley wetland area that to be
4 developed would take an extreme amount of work in our opinion. The other issue is
5 that he's not asking to be seen from the interstate, he's just asking to overcome this
6 basic disadvantage from the standpoint of the exit where you can see the hotel. Some
7 properties are lucky enough they can just put a set of letters on their buildings and you
8 can easily see it from the road. His property, he cannot do that. He's planning to put a
9 small set of letters on the front of the building, but you will not be able to see his hotel
10 unless you are right on it. I do have a couple of photos where we put up a crane, which
11 would give you a good idea of what it would look like if we did do this. If you don't mind
12 if I pass these over to you?

13 CHAIRMAN MCDUFFIE: Please.

14 MS. VAN CAMP: Here's one for your records. I happen to have a crane on the
15 property, so we went ahead and [inaudible] to see exactly what height we would really
16 need for it to be visible and to account for a small amount of tree growth, just a couple
17 of feet. The first photo you can see is the view from the exit. Now, keep in mind this is
18 zoomed in so, it's not going to look that large. This is trying to get a better photo. But
19 on the second page, you'll see that it's really not going to destroy the look of this area.
20 And then the 3rd and 4th photos are the other signs in the area which show the visibility.
21 You see the Cracker Barrel sign is pretty tall from my estimate. This would be
22 something similar to that and you would not see it until you got off the exit. It would not
23 be seen from the interstate.

1 CHAIRMAN MCDUFFIE: First, could we see the GIS and, with the interstate exit
2 and the subject parcel?

3 MR. PRICE: Okay. I was just trying to go back using some GIS, you know.
4 [Inaudible] an idea but this is actually from the property, that neighboring property that
5 you're referring to. That's the interstate.

6 MR. COOKE: Okay.

7 MR. PRICE: And here's the subject property. So with a little bit more -

8 CHAIRMAN MCDUFFIE: Please continue, I apologize.

9 MS. VAN CAMP: Also, with the setback it would probably end up, according to
10 the site plan, it would be more than the necessary setback because we're planning on
11 putting it pretty much as far back from the main road as possible on his property, so it
12 will not be an issue there; as you had pointed out earlier on the site plan and the
13 overview. It is our belief that because the other signs are all seen from the road, this is
14 not going to change the feel of this area. When you exit, you see signs for the other
15 hotels, there's I believe, a Marriott, a Residence Inn and there's Wendy's, BP and a
16 multitude of other things that appear the same way.

17 MR. MEETZE: Question. It's a beautifully laid out super building and a lot of
18 time, effort, expertise and brain power put behind it. Simply gorgeous. But if this sign
19 was going be an issue, these rules were in place before this building was built, why was
20 this not addressed from the very start?

21 MS. VAN CAMP: Going to be honest. Everyone who builds hotels they think
22 about signs last. They don't call to purchase a sign till it's near the end of the process
23 and then they start scurrying to think of these things. It's just something that's

1 overlooked; it's not their main focus. I run into it every day. I tell people, you need to
2 get your signs earlier. These things take time and effort and it's just overlooked by
3 everyone no matter how smart they are. I know Mr. Shah had put some thought to it in
4 the beginning, he did not know all the circumstances in the neighboring property and he
5 wanted to put a hotel here.

6 CHAIRMAN MCDUFFIE: Do – may I ask, you're here representing the Applicant
7 obviously but are you a representative from the sign manufacturer or from the hotel
8 chain?

9 MS. VAN CAMP: Yes. But either way, this does not affect my business.

10 CHAIRMAN MCDUFFIE: Sure, sure.

11 MS. VAN CAMP: Don't think I'm in it for the money; it doesn't do any good for
12 me. This is, he either gets a big sign or a short sign.

13 CHAIRMAN MCDUFFIE: I understand.

14 MR. COOKE: But it's going to be a sign.

15 CHAIRMAN MCDUFFIE: Your expertise level on hotel signs, so. If the road were
16 a straight shot, this wouldn't even be an issue really, it would just – it's the fact that
17 there's a slight curve in the road that's causing it to be, causing the subject parcel not to
18 be visible from the exit, is that the –

19 MS. VAN CAMP: Yes, if it was more straight or even curved in the other
20 direction, if you could even see a hint of the sign it would not be so difficult to gain
21 visibility but with the road, and these photos are actually taken from the exit, there's no
22 way you would be able to tell a hotel was there.

1 MR. COOKE: Mr. Price? Can you turn it again? You can't see those signs from
2 the road can you?

3 MR. PRICE: Which ones?

4 MR. COOKE: For the other two hotels.

5 MR. PRICE: This was the exit that –

6 MR. COOKE: Yeah, cause if you turn to the right -

7 MR. PRICE: - comes off to the right –

8 MR. COOKE: - that's where the other hotel is behind, on your left behind those
9 trees. And then you turn around again.

10 MR. SMITH: You can see that one.

11 MR. COOKE: And that's where the other –

12 MR. MEETZE: The Marriott sign is not even to tree top level.

13 MR. COOKE: Yeah, and that's the hotel right there, you're up on it and you can't
14 see their sign. Hmm, okay.

15 MS. VAN CAMP: But you can't – oh, excuse me for interrupting you.

16 MR. COOKE: Go ahead.

17 MS. VAN CAMP: You can see them before you pass them; you don't have to be
18 on top of them. You cannot see them directly from the exit.

19 MR. COOKE: Right.

20 MS. VAN CAMP: But you can see them before you have passed the hotel or
21 checked into another one.

22 CHAIRMAN McDUFFIE: Well, if this sign was put at the, I guess northern end of
23 the parcel, northeastern end of the parcel then that would not be a problem for this

1 parcel either way. I mean, you would be still be able to see it before you were beyond
2 it.

3 MS. VAN CAMP: Somewhat.

4 CHAIRMAN MCDUFFIE: Maybe, just maybe not from the all the way back at the
5 exit. I would assume that the hotel operator would also be probably advertising on the
6 signs that DOT puts up that say hotels at this exit, in this direction, that type of thing or –

7 MS. VAN CAMP: Hilton Hotels typically do, most of the franchisees, but I am not
8 100% sure of his exactly -

9 CHAIRMAN MCDUFFIE: But that is an option that's available –

10 MS. VAN CAMP: Yes, it is.

11 CHAIRMAN MCDUFFIE: - for the operator to let people know that in fact there is
12 a hotel and it's this direction at Farrow Road.

13 MS. VAN CAMP: Yes, I don't believe that DOT sign is [inaudible], I'm not sure.

14 CHAIRMAN MCDUFFIE: Well, I think there's a picture of it somewhere.

15 MR. SMITH: Yeah, it is.

16 MS. CECERE: My other concern is what happens if these trees grow any taller,
17 then we're still, we've defeated the purpose of this sign being 70'.

18 MS. VAN CAMP: We did go a few feet over what was absolutely necessary to
19 be seen. I believe we went about an average of seven feet to allow for their future
20 growth based on the height of the other older trees that were there that we took photos
21 of.

22 CHAIRMAN MCDUFFIE: Just looking at sort of the Residence Inn sign, it looks
23 like it's maybe in between maybe 30 to 40' in elevation. So, I mean, this is, you're

1 asking for something that's pretty much way taller than anything that's around in the
2 areas.

3 MS. VAN CAMP: And the only thing that comes close is Cracker Barrel and it
4 can be seen from the interstate because it is closer.

5 CHAIRMAN MCDUFFIE: I mean, it's sort of under a different set of under a
6 different set of circumstances.

7 MR. SMITH: It is completely.

8 CHAIRMAN MCDUFFIE: Would someone care to – are there any other
9 questions for either Staff or the Applicant or would somebody care to begin going
10 through the Findings of Fact?

11 MR. MEETZE: Well, one question.

12 CHAIRMAN MCDUFFIE: Please.

13 MR. MEETZE: Obviously, even if this variance is denied, he's not going to tear
14 down the building and go home.

15 MS. VAN CAMP: He will still definitely have his business running in this area.

16 MR. MEETZE: Well, other than Cracker Barrel, there are no signs anywhere
17 near that height.

18 CHAIRMAN MCDUFFIE: Would someone please care go through the Findings
19 of Fact?

20 MR. COOKE: Yes, Mr. Chairman. Number one, are there extraordinary and
21 exceptional conditions pertaining to the particular piece of property? Based on the
22 findings, I'm going to have to say no at this time. Due to the fact that I think the

1 Applicant did not establish any extraordinary and exceptional conditions. So, because
2 of that, Mr. Chairman, I would like to move to deny the variance 10-22.

3 CHAIRMAN MCDUFFIE: We have a motion to deny based on the fact that there
4 aren't extraordinary exceptional conditions pertaining to the particular piece of property
5 and I'd like to offer an amendment that the application of the chapter would not prohibit
6 or unreasonably restrict utilization of the property because of the aforesaid, because of
7 the possible extraordinary and exceptional conditions. So even if there wasn't
8 necessarily an extraordinary condition, not bringing the sign would still not prohibit or
9 restrict the [inaudible]. Or not bringing the variance for the tall sign rather. Is there a
10 second?

11 MS. CECERE: I second.

12 CHAIRMAN MCDUFFIE: Okay. All in favor?

13 MR. PRICE: Those in favor, Meetze, McDuffie, Cecere, Cooke and Smith.

14 *[Approved: Meetze, McDuffie, Cecere, Cooke, Smith; Absent: Perrine, Rush]*

15 CHAIRMAN MCDUFFIE: Ms. Van Camp, you're variance request has been
16 denied and Staff will be in touch. Mr. Price, when you're ready if you would please call
17 your third case.

18 **CASE NO. 10-23 V:**

19 MR. PRICE: Okay. I'm sorry. The next item is Case No. 10-23. The Applicant
20 is Mark Baker, it's not Barber, it's Baker. I apologize for that. The location is 1457 Bella
21 Vista Drive, Columbia, South Carolina. The Applicant is requesting the Board of Zoning
22 Appeals to grant a variance to encroach into the required front yard setback on property
23 zoned GC. Parcel size is a little more than a 1/3 of an acre. Subject property has a

1 5,225 square foot building which was built around 1999, serves as an office/warehouse
2 for a heating and air business, the name of the business is Air Waves, Inc. Heating and
3 Air. The Applicant is proposing to place a 30 kilowatt standby generator which will
4 encroach into the required front yard setback. The area is comprised primarily of
5 warehouses along Bella Vista in the general area of this request. There are some
6 commercial businesses near the front of the entrance into Bella Vista which is Two
7 Notch Road. And there's also a club near the entrance of Bella Vista. Here's the site,
8 and as you can see, there's a number of warehouses in this particular area and even
9 across the street. And this is the subject parcel. And as you can see here, where the
10 stakes and the flags are this would be about the general area. It's going to be, it won't
11 be, really be visible from the street because it does, the property does incline pretty
12 sharply. You know, once again we looked at, you know, options, other places to place
13 this. The building does take up a good portion of the property. We kind of eliminated
14 certain areas on the property or at least some areas were eliminated on their own in
15 here, they need parking, customer parking, there's a certain number of required off
16 street parking spaces. Placement of it anywhere in this particular area would potentially
17 eliminate those, you know, parking spaces and also could impede access along this
18 area. Kind of going back, you see some of the cars are able to – they could cross over,
19 you know, we don't want to cause any blockage of that access. In this particular area, it
20 looks like this is where the driveway for trucks and maybe even some of the employees
21 to get to the rear of the building; didn't want to impede that access in any way. This is
22 an area, existing air conditioning unit. The setbacks for a general commercial parcel is
23 zero on the side. But I think this area was eliminated because it may potentially cross

1 over into the property line and then actually just kind of looking at this, this property may
2 actually – the existing units here may actually be encroaching or crossing over on
3 someone else's property. I'm not sure about that. This is the other area that – this is the
4 rear of the building. Clearly, I think if you, you know, from your initial view, you can see
5 that there's plenty of room to potentially place the unit in the rear. However, in
6 discussing with the Applicant, and I'll be able to show you a little better when we go to
7 the aerial, there is some concern about theft being back behind the building because
8 there's, you know, it is pretty isolated back there. According to the Applicant, there are
9 some concerns that it would just be stolen by placing it back there. Sorry, I'll pull this up
10 for you and you can kind of see where it's, how it's isolated. Now you can see in this
11 particular area back here, these are all of the warehouses and you can see, you know,
12 it's really abutted by just a bunch of trees and no other businesses or anything, so it is
13 pretty isolated and just from talking to the Applicant, a lot of the parcels along here are
14 used, you know, for weekend parking for the club that's here on the corner of Bella Vista
15 and [inaudible].

16 MR. COOKE: Oh, I know where that is.

17 CHAIRMAN MCDUFFIE: What's that intersection here? What's the other?

18 MR. PRICE: That would be Club Studio 54 for a few members that clearly know
19 where it is. [laughter]

20 CHAIRMAN MCDUFFIE: Obviously, I'm not in [inaudible] club situation. What's
21 the cross street [inaudible].

22 MR. COOKE: Sorry about that.

23 MR. PRICE: Sir, what was that? Here?

1 CHAIRMAN MCDUFFIE: Yeah, what's that cross street?

2 MR. PRICE: That's Two Notch, Two Notch Road. So [inaudible].

3 MS. CECERE: Close to the Sheriff's Department.

4 MR. COOKE: Down the street.

5 MR. PRICE: That's what Staff has.

6 CHAIRMAN MCDUFFIE: Probably need to go out this Friday and fact find over
7 there. [laughter]

8 MR. PRICE: Yeah, you could. Parking does go on down that particular area a
9 good bit.

10 MR. COOKE: It does.

11 MR. PRICE: On weekends.

12 MR. SMITH: All the way down?

13 CHAIRMAN MCDUFFIE: Any questions for Mr. Price at this time?

14 MR. COOKE: You said you looked at, you did explore putting it in the front. Can
15 you go back to the picture of the – cause this is where he's asking for it?

16 MR. PRICE: Yeah, as you can see right here, you know, looking at the design of
17 this particular property now that's actually where all the warehouses are now, this
18 probably wouldn't meet Code right now because we just, there's not enough area to pull
19 in and back out –

20 MR. COOKE: Right.

21 MR. PRICE: - at least, you know, if it was adequate, doesn't meet our
22 requirements. So with that being said, it's a little narrower. So, right now cars will come
23 down and, you know, I'm even looking at how they maneuver to get in here now.

1 MR. COOKE: Right.

2 MR. PRICE: But just, you know, we think that putting any other structure in
3 which this would be, this is determined to be a structure, in this particular area would
4 essentially eliminate a parking space or two.

5 MR. COOKE: So, what's the – so he's, he wants to put it, cause it says –

6 MR. PRICE: In this, right here.

7 MR. COOKE: Right there, he's going to put a structure there.

8 MR. PRICE: He's going to put – he's going to put a pad and place the unit there.

9 CHAIRMAN MCDUFFIE: Is there – what's the – go ahead. I was just going to
10 ask what, is there any type of landscape buffer that typically would be required in a
11 General Commercial?

12 MR. PRICE: There's normally a street protective yard that's required for most
13 commercial, there's usually a 10' street protective yard from the right-of-way to the, you
14 know, going into the property. I think that during the time that this area was developed,
15 I don't know what, there really doesn't seem to be any, however, that the Board of
16 Zoning Appeals does have the authority, if it were to grant this variance, to require some
17 landscaping around the structure or putting stipulations that you feel are appropriate on
18 the property.

19 CHAIRMAN MCDUFFIE: Okay.

20 MS. CECERE: I have –

21 MR. MEETZE: Excuse me.

22 MS. CECERE: So, you would have to cut out the hill to pour the pad, is that?

23 MR. PRICE: I'll let the Applicant speak to that.

1 MS. CECERE: Okay.

2 MR. PRICE: But yeah, it would be right there, right near the property line.

3 MS. CECERE: Okay.

4 MR. MEETZE: Okay, [inaudible] I was going to ask the same thing. You cut into
5 the hill there, how far into the road, to the street bed are you allowed to excavate and it
6 would probably like a little bunker there?

7 CHAIRMAN MCDUFFIE: Maybe we should call the Applicant and let him
8 present and then –

9 MR. PRICE: Well, one thing I can speak to for the Board, if you take a look at
10 this sign right here, I'm pretty sure that this sign is in the right-of-way. Because normally
11 it's – it's not absolute but it is a rule of thumb that we go by when we're trying to make a
12 determination of right-of-way. Utility lines, you know, public utilities typically aren't put
13 on private property. So, in this particular case, we will look at the utility pole and it
14 would be from that point back.

15 CHAIRMAN MCDUFFIE: It's possible there's an easement there though.

16 MR. PRICE: It could be.

17 CHAIRMAN MCDUFFIE: Not likely?

18 MR. PRICE: I doubt it.

19 MS. CECERE: Is this a dead end road that -

20 MR. COOKE: Yes.

21 MR. PRICE: I don't believe so – well, you know what, let's see. The Applicant
22 can speak of that also.

23 MS. CECERE: Okay.

1 CHAIRMAN MCDUFFIE: At this point, it's probably prudent to go ahead and call
2 the Applicant.

3 MR. PRICE: The answer is yes, Ms. Cecere.

4 CHAIRMAN MCDUFFIE: Mr. Baker, please state your name and address for the
5 Record and tell us about your situation.

6 MR. PRICE: It's Baker.

7 MR. COOKE: It's Baker.

8 CHAIRMAN MCDUFFIE: Oh, it says Barber on here.

9 MR. PRICE: Yeah, it does.

10 MR. BAKER: I don't mind you calling Mr. Barber, that's okay.

11 CHAIRMAN MCDUFFIE: Oh, no, we want to get it right. So, please state your
12 name and address for the Record so we'll have it correct.

13 **TESTIMONY OF MARK BAKER:**

14 MR. BAKER: My name is Mark Baker and I assume you want my home address
15 which is 6257 Satchel Ford Road, Columbia, South Carolina 29206. And I am the
16 owner of Air Waves Heating and Air and also the property owner at 1457 Bella Vista
17 Drive, is where we're proposing to put this standby generator. And I've got some
18 pictures I'd like to distribute just to kind of better describes what we're looking at doing if
19 I may.

20 CHAIRMAN MCDUFFIE: Sure, please.

21 MR. BAKER: Okay, as was stated earlier, we're down the street from Studio 54
22 which is now called the Candy Man something or another and we've had quite a bit of
23 interesting activity going on around our building which has also included theft and

1 vandalism which has kept Leon Lott quite busy in that area, not only with our property
2 but with also the adjacent properties. And I'd like to add that every single air
3 conditioning unit on every building that is in that industrial park has been vandalized or
4 stolen except for one. And if you look at Page 1, you can see where our air conditioners
5 were hit in 2008. They stole all the copper out of it, rendered the air conditioner totally
6 destroyed and that cost us quite a bit of money, not to mention left us without heat for
7 awhile. You look at Page 2 you can see further damage there. These units are on the
8 side of the building and as you can see, we set these units as close to the building as
9 we could. There's not much room in that alleyway right there. It's pretty much the only
10 way we could put them. The generator requires a 12 x 4 slab which we can't put on the
11 side and – now what we did in working with our insurance company we put some
12 security lighting in the alleyway which wasn't there previously and we also put a security
13 camera system, we put up signs and so forth to deter the vandalism and so far we've
14 been lucky, and that's been okay. If you look at Page 3, after the air conditioning units
15 were replaced, you can see they're brand new in this photograph, we were revisited and
16 someone broke the seal on our electric meter and I don't know what they were trying to
17 do, but I think the idea was they were going to pull the meter and kill the lights through
18 the building so that they could work in the dark and steal the air conditioners again and
19 do further vandalism. They cut the ground wire, and I don't know if they got shocked or
20 startled or what happened, but the, thank goodness the operation wasn't completed and
21 they ran away leaving the meter in the state that you see it in right there. If you look at
22 Page 4, this is the proposed location, you can see where the gentleman's foot is, that's
23 actually the parking berm, that's where the front tires come to a rest, right there when

1 we park, employees park in front of the building and we want to put the generator there.
2 It was stated that it would go into the embankment, we're not cutting into the
3 embankment, I want to make that clear, we're not cutting into it in any way, shape or
4 form. That could possibly lead to erosion and various things which could create
5 problems. What we want to do is create a wedge-shaped slab and actually sit it on top
6 of the embankment and then have it raised about 6". It's going to be a 6" thick slab
7 there.

8 CHAIRMAN MCDUFFIE: Is this building that I'm seeing in the background of the
9 picture, that's across the road then? The picture that you distributed on Page 4 here?

10 MR. BAKER: Yes, this picture on Page 4 if someone could take that laser pen, I
11 think you –

12 MR. COOKE: To your left.

13 MR. BAKER: Thank you, I appreciate that. Alright in the photograph, Page 4
14 where his foot is, is this right here, that's the parking berm, now the vines and so forth
15 have grown over it so it's hiding it but that's railroad ties in there underneath that brush
16 and so what we want to do is put the slab right here. It'd be just inside, you know, not
17 maybe a foot or two away from the berm and then, you know, this end would be raised
18 to make it level and then this end would be 6" above grade so we won't have to worry
19 about erosion or anything. Now, what that means, and this is unusual, and that was
20 why we looked at this because consequentially our property is, we've strived hard to
21 make it the prettiest property in the area. It's got palm trees and we've got, you know,
22 landscaping and so forth, and I'm asking the Board please do not require us to put
23 shrubbery around it because the idea is we don't want to hide this thing, but because of

1 the embankment, it won't be that visible anyway. I think when you go by at the street
2 level you'll just be able to see the top of it a little bit. It won't be that noticeable – yeah,
3 you'll see that view right there and if you look at Page 6 you'll see my truck is parked
4 there, the whole front grill, you can't see it, you can – the view begins kind of like at the
5 bottom of my windshield and that's an F-250 pickup truck, you know, 4 x 4, you know
6 how tall they are, so my front hood stands about this high. So with that in mind, and
7 looking at the height of the generator, which is about three feet high, I believe when
8 you're driving down the road, we're just going to – if you're looking at my building, you'll
9 just skim the top of it, is all you'll see. I think it's going to be very aesthetically pleasing
10 but like I stated earlier, I don't want to hide it. I don't want to plant stuff around it
11 because Richland County Sheriff's patrol patrols that road and I want them to be able to
12 see the generator because I think that would be a deterrent from theft and vandalism
13 and that sort of thing.

14 CHAIRMAN MCDUFFIE: One quick question while we have this particular slide
15 up, can you show me how far along – like I see there's some stakes up there, but show
16 me where the corners of the pad or the generator would pretty much go.

17 MR. BAKER: Sure, the – this building, this picture is at an angle. I might be able
18 to better show you on -

19 CHAIRMAN MCDUFFIE: Okay.

20 MR. BAKER: If you look at Page 6 of the photographs I gave you –

21 CHAIRMAN MCDUFFIE: Yes.

22 MR. BAKER: - if you line yourself up with the corner of my building on the left
23 hand side -

1 CHAIRMAN MCDUFFIE: Uh-huh (affirmative).

2 MR. BAKER: - we want to put the slab even with that corner which is three foot
3 back from the side property line. We figure that would look pretty cause it would line up
4 with the building perfectly and then it would go 12' which would put it, if you can see that
5 no parking sign, it would put the right hand edge about in alignment with that sign,
6 approximately. And that's going to put it about 12' or so from that palm tree right there.
7 But there again, when you're standing on the road looking at the building, I think you're
8 just going to skim the top of it, it's the only thing that you will see. We wouldn't want to
9 do anything that would be ugly or displeasing to the area. I did speak extensively with
10 the building inspector about where to place the unit. We looked at putting it on top of
11 the building and so forth. The unit weighs 2,200 pounds and the structure just, there's
12 no way it could bear the load of the weight of the generator. And we surely did not want
13 to put it behind the building for two reasons. Number one, that's where our loading dock
14 is and we have 18 wheelers back up to that area. I'm afraid it would just be a matter of
15 time before somebody smashed into it. And the other thing is being so hidden back
16 there, it would give the opportunity for, you know, any would be vandals who work
17 unseen and do whatever they wanted to do with the unit. So, I guess, you know,
18 looking at, you know, surveying the entire the building, the front of the property on the
19 embankment behind the parking berm seemed to be the logical choice just because it
20 does not obstruct parking in any way and we were looking at putting the slab on top of
21 the grade and not cutting into it. And it would barely be seen from the road, but be seen
22 enough that I think that, you know, if somebody was going to try to, you know, steal the
23 copper out of it or anything, they would be deterred.

1 MR. COOKE: Why, Mr. Baker, why 12, why the slab should be 12' by what four
2 feet, so is that the size – is this the size of the generator on Page 8?

3 MR. BAKER: No, sir. Actually the reason for the size of the slab is because
4 we're putting on the side, I wanted to make sure that we didn't have any issues with
5 settling or cracking, I wanted to make sure that the slab was very stable.

6 MR. COOKE: Uh-huh (affirmative).

7 MR. BAKER: Cause, like I said, this unit weighs 2,200 pounds, it's kind of heavy.
8 But there's an employee standing next to it to kind give you an idea of size and that unit
9 is actually sitting in a trailer, which has got it elevated about a foot or so off the
10 warehouse floor and it would actually be sitting, you can see the bottom of it in the
11 trailer there, and it's about three foot tall, so it's, from the floor it's about this high. And
12 that's about at the top of, it may be even below the embankment by the time the slab is
13 put in.

14 CHAIRMAN MCDUFFIE: You have a lot of power outages at the building
15 currently?

16 MR. BAKER: Yes. And that brings us to the reason, this generator we
17 purchased used from a customer who upgraded, they needed a bigger unit and so we
18 offered them a trade and it's been sitting in my warehouse for four years, and you know,
19 we been looking at using it but here recently, we've got employees working at night
20 doing accounting work and that sort of thing and a lot of them are female and when the
21 power goes out, as you can imagine, they're sitting there in a building like this and all
22 the sudden everything goes completely black, and the computers and the server and
23 the phone systems have a 30 minutes battery backup which has quite often run

1 completely dead before the power was restored. And I've actually been called, asked,
2 requested to come to the building because they were afraid to step outside into the
3 darkness so with the perimeter lighting that we have, this was the, you know, we had
4 quite a few meetings about this and this is what, why my employees requested me to do
5 this project, okay? And it was actually their suggestion which I think is a good one, is the
6 generator would kick in after 20 seconds and then power would restore and that would
7 keep the lighting around the building and inside the building going, which would make
8 them feel safe. And also, we have a security system and so forth so this would keep
9 everything on line. And I don't know why we have so many power outages in that area
10 but it just seems like every time a squirrel breaks wind, out goes the power. And we've
11 called SCE&G numerous times about it and, you know, they, all the explanation I'm
12 given is there's a lot of trees in the area. It's running through, being fed through Forest
13 Acres which is behind the property.

14 MR. SMITH: Mr. Baker, I have a question for you.

15 MR. BAKER: Sure.

16 MR. SMITH: In the back of the building, I'm actually thinking security for you as
17 well, why wouldn't that be applicable for you to put in the back end of the building with a
18 security fence around it?

19 MR. BAKER: We looked at that and the –

20 MR. SMITH: To have it on the actual street, excuse me, is I think a lot more
21 inviting for the people because there is a lot of parking on the street there going down.
22 It doesn't matter how high or low it is so, you know, not truly questioning what your

1 thoughts were but from my perspective, there is an opportunity for you to put another
2 placement back in here.

3 MR. BAKER: I'm glad you asked me that, I really am, and yes, there is a
4 security fence back there and it has been hacked up with bolt cutters on several
5 occasions. I don't think it even slows them down. Next door to our building is a tenant
6 that has a sign company back there and they had a radiator stolen out of a truck and the
7 way they acquired access they just took a bolt cutter and hacked the fence and went
8 right through it and vandalized their truck. That was my first thought. You know, when
9 my employees came to me and asked me about this, you know, I said, well why can't
10 we just put a fence around it? But after looking at that, those – I wish I had taken a
11 picture of that, I didn't think about it until now but it's been cut open and it still, you
12 know, it has not been repaired and that fence actually belongs to my neighbor, it's on
13 their property and they haven't done anything to repair it. But we have, since the air
14 conditioning units were vandalized back in '08 we have put up a security system. We've
15 got eight security cameras, we've got signs up everywhere, we've got lights that are
16 attached to the building that shine outwardly so that the parking lot is very well
17 illuminated and this would also be powered by the generator, so if it kicks in, you know,
18 the illumination would continue which makes them feel safe. And I just, in the layout of
19 everything when you're there in the parking lot in the proposed location where we want
20 to put it, I just, it seems like it would be unlikely that somebody would risk getting
21 caught, you know, cause they would have to be there with tools to tear this thing apart
22 and it would take some time to do it. But if it's behind the building, they'd be unseen

1 and would be able to work and also probably even given time to run away if, you know,
2 car lights were coming down the driveway or anything like that.

3 CHAIRMAN MCDUFFIE: Mr. Baker, your business doesn't have a lot of retail
4 traffic does it? I mean, it's mostly y'all are going out and doing service calls and
5 installations and things or -

6 MR. BAKER: Mostly. We have surprisingly more walk in traffic than you would
7 think. We have customers come to pay their bill, basically.

8 CHAIRMAN MCDUFFIE: Yeah, I was just wondering where the, you mentioned
9 you have employees there at night, where do they park?

10 MR. BAKER: They usually park in the front of the building and they feel their
11 cars are safer there. And usually the parking lot is full, every space is used.

12 MR. MEETZE: I was going to ask the same question. You have walk-in traffic,
13 that's not a retail store front, parking to me looks like would not be a real issue there.
14 And you say your employees work there at night.

15 MR. BAKER: Yes, sir.

16 MR. MEETZE: Is that only business along that street that someone is there at
17 night? I'm familiar with that area and it's right exciting at night.

18 MR. BAKER: It can be. We've had to ask Richland County Sheriff's Department
19 to help tow away some of the – we've had vehicles that have blocked our driveway
20 where we couldn't even get out and, you know, which violates fire code and, you know,
21 various things. There is a meat company that's about two doors down that they stay
22 open about as late as we do and, you know, so we do have somebody if we hollered for
23 help that might hear us.

1 MR. MEETZE: But you have female help more or less than what they have?

2 MR. BAKER: Yes, sir. Well, they do too actually. And so they, you know, and
3 they're on the same circuit so if our lights go out usually theirs do also. And they're
4 closer to the club than we are. I don't know if you remember, there was nine shootings
5 at that club in 2009, and we've had four reported this year and I believe the club has
6 been forced to change ownership, but I can't attest to that, I don't know that for a fact.

7 CHAIRMAN MCDUFFIE: Are there any other questions for either Staff or the
8 Applicant at this time? Alright. Ms. Cecere, would care to go through the Findings of
9 Fact?

10 MS. CECERE: Yes. Are there extraordinary and exceptional conditions
11 pertaining to the particular piece of property? Yes, there are. There's been a number of
12 vandalism, it does not – you could not locate this generator on the side of the building,
13 there's not enough room and the back of the property is not suitable due to these break-
14 ins. Do these conditions generally apply to other property in the vicinity? No. Would
15 application of this chapter to this particular piece of property effectively prohibit or
16 unreasonably restrict the utilization of the property because of the aforesaid
17 extraordinary and exceptional conditions? Yes. Will the granting of this variance be of
18 substantial detriment to adjacent property or to the public good or will it harm the
19 character of the district? No. Mr. Chairman, I recommend that variance 10-23 be
20 granted.

21 CHAIRMAN MCDUFFIE: Is that a motion?

22 MS. CECERE: Oh, I'm sorry. I make a motion.

23 MR. MEETZE: Second.

1 CHAIRMAN MCDUFFIE: Alright we have a motion and it has been seconded.

2 MR. PRICE: I think before you vote I want to get a couple of particulars down.

3 The slab, what's the square footage of the slab that will be put there?

4 MR. BAKER: It would be 4 x 12.

5 MR. PRICE: And the size of the unit?

6 MR. BAKER: The unit is approximately three feet high by 40" wide and I believe
7 it's 15" long, and it weighs 2,200 pounds.

8 MR. PRICE: Okay, and you said it would be about one or two feet from the
9 property line?

10 MR. BAKER: Three feet. The edge of the slab would be three feet.

11 CHAIRMAN MCDUFFIE: We're looking at 22' foot encroachment then.

12 MR. BAKER: Yes, and if you look at the back of the papers that I gave you, they
13 actually have a drawing there that shows where everything is going to be in relation to
14 the property lines.

15 CHAIRMAN MCDUFFIE: Okay, this is actually showing a four foot.

16 MR. BAKER: Yes, sir.

17 CHAIRMAN MCDUFFIE: So that would be a 20, 21' encroachment then.

18 MR. BAKER: Yes, sir that sounds correct.

19 CHAIRMAN MCDUFFIE: Alright.

20 MR. PRICE: If you could make that part of your stipulations according to the
21 measurements that he has given.

22 CHAIRMAN MCDUFFIE: Okay. So, could we amend the motion to say that not
23 to exceed a 21' encroachment?

1 MR. PRICE: Twenty-one foot encroachment, a slab of 4 x 12 and the unit
2 measurements are three feet high and 40 x 52.

3 CHAIRMAN MCDUFFIE: Do you accept the amendments to the motion?

4 MS. CECERE: I do.

5 CHAIRMAN MCDUFFIE: Okay. Alright, all in favor?

6 MR. PRICE: Those in favor, Meetze, McDuffie, Cecere, Cooke, and Smith.

7 *[Approved: Meetze, McDuffie, Cecere, Cooke, Smith; Absent: Perrine, Rush]*

8 CHAIRMAN MCDUFFIE: Alright Mr. Baker, you have your variance and Staff will
9 be in touch, thank you.

10 MR. BAKER: Thank you very much.

11 MR. SMITH: Good luck with it.

12 CHAIRMAN MCDUFFIE: Is there any additional business at this time? I noticed
13 that we have a potential calendar here.

14 MR. PRICE: Yes, it looks like we will be taking up the matters in 2011 of officers
15 and also the adoption of the calendar but it looks like we won't be taking this up until
16 February because we have no cases for January.

17 CHAIRMAN MCDUFFIE: So, go ahead and strike the January 5th meeting?

18 MR. PRICE: Yes.

19 CHAIRMAN MCDUFFIE: Alright. No meeting in January and we will see
20 everyone in February. And at this time I'll adjourn the meeting.

21

22 *[Meeting adjourned at 2:30 pm]*