OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION THREE

ARNOLD SHUTE, ET AL.,	)	No. ED112891
	)	
Appellants,	)	Appeal from the Circuit Court of
	)	Franklin County
vs.	)	
	)	Honorable Craig E. Hellmann
BOARD OF ZONING ADJUSTMENTS OF	)	
FRANKLIN COUNTY, MISSOURI, ET AL.,	)	
	)	
Respondents.	)	Filed: March 4, 2025

Arnold Shute and Nancy Durnin (collectively, "Shute") appeal the circuit court's judgment dismissing his petition for writ of certiorari or judicial review against the Franklin County Board of Zoning Adjustment ("Board") granting VB BTS II LLC ("Vertical Bridge") a variance for a wireless communications tower. Vertical Bridge moved to dismiss Shute's petition for two reasons: (1) the claim was barred by the "shot clock" time limitation in § 67.5096.4 and (2) Shute did not preserve his arguments before the Board. The circuit court entered judgment dismissing Shute's petition without stating the reasons for its decision. Shute raises six points on appeal. In Points I and II, Shute argues his petition stated a recognized cause of action. In Point III, he contends the "shot clock" time limitation does not bar his petition. In Point IV, he asserts his claims were preserved because his arguments were mentioned by the Board members. In Point V, he claims he had no duty to preserve his arguments because the Board's hearing was a noncontested case under Chapter 536. Finally, in Point VI, he contends he had no obligation to preserve his arguments because he did not bear the burden of proof.

AFFIRMED.

DIVISION III HOLDS: As to Points I and II, this Court holds that because Shute does not identify any actual rulings or actions of the circuit court, the Points are substantially noncompliant with Rule 84.04 and preserve nothing for review. As to Points IV-VI, this Court holds that because none of the claims in Shute's petition were raised before the Board, he failed to preserve his arguments. Because he failed to preserve his arguments, the circuit court did not err in dismissing his petition. Points I-II and IV-VI are dispositive. This Court declines to address Point III. The circuit court's judgment is affirmed.

Opinion by: Philip M. Hess, P.J.
Gary M. Gaertner, Jr., J. and Renée Hardin-Tammons, J. concur.

Attorney for Appellant: David L. Baylard
Attorney for Respondent: Mark C. Piontek and Christopher M. Blaesing

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