

**RICHLAND COUNTY BOARD OF ZONING APPEALS
PUBLIC HEARING**

December 3, 2008, 1:00 pm

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6 *[Present: Harold Branham, Elaine Perrine, Torrey Rush, Suzanne Cecere, Sheldon
7 Cooke, William Smith; Absent: Joshua McDuffie.]*

8 CHAIRMAN RUSH: For the Record I would like to amend the Agenda. Number
9 4, Appointments of Officers that was done last month and approval of Minutes. There
10 are, I think there's one more member, Board Member that's not here at this [inaudible] if
11 we could actually move that until [inaudible].

12 MS. CECERE: I make a motion that that be [inaudible].

13 ?: Second.

14 CHAIRMAN RUSH: So moved. And all in favor say aye.

15 MS. CECERE: Aye.

16 ?: Aye.

17 CHAIRMAN RUSH: Any opposed? Okay. Also we wanted to also amend the
18 Executive Session discussion that was also done on last month and that will [inaudible]
19 actually [inaudible]. I think we will at this time start the public hearing. Mr. Price?

20 MS. CECERE: Mr. Chairman, just one thing to – I missed this in my [inaudible]
21 was it left out this time accidentally or?

22 MR. PRICE: No.

23 MS. CECERE: Or are we just doing away with it?

24 MR. PRICE: That may just have been left out.

25 MS. CECERE: Oh, okay. Thank you.

1 MR. PRICE: We do have two deferrals on your Agenda at this time. I'm not sure
2 if you've gotten to those. Case 08-63 and Case 08-64 SE. Those were brought for
3 reconsideration at last month's meeting and speaking to the applicant he just asked for
4 deferral. He wanted to meet with the community and also get some more information.
5 Okay.

6 **CASE NO 08-73 SE:**

7 MR. PRICE: The first item is Case 08-73 Special Exception. The applicant is
8 Charles Medlin(?). The applicant is requesting the Board of Zoning Appeals to establish
9 a manufactured home on property zoned M-1. The location is 1020 Medlin Road and
10 the parcel's about –

11 MR. COOKE: Excuse me for one second, Mr. Price. There's no one signed up
12 for or against in this case. Are the applicants here?

13 MR. PRICE: I don't see them here. Could we move this to the end just in case
14 so –

15 MR. COOKE: Okay.

16 MR. PRICE: - we can find out?

17 **CASE NO. 08-74 SE:**

18 MR. PRICE: The next item is Case 08-74. It's a special exception. The
19 applicant is requesting the Board of Zoning Appeals to establish a scrap metal
20 processing/recycling facility on property zoned H-1. The applicant is Frank DiNardo(?).
21 The location is at the corner of Shop Road and Beltline Boulevard. The parcel size is
22 5.72 acres and there's [inaudible] vacant industrial. It looks like it was formerly used as
23 some type of industrial use. I'll get you the pictures in a second. Formerly used for

1 some type of industrial use. Right now it's been abandoned. The applicant proposes
2 as stated to establish a scrap yard processing/recycling facility on the property. The
3 surrounding area is comprised of industrial structures and uses. Okay. As you can see
4 from the aerial here this is the facility that is highlighted. North of the property is a
5 railroad track and all of these buildings behind, these are all dedicated for industrial
6 uses, even across the street. This is Beltline industrial and going down Beltline also
7 crossing Shop Road. And as you can see the parcels south of the property across
8 Shop Road are vacant at this time or, excuse me, undeveloped. However if you go
9 further down Shop Road you're still in industrial uses and structures. I actually had a
10 nice presentation for you but I do believe that my son decided my jump drive would be
11 of more use to him this morning.

12 MS. CERECCE: I'm sorry.

13 MR. PRICE: I apologize for that. But we do have these pictures and we'll see
14 what we have here. This is a picture, the actual subject property will be kind of east of
15 this picture. This is a warehouse that's right behind this. So this will be on the other
16 side of the railroad track. This is looking down Beltline Boulevard. As you can see, you
17 know, industrial and, I don't know how well you can make this out but there's industrial
18 uses going back that way.

19 MS. CECERE: That's South Beltline; correct?

20 MR. PRICE: Yes.

21 MS. CECERE: And that's, aren't there – used to be –

22 MR. COOKE: Anchor Continental.

23 MS. CECERE: - Anchor Continental but it's something different now I think.

1 MR. COOKE: I do believe it's still Anchor and across the street is Chatham Steel
2 was the other structure across the street.

3 MR. PRICE: At this point I'll take your word for that. Well this is the site. The
4 building you see here that's another property. This is a view from Beltline Boulevard
5 looking towards the site. Looking down Shop Road, once again these are some of the
6 existing buildings on the property. I guess this would be the main gate off of Shop
7 Road. There's a little guard shack here. Once again a warehouse and there are other
8 structures on the property. And a nice sign there showing it was advertised. And that'll
9 be it for that.

10 CHAIRMAN RUSH: Okay. And that property is zoned?

11 MR. PRICE: H-I.

12 CHAIRMAN RUSH: We've got three in favor of this case. I would like to call the
13 first one. Steve Searcy? Come to the podium and state your name and address for the
14 Record.

15 **TESTIMONY OF STEVE SEARCY:**

16 MR. SEARCY: I'm Steve Searcy, S-E-A-R-C-Y, the attorney for Hogg(?)
17 Brothers Recycling LLC. Frank DiNardo the person on the application is actually an
18 officer of Hogg Brothers Recycling LLC. I have with me today, Jim Drawnermaker(?)
19 who is a representative of Hogg Brothers that can answer any questions related to the
20 actual facility. Hogg Brothers is a full-service, North American scrap recycler that buys,
21 sells, transports, and processes ferrous and non-ferrous metals. They've got customers
22 throughout the United States, Canada, Mexico, and has annual gross sales in excess of
23 \$100 million and currently has around 100 employees. The proposed use of the site is

1 a facility to receive scrap metal from yard-to-yard transactional businesses and from
2 third-party sources like industrial generators of scrap, automotive manufacturers,
3 demolition contractors, etc., and process that by size, chemistry and density and ship it
4 out for sales on the open market. The subject property is currently owned by
5 Commercial Credit Land II LLC. I think they got it at a foreclosure sale several years
6 ago from the property owner that bought it from Anchor Continental. Their consent is on
7 the application. As Geo mentioned the property is at the corner of Shop and Beltline
8 and it's zoned Heavy Industrial and, you know, I've addressed all the other complaints
9 with the zoning ordinance, Section 26-152(D)(26), the supplemental requirements for
10 this special use exception and I'm just here to answer any questions you may have.

11 CHAIRMAN RUSH: Any questions from the Board?

12 MR. COOKE: Mr. Price, could you go back to that picture where – right here.

13 MR. PRICE: This one? I'm sorry. [Inaudible]

14 MR. COOKE: Yes.

15 MR. PRICE: - picture that [inaudible]?

16 MR. COOKE: So the actual facility is going to be located right here on this
17 corner?

18 MR. SEARCY: Yeah. Right there on the corner. As you can see it's four lanes.
19 The traffic pattern for, on the facility will be to Interstate, not through town but I-77 is, I
20 said a mile on my application. I don't even think it's that far. It's right off the off ramp.
21 And you've got Shop – you've got Beltline there as well but the main entrance will be on
22 Shop.

23 MR. COOKE: And the facility's going to be within this, within the gate?

1 MR. SEARCY: Yes.

2 MS. CECERE: Will it be used in some of the same buildings or will you -

3 MR. SEARCY: They're going to try to use whatever's there. As you can see,
4 one of the buildings is heavily damaged with the explosion a couple years ago across
5 the railroad tracks and I may get James to address that but I think they're going to use
6 whatever they can on the site but it'll obviously look better than that.

7 MS. CECERE: I have a question for Staff. For some reason I just, I know it's in
8 the Code but why would that need a special exception?

9 MR. PRICE: You know, that's a very good question and I believe we spoke -

10 MS. CECERE: I mean, it's already -

11 MR. PRICE: - on the phone that day.

12 MR. SEARCY: Yeah.

13 MR. PRICE: And we were talking, without even looking in the Code I was saying
14 oh, you won't need a special exception for that until I was actually corrected by the
15 applicant that it does require a special exception, so. Maybe that's something that we'll
16 look at amending with, in the Code.

17 CHAIRMAN RUSH: Any discussion? No? To me it looks like [inaudible] I
18 wonder why it was actually brought before us. I'll entertain a motion at this time.

19 MS. CECERE: [Inaudible]

20 CHAIRMAN RUSH: Could I get someone to read the Findings of Facts?

21 MS. CECERE: I'll do the Finding of Facts. Did you want to hear the other two
22 people or?

23 CHAIRMAN RUSH: Well unless you need [inaudible] any further questions.

1 MR. COOKE: Yeah. We don't have any further questions.

2 CHAIRMAN RUSH: [Inaudible] talk us out of it. [Laughter]

3 MS. CECERE: Oh, I have one more question for Staff. Will there be like an
4 oversight on regards to like contamination or anything like that? Would DHEC do that?

5 MR. PRICE: Yes. Before they establish these uses DHEC and other regulatory
6 bodies will be involved with this.

7 MS. CECERE: Okay. That's all.

8 MR. SEARCY: We've already, we're in the middle of the environmental process
9 of our due diligence so this is one step and the environmental is another and they're
10 pretty far along with the environmental and they've been hand in hand with DHEC the
11 whole way.

12 MS. CECERE: Thank you. Okay. Start with number four?

13 CHAIRMAN RUSH: Yeah.

14 MS. CECERE: Number four. Specific requirement for the special exception
15 met? Yes. Will traffic be impacted by this proposal? Not any more so than I think there
16 already is on, lots of traffic on Shop Road anyway. Will this proposal effect vehicle and
17 pedestrian safety? No. Is there a potential impact of noise, lights, fumes, or obstructive
18 air flow on adjoining properties? No. Will the proposed use have any adverse impact
19 on the aesthetic character of the environs? No. Is the orientation and spacing of
20 improvement or building appropriate? Yes.

21 CHAIRMAN RUSH: Okay.

22 MS. CECERE: I make a motion that Special Exception 08-74 -

1 CHAIRMAN RUSH: There's also some conditions, under conditions Staff has
2 [inaudible].

3 MS. CECERE: Okay. Any violations to the conditions placed on this approval
4 will require rehearing of the case by the Board of Zoning Appeals.

5 MR. PRICE: And in this case I don't believe you have any conditions or Staff
6 doesn't recommend any conditions.

7 MS. CECERE: DHEC would cover that, yeah. I make a motion that Special
8 Exception 08-74 be approved.

9 CHAIRMAN RUSH: Can I get a second? All in favor? Any opposed?
10 *[Vote not recorded]*

11 CHAIRMAN RUSH: You have your special exception.

12 MR. SEARCY: Thank you. Can I ask a procedural question? The attorney
13 mentioned earlier that the, it's not official until the minutes are read and then if there's
14 an appeal there could possibly be another 30 days. Is that only if I appealed it? Could
15 there be an appeal from, I'm trying to find out when it's final.

16 MS. LINDER: Any person THAT has a substantial interest could appeal it. In
17 your case it looks very favorable to you. I would proceed cautiously at this point but you
18 did receive a unanimous vote. So I would proceed cautiously but optimistically.

19 MR. SEARCY: Okay. Thank you.

20 CHAIRMAN RUSH: The next case, Mr. Price.

21 **CASE NO. 08-75 V:**

22 MR. PRICE: The next item is Case No. 08-75 Variance. The applicant is
23 requesting the Board of Zoning Appeals to grant a variance to encroach into the

1 required side yard setback on property zoned RU. The applicant is Ellis Mack and the
2 location is 124 Laurent Way. The parcel size is about an acre and the existing land use
3 is residential. The subject property has 5,620 square foot residential structure which
4 was constructed in 2004. The applicant is proposing to construct a detached two-car
5 garage which would encroach into the required side yard setback. This area is
6 residentially developed. This is a view of the subject property. There if you look to your
7 left of the driveway is where the proposed addition would be, the structure. This is a
8 view looking down Laurent Way toward some of the homes. Kind of give you an idea of
9 what is out there at this time. Once again this is a view of the proposed structure or the
10 site of it. A closer view. If you would [inaudible] I'm trying to get this to freeze
11 somehow. You can actually, if you look there's a property marker that kind of shows
12 you how far it will be - actually that's a better view – how far it will be far from the side
13 property line. And this is a view to the road showing you another view of it. And that's
14 it.

15 CHAIRMAN RUSH: How far is it encroaching do you think?

16 MR. PRICE: They were, asked for a seven-foot encroachment. There's a plat in
17 your packets that actually show it will be 13' from the property line. I believe - the
18 applicant has submitted a letter from the homeowners association that is also in your
19 packet with them approving an encroachment into the side yard setback. However
20 once again the Richland County Code of, Land Development Code would supersede
21 them granting a variance. This property was developed under rural zoning and has the
22 rural setbacks; that's why we're here.

1 MS. CECERE: [Inaudible] are the regular houses set on like three-quarters of an
2 acre?

3 MR. PRICE: Yes, ma'am.

4 MS. CECERE: Oh, they are?

5 MR. PRICE: Yeah, if you – most of the homes in this particular area especially if
6 you were looking down Laurent Way are under rural zoning so that would require them
7 to be set on at least a three-quarter of an acre lot. As you go around the corner down
8 you get into some RS-LD which only require 12,000 square foot lots. But this home and
9 the abutting homes are in the RU zoning district.

10 MS. CECERE: I was there when that first was being built and they had like an
11 open house but I didn't realize they set – well with such large houses it's hard to tell that
12 they sit on a three-quarter acre lot I guess. Okay.

13 CHAIRMAN RUSH: Okay. I think the applicant is here, Ellis Mack. Come to the
14 podium and state your name and address for the Record.

15 **TESTIMONY OF ELLIS MACK:**

16 MR. MACK: My name is Ellis Mack, M-A-C-K. My address is 124 Laurent Way
17 in Irmo.

18 CHAIRMAN RUSH: Let us know what you want.

19 MR. MACK: Well in answer to your question it is a little bit over an acre. It's
20 about 43,000 square foot of the lot so it's just slightly over an acre of the lot. And most
21 of them around there are an acre or more or it could be a little bit, you know, under an
22 acre also. I'm requesting a variance today off of the property line of 13'. My – and I'm
23 going to go back – my covenants, my developer who was Mungo and the covenants

1 that we have state a 10' off the property line. The county has a 20' from the side, either
2 side yard as a 20' offset off of the property line. And I'm looking to go 13' is what I'd like
3 so I'm looking for a variance of seven foot closer to the property line. As Mr. Price said
4 earlier I got a letter from the homeowners association because when they first gave me
5 approval the architectural board, you know, stated that to make sure that I was 10' off
6 the property line is what their covenants cover. And of course the county has a 20'
7 setback. I didn't get it until last night because my neighbor to this side, on the left side,
8 her and her husband live in North Carolina. The house has been up for sale for about
9 two years and I wasn't able to get in touch with her until last night, her husband is in
10 seminary school, to get a letter from her. Her house sets 50' off the property line. So
11 from her house 50' off the property line and my garage there would be 63' in between
12 the two dwellings. So it wouldn't approach anywhere close and I think Mr. Price had a
13 picture of the adjacent house and you can see how far it was setting back off the
14 property line. But I've also got a letter from my next door neighbor. I know it's by my
15 letter that I received, you know, I needed to have stuff in 10 days before but I wasn't
16 able to get a phone number for them because nobody's at the house next door. But I
17 did get a letter and I don't know if you all would like to see the letter from my neighbor.
18 She faxed it to me last night. May I bring it up? She kind of hand wrote it last night and
19 faxed it to me so the writing, you know, is not that great. Her name is Missy Copeland
20 and she gives, you know, she, by her approval has no problem with me building seven
21 foot closer to the property line. But what we're building, I've got a two-car garage on the
22 right side of that house and we're looking to add a detached two-car garage. The
23 variance that I'm asking for moves the garage if I would have to move it out 20' from my

1 property line, my driveway as you can kind of see in this picture is a single wide
2 driveway. It would hurt, with the turning radius going into the driveway, you know,
3 bringing it closer to the driveway it's going to make more of a 90° turn whereas if we
4 were able to set it back a little bit it would give us more of a rounded turn into the
5 driveway. Also when backing out a side entry garage with two cars in it you have to
6 kind of back all the way out first before you can kind of swing the front end, you know,
7 around because otherwise she'll hit the, you know, you'll hit the side wall. You have to
8 kind of back all the way out and then turn the wheel to be able to straighten up to come
9 down the driveway. So that's mainly the reasons why we're looking for, you know, for a
10 variance to have more of a turning radius into the garage also. Also I wanted to
11 mention I understand my lot is a little bit over an acre but going by the setback rules that
12 the county has imposed on me on my right property line, starting on my right property
13 line going back towards the right part of this street the setbacks for my neighborhood
14 are all 10'. Now starting from my right property line going over everything is 20'. So it
15 changes from my left side to my right side of my property line. But I've also, with the
16 setbacks if you add up, like I told you earlier my property is about 43,500 square feet –
17 right now the setbacks that I'm having to abide by the county have a 20' setback on
18 either side, have a 50' setback off the rear and have a 40' setback off the front. And if
19 you multiply that times the length and I think everybody got a copy of the plat, you know,
20 that shows the lengths, that's about 26,000 square foot of property that I'm not able to
21 use basically because of setbacks. That leaves me roughly 16,000 square foot of my
22 property that I can build on. You know, that's barely over a third of my whole property
23 so basically where my house is and a little bit over that is the only land that I'm able to

1 build on on that property. So I'm not sure had I, you know, when we built the house four
2 years ago maybe we would have planned a little better and moved the house over to
3 the right more to give us more room in order to come off the property line but of course
4 you never, you know, you never foresee down the road what's going to happen and I've
5 got daughters that are going to be driving in two years so we're going to have, you
6 know, more cars in the family and that's the reason that we are looking to, you know, to
7 add a detached garage.

8 CHAIRMAN RUSH: Okay. Does the Board have any questions?

9 MR. SMITH: I have one for Mr. Price concerning the setbacks. What are the
10 setbacks? Are they different on both sides?

11 MR. PRICE: [Inaudible] developments. There is a, especially when Mr. Mack
12 and I were talking – here we go. We were talking and I pulled up the plat for
13 Ascot and I'm not really exactly sure where the line is but somewhere along in here or
14 maybe it runs this way that particular area's zoned RS-LD.

15 MR. SMITH: Where's that again?

16 MR. PRICE: LD's to the east of.

17 MR. MACK: It's my right property line is where it begins and ends.

18 MR. PRICE: Right but if you get in this area you know, you have larger lots,
19 different setbacks.

20 CHAIRMAN RUSH: Any questions from the Board?

21 MR. SMITH: A question for you. You're saying that Ms. Copeland actually said
22 this to you on yesterday?

23 MR. MACK: Yes, sir.

1 MR. SMITH: Okay. And she was notified about the information about what you
2 were doing and [inaudible] at the time beforehand?

3 MR. MACK: Oh, yes. You know, her step-father lives in the house but he's
4 retired so he doesn't – his wife passed away early this year so he's not always home
5 and I had mentioned to him before we started the building, you know, I wanted to let him
6 know what was, you know, what was, that, you know, we would building a garage and,
7 because they're never in town so that he could pass it on to Missy Copeland and her
8 husband. So they were aware of, you know, of where the, you know, that we were
9 going to build a garage and of course they've been home, you know, I couldn't tell you
10 exactly when but they have been to the house and have seen because she told me last
11 night that they saw the markings of where the garage, you know, and everything would
12 be placed.

13 CHAIRMAN RUSH: I guess one more thing. The house that is setback
14 [inaudible] next property [inaudible] she's trying to [inaudible].

15 MS. CECERE: I mean, I think he said that that – isn't that, the next house where
16 they live, where Missy – what is her name?

17 MR. MACK: Copeland.

18 MS. CECERE: Copeland – where the Copelands live is 50' off the line.

19 MR. MACK: Yes, ma'am. And they have, there was a picture up there. They
20 have, there was, they have, the house has a four-car you know garage built into the
21 house already. So you can see that the garage right there it's kind of a garage and in-
22 law suite over the top of it, you know, I doubt they would need down the road any more.

1 CHAIRMAN RUSH: I guess what I'm saying is if [inaudible] that house
2 [inaudible] next owner because they are encroaching on their property will they have
3 [inaudible]?

4 MS. CECERE: Excuse me. I don't see where it would be encroaching. He is,
5 the homeowners association in Ascot is okay with it and they're saying theirs is like,
6 their requirements are 10' and from, which would make 20, 10' on their side and 10' on
7 their side which would be 20' which in this case we're talking 60' and so, I mean, I don't
8 see.

9 MR. MACK: There are variances – I know I sent in – I don't know whether it was
10 passed on, a packet of the covenants that were like 150 pages just, you know, just so
11 that you had a whole copy but in the back of them there are variances that have been,
12 and I know they don't apply to me but I'm just saying down the, you know, to other
13 homes in the area to where we have homes that are 10', you know, actual homes that
14 are 10' off the property line and one house is like eight foot off of the property line. You
15 know, but they've gotten variances and it's in the, you know, it's been filed in the
16 covenants.

17 MR. PRICE: I'm sorry. Staff did receive that information. The reason why it
18 wasn't included is because once again our requirements would supersede any of the
19 covenants that they may have so just I guess to kind of keep from confusing the, what
20 the request was we're going to stick with what is required by the county and not so
21 much what they may approve from the homeowners association.

1 CHAIRMAN RUSH: I guess the biggest thing is, are there extraordinary
2 exceptional conditions. Would somebody like to go through the Findings of Facts for
3 this Variance? Would you like to go through the Findings?

4 MR. COOKE: Sure. All right. Are there any, are there extraordinary and
5 exceptional conditions pertaining to the particular piece of property? I think he
6 answered that by saying yes. I would answer that by saying yes. And that was
7 speaking from his own words the turning radius will be affected so the turning radius is
8 basically the issue here. I don't know if that's extraordinary or if we can consider that to
9 be extraordinary or not so, I mean, I really would like to move to entertain discussion on
10 –

11 CHAIRMAN RUSH: Discussion on that point? By moving it in, in the garage
12 seven feet -

13 MR. COOKE: Would that be extraordinary?

14 CHAIRMAN RUSH: - in. Discussion by the Board?

15 MS. PERRINE: I think that's, would be – could not be extraordinary and
16 exceptional because it's his own doing, right? That's a hard one.

17 MR. COOKE: I don't think it is.

18 CHAIRMAN RUSH: Yeah. It's hard for me to find that extraordinary condition in
19 that regard.

20 MR. SMITH: But looking at the setbacks on each side and behind the property it
21 looks as if there is like you said only a third of the land is being used there and in
22 regards to how it's set to the side with the 50' on one side and the 10', I think you came
23 to the conclusion 60' that it's going to be separating the left side and because the actual

1 next door neighbor doesn't have a garage that sets at the side of the house it seems as
2 if it's almost safe to be able to say that the future tenants of the next house will be okay
3 with the scenario but I don't see the exception really with the radius, as a special
4 exception that is.

5 MR. COOKE: Now Mr. Price his covenant has separate setbacks and as far as
6 Richland County is concerned the setbacks are considered to be the same all across
7 throughout the neighborhood; is that correct?

8 MR. PRICE: Yes. According to the approved subdivision plat for this, this was
9 developed under the RU zoning district which is required to have a certain square
10 footage for a lot, dimensional requirements for a lot and also setback requirements so
11 that is what is required.

12 MR. COOKE: Is that throughout the entire -

13 MR. PRICE: For this particular section, yes.

14 CHAIRMAN RUSH: Right down the street is different because -

15 MR. PRICE: This phase, right. But for this particular phase this is - what's
16 required is 40' from the front, 50 from the rear, 20 from the sides for the principal use
17 and 20 from the side and 20 from the rear for an accessory use. What you have are
18 two phases of different zoning districts that happen to meet.

19 MS. CECERE: What caused the other section to be different?

20 MR. PRICE: That's, well how they developed it. I mean, when you're talking
21 about Ascot and some of your larger communities, you know, we can go to Lake
22 Carolina, we can go to the Summit, some of the larger, this wasn't a PDD but the way
23 they develop them they have different types of, you know, units there and lots.

1 MR. COOKE: And he's researched it and he says the lot next to him setback is
2 considered to be -

3 MR. PRICE: Yeah. When we pulled it up -

4 MS. CECERE: On that – that's the new developed section.

5 MR. COOKE: No, it's, it's -

6 MS. CECERE: No?

7 MR. MACK: It's my right property line. It's not a new section. The houses to the
8 right of me, I'm building on the left side. The house that's to the right of me and my
9 property line the offset is 10' there.

10 MR. COOKE: That's what I'm thinking. I mean, if he would have built his house,
11 I mean, one acre over he wouldn't even be here.

12 CHAIRMAN RUSH: Yeah, I understand.

13 MR. PRICE: But it would have been a different phase with different
14 requirements.

15 MS. CECERE: Different phase and what?

16 MR. PRICE: With different requirements. I mean, once again going I guess
17 east, south of the property it's zoned, has a different zoning which has different
18 requirements as opposed to building over here for, you know, you get larger lots and
19 they have different requirements.

20 MS. CECERE: Mr. Mack, did you consider in adding this garage on to your
21 house actually? Was that a possibility? I know you have the garage coming off the
22 back and would it somehow -

1 MR. MACK: We have looked at that. I don't know, the only place it would go
2 would be on the, right behind the garage that we have now and so it would come,
3 actually the length of the driveway, you know, it would come – you can't – the two
4 windows to the left right there are the garage – yeah, right there is the garage – and the
5 door's right there. It would have to be added on to the back of that and it still has to be
6 a side entry garage so we would have to wind the, you know, driveway out to the left
7 which the driveway would have to encroach on the setback also in order to be able to
8 get into it.

9 MS. CECERE: So what you're saying is the garage doors could not face the
10 street? That's part of the covenant?

11 MR. MACK: Yes, ma'am.

12 MR. SMITH: Looking at the plan there's a back door going to the back side of
13 the garage property. Are you planning to have a porch area behind the home?

14 MR. MACK: Actually when they did the survey that plat is rotated. Let me make
15 sure. Yes, I'm sorry. I'm telling you. There is a double door out of the back for, in order
16 to have access because I've got a fence that goes off the property, off my house, across
17 my house so that I'll be able to go into the, out the back door into the backyard.

18 MR. SMITH: So you're going to have a fence that's going to be behind the actual
19 garage.

20 MS. CECERE: The fence is already there.

21 MR. MACK: The fence is there but the fence is going to –

22 MR. SMITH: I see but on the actual, is that with the – looking at the plans here
23 I'm seeing that it's going to be on the backside of it.

1 MR. MACK: It's going to come 10' forward from the fence so the fence would
2 kind of come off the existing house and then tie into, because I've got dogs in the
3 backyard. So the fence would come straight across and then tie up to the back of the
4 garage to where that door is to the –

5 MS. CECERE: Those architectural windows would actually face the front of the
6 property?

7 MR. MACK: Yes. It's got to match the front of the, you know, the front of the – it
8 has to match the house exactly.

9 MR. COOKE: This is [inaudible].

10 MS. CECERE: Yeah. That's what he said, it's reversed.

11 MR. COOKE: All right. So that's –

12 MR. MACK: This is the, the bottom right, I mean, the bottom left picture will be
13 what is facing the house now, straight at us to where, you know, we would enter straight
14 in this way, turn left off the driveway. But the bottom right would be the back of the
15 garage facing the fence and then of course the top right would be the part facing the
16 street, you know, because where it has to match the house.

17 MR. COOKE: That makes sense then. But there is going to be no other
18 structure or any type of cement patio that's going to be behind there?

19 MR. MACK: No, sir. It's all wooded, it's all wooded area.

20 MR. COOKE: Just to make sure. Okay. Mr. Price, Mr. Mack has stated that
21 there, I don't know if you can speak on this, but he had stated that there were other
22 variances approved in this neighborhood. I know that's going to answer number five,

1 does this condition generally apply to other properties in the vicinity? [Inaudible] within
2 this neighborhood? We don't know.

3 MR. PRICE: I mean, that may have been something that they may have done
4 through the homeowners association, that doesn't necessarily make it right. So, but as
5 far as the county's concerned I don't recall any other variances in this particular area
6 being granted from the Board.

7 MR. COOKE: Mr. Chairman?

8 CHAIRMAN RUSH: Any more discussion on extraordinary - I think that's sort of
9 where we are.

10 MR. SMITH: Yes, sir. That's where we are. So I ask the question again. Are
11 there extraordinary or exceptional conditions pertaining to the particular piece of
12 property?

13 MR. COOKE: I'm saying no.

14 MR. SMITH: Okay. If the answer is no a variance cannot be granted if there is
15 not any extraordinary or exceptional conditions.

16 CHAIRMAN RUSH: Can I get a motion?

17 MR. SMITH: Okay. I would like to move to deny the variance based on the
18 Findings of Facts, Variance 08-75 based on the Findings of Facts.

19 CHAIRMAN RUSH: I'll second that. All in favor?

20 ***[Approved: Perrine, Rush]***

21 MR. PRICE: Those in favor are Perrine, Rush.

22 CHAIRMAN RUSH: All right. All against?

23 ***[Opposed: Branham, Cecere, Cooke, Smith.]***

1 MR. PRICE: Those against the motion, Branham, Cecere, Cooke, Smith.

2 CHAIRMAN RUSH: That motion fails. All right. Well we'll go back to number
3 four. I guess we need to state what the extraordinary and exceptional –

4 MR. SMITH: A question for you. Are there any other properties in the
5 community, I mean, instead of asking Mr. Price about any other variances, are there
6 any other detached garages in that phase of the community that are similar to what
7 you're looking to incorporate with your –

8 MR. MACK: There are detached garages, yes, sir.

9 MR. SMITH: Okay. That are added with the garages that are attached to the
10 property? So these are –

11 MR. MACK: Yes, detached.

12 MR. SMITH: - extra garages?

13 MR. MACK: Yes, sir.

14 MS. CECERE: Do you know were those garages at that time built when the
15 whole development went in – excuse me, I'm going to address this to Mr. Price. If when
16 this property, when this community was established and that someone would have built
17 a detached garage at that point like let's say when they had the open house thing,
18 would they have had to come before the Zoning Board to request special exception if
19 they were?

20 MR. PRICE: A variance?

21 MS. CECERE: A variance, uh-huh (affirmative).

22 MR. PRICE: Any time you're going to build any type of construction that would
23 require some type of encroachment you are required to come in and get a variance.

1 Now that's not to say that over the years not just in this community, you know,
2 throughout Richland County, in the unincorporated area of Richland County that there's
3 been some people that have kind of built on their own and maybe has not been caught
4 at this time.

5 MS. CECERE: But that would not happen in this community for the simple
6 reason that they have a homeowners association?

7 MR. PRICE: That's not to say.

8 MS. CECERE: I'm sorry?

9 MR. PRICE: I can't say.

10 MS. CECERE: Oh! But you don't remember of any –

11 MR. PRICE: No.

12 MS. CECERE: - variance there in this community?

13 MR. PRICE: No, ma'am. This is actually one of the first times I've been in there
14 for some type of Board action.

15 MR. MACK: I would also like to say that if you look on that plat up there on the
16 screen not only, you know, does the homeowners association have a 10' setback but
17 there is a perimeter around the sides that actually has a seven and a half foot setback
18 when the plat was originally done and I think I sent in a copy of what the Richland
19 County plat has and it shows that the side and rear property lines are seven and a half
20 foot, 15' total on either side of the property line. Now that's on the original plat
21 [inaudible] bottom part of the, you know, the original plat that Richland County has but it
22 states that it's got a seven and a half foot and if you look there's a dotted line around the
23 inside of that plat that shows a seven and a half foot setback on the inside of the plat.

1 MS. CECERE: I'm looking at you, Mr. Price.

2 MR. PRICE: Typically, and what I'll do is I'll just, we'll get a copy of this particular
3 phase so we can actually see that. But typically subdivisions, there's that extra setback
4 that's established and that's usually for easements.

5 MS. CECERE: Okay, Mr. Mack, here's our problem. We need to have a special,
6 to grant this variance we need an extraordinary circumstance why we should grant you
7 that and at this point we don't have this. So basically even though we'd like to grant this
8 to you I don't think at this point we can do it because there aren't any extraordinary
9 circumstances. I mean, I don't –

10 CHAIRMAN RUSH: Actually with that being said we voted down that motion.

11 MR. MACK: And I go back to, I know it's not, I mean –

12 CHAIRMAN RUSH: Point or order. Excuse me, Mr. Mack.

13 MR. SMITH: Mr. Price, in regards to spacing I see there's a two-car garage.
14 They aren't going to have, again your daughters are what, 14?

15 MR. MACK: Fourteen, yes, sir.

16 MR. SMITH: They're going to be driving in the next two years. When it comes
17 down to exceptions in regards to spacing, can spacing in that regard be considered a
18 special exception in regards to growth of the family lifestyle?

19 CHAIRMAN RUSH: I think when we're looking at these cases we need to,
20 because it's sort of, it's more so [inaudible] and if the ordinance is saying that there's a
21 20' setback for garages and they're encroaching into that that's really our perspective
22 on it what we're looking at, not necessarily – it's the property itself not necessarily the
23 other factors or if there are other factors, the other factors pertaining to the property.

1 MR. PRICE: I mean, it's always a tough one like I said and this, this is kind of the
2 conversation I typically have with applicants when they come in. You're, it seems like
3 you're adding a variance to another variance request because you're getting into well do
4 we need – what about the separation but the real question is and, you know, I'm not
5 trying to persuade you one way or the other is usually when someone comes in for a
6 variance the question is do you need this or do you want this a lot of times. And then
7 you get into well tell me what's extraordinary and I think that's where you were headed,
8 Mr. Rush. Of course and what is extraordinary about the property that would require
9 you to build it over? You know, a case like this there could be a septic tank there. You
10 don't want to build on a septic tank. You need to move it over or there's something on
11 the property that would prohibit you from actually building at that location. Now you
12 have a case, you know, the question is in a case such as this are there other areas that
13 this could be built on the property? Are there any other alternatives to the applicant
14 other than right here? Is this finally the only place and the only way this can be built on
15 the property?

16 MR. MACK: And I go back to I'm limited to, you know, 16,000 square foot of my
17 property to build on so, you know, basically I've got to build on, either attach it to the
18 house or close to the house to where I won't have, you know, and I know Mr. Price says
19 it's a matter of want and need but you know, I have paid for the land and, you know, and
20 I'm not going to say that, you know, I understand the setback, you know, it's good for
21 the community and all that but, you know, I think that I'm limited down to 16,000 square
22 foot of 43,000 square foot of my property to build on and I'm asking for, you know, for
23 seven foot for a garage that, we go back to want and need. Well if you look at the

1 Richland County police report we've had a ton of break-ins in our neighborhood into
2 cars. They ask you to park your cars in garages. So you know, in a couple years when
3 I am going to have two daughters that are going to be driving, you know, the amount of
4 cars that have been broken in I will need a safe place for my cars to be parked and the
5 garage is a necessity.

6 MS. CECERE: Excuse me. If let's say he added this garage on to his house and
7 would have to move this driveway over would we back in the same situation that, how
8 far would the driveway have to be –

9 MR. PRICE: Driveways can be built up to the property line. There are no
10 required setbacks for driveways.

11 CHAIRMAN RUSH: Okay. I guess we'll continue with the – thank you, Mr.
12 Mack. I guess we'll continue with the Findings of Facts.

13 MR. COOKE: Do these conditions generally apply to other property in the
14 vicinity? Are those conditions that are, we never did find any exceptional conditions
15 really so –

16 MR. MACK: Well it is in variance. It is in the covenants.

17 CHAIRMAN RUSH: One second. We're in discussion.

18 MR. MACK: I'm sorry.

19 MS. PERRINE: Do we have to continue with these if we said up here that the
20 answer was no so a variance?

21 CHAIRMAN RUSH: The problem with that is we did that but just voted that
22 down.

23 MS. PERRINE: Okay. Gotcha.

1 CHAIRMAN RUSH: Yeah. We just – it was said no. Initially we made a motion
2 to deny based that [inaudible] unless you want to make a motion now?

3 MR. SMITH: A motion I think in regards to the exception I think we realize that
4 there [inaudible] an exception but in regards his aspect of it and what he provided it
5 wasn't so [inaudible] make a motion to be able to implement another exception in the
6 case to where we can vote upon that. Does that make sense?

7 MR. COOKE: Yeah, there was no, there was no extraordinary conditions or
8 there was no exceptional conditions to discuss so like you said the answer to number
9 four was no so we would have to basically make a move to deny the variance.

10 CHAIRMAN RUSH: I'll entertain any motions [inaudible].

11 MR. COOKE: Okay. I'll make the motion I'd like to move to deny the variance
12 based on the findings of facts which is number 08-75.

13 CHAIRMAN RUSH: We have a motion on the table. Do I have a second?

14 MS. PERRINE: I'll second.

15 CHAIRMAN RUSH: Motion and properly seconded. All in favor?

16 **[Approved: Perrine, Rush, Cecere, Cooke]**

17 MR. PRICE: Those in favor: Perrine, Rush, Cecere, Cooke.

18 CHAIRMAN RUSH: All against?

19 **[Opposed: Branham, Smith]**

20 MR. PRICE: Branham, Smith.

21 CHAIRMAN RUSH: Okay. Mr. Mack, your motion for a variance has been
22 denied. Your motion has been denied. Next? Mr. Price, next case?

1 MR. PRICE: [Inaudible] may be a bit out of order before we get to the next case.
2 I would just like to point out one thing in the Code and it's also in the package that you
3 have. I'm not saying, maybe this will make it easier for you but it does state here under
4 the Standard of Review for a variance, "The Board of Zoning Appeals shall not grant a
5 variance unless and until it makes the finding followings [sic]." You know, you're getting
6 to the first one and you've already answered it one way but now [inaudible] you want to
7 argue against that it's [inaudible] you've kind of answered – usually when you get to the
8 first question are there any extraordinary or exception circumstances, you know, and I'm
9 thinking maybe Ms. Linder can you know talk more on that but it seems like if that's the
10 answer's no that there are no extraordinary or exceptional circumstances then you
11 continue to discuss it, trying to find ways around it kind of goes against what's in the
12 Code.

13 CHAIRMAN RUSH: Sorry about that.

14 **CASE NO. 08-76 SE:**

15 MR. PRICE: The next case is Case 08-76 Special Exception. The Board is, the
16 applicant is requesting the Board of Zoning Appeals to grant, to convert a non-
17 conforming use which is a commercial, it's a construction company to another non-
18 conforming use commercial which will be a flower shop on property zoned RS-LD. The
19 applicant is Sandra Chastain. The location 853 Universal Drive. The parcel [inaudible]
20 of an acre [inaudible] a vacant structure. The subject property [inaudible] an
21 unoccupied 40 x 50 structure [inaudible]. The rear of the property is fenced. The
22 applicant as stated proposes to establish a flower shop on the property. This is the
23 subject property. This is the existing building that's on the property. As stated before it

1 was previously used as a construction company. Speaking to the property owner there,
2 they received a certificate of zoning compliance years ago and they've maintained a
3 business license so it is still, it's non-conforming but it's allowed to continue – I'm sorry
4 about that. It is allowed to continue as a construction company currently. And he has a
5 potential buyer that wants to convert this to another non-conforming use in this case will
6 be a flower shop. If the Board were to grant this request the non-conforming use as
7 stated would be a flower shop but any other changes that were, if somebody else were
8 come in and propose a different use it would require them to come back to the Board
9 once again to convert a non-conforming use to another non-conforming use. As stated
10 this is the existing structure. If you look east of this you'll see there's an area for
11 parking. Once again this will be reviewed once by Staff for site plan approval. This is
12 the area potentially for parking. See there's a big fence, there's a gate here and this
13 leads to the rear of the property. This is the parcel that's west of the subject property.
14 You can see it's vacant. Across the street is a church. This isn't directly across the
15 street from it. Actually the parking lot [inaudible] this picture's taken from is the
16 driveway of the proposed site. Down the street is Mill Creek Elementary School. If you
17 look in your aerial this is the neighborhood that actually, east of this is the elementary
18 school and this is the neighborhood and the back of this house is where the actual
19 property is for the proposed flower shop. [Inaudible] side of the neighborhood. This is a
20 view down Universal Drive toward Garners Ferry Road. As you can see there's the
21 church. It's another view. I believe I actually have a picture of the [inaudible] here we
22 go. And this is the rear of the property. As stated before it was used for a construction
23 site and I'm sure this will be cleaned up if the flower shop is granted.

1 CHAIRMAN RUSH: Okay. We have two in favor of. Ms. Sandra Chastain come
2 to the podium and state your name and address for the Record, please.

3 **TESTIMONY OF SANDRA CHASTAIN:**

4 MS. CHASTAIN: I'm Sandra Chastain, C-H-A-S-T-A-I-N. My address is –

5 MS. CECERE: Please speak into the mic.

6 MS. CHASTAIN: My address is number nine Gill Creek Court, Columbia, South
7 Carolina. I guess I'll start with, this is actually a lifetime dream of being able to own my
8 own flower shop. I've been in the industry for 19 years and over the years I've learned
9 from where the Big Lots shopping center is on Garners Ferry Road to Sumter there's no
10 flower shops so a lot of your people in Eau Clair, Hopkins, they have no other place to
11 go to that is local except further down Rosewood or in town. So what I'm trying to do is
12 to branch out to that area down in there which is just growing to have a local florist there
13 for people when they do need to have some deliveries made or when they just need to
14 come by and pick up something. My husband he is an importer, he imports flowers into
15 the country so we are basically flower children. This is all we know and we're just at an
16 opportunity now to where we can buy our own building and we're just really, really
17 excited about it and just hope that this can come through for us.

18 CHAIRMAN RUSH: Any questions for [inaudible]? Mr. Tom Williams if you
19 would like to speak.

20 **TESTIMONY OF TOM WILLIAMS:**

21 MR. WILLIAMS: Good afternoon. My name is Tom Williams, W-I-L-L-I-A-M-S. I
22 run a small construction company out of this building since 19 –

23 CHAIRMAN RUSH: Could you state your address also for the Record?

1 MR. WILLIAMS: 1008 Paramount Drive, Columbia. I own property that adjoins
2 this property. I've operated a construction company out of this little shop for the last 18
3 years. When we took it over it was, when I was able to purchase the property it was, it
4 was a body shop [inaudible] or a hang out shop and everything else right in front of the
5 church and it was the biggest blessing in the world for us to get the property and turn it
6 into and convert it into a little small office and shop for our construction company. We're
7 phasing out; I'm going out of business and we're phasing out. I've got a few things still
8 at the back of the property that needs to be cleaned out but Ms. Chastain and her
9 husband is buying the property. We've been trying to get this thing [inaudible]
10 personnel and shop personnel but with her taking it over it would beautify the area a
11 little bit more and I would just like to see her get it.

12 CHAIRMAN RUSH: Any questions? Okay. Thank you, sir. There's no one else
13 to [inaudible] or has signed in. I will open it up now for the Board. Would someone like
14 to go through the Findings of Facts?

15 MR. COOKE: Yes, I would, Mr. Chairman. Were the special requirements for
16 the special exceptions met?

17 MS. LINDER: May I just say, and Staff can correct me, but I believe that special
18 requirement that has to be met is that you have to find that this new use is more in
19 character with the uses permitted in the zoning district than the prior use.

20 MR. COOKE: Okay. So that answer is going to be yes. Will traffic be impacted
21 by this proposal? I'm going to say no. Will this proposal effect vehicle or pedestrian
22 safety? Also is going to be no. Does the potential impact of noise, light, fumes or
23 obstruction of air flow on adjoining properties? That's also going to be no. Would the

1 proposed use have an adverse impact on the aesthetic character of the environs? No
2 also. Is the orientation and spacing of improvements or building appropriate? Being
3 nonconforming I would say yes.

4 CHAIRMAN RUSH: So I open it up now for discussion or a motion.

5 MR. SMITH: Let me just ask a question. How much parking lot space was in the
6 front? You said five cars were usually in the –

7 MR. WILLIAMS: There are six parking, six or seven parking spaces in the front
8 and probably four to five on the side of the building.

9 MR. SMITH: Okay. So there's ample enough.

10 MR. COOKE: I'd like to make a motion. I'd like to move to approve 08-76
11 Special Exception based on the Facts of Findings, I mean, Findings of Facts.

12 MR. SMITH: I second.

13 CHAIRMAN RUSH: I have a motion that has been property seconded. All in
14 favor?

15 **[Approved: Branham, Perrine, Rush, Cecere, Cooke, Smith]**

16 MR. PRICE: All in favor, Branham, Perrine, Rush, Cecere, Cooke, Smith.

17 CHAIRMAN RUSH: All against? Okay. Ms. Chastain, your special exception
18 has been approved. Staff will be in touch.

19 MR. SMITH: Ms. Chastain, congratulations. And what is the name of your
20 company?

21 MS. CHASTAIN: [Inaudible].

22 MR. SMITH: Chastain's Fine Floral.

1 CHAIRMAN RUSH: Okay. The next case, Mr. Price. Or the applicant is still not
2 here?

3 MR. PRICE: I request that the Board, we defer this case so I can get in contact
4 with the applicant. You know, a lot of things tend to happen.

5 CHAIRMAN RUSH: Okay. Based on the fact that the applicant for 08-73 is not
6 here I could I entertain a motion for deferral?

7 MS. CECERE: I make a motion that 08-73 Special Exception will be deferred to
8 our January meeting.

9 MR. COOKE: I'll second that.

10 CHAIRMAN RUSH: I have a motion and a properly seconded. All in favor?

11 *[Vote not recorded]*

12 CHAIRMAN RUSH: Okay. So 08-73 will be deferred to the January meeting.
13 Next order will be approval of Minutes.

14 MR. PRICE: We have on the Agenda for the approval of the calendar, 2009.

15 CHAIRMAN RUSH: Yeah, as soon as we do -

16 MR. PRICE: We want to defer that until the January meeting to give Staff a
17 chance to look at it and make sure all the rooms are secured for those dates.

18 CHAIRMAN RUSH: Okay. So approval of the calendar will be deferred to the
19 January meeting. All right. Now we're in for the approval of Minutes for the November
20 meeting.

21 MR. COOKE: I'd like to make a motion to approve the Minutes.

22 MS. CECERE: I'm looking for my Minutes; I've made corrections in it, I can't find
23 them. On the Present: it should say Susanne Cecere, not Susan. S-U-S-A-N-N-E.

1 MS. PERRINE: And I think it should also show that Mr. Branham and I were out.

2 MS. CECERE: I don't see that on here.

3 MS. PERRINE: It isn't on there.

4 MS. CECERE: Huh?

5 MS. PERRINE: It isn't on there but I think it should be.

6 MS. CECERE: Oh, it should say absent. It should say that Mr. Branham, Ms.
7 Perrine were absent. It doesn't say that in the Minutes.

8 MS. HAYNES: So what line was that one?

9 MS. CECERE: It's just in the opening, yeah. Correction of my first name and
10 that Mr. Branham and Ms. Perrine were absent.

11 CHAIRMAN RUSH: Okay. If anyone would like to make a motion to the Minutes
12 for November with those corrections?

13 MR. SMITH: I make a motion to approve Minutes of the November meeting.

14 MS. LINDER: As corrected.

15 MR. SMITH: As corrected.

16 MR. COOKE: I second the motion.

17 CHAIRMAN RUSH: I have a motion that has been properly seconded. All in
18 favor?

19 *[Vote not recorded]*

20 MR. PRICE: Okay. Those in favor –

21 CHAIRMAN RUSH: And against? With that being it -

22 MS. PERRINE: Don't adjourn yet. In the Minutes y'all we're talking about having
23 a training session or something?

1 CHAIRMAN RUSH: Monday night.

2 MS. CECERE: And when is that going to be? At first it says December the 8th
3 and then y'all said that you were going to check into it so. I don't want to miss it.

4 MS. HAYNES: You've had your six hours haven't you? I think you have your six
5 hours. I think you're good. Regardless, everybody needs to get – well, let's see. Mr.
6 Smith has a year to get his. Mr. Cooke has a year to get his. Torrey? Torrey has a
7 year to get his; correct?

8 MR. PRICE: He should be real close.

9 [Inaudible discussion]

10 MR. PRICE: You're still welcome to take the classes.

11 MS. HAYNES: What we're gonna do is we're gonna try to have the classes here
12 at the county before the end of the year. Planning Commission and Staff need it and
13 we're just trying to get a date when we can get everybody together.

14 MR. SMITH: So it won't be Monday?

15 MS. HAYNES: What? It will not be Monday.

16 MR. SMITH: Okay. There we go.

17 MS. CECERE: Will it be during the day or in the evening?

18 MS. HAYNES: I don't know. They've discussed both.

19 MR. COOKE: I say during the day, lunch will be provided.

20 MR. SMITH: I second that.

21 MR. PRICE: [Inaudible] right down the street.

22 MS. PERRINE: You're talking about, it says take training on land use and the
23 law and such. That's what Mr. Kocy was saying. So –

1 MS. HAYNES: What he means is the training.

2 MS. CECERE: Oh, okay.

3 MS. HAYNES: The mandatory training.

4 MS. PERRINE: Oh, okay. That's one, two, three, four, five, and six; is that
5 correct?

6 MS. HAYNES: Correct. Everybody needs, and if you've had it you know that
7 you've had it [inaudible] yeah. So but I'll let everybody know [inaudible] by next week I'll
8 let you all know who has to take it and how many credits you have already and as I said
9 you're welcome to [inaudible] as far as – let's see, Sheldon and William and Torrey
10 between now and next year you need your six hours. So if you want to jump on and
11 take it you can.

12 CHAIRMAN RUSH: Oh, yeah. I will.

13 MR. SMITH: Does that first class go towards the six?

14 MS. HAYNES: Uh-huh (affirmative).

15 MR. COOKE: The first class? Okay. So that was – that's three?

16 [Inaudible discussion]

17 MR. SMITH: I have a question for Ms. Linder. In regards to January, Ms.
18 Linder? Okay. Are we going, in regards to [inaudible] for me to be able to be off the
19 Board for a case.

20 MR. PRICE: He has a case coming up and he needs to be recused from that.

21 MS. LINDER: He can get a recusal form for one case. We'll just read it into the
22 Record and you would sit out that case.

23 MS. SMITH: I just wanted to make sure it was on the record that [inaudible].

1 MS. LINDER: We'll do that at the January meeting.

2 MR. PRICE: I do have a question kind of regarding that, not necessarily
3 [inaudible] Mr. Smith. If you have to recuse yourself for a case of course you can't vote
4 on it, can you present the case to the Board?

5 MS. LINDER: I would recommend against that. I would recommend having a
6 representative state the case.

7 MR. SMITH: That would be a conflict I understand but my wife is pregnant and
8 she's going to be in her 8th month and in regards to representation I have an attorney
9 but I really didn't want to have my attorney involved.

10 MS. LINDER: If any Members of the Board have questions about the ethics, the
11 Ethics Commission at state level will welcome your comments and you can get an
12 official or semi-official ruling from the Ethics Commission. Anybody has a complaint
13 against you that you violated ethics rules it would go to the Ethics Commission and so
14 they are the definitive people that you need to talk to if you have any questions about
15 whether you can or cannot vote or something and I can get you a phone number for the
16 Ethics Commission.

17 MR. SMITH: Thank you so much. Okay.

18 CHAIRMAN RUSH: Is that it?

19 MR. SMITH: I make a motion to adjourn.

20 MS. CECERE: I second.

21 CHAIRMAN RUSH: All in favor?
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1 **[Approved: Branham, Perrine, Rush, Cecere, Cooke, Smith]**

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[Meeting Adjourned at 2:30 p.m.]