

BOARD OF ZONING APPEALS

March 1, 2006

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4 *[Present: Cairns, Branham, Tolbert, Perrine, Perkins, Ashford; Absent: Brown]*

5 Called to order: 1:01 p.m.

6 CHAIRWOMAN PERKINS: We'd like to call the March Board of Zoning Appeals
7 meeting to order and I will ask Mr. Farrar to make some opening remarks regarding
8 procedure.

9 MR. FARRAR: Good afternoon, I'm Brad Farrar from the Richland County
10 Attorney's Office and I'll discuss the procedure that the board follows and take any
11 questions that you have. As an initial matter, if you have any cell phones or pagers if
12 you could please turn those off or to vibrate so we don't pick that up on the machine
13 we'd appreciate that. The Board of Zoning Appeals is census what they call a quasi
14 court. It's not a court of law but it's similar in terms of the cases it hears, evidence like
15 that that it takes. Like a court, the Board will issue a decision and it'll do it here today.
16 Now sometimes you have to wait a while to get a decision from a Circuit Court or
17 Appeals Court, but you'll have a decision today. In a moment I'll talk about the affect of
18 that decision. The order of process, the applicant has up to 15 minutes, you don't have
19 to take the full amount, but you have up to 15 minutes to present your case and these
20 are all special exceptions or variances that we're talking about today. Those in
21 opposition have three minutes each to state their opposition. We don't have a big
22 crowd so that should go pretty quickly. And then the applicant gets to come back for up
23 to five minutes of rebuttal. So if you notice the procedure it's applicant, opposition and
24 then applicant at the end, again. Why is that? Again, it comes back to the court-like

1 nature of the process and the applicant bears the burden of trying to convince the Board
2 why he or she should have a special exception or variance. That's simply in the order
3 of operations. Testimony will be under oath. In a moment I'll swear everyone in as a
4 group who's going to testify. Just keep that in mind. And also if you could please speak
5 into the microphone so we can again pick it up on the system, we'd appreciate that.
6 The effect of a Board's decision – the decisions of the Board are not final until the
7 minutes from which the decision was rendered have been approved. So, for example,
8 at the end of today's hearing we're going to have a consideration of approval of the
9 February minutes. This time about next month we'll have consideration for approving
10 the March minutes, so if you have a decision today it becomes final once the minutes
11 have been approved. The reason I tell you that; not for the attorneys or for anybody of
12 the Board in this, but just for information, if you have a favorable decision and you take
13 some action based on that before the minutes have been approved, you're essentially
14 doing that at your own risk. So I'm just letting you know. Now that said, you should
15 have a pretty good idea if there's a lot of opposition of what you're trying to do, it's
16 something you're probably going have, be able to handicap your case pretty well by this
17 time. Once the minutes have been approved, you do have a final decision of the Board.
18 However, anyone who has is aggrieved by a decision of the Board may appeal that
19 decision to the Circuit Court. This is not a complicated process; it's simply a short
20 statement to the court why it is, that as a matter of law that the Board got the decision
21 wrong. You'll get a hearing, it'll be in front of one Judge but it'll be, it won't be a new
22 hearing with witnesses and testimony, it'll just be a review of the record of what
23 occurred here. So it's kind of an appellate process of what occurred here today. Don't

1 get many of those, but just, that is a possibility. A person does not have an unlimited
2 amount of time to file an appeal; however. You have 30 days from the date the Board's
3 decision is mailed to file that appeal. So you're going to, once the appeal period runs,
4 once the minutes have been approved, you do have a completely final decision,
5 unappealable at that point of the Board's decision. Sometimes we get questions when
6 we have a larger crowd if, you know, can you come and go. This is an open forum,
7 you're free to come and go, as you like. Obviously, please exit out this door we just ask
8 that you do it quietly just make sure you're back in time for your case. Unfortunately, I
9 can't tell you when your case is going to start, because we take them in order and some
10 of them go quickly, some of them might take a little time. I believe that is the bulk of it.
11 We do have, the Board of Zoning Appeals, is a seven-member body. We have six
12 today, that's more than enough to constitute a quorum to proceed. If you would like to
13 wait until we get a full panel, which there's no guarantee we're going to ever have seven
14 because somebody may always have a conflict, but you can certainly make that request
15 if you would like to do that. Otherwise, you can proceed with your case when it's called.
16 The only time, let's see, the only two times the Board may not be where it is right now is
17 if we take a recess if the meeting gets long, or if the Board wants to meet in Executive
18 Session to discuss a legal matter. Under the Freedom of Information Act, any public
19 body can talk to its attorney; it's just like you talking to your own lawyer, it's private but
20 you can't go back there and take a vote, you can't, you know, decide how you want to
21 deal with the case. You just discuss the legal issue, come back out in open session and
22 move on with the case at that point. Okay, are there any questions with any of the
23 things I've talked about, especially the appeal period? Okay.

1 CHAIRWOMAN PERKINS: Mr. Farrar?

2 MR. FARRAR: Yes.

3 CHAIRWOMAN PERKINS: Could you please talk about a tie vote?

4 MR. FARRAR: Yes. A tie vote situation, since it's a good point, since we have
5 an even number of panelist, Board members today, we could have a tie vote. It used to
6 be that there was a cumbersome procedure in the Board's process that if there was tie
7 vote, rather than have the motion be defeated, which is your typical notion, the matter
8 was carried over to the next meeting. That's been taken out of the Code, it's in the new
9 Land Development Code, a simple majority is required to approve a decision. So if it
10 ends in a tie, you essentially have a failed motion, so, but it's possible. And that may be
11 something you want to factor into your case if you're looking for a full panel, for
12 example. Ties are rare, but it's possible. Okay, if there are no questions, if you're going
13 to speak to a case, you should be on, signed up on the sheet either for or against.
14 Sometimes it's not clear the way a case is styled, you could be for something or really
15 against it, but you need to be on the sheet that you want to speak to so we know who's
16 here and we can contact you. If you haven't done that, you can still get on the sheet
17 before we start the cases, but if you have signed up and you're going to speak to a
18 case, if you would at this time please stand and I will swear you in as a group. Honor
19 system here, if you would please raise your right hand. Do you swear or affirm the
20 testimony you shall give to be the truth, the whole truth and nothing but the truth, so
21 help you God?

22 AUDIENCE MEMBERS: I do.

1 MR. FARRAR: Please be seated. Thank you. If anybody said anything other
2 than "Yes" or "You've got it" let me know. Otherwise we'll consider the group sworn. At
3 this time I will turn it back to the Chairman, thank you.

4 CHAIRWOMAN PERKINS: Thank you Mr. Farrar. It will be a few minutes before
5 we get started. We're waiting on Mr. Price. Has everyone signed up on the sheet? If
6 you're gonna come to the podium, if you have not you may do so now. No one has
7 signed up for Case 05-105 V. Is there someone in the audience?

8 **CASE 05-106 V:**

9 MR. PRICE: Excuse me. Still trying to get over something, too. So maybe ya'll
10 will get out of here a little faster today. First case is, it had I believe I listed as a 10,000
11 plus square foot structure on the property. You may have noticed from maybe some of
12 the other pictures that that structure is no longer there, so the property is vacant at this
13 time and the intent is to use it as a private parking lot.

14 CHAIRWOMAN PERKINS: Okay. Mr. Tien.

15 **TESTIMONY OF JOHN TIEN:**

16 MR. TIEN: Hi, my name is John Tien and I am with Chow and Associates, we're
17 engineering consultants. The appeal was filed through my, through Chow's office and I
18 was appointed the representative for this case, although this afternoon I won't be the
19 principal speaker. The person that's going to speak for the project is Bob Propst. He's
20 much more of a visionary than I am, which he can illustrate to you, what we envision to
21 do with this property and what we envision the end product would be. So I'll relinquish
22 my place to Bob Propst.

23 **TESTIMONY OF BOB PROPST:**

1 MR. PROPST: Thank you first for having us here today and considering our
2 request. It's a little more than just a parking lot. What we're planning is a parking
3 facility that's in front of these Gamecock type, building a facility with parking around it.
4 And, what I would like to do, if I could, is show you a picture of what our intentions are, if
5 that will help, to start with.

6 CHAIRWOMAN PERKINS: There's the mic, you still have to talk - you can be
7 displayed if -

8 MR. PROPST: Yes, my name is Robert Propst. I'm the architect on this project.
9 My address is 1712 Cofield Drive, West Columbia, 29169. What you are looking at is
10 what we envision this project looking like. I'd also like to say that probably some 12, 15
11 years ago, the firm that I was with which was Safco-Propst Architects helped develop
12 the landscape ordinance set with the Chamber of Commerce that we're using today, so
13 we're not trying to avoid any of that sort of thing. Our situation is and I again prepared a
14 - this is the site plan and also the landscaping plan and, as you can see, the lot itself is
15 130' wide. The required area necessary for parking is 161, I'm sorry 61' per parking,
16 parallel parking on each side. So what happens is if we lose, if we take the required
17 area for the parking ends up being 122' from the 130' width of the property, then we end
18 of with eight feet to play with. And, what we were looking at was, we feel like that by
19 allowing us to go past this, the five foot area on each property line, what we intend to do
20 is - and Lance also has, this is Lance Wright, one of the owners of the project. The
21 photographs that you're looking at is the left and right side of the property line as it
22 exists now, which seems to be pretty typical in that area whereby people are obviously
23 paving all the way to the property line, which we don't necessarily agree with and what

1 we are hoping is, the third picture is another parking facility adjacent to this one, which
2 is right adjacent to where the Cockabooses are, where it appears that they didn't have
3 the five foot space either. And I'm not sure exactly when this was constructed, but what
4 we're thinking is we're going to have vertical landscaping in addition to, you know, the
5 small area down below, which we look at an area that will end up with about probably a
6 foot to 18" that we can have some green space. The intentions are to build a wrought-
7 iron fence and then use that somewhat as a trellis to achieve, again a softer look down
8 the property lines. But, we feel like basically, we're trading the five feet variance on
9 each side for basically 130' of design, which will have, of course, the islands and the,
10 you know, trees we intend to, to not just do the minimum, but maximize this. You know,
11 we're interested in making a contribution to that area and we would just like to thank you
12 for your consideration.

13 CHAIRWOMAN PERKINS: Questions? Thank you.

14 MR. PROPST: Thank you.

15 MS. CAIRNS: What, I guess, I mean, I didn't realize you were going to sit back
16 down, but I mean, one of the criteria by which we grant variances is that there's some
17 particular hardship that you're confronting with this lot.

18 MR. PROPST: Yes.

19 MS. CAIRNS: That is not allowing you to follow the ordinance as it is written.
20 And I don't, I mean, the facts and the document don't tend to support, other than the
21 fact that the lot's just not quite big enough maybe.

22 MR. PROPST: Correct, well that's, I mean, in essence that's, in order to achieve

1 the design that we were looking for, I suppose the hardship would be on the owners that
2 the project would have to redesigned.

3 CHAIRWOMAN PERKINS: And I don't think that the, it can't be because of
4 monetary reasons.

5 MR. PROPST: Ma'am?

6 CHAIRWOMAN PERKINS: It can't, it cannot be because of monetary reasons.
7 That cannot, we cannot consider that.

8 MR. PROSPT: I understand. It's just that what we feel like we put together a
9 good package, we have considered the beautification of the entire piece of property, not
10 just the buffer area and this is our request. Do ya'll want to add anything? This is
11 Lance Wright.

12 CHAIRWOMAN PERKINS: Please state your name and address for the Record
13 please.

14 **TESTIMONY OF LANCE WRIGHT:**

15 MR. WRIGHT: Lancelot B. Wright, 1829 Wood Valley Drive, Columbia, South
16 Carolina. And what Bob was saying in reference to, we just looked at trying to
17 maximize the landscape, put in trees, and just try to retrofit the property, so that we're
18 going to have the best design and the fact that we just wanted to use all the area to give
19 it an enhanced look as far as the view of it from Bluff Road and where it is located.

20 CHAIRWOMAN PERKINS: You still have to give me a hardship, the Board a
21 hardship.

22 MR. WRIGHT: The, we just haven't looked at any other [inaudible] -

23 CHAIRWOMAN PERKINS: Any questions?

1 MS. CAIRNS: Comments, but no questions.

2 CHAIRWOMAN PERKINS: There is, I think this is Craig White and would like you come
3 up, you signed up? Please state your name and address for the record please.

4 **TESTIMONY OF CRAIG WHITE:**

5 MR. WHITE: Craig White, 1323 Beltline Boulevard, Columbia, South Carolina.
6 In reference to the hardship, the project going forward would be in jeopardy. I mean,
7 we're not sure we'd be able to do, to do the project at all at this stage. But we need the
8 variance to go forward. We feel like we're adding something to the community there,
9 improving the Bluff Road area. That's why we request the variance.

10 MR. TOLBERT: So you're saying that if, if you're not granted the variance based
11 on what you stated, the project wouldn't be, couldn't go forward?

12 MR. WHITE: We're uncertain if it could. These are our plans and it would leave
13 it up in the air whether or not we could proceed.

14 CHAIRWOMAN PERKINS: Any other questions from the Board for Mr. White?

15 MR. WHITE: Thank you for your consideration.

16 CHAIRWOMAN PERKINS: Thank you. There is no one signed up in opposition.
17 The Board will now entertain a discussion.

18 MS. CAIRNS: I don't believe that there has been anything presented other than
19 the lot's not big enough to do what the applicants would like to do with the lot, but I don't
20 feel there's any basis to completely ignore the new rules of development.

21 CHAIRWOMAN PERKINS: Any other discussions?

22 MR. TOLBERT: And I think that, I don't know, as to past projects in this area,
23 and I'm not, have liberty to have all of the information on the past projects and know that

1 those - and not meeting the required set-back in those areas, so, I mean, I understand
2 that we do have to have a hardship in this case and I, I don't know the formula of the
3 lands and stuff that's around it and I don't know, like you said, if they changed the
4 project, would it go forth or - just kind of a little complexed as to what would happen.

5 MR. BRANHAM: I agree and not only is the lot, it's a non-conforming lot, but I
6 think that anything would be an improvement over what, what's there now, the way I
7 look at it.

8 CHAIRWOMAN PERKINS: And so -

9 MS. CAIRNS: We just ignore the rules that exist on the books?

10 MR. BRANHAM: Well, that's what the Board is for, to make exceptions to the
11 rules.

12 MS. CAIRNS: Yeah, within -

13 CHAIRWOMAN PERKINS: Well, with that said, could you help them with the
14 hardship?

15 MR. BRANHAM: I think their hardship is, is the design of the property and not
16 being a conforming designed lot that will not allow them to stay within the set-backs.

17 MS. CAIRNS: [Inaudible] lot not conform

18 MR. BRANHAM: I'd like to ask Mr. Farrar if he would, to help us a little bit with
19 the legal, the legal side – if there's any language from your point that you could add to
20 that.

21 MR. PRICE: I'd like to point out, hopefully I didn't make this suggestion in the
22 agenda, but this lot would not be considered non-conforming. In the M1 districts, there

1 really aren't any standards as far as lot width or area. So this lot would not be
2 considered non-conforming.

3 MR. FARRAR: I don't have anything to add to that if it's not non-conforming.

4 MR. BRANHAM: Such being the case, I could not, I could not help them with the
5 variance, I mean, with the hardship - non-conforming. It is not non-conforming.

6 CHAIRWOMAN PERKINS: With that being said do I hear a motion? Can
7 somebody be bold?

8 MS. CAIRNS: I can be bold, but I'm not articulate in remembering the cadence,
9 but my recommendation would be that we deny the variance request because the
10 applicant has not been able to offer any hardship for this lot in terms of our criteria for
11 granting variances from the code.

12 CHAIRWOMAN PERKINS: Is there a second? Is there a second? Or, is there
13 another motion?

14 MS. MS. PERRINE: Could the hardship be because of the shape of the
15 property?

16 MR. TOLBERT: That's what he just said, it is not, it has, that has nothing to do
17 with, that has nothing to do with it.

18 CHAIRWOMAN PERKINS: The district is in

19 MR. PRICE: Excuse me, could everybody continue to speak into the microphone
20 so that Stephanie can make sure she hears everything.

21 CHAIRWOMAN PERKINS: Well, is there a motion to deny? I mean, is there a
22 motion to approve it? Since there was a motion to deny and there was not a second?

1 MR. PRICE: Okay, so the first motion died for lack of a second and do we have
2 a counter motion?

3 CHAIRWOMAN PERKINS: No

4 MR. FARRAR: What are you going to do?

5 MR. PRICE: Yeah, I mean, if you're not going to vote for it, you probably, if
6 you're going to vote against you, you got to do it.

7 CHAIRWOMAN PERKINS: You want, would you like to defer it?

8 MR. BRANHAM: I don't have a problem with approving it, I just have a problem
9 with the set, with the -

10 CHAIRWOMAN PERKINS: Then can I hear a motion?

11 MR. BRANHAM: I'll make a motion to approve as stated.

12 CHAIRWOMAN PERKINS: Okay, is there a second?

13 MS. PERRINE: I second.

14 CHAIRWOMAN PERKINS: The motion has been made to approve and a
15 second. All those in favor. All those who are against.

16 *[Approved: Branham, Tolbert, Perrine, Ashford; Opposed: Cairns, Perkins; Absent:*
17 *Brown]*

18 CHAIRWOMAN PERKINS: Mr. Price will be in touch. You have your motion.
19 Next case Mr. Price.

20 **CASE 05-105 SE:**

21 MR. PRICE: The next case is case 05-105 – Special Exception. The applicant is
22 Cynthia Nava. The location is -

1 CHAIRWOMAN PERKINS: Excuse me, Mr. Price, can I interrupt you for a
2 moment? She has not signed in.

3 MR. PRICE: She can sign in and I can continue to read on with the case. The
4 location is at 1386 Old McGraw Road. The location is in Eastover, South Carolina. The
5 applicant is requesting a special exception to convert a non-conforming use, which was
6 a convenience store to another non-conforming use, which would be a convenience
7 store with a restaurant on it, in it. This property is zoned RU. The subject parcel has a
8 1,536 square foot vacant store that was constructed in 1975. That is according to the
9 [inaudible] view records. On the same parcel, it seems to be an 1,894 square foot
10 residential structure that was constructed about 1974 and there also seems to be a
11 baseball/softball field on the parcel. The applicant proposes to re-establish the
12 convenience store with the addition of a commercial kitchen.

13 CHAIRWOMAN PERKINS: Ms. Nava, would you come to the mic please and tell
14 us what you want to do? State your name and address please.

15 **TESTIMONY OF CYNTHIA NAVA:**

16 MS. NAVA: My name is Cynthia Nava and my address is 1325 Caughman
17 Road, Eastover, South Carolina 29034.

18 CHAIRWOMAN PERKINS: And will you tell the Board what it is you want to do?

19 MS. NAVA: Yes, my intentions is to take the vacant building that is currently
20 there located, not currently in operation and re-open it, offering a convenience store in
21 conjunction with a short order kitchen. There is an adjacent baseball field on the
22 property that is also inclusive with the lease agreement for unlimited exclusive use.
23 This is a rural area where there are not any convenience stores within approximately an

1 eight to 10 mile radius in any direction. There also is not any restaurants in the area
2 and there also is no recreation in the area. So, my intent is to have a multi-service unit
3 there that would offer food, but offer sporting events and convenience items. It was also
4 previously used for gas sales, which is not my intention to incorporate that into it.

5 CHAIRWOMAN PERKINS: Any questions from the Board members?

6 MR. TOLBERT: Do you plan to change any structural area or just -

7 MS. NAVA: Not anything as far as, as the outside of the structure. It has an
8 additional room that has been added on to the back of it that was used last, well in 2004
9 when it was opened up for different types of games. And other than basically doing
10 renovations on the interior of it and modifying the way that it was set up originally and
11 the aesthetics as far as changing color and stuff like on the outside of it, I didn't plan on
12 doing anything to the actual physical structure of the building. We do plan on coming in
13 and establishing a more smoother frame for the parking area by bringing in crush and
14 run and also establishing the front area, where around the perimeters where the gas
15 storage tanks were to actually come in and build a bedding area there and on the side
16 where the parking would be, so that it would increase and beautify the property. As you
17 can see, it hasn't been maintained, you know, because it has been vacant since the last
18 owner's lease ended from actual tenure out there. So, we would be going and of
19 course, you know, making it look a lot more inviting and of course to keep people from
20 actually parking on or around the areas where the storage tanks were, we'll go ahead
21 and perimeter that area off and put some landscaping frames in there.

22 MS. CAIRNS: When was it last, I mean -

23 MS. NAVA: In 2004.

1 MS. CAIRNS: Has it been more than 12 months since it's been not in used? I
2 mean, that's -

3 MS. NAVA: It wasn't more than 12 months when it has not, was not in use
4 when I made application. It was within the time limit.

5 MR. PRICE: We determined the use or when it was last occupied according to
6 the business license and the time at which the, in which the business license would
7 have expired, her application was received in time.

8 MS. CAIRNS: Okay.

9 MS. NAVA: You can see slightly from, from this photo the angle on the back of
10 the additional portion on the backside of it, where it is located at.

11 MR. PRICE: Back here?

12 MS. NAVA: Yes.

13 MS. PERRINE: What days do you plan to be opened and hours?

14 MS. NAVA: We plan to, to be opened seven days a week. On the weekend, we
15 will be opening up in the morning around 8:00 a.m. and we will be closing – cause on
16 the weekends is when we'll have the recreational events, we will have baseball games
17 there at the baseball field and other community activities there that I am working
18 together with the community, you know, planning the area there.

19 MR. PRICE: Excuse me one second Ms. Nava. If the times that they're going to
20 be operators, it is going to be part of the stipulation if this is granted, I want to make
21 sure that the applicant understands that what she states, and if ya'll agree to it, that is
22 what she's bound by. So, let's say she wants to change up those times, that may
23 require her to come back to the Board.

1 CHAIRWOMAN PERKINS: Do you understand that? Did she give a time,
2 except, you said on the weekends 8:00 a.m. and that's all I heard.

3 MS. NAVA: Yeah, I didn't really get finished with the answer to your question.

4 MR. PRICE: I just wanted to make sure that she understood.

5 MS. NAVA: I was speaking directly to the weekend hours of operation, which
6 would be approximately 8:00 a.m. in the morning because, keep in mind there is going
7 to be a convenience store there, too, so for the purpose of people that, you know, are
8 moving and shaking in the early morning hours, we would also want to incorporate the
9 offering of some items such as coffee, tea, and maybe some breakfast sandwiches and
10 things of that nature. So, we would like to have latitude to be able to establish the
11 timelines when most traffic is coming through there and be able to ensure that we have
12 enough time to prepare for any of those breakfast offerings in the morning. So, you
13 know, at this, at this timeline, I'm giving that time frame because, you know, in the
14 morning time, we would want to have that ability through the week and then on the
15 weekend, then we wouldn't necessarily have to open as early as far as the breakfast is
16 concerned. So 8:00 a.m. would be fine, we just want to ensure that we are up and open
17 and operational early enough during the days, during the daytime on Saturday and
18 Sunday and we'll have games that we will be actually going on throughout the
19 afternoon.

20 CHAIRWOMAN PERKINS: So, let me make sure that I understand this. The
21 only time that you've given us is that on the weekend, you're only going to open at 8:00
22 a.m. During the weekend days, there is another timeframe. You are not, you're not
23 wanting to block yourself in. Is that -

1 MS. NAVA: I don't, I don't want to definitely limit myself based on the
2 interjection that he placed, so I would say at least at 6:00 a.m. in the morning because if
3 we've got, you know, people that are going out and they're working, you know,
4 construction, whatever the case is and they are moving in the morning, because we are
5 in a rural area, so, I mean, I would say an estimated shortest timeline for anybody to get
6 from out there into the city would be anywhere from 25 to 30 minutes to get to work.
7 So, they're gonna having to leave a little bit early, so we need to be there. So, I would
8 say 6:00 a.m.

9 CHAIRWOMAN PERKINS: 6:00 A.M.

10 MS. NAVA: 6:00 a.m. Monday through Friday would be the opening time and
11 then we would close in the evenings, would close down the kitchen and the store
12 around [inaudible].

13 MS. PERRINE: And on the weekends?

14 MS. NAVA: And on the weekends we would stay open longer on the weekends.
15 I would say probably to the limitations that the licensing committee actually allows us to
16 offer because there will be -

17 MR. PRICE: We have none.

18 MR. TOLBERT: They ain't got none.

19 CHAIRWOMAN PERKINS: We have none.

20 MS. CAIRNS: I mean, we have in the rural commercial standards, they allow
21 that businesses can stay open from 6:00 a.m. to 10:00 p.m. without a variance if it's a
22 rural commercial. And in essence we are allowing the continuing grandfathering of what
23 could be rural commercial. So, I would say outside of asking for a variance, I would be

1 comfortable granting a 6:00 a.m. to 10:00 p.m. based on the rural commercial
2 standards. And the only other thing that I just sort of issue, concern, I'm not sure if it is
3 a question, but, in terms of the parking, the site plan that you provided for us is difficult
4 to determine the scale. And I'm not sure, I mean, I think that the landscape, the
5 landscape requirements will have to be followed, the landscape development
6 requirements, which may require all of the parking to occur around the side because of
7 the setbacks. Again, it would be my goal that the rural commercial standards would
8 apply, which would force a setback on the front, which I think might put the parking
9 around the side, you know. I mean, so my, I mean, just sort of to the Board, I mean, my
10 concern is just that I think we should grandfather this in essence as if it were rural
11 commercial and all of the requirements that go with that come in as part of our granting
12 the variance. It's like page 118 is where the rural commercial requirements are in our
13 book.

14 MR. TOLBERT: Is she still giving her presentation or are we asking questions,
15 which one?

16 CHAIRWOMAN PERKINS: I think, asking questions, I think. I think she deferred
17 to the Staff as for a time.

18 MS. NAVA: Yeah, I did want to know basically what is, what is already in place
19 because there is, there is an opportunity on the weekends that we may want to stay
20 open after 10:00 p.m. for the sports room portion of it. And bearing in mind that the
21 sports room even though it is, it is connected and a part of the structure, it does have a
22 separate entrance.

23 MS. CAIRNS: What page are you on?

1 CHAIRWOMAN PERKINS: 118

2 MS. CAIRNS: Yeah, well that's the carry over. The hours for this are actually on
3 page 120, is this section for rural commercial. Page 120, it says that 8:00 a.m. to 10:00
4 p.m. can be granted if it's rural commercial, although we have the authority to grant a
5 variance to allow later hours of operation.

6 CHAIRWOMAN PERKINS: And the reason, when you say, if you want it to go
7 later, how late are you talking about? And could you explain to me why?

8 MS. NAVA: Yes, absolutely

9 CHAIRWOMAN PERKINS: Are you talking about the restaurant part or the
10 convenience store part or the whole?

11 MS. NAVA: I'm actually referring to, I'm not, I'm excluding the convenience part
12 and I'm excluding the restaurant part.

13 CHAIRWOMAN PERKINS: Let me ask you this. The convenience part, are you
14 saying that you will operate between the hours of; I cannot see those, forgive me.

15 MS. CAIRNS: Six a.m. to 10:00 p.m.

16 CHAIRWOMAN PERKINS: Yes, 6:00 a.m. to 10:00 p.m., okay

17 MS. NAVA: For the convenience store, and the restaurant I would like to be able
18 to have the latitude with the same hours for the restaurant portion of it, because of
19 incorporating a.m. off of - and then the third part of the business would be the sports
20 room, which would be on the backside of it that has a separate entrance. That is why I
21 would like to be able to have extended hours for the weekend.

22 CHAIRWOMAN PERKINS: So there are three entrances within this building?
23 There's a restaurant, and convenience store and a sports bar.

1 MS. NAVA: And a sports room. The sports room basically, is, I'm tying that in
2 with the baseball field, with the recreational offering, so there will be some indoor
3 activities as well as outdoor activities.

4 CHAIRWOMAN PERKINS: Now for the sports bar -

5 MS. NAVA: That's the only thing that I would -

6 MR. TOLBERT: Sports bar is supposed to be a -

7 MS. CAIRNS: What's in the sports room? I mean -

8 MS. NAVA: There'll be different types of like pinball games, video games, a
9 pool table, and a jukebox, and a small area where there could be karaoke, something of
10 that nature. So that would be the only one that I would ask, request the variance to stay
11 open beyond 10:00 p.m. on the -

12 MR. TOLBERT: How late are you asking?

13 MS. NAVA: I'm not, I'm not asking for any later than 2:00 a.m., because it is
14 rural.

15 CHAIRWOMAN PERKINS: Later than what? I didn't hear -

16 MS. NAVA: No later than 2:00 a.m.

17 CHAIRWOMAN PERKINS: 2:00 a.m.?

18 MS. NAVA: Yeah, because again there is no real source of activity in the area
19 and I think that that would be more than sufficient.

20 MR. TOLBERT: Let me ask you a question. Have you considered that there are
21 neighbors around this area or people living in this area?

22 MS. NAVA: There are people that live in this area. There's a community that is
23 located behind it or there's residential homes on 601 in either direction, maybe

1 approximately, I would say maybe 20 residential homes that are actually on Highway
2 601 within about five miles in either direction of the store. But the store itself has
3 probably around I would say three to five acres on either side of that, that's kind of
4 vacant space that's not occupied. And all that property belongs to the owner, so there's
5 no other outside residential that's right there.

6 CHAIRWOMAN PERKINS: Does the owner live directly behind this building?
7 There's a house -

8 MS. NAVA: Yes, there is a house that's behind that building, which is over, I
9 would say 500' from the actual building. I don't know if -

10 MS. CAIRNS: It's a part of this parcel. The house right behind is a part of the
11 parcel.

12 MS. NAVA: Correct. And the landowner did advise me that [inaudible] in a
13 petition to modify the address for the commercial location separating it from the actual
14 address, because the address [inaudible]. But in the interim, we would just refer to that
15 location as 1386 A as opposed to 1386.

16 MR. PRICE: Yes, once she, once the applicant has to apply for a building
17 permit, a separate address would be given.

18 MS. NAVA: And also please be aware as part of our exterior modification plans;
19 we do intend to install a privacy fence around the back perimeter of the area.

20 MR. TOLBERT: Okay. I'm trying to draw in a different picture here. You're
21 asking for allotted time for the sports field for 2:00 p.m.

22 MS. NAVA: Uh-huh (affirmative).

23 MR. TOLBERT: I mean 2:00 a.m., sorry

1 MS. NAVA: 2:00 a.m.

2 MR. TOLBERT: Then I'm, I'm concerned about the noise ordinance, because if
3 you're going to have that type of activity then you got, you could have, we're voting to
4 give you a place to constitute a lot of noise in that area. What would be, if you had
5 public sports, which is kind of contained inside of a building the noise level is not as
6 detrimental if it would be out in the open where you've got tons of people. So if you're
7 saying 2:00 a.m. then we're in essence giving you freedom to create a noise violence.
8 Cause I know you're going to, everybody's out there's going to be ranting and raving
9 and I'm just concerned about giving you that much latitude to give, to operate at 2:00
10 p.m. [sic] in the afternoon in the sports arena, on the outside.

11 MS. NAVA: To clarify, I think, that concern, the request is for operating the
12 inside, not the outside. The sporting event that takes place outside in the area known
13 as the baseball field -

14 MR. TOLBERT: Right.

15 MS. NAVA: - would expire on the same timeline as the other two [inaudible].
16 Because again, it's not a heavily lighted area there, out there in the baseball field, so
17 would not actually want to have or operate activity during the hours after the sun has
18 set. Because we're going to be using the natural lighting out there on the baseball field
19 for baseball games and other events of such. So, for that purpose, I'm not requesting
20 the, the request for the variance.

21 MR. TOLBERT: Okay. Well, the way that you stated it, the way you stated didn't
22 say that, and I'm just trying to clarify that because you said for the convenience you
23 would use the guidelines as the hours set from 6:00 a.m. to 10:00 p.m., but you said

1 you would like have a little bit more latitude with the sports part and you did not verify
2 which area, you just said the whole area up to 2:00 a.m. Okay?

3 MS. NAVA: Okay, well I apologize for the confusion there

4 MR. TOLBERT: Okay. I just want to make sure I was clear because I didn't
5 want to say that I was apart of giving somebody the right to be out until 2:00 in the
6 morning ranting and raving on the baseball field. Okay?

7 MS. NAVA: Absolutely not. And one of the things that, that I'd also like to state
8 is one of the initial concerns with the property owner when I approached them about the
9 proposal to reopen this location was that of the previous owner. They did actually hold
10 all different sorts of activities there in that area up until the wee hours of the morning
11 where, you know, people were out racing and things of that nature.

12 MR. TOLBERT: I understand.

13 MS. NAVA: So in my proposal to her, I introduced a totally different type of
14 platform in which to actually incorporate the three of them together. And as a, as a
15 result of that be extended, [inaudible] agreement with me to be able to function on that
16 level. And I am completely in agreement with her because there is a certain level of
17 dignification that the community deserves, and I don't feel that, that the guidelines in
18 which I am proposing to offer that, nor the actual type of services that I am proposing to
19 act, offer retail sales in any way reflects that of what was previously done in 2004 at that
20 location.

21 MS. PERRINE: How about music, you know, people and it sounds like it's going
22 to be a good place for the younger people to go, so if they're sitting out there with their

1 radios on, the music is going and all of this, and also, well I guess let's finish with that
2 one first because then I've got some more.

3 MS. NAVA: Okay.

4 MS. PERRINE: How are you going to address that?

5 MS. NAVA: Well, the activities as far as the sporting events are concerned will
6 be controlled because we won't be offering venues for people to actually come out and
7 kind of loiter around there. The invitations will be for basically the youth that are in the
8 area that participate in a particular league. So it won't be a type of situation where, you
9 know, there's all different types of things that people would be able to say "Okay we can
10 go here and shoot basketball, we can go here and do that sort of thing." It will be very
11 structured in terms of scheduled baseball games that are actually planned to be played
12 and they will be based on the rules of the league. So, basically the interested people
13 that will be there will be the ones that are supporting their team. As far as the sports
14 room is concerned, the age range for the children that are in that area, that live around
15 in that area, are either very young or they're either old enough to be able to come in,
16 like not high school age, but more college age students. It's an older established
17 community, so the majority of the people that will actually be benefiting and enjoying
18 from the actual sports room won't be the children. The children will be benefiting and
19 enjoying more from the retail sales that are offered through the store and the restaurant.
20 So it's not going to be a situation where there going to be, you know, a bunch of, you
21 know, 14 and 15 year old kids that are going to be there hanging out. It's not a hang out
22 spot that we're proposing.

1 MS. PERRINE: Okay, this is in the sports room and you want that open until
2 maybe 2:00 a.m.

3 MS. NAVA: Yes, but I only would request that that be open that latitude not all
4 through the week, just the weekend.

5 MS. PERRINE: Well if you're going to have the people in there and your store is
6 going to be closed and your kitchen is going to be closed, and they're going to be in
7 there say from 10:00 until 2:00, 10:00 p.m. until 2:00 a.m. aren't, you know, they're
8 going to get thirsty and hungry so how are you, how is that going to – you're not going
9 to have your store open so how are you going to handle that?

10 MS. NAVA: We will offer beverages and refreshments, you know, in the sports
11 room that can be purchased like snack items, but not, not full, you know, meal items
12 that we would have to cook and prepare. The only other thing that I would maybe
13 incorporate into that maybe be, like maybe small little type of pizza oven or something
14 like that. But other than that we don't plan on offering the sale of foods for the sports
15 room itself. That would be done only through the kitchen.

16 MR. TOLBERT: Are you talking about in the sports room an operational with
17 someone there or are you talking about vending machines?

18 MS. NAVA: No, operational with someone there.

19 MR. TOLBERT: No, I'm talking about as for the snacks and stuff.

20 MS. NAVA: Yes, with someone there.

21 MR. TOLBERT: You're talking about a restaurant again.

22 MS. PERRINE: Do you have some type of separation from the store and the
23 sporting room?

1 MS. NAVA: Yes there is. There's a totally separate entrance for the sporting
2 room.

3 MR. ASHFORD: A question, please. I'm wondering how you're going to control
4 the, how you're going to control the people that's there until one or two o'clock in the
5 morning? What's going to keep them really from creating a real problem? Because
6 young and old now can really create problems.

7 MS. NAVA: That is correct, young and old.

8 MR. ASHFORD: Young and old can really create problems, and, and I don't
9 know what you can do, sometimes the Sheriff can't do anything about it.

10 MS. NAVA: Well, hopefully what we plan on doing as far as the, the sports room
11 is concerned is to actually offer a membership to those who want to participate in and
12 come in and enjoy, you know, what the offerings are going to be in the sports room.
13 And as we're offering a membership for them, those will be the only people that would
14 be found out or at the location during the later hours of the evenings of operation.

15 CHAIRWOMAN PERKINS: Now, we're going, you're going to a private
16 enterprise with special members only, I'm, you're confusing me now - maybe not the
17 rest of the Board members.

18 MS. CAIRNS: It's also gone off of what was requested.

19 CHAIRWOMAN PERKINS: Yes, so I'm not sure now -

20 MS. NAVA: He asked how, what we could do to control who comes in and who
21 cannot come in and I told him that we could control it by offering memberships, that's
22 the only way that I know that we could control who does and doesn't come in. I mean,
23 the only other thing, the only other thing that we could do is, is you know, require that,

1 you know, the only people that can come in would have to be a certain age that could
2 come into the sports room. If I'm understanding your question.

3 MR. ASHFORD: You talking to me?

4 MS. NAVA: Yes, I said if I understood your question correctly.

5 MR. ASHFORD: Well, and I, I don't mean to be throwing this around, but you
6 know, I've dealt with people all of my childhood and adult life and my life span is close
7 to everybody in here, out here, and in ahead of them, and when we talk about how
8 we're going to control people now, that's a man-size job. And I wish you well, but I do
9 know unless something is done I don't know, they're hard to deal with. All the ages
10 factored. That's all the questions or statements I have.

11 MS. NAVA: Okay, well I never really, I never really thought in advance of putting
12 some measure in place of controlling who could and who could not actually enjoy, you
13 know, using the, using the, the room. I really didn't think about that. I would need to
14 think about who could and who couldn't. I don't, I mean, I don't want to discriminate,
15 you know, against, you know, certain people that can or cannot, you know, come in
16 there.

17 MS. PERRINE: Will you be serving any alcoholic beverages?

18 MS. NAVA: Yeah, I will serve beer.

19 MS. PERRINE: And, okay.

20 MS. NAVA: I will offer beer.

21 CHAIRWOMAN PERKINS: Are there any other questions?

1 MS. CAIRNS: Would the time standards that exist in the rural commercial, which
2 is the 6:00 a.m. to 10:00 p.m., would that, if that was a limitation on the grant, would that
3 impair your entire project?

4 MS. NAVA: No, ma'am. It wouldn't impair it. I mean, if, you know, if the four-
5 hour timeline still is a little bit too much of a variance to grant, a two-hour time line is fine
6 too, you know, a 12:00 a.m. time. And if any variance you find is, is also going to
7 present a problem, then the standard that you have already in place would be fine. I
8 would just like the, you know, the opportunity to provide a little bit more latitude on it
9 because of the lack of things or activities there around in that community that are
10 available, there aren't any.

11 CHAIRWOMAN PERKINS: Are there any other questions? Thank you.

12 MS. NAVA: Thank you.

13 CHAIRWOMAN PERKINS: We'll now entertain a discussion.

14 MS. CAIRNS: We've got one going.

15 MR. TOLBERT: Mr. Chairman, I'm just trying to -

16 CHAIRWOMAN PERKINS: Mister?

17 MR. TOLBERT: Ms., Ms. Chairman. I'm, I'm trying to establish some kind of
18 grounds to determine what we're actually going to be deciding on. I, I heard a lot of
19 variation in times and stuff so I don't think no actual time has been, she gave some
20 extra explanations on longitude on times so I know that we, the rules that we've set for
21 the restaurant and - was 6:00 a.m. to 10:00 p.m. and then she asked for extended hours
22 for the sports bar and the ground should remain at the 6:00 a.m. to 10:00 p.m.. And I
23 heard the, I understand all the questions and concern about activity in there. The only

1 way to control activity is to control about time if you don't have that much extra time to
2 2:00 a.m. to me would seem to me over extending it – 12:00 to me, and this is just
3 discussion – 12:00 to me would be extended and I would say just the weekend. And I
4 don't know if she talked about the weekends or if she talked about the sports staying
5 open to 12:00 every, seven days a week so I'm a little bit confused as to exactly what
6 we are deciding on here.

7 CHAIRWOMAN PERKINS: Any more discussion?

8 MS. CAIRNS: I think she wants whatever we can give her. I mean, I think she
9 said that 6:00 a.m. to 10:00 p.m. would not stop the project, but if we could give her
10 more that'd be great, but she'd take 6 to 10. Is that fair representation?

11 MS. NAVA: Extended hours would be for the weekend, not all during the week.

12 CHAIRWOMAN PERKINS: According to the application it says convenience
13 store and restaurant and we heard three entities.

14 MR. PRICE: Yes, that's what I heard too. That's what I was under the
15 impression that it was going to be a convenience store/restaurant, I wasn't familiar with
16 a sports bar, I don't want to say sports bar, excuse me – a sports room coming there.

17 CHAIRWOMAN PERKINS: And I asked her specifically, were they three
18 entities? Then I would imagine that we're addressing at this time what the application
19 says.

20 MS. CAIRNS: I'm just; I'm just, a question for the Staff fellows. Does the sports
21 room, which seems to be described sort of as a gaming room, is that treated as a
22 separate entity under our Land Use Code? I mean, do we have that as a specific use or
23 does it, does it kind of land hybridly under convenience/restaurant?

1 MR. PRICE: It's, it's really how it's operated. Let's say like you go, you can go
2 into a store or just any convenience store and, you know, they could have some little
3 games there, some pin balls, okay that's just really incidental. But maybe in a case like
4 this where you can have - essentially it's almost like another business, another
5 operation that's separate from the convenience store and the kitchen. I believe she
6 stated that, you know, there'd be a separate door from the interior and also probably
7 from the exterior, you know, and other activities, so that could be looked upon as
8 basically a separate use than the convenience store/restaurant.

9 MS. CAIRNS: So can we grant a variance for something that wasn't requested?

10 MR. PRICE: Special exception?

11 MS. CAIRNS: Special exception, excuse me.

12 MR. PRICE: I believe you could, you could amend it here, what, what was
13 brought before you. I don't, I don't feel that it's changed so much from the original
14 request that was posted and advertised.

15 MS. CAIRNS: Okay. Thank you.

16 CHAIRWOMAN PERKINS: Is there any further discussion? The Chair will now
17 entertain a motion.

18 MS. CAIRNS: I would move that we approve the request for the special
19 exception with the condition applied that the requirements of rural commercial in to-to in
20 essence be incorporated into the conditions of the granting of the special exception
21 including the hours being limited to 6:00 a.m. to 10:00 a.m. for all days.

22 CHAIRWOMAN PERKINS: Second?

23 MR. TOLBERT: Second.

1 CHAIRWOMAN PERKINS: Motion has been properly stated and second. All in
2 favor of the motion raise your hand. Opposed?

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

5 CHAIRWOMAN PERKINS: Ayes have it. Mr. Price will be in touch. Next case
6 Mr. Price.

7 **CASE 06-01 V:**

8 MR. PRICE: All right. The next, excuse me, the next case is case 06-01
9 Variance. The applicant is Jack Wolfe. The location is 2010 Johnson Marina Rd. The
10 applicant is requesting the Board of Appeals to grant a variance to encroach into the
11 required side and rear yard setback in an end M1 zone district. The property is
12 currently undeveloped. The applicant proposes to encroach into the required 20' side
13 yard setbacks by 10', that's on both sides, and on the rear by 20'. I know I put this into
14 the discussion, this is another one of those cases where, when the, with the adoption of
15 the Land Development Code the D1 zoning district was eliminated and we took on the
16 rural designations which increased all of the dimensional standards. So essentially this
17 lot became nonconforming so that, you know, this is what ya'll are looking at really, is – I
18 guess when you get to the first question for a variance about exceptional and
19 extraordinary conditions, you know, how was that created? The county, it could be
20 argued that the county could have gone out and assessed each property, but it also
21 could be argued that the applicants, it's their responsibility to be aware of any changes
22 in the code and to make the, you know, the proper accommodations before. So that's
23 what you're faced with now.

1 CHAIRWOMAN PERKINS: Thank you Mr. Price. Mr. Wolfe, state your name
2 and address for the Record please.

3 **TESTIMONY OF JACK WOLFE:**

4 MR. J. WOLFE: Thank you Madam Chairman. My name is Jack Wolfe. I reside
5 at 324 Linsbury Circle, Columbia, South Carolina. And Madam Chairman the facts in
6 this case also are the same of the facts on the next case, which is just behind that on
7 the agenda, you'll note that. So for a matter of time, if you'll let me present the case
8 collectively, then you can consider them each and – is that appropriate Madam
9 Chairman?

10 CHAIRWOMAN PERKINS: Does the Board object?

11 MS. CAIRNS: Yeah, there's just I, one thing I think to keep clear, though is that
12 the first request is truly for a nonconforming lot whereas the second request is for a
13 conforming lot -

14 MR. J. WOLFE: I think the lot's nonconforming because if you consider that the
15 back and that it doesn't have the width.

16 MS. CAIRNS: Well the lot in to-to is conforming is it not? I mean, the back, I
17 mean -

18 MR. J. WOLFE: Yes, 200 'was - well, but, it's 200' on the back RU or

19 MR. PRICE: Yes, well we're talking about actually the lot area. The first lot is
20 only half an acre. Under the rural designation, you're required to be 33,000 square feet,
21 which a little bit more than $\frac{3}{4}$ of an acre. And the second lot is almost three acres, so
22 are far as conforming, one lot is conforming by area, the other lot is not.

1 MR. J. WOLFE: Let me present the facts if that's okay and then we'll go
2 separately and my son's here who owns one of, owns the lot now, which is on Pad B or
3 2C. At the end of '04, my family was looking for property to purchase on Lake Murray
4 where we could build two homes. We found that property, we thought, but there was
5 issues with it; issues in that the property didn't conform to the then D1 zoning, because
6 of the houses that were located on it. So we came in and worked with the Staff, and
7 they were very helpful in helping us work on, on it, and working to provide the lot so that
8 it would be conforming to D1 zoning and we could build two homes on the property
9 facing Lake Murray. We presented our case and got that approved on November the
10 11th. We did not know that the county was going to approve a new zoning for this area
11 in December. And I didn't, and I, the Staff, of course, did not know that the county
12 would approve or disapprove the change; whatever the new zoning would be for this
13 either, the County Council. So we worked with the Staff, the lot was nonconforming
14 because there was a house on the property that we purchased that was only one foot
15 from the property line. We worked with the neighbor there on the property and Mrs.
16 Manly agreed to do some things that would help that. One is that, you'll look there at
17 Pad A and see the large line on there, which is orange or pink, whatever. She agreed
18 to give to us 10' of her property and we agreed to give the blue area on the plat to her
19 and install a road on lot three all the way from Johnson Marina Road into her property,
20 so that the road could be eliminated, the common road that you see across both parcels
21 2C and 2A. We did that. We agreed that the house would be torn down, the residence
22 there on our property on 2A be torn down, actually put that in an easement granted to
23 her and that runs a year now, two years originally in the agreement. We did all that, we

1 purchased the property because we thought we could buy, build two houses on it and
2 that was on November 11th it was approved. Next month the county did something we
3 weren't aware of and changed it, changed the setbacks and we'll look at all of that.
4 Now just behind Pad A is a camellia garden there that was established by the
5 gentleman that owned that property, it's quit unique. If you'll look on the exhibits on
6 one, page one there's a letter there from Richard Sims, Mims, who is the president of
7 the Mid-Carolina Camellia Society, the one here in Columbia and Director of the
8 Camellia on the American Camellia Society. He came out in February of last year with
9 my wife and they went and they identified a number of different kind of species of
10 camellias and even some very rare, rare ones. And that's stated in this letter here, and
11 that's just behind Pad A, as you can see. I thought we had approval. We went forward,
12 we got an architect, got design work done to fit on those pads. And my son now has a
13 house now that fits on his pad and I have a house that fits on our pad, basically. But
14 because of the new setbacks and the new zoning, when we came to apply for a permit,
15 we got our loan approved in December, we came to get our building permit and they tell
16 us we can't build that because of the new zoning, the setbacks will not allow those
17 houses to be built or the, you know, on the property. So really if you look at it, we were
18 already fairly restricted and we believe this is very detrimental to the ability to utilize the
19 property as we thought we could have and had approval. On page two, you'll see
20 another letter from someone we've had to come who is willing to work with us on
21 restoring the camellia gardens, it's quite old, I think it's 50 years old or better and again
22 it has some very rare camellias on the property. This property, if you'll look at it,
23 originally consisted of 15 acres and if you will look at the map again that I gave you, Lot

1 1, this is outlined in yellow, 2, which is the property we bought to split, 2A as it's
2 designated now, 3, which is owned by Mrs. Manly, and 4 which is owned by Mr. Farley.
3 There are only two houses on the property other than the one that we own, and that's
4 Mrs. Manly's and Mr. Farley's at this time, they are local and we have two letters in the
5 packet, where they support our request and ask that you grant the variance. Now my
6 son's going to come and just talk just a moment about his lot.

7 **TESTIMONY OF BILL WOLFE:**

8 MR. B. WOLFE: My name is Bill Wolfe and I reside at 2010 Johnson Marina
9 Road in Chapin, South Carolina. I just basically wanted to state our hardship with
10 regards to parcel 2C. As Geo had mentioned this particular parcel is a half-acre and
11 due to the rezoning of D1 property, it is currently a nonconforming lot. I believe Geo,
12 what is the current minimum acreage for RU? It is -

13 MR. PRICE: Thirty-three thousand square feet.

14 MR. B. WOLFE: Okay. I believe it's like, my lot is like 33% too small and so now
15 instead of having existing 10' setback, my setbacks are now basically doubled, so that I
16 have a, a diagram here which I've basically blown up of my parcel 2C. The blue
17 highlighted areas are the existing D1 properties and those are the setbacks that we are
18 currently would like to request and then the orange highlighted area what the property
19 would be required to be reduced to. And of course you can tell the property has a
20 unique feature in that it basically looks like a bowtie, so it basically cuts the property,
21 you know, there's like a 20' section there in the middle of the property. So that is my
22 hardship and it makes it very difficult to find a house plan to build on that nonconforming
23 lot.

1 CHAIRWOMAN PERKINS: Are there any questions from the Board?

2 MS. CAIRNS: When, you said you had your loan approved in December '04 or
3 5?

4 MR. J. WOLFE: '05. We couldn't get the loan approved until we got the houses
5 and architects finished sometimes.

6 MS. CAIRNS: And then you applied for a permit in -

7 MR. J. WOLFE: January, January of this year

8 MS. CAIRNS: '06. The other thing I'm curious about in terms of the deeds, have
9 you actually deeded lot 2C to your son? As of -

10 MR. J. WOLFE: Yes, we've given that to Geo over there.

11 MS. CAIRNS: When was it deeded out?

12 MR. J. WOLFE: December when the loan was closed. We've worked on; we
13 started working on plans immediately after purchasing. We didn't know it had been
14 rezoned.

15 MS. CAIRNS: Yes, I mean - one of the questions I have for, I think it maybe it's
16 for the Attorney, Brad. In the code it says after the adopted, the plan was adopted in
17 December of '04, is that correct to be effective in July, right?

18 MR. FARRAR: The version I have says that the code was to be effective July 1,
19 2005. Provisions of the code shall be effective from or after November 9, 2004. All
20 other provisions shall be effective July 1, 2005, that's, that's referring to Section 6 which
21 is the interim provisions, interim procedures, so essentially the pending ordinance
22 doctrine, so it looks like that would be in place November 9, 2004 and the entire code
23 July 1, 2005.

1 MS. CAIRNS: One of the, I mean, in terms of notice and - in Section, on page
2 333 there's a, it says that notices were to be mailed out to all the property owners within
3 90 days to inform them that this was coming.

4 MR. J. WOLFE: Ours was the middle of November when we purchased the
5 property.

6 MS. CAIRNS: I understand, I just, I mean, so was, were those not mailings sent
7 out [sic]?

8 MR. FARRAR: Yes, that's what I was looking at with Geo and I was asking if he
9 had any idea if that had gotten done. No idea whether they did that or not.

10 MR. PRICE: Yes, we did a large mail out.

11 MS. CAIRNS: Do you know when that mail out was done?

12 MR. J. WOLFE: I think maybe because our, our, our purchase had not gotten
13 through the system and into the records in time, we -

14 MS. CAIRNS: But that's what I'm saying, but if it was January, the deeds were
15 recorded by then. Right, you had, I mean, you had recorded deeds; you were the title
16 owner by January.

17 MR. J. WOLFE: And that was after [inaudible]. Middle of November when we
18 purchased -

19 MS. CAIRNS: No, no but when was the, when were the mailings sent out?

20 CHAIRWOMAN PERKINS: That's what she's trying to [inaudible].

21 MR. PRICE: Yes, it seems like it was in January when we, when we stayed here
22 after hours responding to those calls.

23 MS. CAIRNS: Oh, so they were sent out -

1 MR. PRICE: Yeah, but a lot of people called in wondering what happened to
2 their property.

3 MS. CAIRNS: Yeah. So, no I mean I, yeah, it was, because the other thing I'm
4 curious about is that had, I mean, as of June 30th, had a building permit been applied for
5 it would have been approved under the then existing code, is that true? Assuming they
6 had done all the requirements to get a building permit. I mean, even though you knew
7 the next day the rules were changing you were issuing permits on the old rules.

8 MR. PRICE: If you pull a permit prior to, you would have been vested with the
9 old code.

10 MS. CAIRNS: Yeah.

11 MR. J. WOLFE: We had no notice; so we, I'm telling you we didn't get notice so
12 we didn't know that. And we were proceeding on the fact that this plat showing
13 footprints that we had approval to proceed -

14 MS. CAIRNS: I understand.

15 MR. J. WOLFE: You understand my point.

16 MS. CAIRNS: I do, I do but I just, I mean some of my concern is that, I mean,
17 Mr. Price has shared with me that this is going to be a common problem for us here,
18 but, you know, we're limited by the code. I mean, my position is that we're very limited
19 by what this code allows us to do. And, you know, you were the titleholders, the record
20 holders possibly when these notices get sent out.

21 MR. J. WOLFE: See that's the question I have. We didn't get a notice is all I can
22 tell you. I can't tell you, I think maybe our name didn't get through the system

1 MS. CAIRNS: Yeah, maybe not. I understand, I mean, I know it takes; it can
2 take three months before the deeds get recorded and returned back. I mean, I do
3 know that. It could've dropped through. The other question that I have and again, this
4 is - I mean, the other question I have and this is also again for Brad, in terms on page
5 326, there's an issue about nonconforming vacant lots and because there was,
6 technically I understand the lot you bought wasn't vacant, but the house is under an
7 agreement to be removed, the one that got split in half by the property line.

8 MR. J. WOLFE: That's correct.

9 MS. CAIRNS: And you presented the lots as being unoccupied, undeveloped in
10 your application, is it, there's a code section that actually says that to, a nonconforming
11 lot adjacent to an existing lot owned is to be just combined. I mean, there's a code
12 section in here that I think may not even allow the entertaining of the petition. I'm not; I
13 just want Mr. Farrar to -

14 MR. FARRAR: I see at least three issues with this and I think the first two are
15 probably the most important is under 26-252(B)(2) talks about nonconforming vacant
16 lots and this only applies if the lots are under the same ownership.

17 MS. CAIRNS: Well they were until a month ago, or two months ago. I mean,
18 they were after the adoption of the, after the effective date of the code.

19 MR. FARRAR: Right, but well, I mean, that's obviously the ownership issue is
20 that when, when does that matter? I mean, is it the time they're coming to apply or, I
21 mean, what is, what is the ownership issue I think you have to resolve and also the
22 section does not apply to nonconforming vacant lot if the majority of the developed lots

1 located on either side of the road where such a lot is located and within 500' of such lot
2 also are nonconforming, so I'd -

3 MS. CAIRNS: Well, what's interesting is the nonconforming lot isn't even,
4 doesn't have frontage, so it would be very challenging to figure out what five hundred
5 feet of the frontage because there, it has none. It's got access by a private drive.

6 MR. FARRAR: Well, and I guess that brings you to the third point if you go back
7 to subsection (B)(1), it looks as though a variance can be obtained from these
8 requirements. So, I mean, you can still grant a variance it would seem to me.

9 MS. CAIRNS: Yeah, I'm just trying to make sure that (B)(2) does trump it
10 because of the fact that we have co-ownership, we had, you know, same ownership of
11 both lots.

12 MR. FARRAR: Well, I mean, I think the variance is always, if that's an option, is
13 always going to be by definition what you're - I don't think it would trump, to answer your
14 question. I think the variance would allow departure from -

15 MS. CAIRNS: Except for the fact that it says such lots shall be combined.

16 MR. FARRAR: Well, if you resolve the ownership issue and you go out and see
17 if the other lots are nonconforming, I mean, that's, I can't answer your question and tell
18 you whether or not this, this is something that should've been combined based on what
19 I know about this area.

20 MR. J. WOLFE: Let me say that we truly believe we're doing what we should be
21 doing [inaudible]. We've invested our money as you know in the property and we want
22 to conform. We thought we had done what we should do to conform to the zoning laws.
23 We worked hard, we spent, you know, [inaudible] conform agreement and we've got the

1 plans to build on it, been looking forward to this as a family and now we've got this
2 problem. We believe this is appropriate for a variance to be granted. If you'll look at the
3 camellia garden, if the only the only option of Pad A is to move it back into that and start
4 destroying some of those very rare plants, we don't want to do that. If you'll look at this,
5 if you'll look at the property across the road from Johnson Marina Road, it's zoned RS1.

6 Setbacks –

7 MS. CAIRNS: That was gonna be another question.

8 MR. J. WOLFE: That's RS1.

9 MS. CAIRNS: Thank you.

10 MR. J. WOLFE: If you look to the other side of lot 1 it's Woodmen of the World
11 which is a commercial type, it's you know, then on the other side of it is Tap Pointe, it's
12 RS1. If you look down the road toward to the right side of Johnson Marina Road, that's
13 zoned RS1, there's a few spattered spots RU and ours happens to be one, okay.

14 MS. CAIRNS: Okay. I have, I mean I do have, if anybody wants to see I've got
15 the, you know, tax map and parcelation of what's going on on this whole peninsula. It
16 doesn't show the zoning and that was one of the questions I was going to ask the Staff
17 is what is the zoning of some of those other smaller lots? It is accurate that there are
18 RS1 across the street? Okay.

19 MR. J. WOLFE: A lot of the property - and so I have also put on the back an
20 outline of the various factors of findings on there on the last page. The extraordinary
21 events is that the county rezoned the property, we had, we had just gotten it approved,
22 okay. It's been '78 since the property was zoned; a rare camellia garden is on the
23 property. we don't want to destroy that.

1 MR. B. WOLFE: I just want to note, there's probably, this is not like five
2 camellias, it's in a range of 300 to 400 plants, it's quite extensive.

3 MR. J. WOLFE: Right. The zoning requirements now and setbacks
4 unreasonable restricts the property, it's all on my son's almost, on ours as well since we
5 want to face the lake as well. And the granting of the variance would not substantially
6 determine any problem with the other folks around us, simply because a lot of the other
7 properties are already zoned on those setbacks.

8 CHAIRWOMAN PERKINS: Okay, which Mr. Wolfe is speaking? I'm going to
9 have to ask the other to have a seat so that the recorder can record accurately.

10 MR. B. WOLFE: You want me to sit down? Thank you.

11 MR. J. WOLFE: Cause our variance requests simply sets setbacks back to what
12 they were prior to July 1 and what we thought we had and got approved to make them
13 in compliance under the D1. Thank you so much.

14 MS. CAIRNS: The other thing I just want to be super clear on, I know you said
15 this once, but Mrs. Manly – does she have a new, is she not now using the common
16 driveway?

17 MR. J. WOLFE: No, she now has a driveway.

18 MS. CAIRNS: She has her own driveway. So your two lots will be using the
19 common driveway?

20 MR. J. WOLFE: We have a common driveway and we can also put another
21 driveway in from Johnson Marina Road.

22 MS. CAIRNS: To service –

1 MR. J. WOLFE: We have an easement that I have also given to Geo, which
2 shows that common road.

3 MS. CAIRNS: Yeah, okay.

4 CHAIRWOMAN PERKINS: Are there any other questions for Mr. Wolfe?

5 MR. J. WOLFE: And we would appreciate a favorable consideration of this
6 request.

7 CHAIRWOMAN PERKINS: There's a Cheryl Wolfe, would you like to -

8 **TESTIMONY OF CHERYL WOLFE:**

9 MS. WOLFE: I'm not a speaker but I'd be glad to do the best I can do. I'm
10 Cheryl Wolfe. I live at 324 Linsbury Circle in Columbia, in Whitehall. And we had looked
11 for approximately three years for property, or a house, or whatever and my daughter-in-
12 law and I were riding down the road and she was showing something she had looked at.
13 I was showing her something I had looked at and there was a "For Sale by Owner" sign
14 on this piece of property. She said, "Do you want to ride down there and look at it?"
15 And I said, "Sure." So we went down and we looked at it and we both got excited about
16 it and we took our husbands back to look at it and we were just thrilled to death. I really,
17 I have a fairly large yard for me, it's really not a real large yard, but I really wasn't
18 expecting to inherit all these camellia bushes, but I feel such an obligation to Mr.
19 Rotrow(?) who planted the camellia bushes and I understand won many awards with his
20 bushes. And we feel like as we get older to be able to live near our children and we've
21 been taking care of elderly parents for 10 years now, we only have one left who is my
22 daddy who is 95. And, so we feel like as we get older, we have lived so far away from
23 our own parents and we have had to do everything long distance, that it would be nice

1 to live closer to one of our children so that we would not be alone as his mother and
2 daddy and my mother and daddy were. And, so we've really looked forward to this, my
3 grandchildren have looked forward to it. My oldest grandson has really been affected
4 by it tremendously because he had no idea, as we had, that things weren't going to
5 work out. We just, we presumed or I did and I really am sorry that if we did something
6 wrong or something that we did it we did it in honesty and, you know, I do request you
7 allow us to go forward with our plans.

8 CHAIRWOMAN PERKINS: Any questions from the Board? Thank you. There is
9 a Lee Wolfe or Lea? Okay?

10 MR. B. WOLFE: That is my wife and [inaudible].

11 CHAIRWOMAN PERKINS: There's no one signed up in opposition. The Chair
12 will entertain a discussion. I'm sorry, Mr. Ashford, what were you saying? The Chair
13 will entertain a discussion. There being none, shall we entertain a motion?

14 MR. TOLBERT: Madam Chairman, I make a motion that case number 06-01
15 Variance be approved using the findings that Mr. Wolfe stated as part of his hardship to
16 approve his case.

17 MR. ASHFORD: I second that motion.

18 CHAIRWOMAN PERKINS: And the hardship is just as-

19 MR. TOLBERT: Is a written statement as can be, if I have to state it I said use
20 the document as his findings as his hardships and we can -

21 CHAIRWOMAN PERKINS: With the attachment?

22 MR. TOLBERT: Right with that attachment that we can adopt that.

1 MS. CAIRNS: I mean, are you saying that the hardship is that the county
2 rezoned, did the rezoning?

3 MR. TOLBERT: No, I think he said, he said that his parcel, not blaming the
4 county, but that the parcel was done and he tried his best to comply with the rules. I'm
5 not blaming the county because I think we've already established that that's already
6 been - and we can't correct the problem that's been done. We're just trying to go forth
7 with it and take care of this problem.

8 CHAIRWOMAN PERKINS: And for clarity would you please restate your
9 motion?

10 MR. TOLBERT: Okay, again my motion was to approve 06-01 based on the
11 statements that were made, not saying that the county did not give proper notification
12 because we have no way to verify that, but saying that he did not, he tried his best to
13 conform to the new ordinance and his property is a nonconformative property that will
14 not allow him to do what he needs to get done on the property.

15 CHAIRWOMAN PERKINS: Second? Properly stated and seconded, take a
16 vote. All those in favor? Those opposed.

17 *[Approved: Cairns, Branham, Tolbert, Perkins, Perrine, Ashford; Absent: Brown]*

18 CHAIRWOMAN PERKINS: You have your variance. Mr. Price will be in touch.
19 The next case, Mr. Price?

20 **CASE 06-02 V:**

21 MS. CAIRNS: Next case is actually the Variance of 06-02, which is for the larger,
22 the conforming parcel, for which they're requesting the same variance on setbacks so
23 that they can build in front of the camellia garden. So that was where we had, the first

1 was actually a nonconforming lot requesting a variance from the setbacks and the
2 second is a conforming lot requesting a variance from the setbacks to protect the
3 camellia garden.

4 MR. PRICE: The camellia gardens in the hardwoods that are located near the
5 front.

6 CHAIRWOMAN PERKINS: Yes, right there where he's talking about the
7 camellias and the hardwood. Okay, so I think we did it as a separate thing, just come
8 up Mr. Wolfe and please, because I, I think I know what the discussion, but just for the
9 Record.

10 **TESTIMONY OF JACK WOLFE:**

11 MR. J. WOLFE: My name is Jack Wolfe, 324 Linsbury Circle, Columbia, South
12 Carolina and again it's a pleasure Madam Chairman and Board Members to address
13 you. Again, also so that we can build Pad A, and the house we designed not be
14 involved in the camellia garden, we request the variance of 10' on each side to be able
15 to go forward with that.

16 CHAIRWOMAN PERKINS: Any questions for Mr. Wolfe? Thank you.
17 Discussion?

18 MS. CAIRNS: I just, I feel that based on the impact would be on the other Mr.
19 Wolfe and Mrs. Manly in the fact that they have not, I mean, Mrs. Manly actually wrote
20 in saying she has absolutely no opposition to this. I would make a motion to approve
21 the second request.

22 CHAIRWOMAN PERKINS: Is there second?

23 MR. TOLBERT: Second.

1 CHAIRWOMAN PERKINS: All those in favor, raise you hand. Those opposed?

2 *[Approved: Cairns, Branham, Tolbert, Perkins, Perrine, Ashford; Absent: Brown]*

3 CHAIRWOMAN PERKINS: The ayes have it Mr. Wolfe; Mr. Price will be in
4 touch. Next case Mr. Price.

5 **CASE 06-13 SE:**

6 MR. PRICE: This next case is case 06-13 Special Exception. The applicant is
7 Richland County. I believe the county is being represented by Bobby Banks. The
8 location is Montgomery Road. The zoning is M-2, which is Heavy Industrial, excuse me
9 I'm still living in the past. The property is actually zoned HI, which is Heavy Industrial.
10 The applicant is requesting the Board to establish a landfill on property zone M2, HI,
11 Heavy Industrial. The subject parcel is a 430 acre tract that has been used as a landfill
12 since 1974. This came about, the applicant requested a zoning verification letter from
13 Staff, in particular me, stating that this was a conforming use and the Staff was unable
14 to give that letter stating that it was a conforming use because according to the code, a
15 special exception is required, so it became a nonconforming use. And so what they're
16 attempting to do is to make this a conforming use so they can continue with their
17 operation, which would include future expansion within the four hundred and thirty acre
18 tract.

19 **TESTIMONY OF BOBBY BANKS:**

20 MR. BANKS: My name is Bobby Banks. I reside at 6920 Plainfield Road, here
21 representing Richland County, on behalf of Solid Waste & Recycle Division. Madam
22 Chairman, this request was made, we've been operating a landfill facility at the county
23 as Mr. Price stated since 1974. We have been in a permitting process with the South

1 Carolina Department of Health and Environmental Control for approximately two years.
2 At the end of this permitting process, it had a draft permit issued public noticed for the
3 area. They came back and asked for a zoning verification. At that time Mr. Price
4 notified me that we need to seek a special exemption to expand into a new cell. It is on
5 the same parcel, same exact parcel, 060-500-01-01, but we're going into a different
6 area. We're currently operating and Mr. Price has indicated that we're conforming right
7 now because we are actually operating in a different area, exposing construction and
8 demolition debris, inert materials and we will be continuing, or what we're requesting is,
9 to continue that activity into two new phases. One is identified as Phase 4 on the plans
10 provided, and there is an additional cell that I do want to proceed with permitting the
11 southern portion of the property as well. The first cell will only take us, I apologize. The
12 first phase, designated Phase 4, will allow the county to continue that operation for
13 twenty, an anticipated life span of 28 years at current disposal rates. On the southern
14 portion of the property, you will see a small designation and it's called Future Phase 5.
15 That cell is approximately 25 acres and we'd like to use that as well eventually and that
16 will provide an additional 28 years. Right now we have probably about a year's capacity
17 left in the current operational cell and we've got to start preparing for the new one. Any
18 questions from the Board?

19 CHAIRWOMAN PERKINS: Questions from the Board? There being no
20 questions from the Board and no opposition, thank you.

21 MR. BANKS: Thank you, Madam Chair.

22 CHAIRWOMAN PERKINS: Discussion? No discussion? Motion?

1 MR. BRANHAM: Madam Chairman, I'd like to make a motion for Special
2 Exception 06-13 be approved as stated.

3 CHAIRWOMAN PERKINS: Second?

4 MS. PERRINE: I second.

5 CHAIRWOMAN PERKINS: Motion has been properly stated and seconded.
6 Now for the vote, all those in favor raise your hands. All those opposed?

7 *[Approved: Cairns, Branham, Tolbert, Perkins, Perrine, Ashford; Absent: Brown]*

8 CHAIRWOMAN PERKINS: Mr. Banks, you have your Special Exception. Mr.
9 Price will be in touch. Okay, the next item on the agenda is - do we have the minutes?

10 MR. PRICE: I wasn't sure if we were going to have enough time to read last
11 month's minutes, so if you want to defer until next month.

12 CHAIRWOMAN PERKINS: Do we have any other business? Do what? What
13 did you say?

14 MR. PRICE: I was just saying I didn't know if ya'll had enough time to read last
15 month's minutes, so you know, we can defer it if you want to, you know, it's so long.

16 CHAIRWOMAN PERKINS: Ignore him, okay. (Laughter)

17 MR. TOLBERT: Madam Chairman, I make a motion that we approve the
18 opening session of last months minutes and there was no other business conducted.

19 MR. BRANHAM: I second that.

20 CHAIRWOMAN PERKINS: Okay, that's it. All right, it's adjourned. Oh minutes,
21 okay, I'm sorry. All those in favor? Opposed?

22 *[Approved: Cairns, Branham, Tolbert, Perkins, Perrine; Abstained: Ashford; Absent:*
23 *Brown]*

1

CHAIRWOMAN PERKINS: Got it, we're adjourned.

2

3

[Adjourned at 2:45 p.m.]