

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **HENRICO COUNTY GOVERNMENT COMPLEX, ON THURSDAY, APRIL 26, 2001,**
4 **AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
5 **DISPATCH ON APRIL 5 AND 12, 2001.**
6

Members Present: Richard Kirkland, Chairman
Daniel Balfour, Vice-Chairman
Gene L. McKinney, C.P.C., C.B.Z.A.
James W. Nunnally
R. A. Wright

Also Present: Benjamin Blankinship, Secretary
Susan W. Blackburn, County Planner II
Priscilla M. Parker, Recording Secretary

7
8 Mr. Kirkland - Welcome, ladies and gentlemen, to the April meeting of the
9 Board of Zoning Appeals. Before we get started, I'll have the Secretary read the rules.

10
11 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
12 and gentlemen. The rules for this meeting are as follows. The Secretary, myself, will
13 call each case. Then the applicant will come to the podium to present the case. At that
14 time I'll ask all those who intend to speak, in favor or opposition, to stand, and they will
15 be sworn in. The applicants will then present their testimony. When the applicant is
16 finished, anyone else will be given an opportunity to speak. After everyone has spoken,
17 the applicant, and only the applicant, will be given the opportunity for rebuttal. After
18 hearing the case, and asking questions, the Board will take the matter under
19 advisement. They will render a decision at the end of the meeting. If you wish to know
20 what their decision is, you may stay until the end of the meeting, or you may call the
21 Planning Office at the end of the day. This meeting is being tape recorded, so we will
22 ask everyone who speaks, to speak directly into the microphone on the podium, and to
23 state your name for the record. Out in the foyer, there are two binders, which have the
24 staff reports for each case, including the conditions suggested by the staff. Mr.
25 Chairman, we have one request for a deferral on the 9:00 o'clock agenda. That is **A-43-**
26 **2001 MELANI BROS.**

27
28 Upon a motion by Mr. Balfour, seconded by Mr. Wright, the Board of Zoning Appeals
29 **deferred** the **A-43-2001** application for a variance to build a sunroom at 1829 Random
30 Winds Court (Townes of Quail Woods) (Tax Parcel 77-18-N-6). The case was deferred
31 for 30 days, at your request, from the April 26, 2001, until the May 24, 2001, meeting,
32

33 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
34 Negative: 0

35 Absent: 0

36
37 Mr. Kirkland - Was anyone here on that case? Let's hear the first one.

38
39 Mr. Blankinship - The first 2 cases are companion cases – shall I call them
40 together?

41
42 Mr. Kirkland - Please.

43
44 **A - 21-2001** **CAREY OAKLEY** requests a variance from Section 24-95(b)(6) of
45 Chapter 24 of the County Code to build a single family home at 21
46 North Elm Avenue (Highland Springs) (Tax Parcel 148-10-E-27
47 (part)), zoned R-4, One-family Residence District (Varina). The total
48 lot area requirement is not met. The applicant has 5,000 square feet
49 total lot area, where the Code requires 6,000 square feet total lot
50 area. The applicant requests a variance of 1,000 square feet total
51 lot area.

52 **A - 22-2001** **CAREY OAKLEY** requests a variance from Section 24-95(b)(6) of
53 Chapter 24 of the County Code to build a single family home at 23
54 North Elm Avenue (Highland Springs) (Tax Parcel 148-10-E-27
55 (part)), zoned R-4, One-family Residence District (Varina). The total
56 lot area requirement is not met. The applicant has 5,000 square feet
57 total lot area, where the Code requires 6,000 square feet total lot
58 area. The applicant requests a variance of 1,000 square feet total
59 lot area.

60
61 Mr. Kirkland - Does anyone else wish to speak on this case? If you all
62 would raise your right hands, including the applicant, and be sworn in.

63
64 Mr. Blankinship - Do you swear that the testimony you are about to give is the
65 truth, the whole truth, and nothing but the truth, so help you God?

66
67 Mr. Kirkland - Have all your adjacent landowners been contacted,
68 according to County Code? We have all the notices here. State your name and state
69 your case.

70
71 Mr. Oakley - I'm Carey Oakley, and what we're here to do is to try to take
72 a parcel of land that has an existing house that's been destroyed by fire, remove the
73 existing house, and build 2 houses on that parcel of land. It is our intent to remove
74 several large trees that pose a threat or danger to adjoining properties, power lines and
75 so forth. That's a summary of it.

76
77 Mr. Nunnally- I think you told us last month, Mr. Oakley, but what size
78 houses are you putting in there, the 2 houses?

79
80 Mr. Oakley - The little houses are 9,950 square foot houses.

81
82 Mr. Kirkland - Say that again.
83
84 Mr. McKinney- 9,000 square foot houses?
85
86 Mr. Oakley - I'm sorry, 950 square foot. They're small, 3-bedroom, 1-bath
87 houses, typical of the area in Highland Springs.
88
89 Mr. McKinney-- So you're putting the minimum of what the code requires?
90
91 Mr. Oakley - Yes sir, we're putting in what we can, what the Code
92 requires.
93
94 Mr. McKinney- What's around you, Mr. Oakley, what size are the homes?
95
96 Mr. Oakley - Directly across the street there are 3 houses similar in size to
97 the ones that I propose to build. In the past 10 years, there have been 7 new homes
98 built on North Elm Street. Of these 7, all of them were built on 50 x 100 foot lots. All of
99 them are the same square footage as the houses that I propose to build. The house
100 directly next door is a nice 2-story frame house, nice side yard. The house directly
101 across the street is a real nice brick, older home, nice home. The 3 houses directly next
102 door to that one are of the type and size that I propose to build here.
103
104 Mr. McKinney- The house next door you say is a 2-story. How many square
105 feet is it, roughly? How about the brick rancher across the street?
106
107 Mr. Oakley - I don't know. Mr. Willis? One-and-a-half-story cape.
108
109 Mr. McKinney- Are you planning on building yours out of brick?
110
111 Mr. Oakley - No sir, it's going to be conventional framing, vinyl siding,
112 brick foundation all the way around. It will have a front covered stoop; it'll have a deck
113 on the back.
114
115 Mr. Balfour-- What are the sizes of the homes on the other 2 corners?
116
117 Mr. Oakley - The other 2 corners, on Vine and Elm, are older homes. My
118 guess would be that they were 1,000 to 1200 square foot homes.
119
120 Mr. Balfour- Old Victorian homes, it looks like from the diagram that we
121 have? Are they 2-story or 1-story?
122
123 Mr. Oakley - Oh no, they're just 1-story homes.
124
125 Mr. McKinney- So you said that your home was going to be the smallest
126 home in this neighborhood?

127
128 Mr. Oakley - No sir, it'll be of the same size as the construction of the 3
129 houses directly across the street from it. There are probably some other homes on the
130 other side of the 2-story home that are of the same size etc.
131
132 Mr. Balfour- Are you already the owner, or do you have it on
133 contingency?
134
135 Mr. Oakley - It's contingency to buy it, yes sir?
136
137 Mr. Balfour- You economically decided you can do better with 2 homes
138 this size, than 1 nicer home, I gather, is that right?
139
140 Mr. Oakley - Yes sir, I think it would be in my best interest.
141
142 Mr. McKinney- Mr. Oakley, what type foundation are you planning on putting
143 in?
144
145 Mr. Oakley - It will be a concrete footing, brick and block foundation.
146
147 Mr. McKinney- So these foundations will be exposed brick?
148
149 Mr. Oakley - Yes sir, all the way around. It won't be just a brick front and
150 cinderblock sides; it'll be brick all the way around.
151
152 Mr. McKinney- Just guessing, but these homes will sell for about \$82 to
153 \$85,000?
154
155 Mr. Oakley - Just guessing, yes sir.
156
157 Mr. Kirkland - Any other questions of Board members?
158
159 Mr. Nunnally- I think you have about 4 more houses down the street
160 towards Nine Mile Road, that are about the same size as you're talking about building,
161 right?
162
163 Mr. Oakley - Yes sir, that's true. I went back and looked up the records,
164 and in the past 10 years, there have been 7 of these houses built, all of them
165 approximately the same square footage as what I'm planning to build. In the first block
166 alone, I believe there are 7 houses that are approximately the same size.
167
168 Mr. Wright- Were all those built on 50-foot lots?
169
170 Mr. Oakley - Yes sir, they were.
171
172 Mr. McKinney- According to your plan, you've got 980 square feet.

173
174 Mr. Kirkland - Any other questions by Board members? We'll hear from the
175 opposition now. Would you like to speak sir? Come on down front. If you would, state
176 your name for the record please.

177
178 Mr. Willis - My name is Jeffrey L. Willis. I live in the brick house directly
179 across from this property, across Elm. My main concern is that it's located on the
180 corner, and that's one of the busier streets in Highland Springs, and we've already seen
181 the effects of what it would be like with 2 households living there. There were major
182 parking problems; the stop sign is located on that side. I've sat out in the yard on
183 numerous occasions and seen people run through the stop sign because they couldn't
184 see it. I think it really poses a significant hazard to the children playing in the street. Of
185 all 4 corners I think we have 9 children between everybody. I also have a concern
186 about what it would do to my property value. All of the houses on that corner are on
187 100 by 100-foot lots, everything surrounding this property that Mr. Oakley is talking
188 about. My house was built in 1943, and the neighborhood is built down around me, and
189 I'm concerned for my property value. There have been several accidents on that
190 corner, and there was actually a little girl who got hit on a bicycle. I would say some of
191 them were attributable to the stop sign being blocked. I realize when they build these
192 new houses, they will have to have driveways, but every house has multiple cars, 2,
193 most cases 3 cars, so some of those are going to be parking on the street. I know for a
194 fact that it is a hazard with blocked view of the stop signs.

195
196 Mr. Balfour- What is your home assessed for?

197
198 Mr. Willis - \$75,000.

199
200 Mr. Balfour- And how long have you lived there?

201
202 Mr. Willis - Ten years, May 1st.

203
204 Mr. Balfour- Are you speaking for any other neighbors, or just yourself at
205 this point?

206
207 Mr. Willis - I think we all have pretty much the same concerns although
208 there may be some added concerns, so they may have something to add. I know
209 myself, if I weren't living in the house, and I was looking at it, it would be something of a
210 deterrent. I have a brick home, and there's going to be 2 smaller frame homes right
211 across the street from me, so I think it would really hurt my resale. It is true that there
212 are 3 frame houses next door to me, in succession, on 50 by 100-foot lots, but they're
213 not rental. They are buying, and to me, it is a little different from being on a busy street
214 corner. Every house on Elm, and then on Fern, on the corners, are on 100 by 100-foot
215 lots, and I think Daisy may be too. I also think that if Mr. Oakley is allowed to build
216 these houses, at a time when he chooses to sell them, I think they may possibly be
217 destined to be lifelong rental homes. I think if he had a single-family dwelling on a 100
218 by 100-foot lot, it would be much more attractive for a sale than 2 houses jammed in

219 together. I'm afraid that I would have lifelong rental properties across from me. Even
220 after he sold them, maybe a realtor would buy them, and they would continue to be
221 rented.

222
223 Mr. McKinney- Mr. Willis, how many automobiles do you have? Do you park
224 on the street?

225
226 Mr. Willis - Three. No. But when you have people come over and visit –
227 my driveway is entering from Vine, not Elm, so there have been occasions when they
228 have parked on the street, but the concern I have with parking on the street over there,
229 is the stop sign is located on that side. All of the people here today, they have
230 witnessed from time to time, vehicles running the stop sign, and you can see their
231 heads snap back where they've seen it right at the last minute, and it's too late. They're
232 in the intersection, and there's just too many kids around there, and it's an invitation for
233 disaster. That's pretty much all of the concerns that I have.

234
235 Mr. Kirkland- Mr. Secretary, what's the pavement width through there at
236 Elm Street?

237
238 Mr. Blankinship - I do not know, Mr. Chairman. It did not look unusual when
239 we visited the site in the field. Put the photograph back up there. I think I'm standing
240 across Elm Street, holding the camera, so you get some idea of what the pavement
241 looks like there.

242
243 Mr. Kirkland - What's that, about a 50-foot right-of-way area, and then it's
244 got 17 feet of pavement, something like that?

245
246 Mr. Blankinship - I can't even say that definitively.

247
248 Mr. Wright- It looks like that stop sign is in the bushes.

249
250 Mr. Blankinship - There's nothing unusual about the pavement there that I
251 noticed when we were in the field.

252
253 Mr. Kirkland - I just wanted to make sure it wasn't real narrow.

254
255 Mr. Blankinship - And you can see that it's not in particularly bad condition
256 either.

257
258 Mr. Kirkland - Yes ma'am, state your name.

259
260 Ms. Sullivan - My name is Lucia Sullivan. I live at 17 North Elm. My
261 property's adjacent to this one. In January they reassessed all of our property; we're
262 paying more taxes, and we really had a traumatic experience for two years with rental
263 property. We're opposed to 2 houses; we'll go along with 1, but I think 2 in that amount
264 of space is too much.

265
266 Mr. Kirkland- And your home is on what size lot?
267
268 Ms. Sullivan - One hundred foot – 100 by 100.
269
270 Mr. Kirkland - Any Board members have any questions? Yes ma'am, state
271 your name for the record.
272
273 Ms. Leper - Lorraine Leper. I live at 15 North Elm Avenue, adjacent to
274 Ms. Lucy Sullivan. I'm also on a 100 by 100-foot lot. I'm a 1-story frame house; I have
275 1800 square feet of living space, not counting the actual square footage of the house. I
276 too disagree with having the 2 homes on the corner. My house is assessed right now at
277 over \$100,000, and I do not wish to have my property value deflated by having 2 rental
278 properties on the corner.
279
280 Mr. Wright- Where do you live? Where is your house?
281
282 Ms. Leper - Mine's 15 North Elm, adjacent to Ms. Lucy's, in the middle of
283 the block.
284
285 Mr. Wright- So you're also on a 100-foot lot?
286
287 Ms. Leper - Yes I am, and it's a 1-story frame house, with 1800 square
288 feet of living space. It's a 4-bedroom. My driveway can hold about 6 cars.
289
290 Mr. Nunnally- Behind you, you have 2 houses on 50-foot lots?
291
292 Ms. Leper - Behind me? They're about the same size property as mine.
293
294 Mr. Blankinship - But 2 of them are on the same amount that you have?
295
296 Ms. Leper - Behind me? It's not really. It kind of crosses over. Mine sits
297 like this, but one kind of meets halfway and extends past mine. The other one just
298 meets halfway and extends over.
299
300 Mr. Kirkland - Any other questions? Anyone else wish to speak in
301 opposition? All right, Mr. Oakley, you have anything to say about their concerns?
302
303 Mr. Oakley - If you would flip back to the picture of the house. You notice
304 where the stop sign is partially obstructed by the hedges. The tree also provides a
305 diversion to the stop sign. All of that will be removed. There's a crepe myrtle bush
306 there, and there's a small dogwood tree in front of the house that we want to keep. One
307 of the neighbors expressed an interest, and she'd like to see that stay.
308
309 Mr. Balfour- The other 2 trees are going to go?
310

311 Mr. Oakley - Yes sir. All the large trees on the property will go. They are
312 what I consider a threat to the power lines, to the adjacent properties, to Ms. Sullivan's
313 property in particular. They could pose a threat to traffic, should we have another ice
314 storm. I think it would be in the best interest to remove all those trees. The shrubbery
315 will be removed across the front of the property. Like I said, the only thing we want to
316 save is a small dogwood tree and a crepe myrtle bush. Everything else will be removed
317 off the lot, providing clear access to the stop sign. Each one of these houses will have a
318 driveway capable of holding at least 2 automobiles. The houses will be respectable;
319 they will be neat and orderly. When we do rent them, the leases are for 1 year, and 1
320 year only. During that time, we have clauses in there where we are allowed to visit the
321 houses, and should they not be kept up to the way I'd want to live in it, then we have the
322 right to evict these people. We've put a "no pets" clause in our rental agreements. I'm
323 trying to do everything I can to be as cooperative in this venture as humanly possible.

324
325 Mr. Balfour- You're definitely not going to put them up for sale?

326
327 Mr. Oakley - No sir. It is not our intent to sell them any time in the near
328 future. Later on down the road, when I turn 65 and it's time to retire or something like
329 that, yes I may indeed sell them. But no, I do not see it right now, barring any financial
330 hardships, or anything like that.

331
332 Mr. McKinney- Let me ask the Secretary a question. This property is zoned
333 R-4. I thought R-4 minimum square feet is 1,000 square feet; R-4A is 950.

334
335 Mr. Blankinship - It is 1,000. There is a note on that, says 1-floor dwellings
336 can go down to 900, let me check. "Finished floor area for 1-story dwellings may be
337 900 square feet." So you can't build two 400 square foot floors, but you could build one
338 900.

339
340 Mr. Oakley - I'd like to address one other issue too, that Mr. Willis brought
341 up. It's about the two families living in this one house. At the time that Mr. Willis
342 experienced the majority of their problems with it, there were 2 families living in this one
343 house, from what I understand from the neighbors. That will not be the case with
344 anything that I put up there. I can't see for the life of me, how we're going to hurt
345 property values, when we have something like this across the road from it now. I can
346 only see improving the property values and the area in Highland Springs.

347
348 Mr. Kirkland - Any other questions by Board members? Anyone else wish
349 to speak? Last call. That concludes the cases. Thank you sir.

350
351 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
352 McKinney, the Board **granted** the application **A-21-2001** for a variance to build a single
353 family home at 21 North Elm Avenue (Highland Springs) (Tax Parcel 148-10-E-27
354 (part)). The Board granted the variance subject to the following condition:

355

356 1. Only the improvements shown on the plan filed with the application may be
357 constructed pursuant to this approval. Any additional improvements shall comply with
358 the applicable regulations of the County Code.

359
360
361 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
362 Negative: 0
363 Absent: 0
364

365 The Board granted this request, as it found from the evidence presented that, due to the
366 unique circumstances of the subject property, strict application of the County Code
367 would produce undue hardship not generally shared by other properties in the area, and
368 authorizing this variance will neither cause a substantial detriment to adjacent property
369 nor materially impair the purpose of the zoning regulations.

370
371 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
372 McKinney, the Board **granted** the application **A-22-2001** for a variance to build a single
373 family home at 23 North Elm Avenue (Highland Springs) (Tax Parcel 148-10-E-27
374 (part))). The Board granted the variance subject to the following condition:

375
376 1. Only the improvements shown on the plan filed with the application may be
377 constructed pursuant to this approval. Any additional improvements shall comply with
378 the applicable regulations of the County Code.

379
380 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
381 Negative: 0
382 Absent: 0
383

384 The Board granted this request, as it found from the evidence presented that, due to the
385 unique circumstances of the subject property, strict application of the County Code
386 would produce undue hardship not generally shared by other properties in the area, and
387 authorizing this variance will neither cause a substantial detriment to adjacent property
388 nor materially impair the purpose of the zoning regulations.

389
390 Mr. Kirkland - OK, Mr. Blankinship.

391
392 **A - 41-2001** **DUNCAN FUNG** requests a variance from Section 24-95(i)(2)(f) of
393 Chapter 24 of the County Code to build an in-ground pool at 611
394 Walsing Drive (Mooreland Landing) (Tax Parcel 124-6-A-10),
395 zoned R-1, One-family Residence District (Tuckahoe). The
396 accessory structure location requirement is not met. The applicant
397 wishes to locate an in-ground pool in the side yard, where the Code
398 allows a pool in the rear yard. The applicant requests a variance to
399 build the pool in side yard.
400

401 Mr. Blankinship - Mr. Chairman, I noted that you had received new sketches of
402 this property on the table when you came in this morning. It's very similar to the sketch
403 in your package, but it shows the location and approximate shape of the pool.
404

405 Mr. Kirkland - Does anyone else wish to speak on this case? If you would
406 sir, raise your right hand and be sworn in.
407

408 Mr. Blankinship - Do you swear that the testimony you are about to give is the
409 truth, the whole truth, and nothing but the truth, so help you God?
410

411 Mr. Kirkland - Would you state your name for the record please? Have all
412 your notices been turned in? We've got them in the file. State your case.
413

414 Mr. White - I do. Luther White. I am the President of Richmond
415 PoolWorks, and I hope to be building a pool for Mr. Fung at his new residence if you will
416 act favorably on the request. There's been some confusion about this particular piece
417 of property from his neighbors, who have expressed concern to Mr. Fung, because of
418 the notice that went to them. That has to do with the definition of side and rear property,
419 according to Henrico County. What we propose to do, what Mr. Fung wants to do, is in
420 fact build the pool in his back yard, which is where most pools are, obviously.
421 Unfortunately, because of the definition of side and rear yards in a property lot, the
422 County has designated the Forest Ridge Court Road to be the front yard. Therefore, his
423 back yard is actually Henrico County's side yard. An in-ground pool is prohibited in a
424 side yard. Granted, it's a small area, but Mr. Fung would much prefer to have a small
425 pool in his own back yard, than a larger pool in the side yard, which would be exposed
426 to his driveway, and neighbors driving past the front of his house. This house does in
427 fact face Walsing Drive. We think this is a fairly simple request, and we hope that you
428 will grant that request.
429

430 Mr. Balfour - What kind of screening are you going to put on the side that
431 faces Forest Ridge Court?
432

433 Mr. White - By Code, there must be a 4-foot minimum fence around it,
434 and I would suggest that Mr. Fung will put some kind of privacy fence around that area.
435 If he does not, I don't know what he'll put. It'll be some kind of fence with mason
436 screening, in terms of trees and bushes, etc.
437

438 Mr. Balfour - You said there was some concern on the part of his
439 neighbors. Has he since shown this new design to his neighbors?
440

441 Mr. White - He has spoken to them, and told them in fact, that he did
442 want to put the pool in the back yard. Because of the notice that they got, that says in
443 fact, he wants to place the pool in the side yard

444
445 Mr. Balfour - I understand the distinction, but do they understand now
446

447
448 Mr. White - Apparently so, because no one is here to dispute that.
449
450 Mr. Blankinship - I spoke to 2 of them on the phone, and explained what the
451 words meant.
452
453 Mr. Kirkland - Any other questions of Board members?
454
455 Mr. Wright- What's the size of the pool?
456
457 Mr. White - It's a fairly small pool, roughly in the neighborhood of 500
458 square feet, free form shape, similar to what's shown on the addendum you have that
459 was passed out today.
460
461 Mr. Balfour- Sort of a liver shape, kidney?
462
463 Mr. White - Lagoon, kidney, something like that. We can't fit a
464 rectangular pool in there because of the By the way, we must, of course, abide
465 by these setbacks, and not a rear setback, we have to abide by the side yard setback,
466 which is 10 feet, as opposed to rear, which is less than that, so we fully realize that we
467 must abide by that, and also the 10-foot setback off the house itself. There is actually a
468 veranda in the back, that's going to be partially enclosed, but I've spoken with the
469 County, and we still must stay 10 feet off of that, as opposed to 6 feet, which you would
470 on a porch or something like that. We're well aware of the restrictions that we have
471 there, and have designed a pool that will fit into that area without crossing those setback
472 lines. The house, by the way, is under construction, and is getting pretty close to
473 completion.
474
475 Mr. Balfour- Ben, I noticed you said the Code regulates in-ground
476 swimming pools as accessory structures – we don't have anything about above-ground
477 pools?
478
479 Mr. Blankinship - Above ground also, but they're a little different regulation.
480
481 Mr. Balfour- What's the different regulation?
482
483 Mr. Blankinship - I know there's a difference when you put them in the flood
484 plain.
485
486 Mr. Kirkland - There's a fence difference too. One's a 42 vs. a 48.
487
488 Mr. White - I don't believe above-ground pools are allowed by the
489 homeowners association in this particular neighborhood anyway.
490
491 Mr. Kirkland - Any other questions? Anyone else wish to speak? That
492 concludes the case. Thank you sir.

493
494 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
495 Wright, the Board **granted** the application **A-41-2001** for a variance to build an in-
496 ground pool at 611 Walsing Drive (Mooreland Landing) (Tax Parcel 124-6-A-10). The
497 Board granted the variance subject to the following condition:

498
499 1. Only the pool described in the application may be constructed pursuant to this
500 approval. No substantial changes or additions to the layout may be made without the
501 approval of the Board of Zoning Appeals. Any additional improvements shall comply
502 with the applicable regulations of the County Code.

503
504 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
505 Negative: 0
506 Absent: 0

507
508 The Board granted this request, as it found from the evidence presented that, due to the
509 unique circumstances of the subject property, strict application of the County Code
510 would produce undue hardship not generally shared by other properties in the area, and
511 authorizing this variance will neither cause a substantial detriment to adjacent property
512 nor materially impair the purpose of the zoning regulations.

513
514 Mr. Kirkland - Next one.

515
516 Mr. Blankinship - **A-43-2001** has been deferred.

517
518 **A - 44-2001** **HAZEL JINETTE** requests a variance from Section 24-9 of
519 Chapter 24 of the County Code to build a single family dwelling at
520 6055 Hines Road (Tax Parcel 231-A-29 (part)), zoned A-1,
521 Agricultural District (Varina). The public street frontage requirement
522 is not met. The applicant has 0 feet public street frontage, where
523 the Code requires 50 feet public street frontage. The applicant
524 requests a variance of 50 feet public street frontage.

525
526 Mr. Kirkland - Does anyone else wish to speak on this case? Okay, Mr.
527 Secretary. If you would, ma'am, raise your right hand and be sworn in.

528
529 Mr. Blankinship - Do you swear that the testimony you are about to give is the
530 truth, the whole truth, and nothing but the truth, so help you God?

531
532 Mr. Kirkland - If you would, state your name for the record. Have all your
533 notices been turned in, according to the County Code? We have them in the file. State
534 your case.

535
536 Ms. Jinnette - Yes sir. I'm Hazel Jinnette. I live at 6067 Hines Road. I
537 would like to give my daughter 2 acres of land, right behind my property. I need a
538 variance for her for a road. I have been on disability for probably 12-14 years. I am a

539 widow. There are times when I'm not able to do certain things for myself, that I depend
540 on Charlotte an awful lot for. It's true, my son lives next door to me, but there are a lot
541 of things that you don't want to ask your son to do for you, where you feel more
542 comfortable with your daughter. Basically, that's what I would like to do.

543
544 Mr. Wright- How would your daughter access the property, Ms. Jinnette?

545
546 Ms. Jinnette - She would have a road, on the other side of my son's
547 property, it would go to the back

548
549 Mr. Wright- And I believe the plat shows that would be a 50-foot right-of-
550 way.

551
552 Ms. Jinnette - It's surveyed 50 feet.

553
554 Mr. Blankinship - It's different on the sketch, 20 feet. So the 50 feet is
555 accurate?

556
557 Ms. Jinnette - Yes sir.

558
559 Mr. Wright- She realizes that she would have the responsibility of
560 maintaining that access?

561
562 Ms. Jinnette - Yes sir, she does.

563
564 Mr. Kirkland - Any other questions? Okay. Yes ma'am, would you like to
565 speak?

566
567 Ms. Reynolds - I am Charlotte Reynolds, Ms. Jinnette's daughter. Our
568 intentions would be to put about an 1800 square foot ranch on that property, enough
569 room where if something would happen to her, I could go and stay at her house, or she
570 can stay at mine, anytime she needs the help.

571
572 Mr. Kirkland - Anyone else wish to speak? That concludes your case.

573
574 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
575 Wright, the Board **granted** the application **A-44-2001** for a variance to build a single
576 family dwelling at 6055 Hines Road (Tax Parcel 231-A-29 (part)). The Board granted
577 the variance subject to the following conditions:

578
579 1. This variance applies only to the public street frontage requirement. Any
580 additional improvements shall comply with the applicable regulations of the County
581 Code.

582
583 2. At the time of building permit application, the applicant shall submit the
584 necessary information to the Department of Public Works to ensure compliance with the

585 requirements of the Chesapeake Bay Preservation Act and the code requirements for
586 water quality standards.

587
588 3. At the time of building permit application, the owner shall demonstrate that the
589 parcel created by this division has been conveyed to members of the immediate family,
590 and the subdivision ordinance has not been circumvented.

591
592 4. Approval of this request does not imply that a building permit will be issued.
593 Building permit approval is contingent on Health Department requirements, including,
594 but not limited to, soil evaluation for a septic drain field and reserve area, and approval
595 of a well location.

596
597 5. The applicant shall present proof with the building permit application that a legal
598 access to the property has been obtained.

599
600 6. The owners of the property, and their heirs or assigns, shall accept responsibility
601 for maintaining access to the property until such a time as the access is improved to
602 County standards and accepted into the County road system for maintenance.

603
604 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
605 Negative: 0
606 Absent: 0

607
608 The Board granted this request, as it found from the evidence presented that, due to the
609 unique circumstances of the subject property, strict application of the County Code
610 would produce undue hardship not generally shared by other properties in the area, and
611 authorizing this variance will neither cause a substantial detriment to adjacent property
612 nor materially impair the purpose of the zoning regulations.

613
614 Mr. Kirkland - Next one, sir.

615
616 **A - 45-2001** **JENNIFER DOWDY-PANTEN** requests a variance from Section 24-
617 9 of Chapter 24 of the County Code to build a single family dwelling
618 at 4212 Darbytown Road (Tax Parcel 240-A-2 (part)), zoned A-1,
619 Agricultural District (Varina). The public street frontage requirement
620 is not met. The applicant has 0 feet public street frontage, where
621 the Code requires 50 feet public street frontage. The applicant
622 requests a variance of 50 feet public street frontage.

623
624 Mr. Kirkland - Is the applicant here? Come forward, please. Anyone else
625 wish to speak? If you would, raise your right hand and be sworn in.

626
627 Mr. Blankinship - Do you swear that the testimony you are about to give is the
628 truth, the whole truth, and nothing but the truth, so help you God?

629
630 Mr. Kirkland - Would you state your name for the record please. Have all

631 your notices been turned in according to the County Code? We have them in the file.
632 Now you can state your case.

633
634 Ms. Dowdy-Panten - I'm Jennifer Dowdy-Panten, and this is my husband Robert
635 Panten, and my father Roy Dowdy. Basically, we're going to build a house on my
636 parents' family farm. We just moved up from Durham, N. Carolina, and all of my life
637 we've been surrounded by my family, and we decided that it would be the best place for
638 my 3 children to grow up, near their grandparents. They do enjoy living and playing on
639 the farm right now, and that's currently where we're living, is with my parents.

640
641 Mr. Blankinship- So you're in somewhat of a hurry right now?

642
643 Ms. Dowdy-Panten - Yes, we really are. Actually, my parents having 3 small
644 children under the age of 2 at their house right now, really are in a hurry to get us out.
645 We just wanted to use the drive that my parents have right now, instead of cutting
646 anymore through their land, because we wanted the back parcel. We were offered an
647 up-front parcel of their land, but I did not want to be that close to the road with my 3
648 small children. I don't think Darbytown Road is such a great place to be playing on
649 anymore. We're right in the middle of that bad curve. The further back they are, the
650 less chance they have of running into the highway.

651
652 Mr. Wright- Is there already a driveway in there that you would use?

653
654 Ms. Dowdy-Panten - The beginning part of the drive is from my parents' drive.
655 Then I have an easement going back to the lot.

656
657 Mr. Wright- Shows a 25-foot wide easement.

658
659 Mr. Blankinship - And you see kind of a cleared strip right along the property
660 line there.

661
662 Ms. Dowdy-Panten - Yes, that's where the fence line is for the horse pasture is.

663
664 Mr. Kirkland - Any other questions by Board members? You gentlemen
665 wish to add anything?

666
667 Mr. Panten - I'm Robert Panten. As my wife mentioned, with the small
668 children, we prefer the setback off the road. It's a nice area, but we've already had pets
669 killed in that road, and we'd prefer not to have a child go that route. Also, as she
670 mentioned, while it's theoretically possible for us to move closer to the road and have
671 frontage, I think that there will be less of an impact on neighbors by building at the back
672 of the property. We've looked at it, and the house basically would be invisible from her
673 parents' house, and the other neighbors are her brother, and the other neighbors are
674 her brother, and the house is only barely visible there, whereas if we built on Darbytown
675 Road, there would be another house right out front, with clear views of the 4 houses
676 across the street, and also better views of her parents' and her brother's house across

677 clear fields, as opposed to being set in the woods.

678

679 Mr. Wright- What size house do you propose to build?

680

681 Mr. Panten - It's 2-story, all brick, 4,000 square feet. It's about the size of
682 the other 2 homes that are existing there.

683

684 Mr. Kirkland - Any other questions? Anyone else wish to speak? That
685 concludes the case. Thank you.

686

687 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
688 Wright, the Board **granted** the application **A-45-2001** for a variance to build a single
689 family dwelling at 4212 Darbytown Road (Tax Parcel 240-A-2 (part)). The Board
690 granted the variance subject to the following conditions:

691

692 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

693 Negative: 0

694 Absent: 0

695

696 1. This variance applies only to the public street frontage requirement. Any
697 additional improvements shall comply with the applicable regulations of the County
698 Code.

699

700 2. At the time of building permit application, the applicant shall submit the
701 necessary information to the Department of Public Works to ensure compliance with the
702 requirements of the Chesapeake Bay Preservation Act and the code requirements for
703 water quality standards.

704

705 3. At the time of building permit application the owner shall demonstrate that the
706 parcel created by this division has been conveyed to members of the immediate family,
707 and the subdivision ordinance has not been circumvented.

708

709 4. Approval of this request does not imply that a building permit will be issued.
710 Building permit approval is contingent on Health Department requirements, including,
711 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
712 of a well location.

713

714 5. The applicant shall present proof with the building permit application that a legal
715 access to the property has been obtained.

716

717 The Board granted this request, as it found from the evidence presented that, due to the
718 unique circumstances of the subject property, strict application of the County Code
719 would produce undue hardship not generally shared by other properties in the area, and
720 authorizing this variance will neither cause a substantial detriment to adjacent property
721 nor materially impair the purpose of the zoning regulations.

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A - 46-2001

DEANNA LYNN WADE requests a variance from Sections 24-95(k) and (c)1 of Chapter 24 of the County Code to build a single-family dwelling at 5200 Randall Avenue (National Heights) (Tax Parcel 171-5-D-1), zoned R-4, One-family Residence District (Varina). The minimum side yard setback and total side yard setback are not met. The applicant has 8 feet minimum side yard setback and 15 total side yard, where the Code requires 10 feet minimum side yard setback and 17 feet total side yard. The applicant requests a variance of 2 feet minimum side yard setback and total side yard setback.

Mr. Kirkland - Anyone else wish to speak on this case? Sir, if you would raise your right hand and be sworn in.

Mr. Blankinship - Do you swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Kirkland - Would you state your name for the record. Have all adjacent landowners been contacted? We have them in the file. Okay, if you would, state your case.

Mr. Jenness - Frank Jenness. Yes sir, they have. This is an area that has been in existence since World War II. I was raised on Randall Avenue; my parents still reside there. Most of the homes here have been built 50-60 years ago, but there's a small parcel of several lots, adjacent to the lot that we're attempting to buy here, and our lot, that have recently been constructed within the last 5 or 10 years. What we're trying to do, is we're trying to keep a house that is in continuity with the, adjacent houses; there are 2 houses across from Lundie that are ranchers, and they look just about identical to the plans that we want to build. They are 950 square feet ranchers, and we're trying to just keep continuity in the direction that the house is facing, the square footage, and you can see by the picture that there's another rancher that's been built, probably about 10 years ago. There are about 3 or 4 homes right in our immediate area, that are basically ranchers, they are facing Randall Avenue, and we're trying to keep that sort of continuity with the house that we're building. We've looked at various plans, and we've cut this down as small as we can possibly get it and still have it facing the front. You have a wide front elevation, and a narrow side elevation. We're trying to keep that and keep the continuity of the area. Unfortunately, we do not have the 2 feet that we need to fulfill the zoning restrictions.

Mr. Balfour- Is there a vacant lot between where you want to build and the next one down?

Mr. Jeness - No, that house, I believe, was built on 2 parcels of land, and it's not buildable, so there's a substantial amount of space between this house that we're talking about building, and the next-door neighbor. Also, across the street, and I

769 didn't see any pictures on that, but down the street on Randall across from Lundie,
770 there are 2 homes, and they look identical to the plans that we have. I think if we could
771 get this accepted, it would surely keep continuity, the setbacks would be the same, they
772 could sit on the back steps and the houses would be in a line, and I don't think we'd
773 have any problems with the neighbors as far as building it this way.

774

775 Mr. Nunnally- What size house do you propose building?

776

777 Mr. Jeness - 950. It's basically identical to the 2 houses that are across
778 from us, across from Lundie. There's also a rancher beside us that's on 2 lots, which is
779 a little bit longer than the 35 feet that we want to build. If we could cut the house down
780 at all, we would, but one foot would take away, if you could only cut it through the
781 bathroom or the kitchen. If you cut it through the bathroom, you'd have to do away with
782 the commode or sink. If you cut it in the kitchen, you'd have to do away with the washer
783 or drier. Unfortunately, neither one of those are very acceptable alternatives. It would
784 be hard to sell.

785

786 Mr. Kirkland - And you're building this to sell, correct? Any other questions
787 by Board members? If not, that concludes the case.

788

789 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
790 Wright, the Board **granted** your application **A-46-2001** for a variance to build a single-
791 family dwelling at 5200 Randall Avenue (National Heights) (Tax Parcel 171-5-D-1).
792 The Board granted the variance subject to the following condition:

793

794 1. The property shall be developed in substantial conformance with the plan filed
795 with the application. No substantial changes or additions to the layout may be made
796 without the approval of the Board of Zoning Appeals. Any additional improvements on
797 the property shall comply with applicable regulations of the County Code.

798

799 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5	
800 Negative:			0
801 Absent:			0

802

803 The Board granted this request, as it found from the evidence presented that, due to the
804 unique circumstances of the subject property, strict application of the County Code
805 would produce undue hardship not generally shared by other properties in the area, and
806 authorizing this variance will neither cause a substantial detriment to adjacent property
807 nor materially impair the purpose of the zoning regulations.

808

809 Mr. Kirkland - Next case.

810

811 **A - 47-2001** **THOMAS R. AND PATRICIA B. GUINAN** request a variance from
812 Section 24-94 of Chapter 24 of the County Code to build a
813 screened porch at 6005 Glen Abbey Drive (Glen Abbey at
814 Wyndham) (Tax Parcel 4-15-B-6), zoned R-3C, One-family

815 Residence District (Conditional) (Three Chopt). The minimum side
816 yard setback and rear yard setback are not met. The applicant has
817 10 feet minimum side yard setback and 38 feet rear yard setback,
818 where the Code requires 12 feet minimum side yard setback and
819 40 feet rear yard setback. The applicant requests a variance of 2
820 feet minimum side yard setback and 2 feet rear yard setback.
821
822 Mr. Kirkland - Does anyone else wish to speak on this case? Raise your
823 right hand and be sworn in.
824
825 Mr. Blankinship - Do you swear that the testimony you are about to give is the
826 truth, the whole truth, and nothing but the truth, so help you God?
827
828 Mr. Kirkland - State your name for the record. If you would ma'am, state
829 your name too. Have all your notices been turned in, according to the County Code.
830 We have them in the file. Okay, state your case.
831
832 Mr. Guinan - I do. Thomas R. Guinan.
833
834 Ms. Guinan - Patricia B. Guinan.
835
836 Mr. Guinan - We'd like to put a screened in porch on the existing deck that
837 we have located on the north side of the home. The reason that considerations weren't
838 for the south side of the home, was due to the fact that there's air conditioning units
839 there, and it would be a re-work, so there was a monetary aspect. Also, there is
840 availability from the house, out to the deck. We would then have to construct through
841 the bathroom part of the home, to be able to put it on the south side of the house.
842
843 Mr. Wright- Is the bathroom in the area where that little circular
844
845 Mr. Guinan - To the left of that sir. That window there, that's the
846 bathroom.
847
848 Mr. Wright- Describe the shape of your lot.
849
850 Mr. Guinan - It's irregular, and it runs back from the front side to the back
851 side, with a reduction in footage, so what we would like to do again, is get the variance
852 onto the right side and the back side of the lot, to be able to square off the aspect right
853 here, to be able to square that off, and so it's asking for the variance of 2 feet on both
854 sides of that. It's open to the neighbors adjacent to the right, and there's no other
855 obstructions or any hindrance there.
856
857 Mr. Wright- Seems that the irregular shape of the lot is what's causing
858 your problems.
859
860 Mr. Guinan - That's correct, sir.

861
862 Mr. Kirkland - Any other questions of the Board members? Would you like
863 to add anything ma'am?
864

865 Ms. Guinan - I just wanted to state that our neighbors have called us, and
866 no one has had any complaints. They've all encouraged us and wished us luck today.
867

868 Mr. Kirkland - Anyone else wish to speak? That concludes the case.
869

870 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
871 McKinney, the Board **granted** your application **A-47-2001** for a variance to build a
872 screened porch at 6005 Glen Abbey Drive (Glen Abbey at Wyndham) (Tax Parcel 4-15-
873 B-6). The Board granted the variance subject to the following condition:
874

875 1. Only the improvements described in the application may be constructed pursuant
876 to this approval. No substantial changes or additions to the layout may be made without
877 the approval of the Board of Zoning Appeals. Any additional improvements shall
878 comply with the applicable regulations of the County Code.
879

880 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
881 Negative:		0
882 Absent:		0

883
884 The Board granted this request, as it found from the evidence presented that, due to the
885 unique circumstances of the subject property, strict application of the County Code
886 would produce undue hardship not generally shared by other properties in the area, and
887 authorizing this variance will neither cause a substantial detriment to adjacent property
888 nor materially impair the purpose of the zoning regulations.
889

890 Mr. Kirkland - All right, Mr. Blankinship.
891

892 **A - 48-2001** **DARLENE STRAUSE** requests a variance from Section 24-94 of
893 Chapter 24 of the County Code to build a sunroom and a deck at
894 12009 Cottage Creek Court (Chapelwood) (Tax Parcel 56-21-A-8),
895 zoned R-4C, One-family Residence District (Conditional) (Three
896 Chopt). The rear yard setback is not met. The applicant has 25 feet
897 rear yard setback, where the Code requires 35 feet rear yard
898 setback. The applicant requests a variance of 10 feet rear yard
899 setback.
900

901 Mr. Kirkland - Anyone else wish to speak on this case? If you would, sir,
902 raise your right hand and be sworn in.
903

904 Mr. Blankinship - Do you swear that the testimony you are about to give is the
905 truth, the whole truth, and nothing but the truth, so help you God?
906

907 Mr. Smith - My name is Larry Smith; I'm with Patio Enclosures,
908 representing Darlene Strause on the situation.

909
910 Mr. Kirkland - Have all your notices been turned in according to Code?

911
912 Mr. Smith - Yes sir. First of all, I apologize for Ms. Strause. She truly
913 wanted to be here, but she's on a business trip this week, so she was unable to attend.
914 What we're asking for, this is something that I know you have seen before, adding a
915 sunroom onto the rear of the home, there is an existing deck in place now, which will be
916 torn down. The size of the sunroom will be 14 by 14, with an additional new sun deck off
917 to the side of it. I was looking at the package, and I guess the easiest thing is just to kind
918 of go through that. As far as the variance that's requested, it is 10 feet. I did notice in
919 there that there's a statement about potentially putting it on the other side of the home,
920 which would not require that variance, because of the way that the home is positioned on
921 the lot. The only problem that we have with that, is that that area on that side of the
922 house is a formal dining area. Going with the flow of the home, which is actually Ms.
923 Strauss has been in the home a couple of years, and moved into it brand new, and was
924 looking for something with a sunroom on it to begin with. If we did do it on that side, then
925 we are kind of breaking the flow of that home pretty significantly. She has talked with her
926 neighbors; there is a sort of informal homeowners association present there. This
927 particular project has been signed off or approved by that situation as well.

928
929 Mr. Wright- Mr. Smith, it looks like the rear property line of this particular
930 lot is on an angle.

931
932 Mr. Smith - It is. We're running into this more and more, just as the
933 gentleman just said, it is kind of an irregular line. The neighborhood's pretty interesting.
934 When you run into cul-de-sacs, you run into that problem.

935
936 Mr. Wright- The cul-de-sac causes the problem of where you have to
937 locate the house back on the lot.

938
939 Mr. Smith - Which sometimes, as you know, can be somewhat limiting as
940 far as doing anything to those homes. The area directly behind the house, I don't actually
941 have the lot number in front of me, but the one directly behind them, is vacant, and I don't
942 see any way that anything would ever be built there. It is owned, I guess by the builder,
943 that originally worked in the neighborhood.

944
945 Mr. Wright- So there is no house directly behind this lot?

946
947 Mr. Smith - No sir. As a matter of fact, I don't have a photograph of it,
948 but it's an extremely steep hill, and then kind of like just a common area back there for
949 the people who live in the area.

950
951 Mr. Wright- Is that area back there wooded?

952

953 Mr. Smith - Directly behind it, it is grass, but it's only maybe 25 to 30 feet
954 of grass area, and then it is wooded, and it comes down a hill. Actually, I think the
955 Strauses actually take care of that part. From what I understand, they take good care of
956 it.

957
958 Mr. Blankinship - It is well maintained.

959
960 Mr. Kirkland - Any other questions by Board members? Anyone else wish
961 to speak? That concludes the case.

962
963 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
964 Balfour, the Board **granted** your application **A-48-2001** for a variance to build a
965 sunroom and a deck at 12009 Cottage Creek Court (Chapelwood) (Tax Parcel 56-21-A-
966 8), The Board granted the variance subject to the following condition:

967
968 1. Only the improvements shown in the materials filed with the application may be
969 constructed pursuant to this approval. No substantial changes or additions to the layout
970 may be made without the approval of the Board of Zoning Appeals. Any additional
971 improvements shall comply with the applicable regulations of the County Code.

972
973 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
974 Negative: 0
975 Absent: 0

976
977 The Board granted this request, as it found from the evidence presented that, due to the
978 unique circumstances of the subject property, strict application of the County Code
979 would produce undue hardship not generally shared by other properties in the area, and
980 authorizing this variance will neither cause a substantial detriment to adjacent property
981 nor materially impair the purpose of the zoning regulations.

982
983 **UP- 10-2001** CHARLENE E. ELLIOTT requests a conditional use permit pursuant
984 to Section 24-50.7(b) of Chapter 24 of the County Code to operate
985 a radio station at 6000 Wilkinson Road (Tax Parcel 74-A-14), zoned
986 O-2C, Office District (Conditional) (Fairfield).

987
988 Mr. Kirkland - Anyone else wish to speak on this case? If you would, raise
989 your right hand and be sworn in. Would you state your name for the record?

990
991 Mr. Blankinship - Do you swear that the testimony you are about to give is the
992 truth, the whole truth, and nothing but the truth, so help you God?

993
994 Ms. Elliott - I do. I'm Charlene Elliott.

995
996 Mr. Kirkland - Have all adjacent landowners been contacted according to
997 the Code.

998

999 Mr. Blankinship - I need the originals of your receipts.
1000
1001 Mr. Elliott - I did. I mailed them to you.
1002
1003 Mr. Kirkland - We've got the originals in the file. OK, state your case.
1004
1005 Ms. Elliott - This was originally built as a radio station back in 1937. It is
1006 a historic landmark. It is one of the oldest, still standing, radio stations in the state of
1007 Virginia. I didn't know that when I bought it. I received a letter from the County
1008 congratulating me on owning the oldest one. However, it was shut down back in 1988,
1009 and it sat abandoned. My husband and I purchases the property; we renovated it, and
1010 we would like to turn it into a radio station again. In the time that it was closed down,
1011 back in '88 till now, the County rezoned the area around me, which caused my
1012 inconvenience. If it had never been rezoned, I wouldn't be here today. I would just be
1013 allowed to reopen it as is. The building is already built as a radio station, with sound
1014 rooms; the tower is already there, and has been there. So all I need is permission to
1015 use that tower and the property again. But there is also a radio station directly across
1016 the street. Two towers are already directly across the street. I have been
1017 complimented by numerous neighbors because it sat abandoned for so long, and it was
1018 so overgrown and such an eyesore, that I feel like it's going to continue to be a benefit
1019 to the community, so all I need is your blessings.
1020
1021 Mr. McKinney- You've done a nice job, Ms. Elliott; I've seen it.
1022
1023 Mr. Wright- Have you reviewed the suggested conditions for the case?
1024
1025 Ms. Elliott - When you say the suggested conditions I'm not
1026 sure.....
1027
1028 Mr. Blankinship - The last page of the staff report
1029
1030 Ms. Elliott - Are you talking about on this thing?
1031
1032 Mr. Blankinship - That would be the agenda. We should have mailed you
1033
1034
1035 Ms. Elliott - All I received from the staff was this piece of paper here, it
1036 was a little half sheet
1037
1038 Mr. Blankinship - Notice letter? Instructions?
1039
1040 Ms. Elliott - It was just a little half sheet. I just was looking at it because I
1041 wanted to make sure I did everything. This little sheet that told me to send this to
1042 everybody, and I did that. But that's all I received.
1043
1044 Mr. Wright- If you'll take a look at the suggested conditions. If it's

1045 approved, you'll have to comply with these suggested conditions.
1046
1047 Ms. Elliott - I never received anything.
1048
1049 Mr. Kirkland- We're going to show them to you, right now.
1050
1051 Ms. Elliott_ Prior to the rezoning case, I had to meet with all Public
1052 Works and the zoning people that require bear with me, I've got to think
1053 of the names of all these people that I met with. I know the building inspectors had to
1054 give me approval, the landscape people had to give me approval, the people who
1055 decide whether or not I need lighting, they had to give me approval, and they all came
1056 out and told me that the property was fine the way it is. That was prior to the rezoning
1057 to office use. But I've never seen this for this meeting at all. I literally came to the
1058 County, I didn't (just) make phone calls, and basically knocked on the doors of the
1059 people I had to meet with, to ask them to come out and look at the property. Mr.
1060 Hackett, I believe, who is the environmental people; I can't think of the man's name who
1061 is the building inspector who had to tell me whether or not I needed bathrooms or
1062 sidewalks or bathrooms, but he says no, but everybody said it was fine the way it was,
1063 as long as I didn't build anything new, that I could still continue to plant bushes and
1064 grass, and I'm not allowed to use, I can't show you on there, but you see where that O-
1065 2C is on that thing, south of there I'm not allowed to touch that, and I have no intention
1066 of touching it, there's literally water there.
1067
1068 Mr. Balfour- What kind of station is it going to be – AM, FM.
1069
1070 Ms. Elliott - It's an FM, 89.7 American Family Radio. He's the station
1071 manager, Mr. Fowler.
1072
1073 Mr. Wright- I just wanted to make sure, because I didn't know what all
1074 this meant either. Mr. Blankinship may want to address these conditions. If you have
1075 any questions about them , if we approve this and these are put on, I want to make sure
1076 you're comfortable with them, if it requires additional types of plans.
1077
1078 Ms. Elliott - I'm not sure what you're asking me. You mean, if this is
1079 going to be added additional to the conditional use?
1080
1081 Mr. Kirkland - I assume she's close to the flood plain.
1082
1083 Mr. Blankinship - Right.
1084
1085 Ms. Elliott - There is a 100-year flood plain, right where the O-2C is, and
1086 that's why we're not allowed
1087
1088 Mr. Kirkland- Yes, that's why you can't tamper with that part, I understand.
1089
1090 Mr. Wright- Yes, but tampering is one thing, but submitting all these

1091 plans is something else. I just want to make sure we understood that these are
1092 necessary.
1093
1094 Mr. Blankinship - That's one of our standard conditions for use permits of this
1095 type.
1096
1097 Mr. Wright- What kind of landscaping and lighting plan would you be
1098 talking about?
1099
1100 Ms. Elliott - I was told I didn't need any more.
1101
1102 Mr. Wright- She said she's got all she needs.
1103
1104 Ms. Elliott - That's what I was told when I met with Mr. Silber & Lee
1105 Householder and Susan Blackburn, and I spoke with Mr. Hackett, Environmental, I can't
1106 think of the other man's name. I was told because of the condition that it was before,
1107 what I've done so far to date, right now I have to say the front looks bad, only because
1108 the well went bad, and we had to have the County come out and dig up the whole front
1109 and connect to water. So where we had landscaped and had boxwoods all around the
1110 front, they were ripped up, and it killed the 2 bushes on the sides, so right now I have to
1111 replant all that out front. Even the mulch and stuff is a mixture of rock and dirt, only
1112 because that just happened.
1113
1114 Mr. Wright- I think that's probably what you're talking about.
1115
1116 Mr. Blankinship - That may be all we need to see.
1117
1118 Mr. Wright- Just something that would replace that, and I take it that
1119 you're not going to disturb the land any further.
1120
1121 Ms. Elliott - The only disturbing that I want to do, well I'm not going to
1122 own it any more, American Family is, but what I desired to do was to plant shrubs and
1123 bushes to beautify the place even more. That's all I wanted to do. As far as the
1124 building itself and the tower itself, we're not going to add anything to it or add any
1125 additions. We're just going to use it as is for what it was originally intended.
1126
1127 Mr. McKinney- Mr. Blankinship, isn't she asking just for a use permit to
1128 operate a radio station? She's not asking us to do anything to the property. If she does
1129 anything to the property, she's got to go through the right procedures, whether it be
1130 building inspections or planning and zoning or whatever. All we're listening to is to grant
1131 her or deny her permission to operate a radio station.
1132
1133 Mr. Blankinship - Yes sir, that's correct. The Department of Public Works
1134 contacted us and asked for the third condition, specifically because their normal
1135 threshold is 2500 square feet. If you disturb less than that, you don't normally have to
1136 go through E & S Control, but on this particular property they were concerned with

1137 perhaps a disturbance of 2,000 square feet could cause

1138

1139 Mr. McKinney- She's not asking us to do that.

1140

1141 Mr. Blankinship - Well I'm just stating that if changes were made in the future
1142 that were below 2500 square feet, without this condition there would be no need for
1143 ENS control. With this condition they would have to meet the ENS control regulations,
1144 even if it were less than 2500 square feet.

1145

1146 Ms. Elliott - May I say something? When we first purchased the property
1147 back in May of '99, well we got access to the property in May of '99, we didn't own it
1148 then, we were granted permission by the owner, who is Mr. Drubner, in Connecticut, to
1149 go in and clean it up, even though we didn't own it. We did not know, my husband and
1150 I, Randall and Charlene Elliott did not know we needed permission to bush hog all the
1151 weeds. The weeds were about this tall, and Mr. Hackett came out, who is an
1152 environmental engineer, and gave us a "stop work order." At that time we believed we
1153 satisfied all the needs of the County, and we spoke to Mr. Hackett, and since the
1154 rezoning, we have spoken to Mr. Hackett again. We had to have the Army Corps of
1155 Engineers come out because we bush hogged the weeds, and we had to have a Balzer
1156 Associates do a survey of disturbance of the land, and they did that. We had to make
1157 sure that we put sufficient drainage in because of the wetlands, and it came back that
1158 we actually did over and not less. Even though we didn't know what we were doing, we
1159 actually did over and above the drainage areas, and not less. So those areas back in
1160 '99 were satisfied with the environmental engineers, so we had to meet with three of
1161 them. They gave us a "stop work order," we had to come in and meet with 3 of them,
1162 my husband and I did and they told us what we needed to do. That's when we hired
1163 Balzer and Associates to go out and do a survey of how the wetlands were touched.
1164 We had to contact the Army Corps of Engineers to see if there was any environmental
1165 issues, and there was none. Everything that we had done, even though we did cut over
1166 the minimum square footage that you're allowed without a permit, we didn't know that.
1167 It was the front of the building that faces the road, the weeds had grown up so high that
1168 literally poison ivy was growing over the building, into the building, into the windows, we
1169 cut it down. I didn't know that you weren't allowed to cut it down without a permit, and
1170 we were reprimanded, and we had to do a "stop work order," and we had to do surveys,
1171 but that was back in 1999, but all that was satisfied. Then when we went to open the
1172 building as a radio station, which just happened this past October, we contacted the
1173 County right away, and that's when they told us that even though it was built as a radio
1174 station, because it was closed for over 2 years, we had to get it rezoned. So in order to
1175 get it rezoned, we had to meet these requirements. Everybody came out, they reviewed
1176 it, and it passed. So this is the first time I'm seeing it for this meeting, because I was
1177 told it had already passed. The only reason I would not have an issue at all, and I
1178 would not have to be here, except you see where it says R-2A on Sausiluta Drive and
1179 Wilkinson Road, that used to be A-1. If that still remained A-1 this day, I wouldn't be
1180 here. I would already have the approval. The County went ahead and changed it while
1181 the tower and while the radio station were there. Because it stayed closed for 2 years,
1182 that's where the opposition came. That's nothing but a wooded area, and it's a park.

1183 Homes aren't going to be built there, unless the County sells it, but that's Three Lakes
1184 Park.
1185
1186 Mr. Wright- I just wanted to make sure we do whatever

1187
1188 Ms. Elliott - I do know I have Frank Thornton's blessings, and I also have
1189 Mr. Archer's blessings. Evidently number 3 would cause no problem unless she were
1190 going to disturb the land, which she's not going to do. But number 2, what is a detailed
1191 landscaping and lighting plan, what kind of lighting

1192
1193 Ms. Elliott - I was told by the County that the lighting that's there is
1194 sufficient already, because they don't want commercial lighting, they want residential.
1195 When I moved there, because I literally lived there for a while, I had hired Virginia
1196 Power to come out and put lighting there. They were going to put commercial lighting,
1197 and I told them no, I didn't want commercial, I wanted residential because there was a
1198 residential community across the street. Even without knowing that you would not want
1199 a bright light there, I had done that already, and when the County went out and looked
1200 at it, they said that it was sufficient.
1201

1202 Mr. McKinney- You had this property rezoned, correct. Went before the
1203 Planning Commission, before the Board of Supervisors. Did the Planning Commission
1204 request you to have it landscaped and lighting plan (unintelligible).
1205

1206 Ms. Elliott - They went out and looked at it and said it was fine the way it
1207 was.
1208

1209 Mr. McKinney- It was handled administratively?
1210

1211 Ms. Elliott - Yes.
1212

1213 Mr. McKinney- So they gave you their blessings on the lighting and
1214 landscape plan that you had? So this is really moot? This has been done?
1215

1216 Mr. Blankinship - If there is no need for any new landscaping or lighting, then
1217 there is no need for a new plan. We're certainly not requiring that they install any
1218 lighting that they don't want.
1219

1220 Mr. Wright- Yes, but you said "shall be submitted."
1221

1222 Mr. McKinney- Looks like to me it's already been done, at the time of
1223 rezoning.
1224

1225 Mr. Kirkland- It's been submitted already, I assume.
1226

1227 Mr. Wright- That's my question, do we need that or don't we?
1228

1229 Mr. McKinney- We don't need it in my opinion.
1230
1231 Mr. Wright- I just want to make sure.
1232
1233 Mr. Balfour-- I move we amend it.
1234
1235 Mr. Kirkland - Mr. Wright, do you want to take out number 2, is that what
1236 you're saying?
1237
1238 Mr. McKinney - I'd like to take out number 2.
1239
1240 Mr. Balfour- We can do that when we vote on it.
1241
1242 Mr. Wright- Number 1 and number 3 shouldn't present any problem.
1243
1244 Mr. Kirkland - Okay, we'll do that when we vote on it then. Okay, any other
1245 questions by Board members? Anyone else wish to speak? You'd like to say
1246 something sir?
1247
1248 Mr. Fowler - I'd just like to take the opportunity to accommodate and
1249 recommend that the Elliotts have done just a tremendous job with the renovation of the
1250 property, both the building itself

1251
1252 Mr. Kirkland- Could I ask you to excuse us, I'm sorry, could I have your
1253 name please.
1254
1255 Mr. Fowler - Oh certainly, I apologize. Emmett Fowler, I'm with American
1256 Family Radio. The Elliotts have done a superb job of renovating that building and the
1257 property itself. The building itself was in extreme disrepair, both interior and exteriorly,
1258 and the property itself, as Mrs. Elliott already stated, was overgrown, and they've done
1259 a superb job of getting the property prepared and ready to once again operate as a
1260 radio station. I'd also like to commend them for the fact that they have kept the integrity
1261 of the historical aspect of the property intact.
1262
1263 Mr. Kirkland - Thank you sir. No other questions, no other opposition. That
1264 concludes the case. All right, if you would, before we start the 10 o'clock agenda, we're
1265 pretty close to schedule. We'll take about a ten-minute break.
1266
1267 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1268 Wright, the Board **granted** your application **UP-10-2001** for a conditional use permit to
1269 operate a radio station at 6000 Wilkinson Road (Tax Parcel 74-A-14). The Board
1270 granted the conditional use permit subject to the following conditions:
1271
1272 1. The property shall be used in substantial conformance with the plan filed with the
1273 application. No substantial changes or additions to the layout may be made without the
1274 approval of the Board of Zoning Appeals.

1275
1276 2. There shall be no further land disturbance unless and until an erosion and
1277 sedimentation control plan has been approved by the Department of Public Works.
1278

1279 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1280 Negative: 0
1281 Absent: 0
1282

1283 The Board granted the request because it found the proposed use will be in substantial
1284 accordance with the general purpose and objectives of Chapter 24 of the County Code.
1285

1286 Mr. Kirkland - Okay, 10 o'clock agenda.
1287

1288 Mr. Blankinship - I believe we have one request for a deferral. Is Garlanda Burt
1289 present? **A-56-2001**, I spoke to Mrs. Burt on the phone yesterday. She has 2 lots; she
1290 owns 1, and she was trying to get written authorization from the owners of the other to
1291 apply. She was not able to get that written authorization in time, so she's requested
1292 deferral to the May meeting.
1293

1294 Upon a motion by Mr. Nunnally, seconded by Mr. Wright, the Board of Zoning Appeals
1295 **deferred A-56-2001** application for a variance to build a modular home at 7902
1296 Battlefield Park Road (Tax Parcel 236-A-5). The case was deferred for 30 days, at your
1297 request, from the April 26, 2001, until the May 24, 2001, meeting.
1298

1299 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1300 Negative: 0
1301 Absent: 0
1302

1303 Mr. Kirkland - It has been deferred for 30 days.
1304

1305 Mr. McKinney- Do you have to read the instructions again for the 10 o'clock
1306 people?
1307

1308 Mr. Blankinship - Yes, would you like me to?
1309

1310 Mr. Kirkland - Yes, read the instructions.
1311

1312 Mr. Blankinship - Ladies and gentlemen, the rules for this meeting are as
1313 follows. The Secretary, myself, will call each case. Then the applicant will come to the
1314 podium to present the case. At that time I'll ask all those who intend to speak, in favor
1315 or opposition, to stand, and they will be sworn in. The applicants will then present their
1316 testimony. When the applicant is finished, anyone else will be given an opportunity to
1317 speak. After everyone has spoken, the applicant, and only the applicant, will be given
1318 the opportunity for rebuttal. After hearing the case, and asking questions, the Board will
1319 take the matter under advisement. They will render a decision at the end of the
1320 meeting. If you wish to know what their decision is, you may stay until the end of the

1321 meeting, or you may call the Planning Office at the end of the day. This meeting is
1322 being tape recorded, so we will ask everyone who speaks, to speak directly into the
1323 microphone on the podium, and to state your name for the record. Out in the foyer,
1324 there are two binders, which have the staff reports for each case, including the
1325 conditions suggested by the staff.

1326
1327 **UP- 11-2001** **SPRINT PCS** requests a temporary conditional use permit pursuant
1328 to Section 24-116(c)(1) of Chapter 24 of the County Code to locate
1329 a temporary Cell-On-Wheels at 625 Laburnum Ave (Tax Parcel
1330 106-11-F-14), zoned B-1, Business District (Fairfield).

1331
1332 Mr. Kirkland - Is the applicant here? If you would, come down sir. Does
1333 anyone else wish to speak on this case? Would you raise your right hand and be sworn
1334 in by the Secretary?

1335
1336 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1337 truth, the whole truth, and nothing but the truth, so help you God?

1338
1339 Mr. Kirkland - State your name sir. Have all your notices been turned in
1340 according to the County Code? We have them in the file.

1341
1342 Mr. McLemore - I do. Gil McLemore. Sure. Good morning, Mr. Chairman,
1343 Gentlemen of the Board. As introduced, my name is Gil McLemore. I'm a Zoning
1344 Coordinator for Sprint PCS. In brief summation of our case, Sprint has filed a temporary
1345 use permit application in order to locate a temporary cell-on-wheels, or COW. On this
1346 COW is a self-contained base station and antenna. The antenna will extend to a
1347 maximum of 100 feet. It will occupy less than a 30-foot by 20-foot portion of land to be
1348 leased during the requested permit time frame. The permit requested will allow Sprint
1349 PCS to provide needed coverage to the influx of area visitors present for the upcoming
1350 race series to be held at Richmond International Raceway. As noted in the BZA case
1351 report, ALLTEL was granted a TUP last year and this year for identical use on the same
1352 property. It's Sprint's intent to locate immediately adjacent to ALLTEL's COW for the
1353 same purpose. As with the approved ALLTEL site, our proposed site will preserve the
1354 preexisting character of the lot, its surroundings and use, as well as blend with the
1355 existing characteristics of the site to the extent practical. There will be no traffic, noise,
1356 smoke, odor, dust, vibration, or electrical disturbance generated by the proposed use,
1357 nor will there be any adverse impact on the neighboring area or the adjacent land during
1358 our hours of operation. With that, Sprint respectfully requests approval of the TUP, and
1359 I'll stand by for any questions that you might have.

1360
1361 Mr. Kirkland - Any questions?

1362
1363 Mr. Wright- Have you seen the conditions proposed, and you are in
1364 accordance with those?

1365
1366 Mr. McLemore - Yes sir.

1367
1368 Mr. Kirkland - Any other questions? Let me ask you one question. Are you
1369 all ever going to come out with a permanent site out there?
1370
1371 Mr. McLemore - Well, to this point, this is actually the first time that we've
1372 made an attempt to provide coverage during such an event. This is the first shot we've
1373 had at it. ALLTEL is making a more permanent attempt at covering the area during the
1374 periods of time in which more folks will be out there. It actually is our intent in the future
1375 to perhaps apply for another TUP for an extended time frame. We actually have a site
1376 nearby that has not and is not going to be able to provide the kind of coverage or
1377 capacity that we need for these types of events at the racetrack.
1378
1379 Mr. McKinney- Mr. Secretary, let me ask you a question. We've had some
1380 cases over at this complex at the circuit court, murder trials and whatever, that have
1381 gone on for 3, 4, 5, days. Six, eight and twelve, the major networks, have come in with
1382 their trucks. In fact we had to run them off the sidewalk one time at the courthouse.
1383 They set up and run those towers up in the air. What do we do with them? Anything?
1384
1385 Mr. Blankinship - I guess because those are vehicles we can't approach them
1386 the same way we do these. These are mobile coming to and from the site, but they're
1387 not licensed as motor vehicles, right? And they're set up on the site as a temporary
1388 structure. I think what the TV stations use is licensed as a motor vehicle, so we can't
1389 regulate that any different from any other vehicle parking.
1390
1391 Mr. McKinney- Well, it becomes inoperable as a motor vehicle when they
1392 put the side things down to stabilize it, and they run the antennas up in the air. Are you
1393 saying that if Sprint or these other cell companies had a unit similar to theirs, they
1394 wouldn't have to get a variance?
1395
1396 Mr. Blankinship - I think that's correct, yes, if they were just parking in the
1397 parking lot, we would address that differently.
1398
1399 Mr. Kirkland - It's no different than a crane being used on a construction
1400 site that raises up 200 feet, sits for 2 months. It drives on the road. It's the same
1401 difference. They don't need a special permit.
1402
1403 Mr. McKinney- Well, it'll give you something to think about.
1404
1405 Mr. Blankinship - Get some tags on that thing; same some money.
1406
1407 Mr. Kirkland - Okay, any other questions by Board members? Anyone
1408 else? That concludes the case.
1409
1410 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1411 Wright, the Board **granted** your application **UP-11-2001** for a conditional use permit to

1412 to locate a temporary Cell-On-Wheels at 625 Laburnum Ave (Tax Parcel 106-11-F-14).
1413 The Board granted the use permit subject to the following conditions:

1414
1415 1. The Cell on Wheels shall not remain on the site longer than fifteen days at any
1416 time.

1417
1418 2. This permit shall expire on May 9, 2001.

1419
1420 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1421 Negative: 0
1422 Absent: 0

1423
1424 The Board granted the request because it found the proposed use will be in substantial
1425 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1426
1427 Mr. Kirkland - Next case.

1428
1429 **A - 51-2001** **JOEL BENNETT** requests a variance from Section 24-94 of
1430 Chapter 24 of the County Code to build a screened porch at 3809
1431 French Horn Court (Fox Hall) (Tax Parcel 45-2-A-147), zoned R-
1432 2AC, One-family Residence District (Conditional) (Three Chopt).
1433 The rear yard setback is not met. The applicant has 32 feet rear
1434 yard setback, where the Code requires 45 feet rear yard setback.
1435 The applicant requests a variance of 13 feet rear yard setback.

1436
1437 Mr. Kirkland - Anyone else wish to speak on this case? If you would, sir,
1438 raise your right hand and be sworn in.

1439
1440 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1441 truth, the whole truth, and nothing but the truth, so help you God?

1442
1443 Mr. Kirkland - State your name for the record. Have all adjacent
1444 landowners been contacted? We have them in the file. Okay, state your case.

1445
1446 Mr. Bennett - I do. Joel Bennett. They have. Yes. We'd like to erect a
1447 screened room on the back deck behind our home. As it sits now, if we just put the
1448 screened room on the deck the way it is, we'd already be in violation of the rear yard
1449 setback. So as part of the plans, what we intend to do, actually, is extend that deck six
1450 feet further back so that we can get a room of appropriate size for our family's purposes.
1451 Basically, we sit right next to Little Tuckahoe Creek and the wetlands, and in
1452 summertime, the insect load back there is pretty impressive and basically precludes the
1453 use of the back deck for any purposes outside of barbecuing, where the smoke just
1454 keeps them away. So we'd like to make that a screened room.

1455
1456 Mr. Wright- What's located to the rear of your property?

1457

1458 Mr. Bennett - It's more property for development, which is owned by the
1459 developer, Willie Goode. Right now that's not even subdivided.

1460
1461 Mr. Wright- It appears that your rear lot is on an angle to your house,
1462 which causes a good deal of the problem for your shortage of rear yard. And you're on
1463 a cul-de-sac, which causes your house to be pushed further back on the lot than it
1464 ordinarily would. So your lot configuration conspires against you.

1465
1466 Mr. Bennett - That's correct. Right. We reach a narrow point at one point.
1467 Basically the way it's set up now, we're right against the setback, and there's nothing
1468 more I can do without getting variances.

1469
1470 Mr. Kirkland - Any other questions by Board members? Anyone else wish
1471 to speak? That concludes the case.

1472
1473 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1474 Nunnally, the Board **granted** your application **A-51-2001** for a variance to build a
1475 screened porch at 3809 French Horn Court (Foxhall) (Tax Parcel 45-2-A-147). The
1476 Board granted the variance subject to the following condition:

- 1477
1478 1. Only the improvements shown on the plan filed with the application may be
1479 constructed pursuant to this approval. No substantial changes or additions
1480 to the layout may be made without the approval of the Board of Zoning
1481 Appeals. Any additional improvements shall comply with the applicable
1482 regulations of the County Code.

1483
1484 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1485 Negative: 0
1486 Absent: 0

1487
1488 The Board granted this request, as it found from the evidence presented that, due to the
1489 unique circumstances of the subject property, strict application of the County Code
1490 would produce undue hardship not generally shared by other properties in the area, and
1491 authorizing this variance will neither cause a substantial detriment to adjacent property
1492 nor materially impair the purpose of the zoning regulations.

1493
1494 Mr. Kirkland - Next case.

1495
1496 **A - 52-2001** **MARSHALL G. FOLKES, III** requests a variance from Section 24-
1497 94 of Chapter 24 of the County Code to build a covered front porch
1498 at 3841 Houndstooth Court (Foxhall) (Tax Parcel 45-2-A-156),
1499 zoned R-2AC, One-family Residence District (Conditional) (Three
1500 Chopt). The front yard setback is not met. The applicant has 40 feet
1501 front yard setback, where the Code requires 45 feet front yard
1502 setback. The applicant requests a variance of 5 feet front yard
1503 setback.

1504
1505 Mr. Kirkland - Anyone else wish to speak on this case? Folks, if you'd raise
1506 your right hand and be sworn in.
1507
1508 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1509 truth, the whole truth, and nothing but the truth, so help you God?
1510
1511 Mr. Folkes - Yes sir I do.
1512
1513 Mr. Kirkland - State your name for the record. Have all your notices been
1514 turned in according to the County Code? Now you can state your case.
1515
1516 Mr. Folkes - Marshall Grey Folkes, Jr. Yes. I'm here representing my
1517 son, Marshall, III, who's on the west coast at a business meeting this morning, or he
1518 would be here, I'm sure. It is my understanding that the house was under construction
1519 when he contracted to purchase it. It didn't have a front stoop. They are requesting
1520 that a 5 foot by 9 foot covered front stoop be added to the front of the house, and I think
1521 this is an encroachment of 5 feet on the variance that he's requesting.
1522
1523 Mr. Wright- It appears, Mr. Folkes, that this house is built on a cul-de-
1524 sac, and the fact that it is causes the house to be closer to the front line than it ordinarily
1525 would be if it were a straight line there.
1526
1527 Mr. Folkes - Yes sir. Yes.
1528
1529 Mr. Wright- That probably causes the 5 foot problem. And this is to be a
1530 5 foot by 9 foot covered porch?
1531
1532 Mr. Folkes - Covered stoop, yes sir.
1533
1534 Mr. Kirkland - Any other questions by Board members?
1535
1536 Mr. McKinney- Who's your builder, Mr. Folkes? Your son's builder?
1537
1538 Mr. Folkes - I'm really not that familiar with it, quite frankly. That's the
1539 house. I really can't imagine a house that size not having a porch cover.
1540
1541 Mr. Kirkland - Any other questions? Anyone else wish to speak? That
1542 concludes the case.
1543
1544 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1545 Balfour, the Board **granted** your application **A-52-2001** for a variance build a covered
1546 front porch at 3841 Houndstooth Court (Foxhall) (Tax Parcel 45-2-A-156). The Board
1547 granted the variance subject to the following condition:
1548

1549 1. Only a front porch, as described in the application, may be constructed
1550 pursuant to this approval. No substantial changes or additions to the layout
1551 may be made without the approval of the Board of Zoning Appeals. Any
1552 additional improvements shall comply with the applicable regulations of the
1553 County Code.
1554

1555 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1556 Negative: 0
1557 Absent: 0
1558

1559 The Board granted this request, as it found from the evidence presented that, due to the
1560 unique circumstances of the subject property, strict application of the County Code
1561 would produce undue hardship not generally shared by other properties in the area, and
1562 authorizing this variance will neither cause a substantial detriment to adjacent property
1563 nor materially impair the purpose of the zoning regulations.
1564

1565 Mr. Kirkland - Next case, sir.
1566

1567 **A - 53-2001** **EDWARD C. DOYLE** requests a variance from Section 24-
1568 104(l)(4)(b) of Chapter 24 of the County Code to build a sign above
1569 the roof line at 10075 Jeb Stuart Parkway (Tax Parcel 24-A-9B
1570 (part)), zoned B-3C, Business District (Conditional) (Fairfield). The
1571 sign height requirement is not met. The applicant proposes
1572 placement of its sign above the roofline, where the Code permits
1573 signs below the roofline. The applicant requests a variance to allow
1574 the sign above the roofline.
1575

1576 Mr. Kirkland - Anyone else wish to speak on this case? Gentlemen, if you
1577 would raise your right hands and be sworn in.
1578

1579 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1580 truth, the whole truth, and nothing but the truth, so help you God?
1581

1582 Mr. Kirkland - Would you state your name for the record. Have all your
1583 notices been turned according to the County Code? We have them in the file. Okay,
1584 state your case.
1585

1586 Mr. Doyle - I do. Edward C. Doyle.
1587

1588 Mr. Arbuckle - Russell Arbuckle.
1589

1590 Mr. Doyle - Yes sir. Mr. Chairman, members of the Board, my name is
1591 Edward C. Doyle. I'm with Talley Sign Company. I'm here representing Texas
1592 Roadhouse, a restaurant chain that's building at new location in Henrico County. We're
1593 here to request a variance to allow a sign to go above their roofline. The sign currently
1594 is their standard logo for all over the country. They have approximately 80 locations

1595 right now, all over the country. Mr. Arbuckle here, came in from Louisville to talk about
1596 his chain. We're here to ask for a variance to allow the signage. There's basically
1597 about 3 foot 10 inches of sign that's above the 40-inch line where the sign can be
1598 located, and we're asking for a variance to allow the sign to go the 3 foot 10 inches
1599 above. All the signs right now, all the signs for the locations, are in compliance with the
1600 allowable square footage that's allowed.

1601
1602 Mr. Wright- So it looks like it's the hat that's

1603
1604 Mr. Doyle - It's just the hat. That's correct, just the hat above

1605
1606 Mr. Wright- Take off the hat and you're all right.

1607
1608 Mr. Blankinship - From about Lubbock north.

1609
1610 Mr. Doyle - That's right. So if you did half of Texas, you'd be okay.

1611
1612 Mr. Wright- Lose the top of Texas.

1613
1614 Mr. Doyle - That's right. Maybe we could put Virginia up there.

1615
1616 Mr. Balfour- Put a Virginia state flag up there without the Texas flag.

1617
1618 Mr. Doyle - I'm going to yield to Arbuckle on that. Any questions.

1619
1620 Mr. Wright- How is the roof line established here?

1621
1622 Mr. Blankinship - It really shows better on some of the materials in your
1623 package there. What they have built, it's sort of a parapet wall that goes above the roof
1624 of the building, and the Code requires that the sign not be higher than the roof. On
1625 parapet walls we have interpreted that as allowing some slack above the roof line, but
1626 we at some point in the past set 40 inches as the maximum amount of give in that rule.
1627 If it goes above that, we require the variance. The roofline is determined by where the
1628 actual roof of the building is.

1629
1630 Mr. Wright- Is that it right there?

1631
1632 Mr. Blankinship - Yes sir.

1633
1634 Mr. Wright- So the whole sign is above the roofline?

1635
1636 Mr. Blankinship - Yes sir. But if it were only the words "Texas Roadhouse," we
1637 would have allowed that. It's only the design that goes above that 40-inch line that
1638 caused us to deny the building permit.

1639
1640 Mr. Wright- You don't give any credit for the roof of that pitched area

1641 there?
1642
1643 Mr. Blankinship - Only if there's usable space behind it. Heated and cooled,
1644 enclosed space. There have been cases where someone has built sort of an atrium up
1645 into a little tower effect. I think that's how Best Buy got their sign up where it is. Their
1646 original design was sort of like this. It just had the little peaked façade. We told them
1647 we couldn't approve that, so they changed their building design to make some usable
1648 space behind that, and then we allowed them to put the sign there.
1649
1650 Mr. Wright- It's hard to see where else the sign could go on this building.
1651
1652 Mr. Doyle - Correct. This is their typical design of the building that
1653 they've used in 80 other locations in 20 other states, along with their logo in the center.
1654
1655 Mr. Kirkland - Any other questions?
1656
1657 Mr. Balfour- I gather that the little peak actually goes a little above the hat,
1658 is that right?
1659
1660 Mr. Doyle - Correct.
1661
1662 Mr. Kirkland - Any other questions by Board members? Anyone else wish
1663 to speak on this case? If not sir, that concludes the case. Would you like to say
1664 anything real quick?
1665
1666 Mr. Balfour- What about that Virginia flag?
1667
1668 Mr. Arbuckle - It's not usually what we do, but maybe we can consider it.
1669
1670 Mr. McKinney- Mr. Arbuckle, what's the definition of roadhouse?
1671
1672 Mr. Arbuckle - Our definition is great steaks, good food, good family
1673 atmosphere, serve really good food there.
1674
1675 Mr. Blankinship- Well done.
1676
1677 Mr. McKinney- That's your definition, but is there an actual definition of
1678 roadhouse?
1679
1680 Mr. Arbuckle - There might be, I'm sure there is, but it probably wouldn't be
1681 consistent with what
1682
1683 Mr. McKinney- You don't want to get into that, do you. I think I saw one in
1684 Nevada. It was a really bad movie.
1685
1686 Mr. Kirkland - All right. If no one else wishes to speak, no more questions

1687 by Board members, that concludes the case.

1688

1689 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1690 Wright, the Board **granted** your application **A-53-2001** for a variance to build a sign
1691 above the roof line at 10075 Jeb Stuart Parkway (Tax Parcel 24-A-9B (part)). The
1692 Board granted the variance subject to the following conditions:

1693

1694 1. Only the signs shown on the plan filed with the application may be constructed
1695 pursuant to this approval. No substantial changes or additions to the design may
1696 be made without the approval of the Board of Zoning Appeals. Any additional
1697 signs shall comply with the applicable regulations of the County Code.

1698

1699 2. This approval is subject to all conditions that may be placed on the proposed
1700 Plan of Development by the Planning Commission.

1701

1702 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1703 Negative: 0

1704 Absent: 0

1705

1706 The Board granted this request, as it found from the evidence presented that, due to the
1707 unique circumstances of the subject property, strict application of the County Code
1708 would produce undue hardship not generally shared by other properties in the area, and
1709 authorizing this variance will neither cause a substantial detriment to adjacent property
1710 nor materially impair the purpose of the zoning regulations.

1711

1712 **A - 54-2001** **KENNETH L. AND ANN H. DICKINSON** request a variance from
1713 Section 24-95(c)(1) of Chapter 24 of the County Code to build an
1714 addition at 8009 Silverspring Drive (Tax Parcel 113-A-57), zoned R-
1715 3, One-family Residence District (Tuckahoe). The minimum side
1716 yard setback and total side yard setback are not met. The applicant
1717 has 6.3 feet minimum side yard setback and 15.3 feet total side
1718 yard setback, where the Code requires 8.5 feet minimum side yard
1719 setback and 28.05 feet total side yard setback. The applicant
1720 requests variances of 2.2 feet minimum side yard setback and 9.3
1721 feet total side yard setback.

1722

1723 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1724 truth, the whole truth, and nothing but the truth, so help you God?

1725

1726 Mr. Dickinson - I do, and good morning members and Mr. Chairman. My
1727 name is Kenneth Dickinson, and I have sent all my notices, and they should be in the
1728 file.

1729

1730 Mr. Kirkland - We have them in the file.

1731

1732 Mr. Dickinson - In addition, I met with my 2 neighbors on the right and left of

1779 problem whatsoever with the suggestions made by the planning staff, that any
1780 construction be in conformity with the plans that have already been submitted, we
1781 respectfully request the staff and this Board to grant our minimum side setback and total
1782 yard side setback.

1783
1784 Mr. Kirkland - Any questions by Board members? Anyone else wish to
1785 speak on this case? If not, that concludes the case.

1786
1787 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1788 McKinney, the Board **granted** your application **A-54-2001** for a variance to build an
1789 addition at 8009 Silverspring Drive (Tax Parcel 113-A-57),). The Board granted the
1790 variance subject to the following condition:

- 1791
1792 1. Only the addition shown on the plan filed with the application may be
1793 constructed pursuant to this approval. No substantial changes or additions
1794 to the layout may be made without the approval of the Board of Zoning
1795 Appeals. Any additional improvements shall comply with the applicable
1796 regulations of the County Code.

1797
1798 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1799 Negative: 0
1800 Absent: 0

1801
1802 The Board granted this request, as it found from the evidence presented that, due to the
1803 unique circumstances of the subject property, strict application of the County Code
1804 would produce undue hardship not generally shared by other properties in the area, and
1805 authorizing this variance will neither cause a substantial detriment to adjacent property
1806 nor materially impair the purpose of the zoning regulations.

1807
1808 Mr. Kirkland - Sir, if you're going to have a conversation back there in the
1809 back, you can go out in the lobby. I appreciate it. If you would, sir, call the next one.

1810
1811 **A - 55-2001** **MICHAEL V. HICKS** requests a variance from Section 24-95(i)(2) of
1812 Chapter 24 of the County Code to build a detached garage at 9500
1813 Kingscroft Drive (Kingston) (Tax Parcel 29-2-G-4), zoned R-3A,
1814 One-family Residence District (Three Chopt). The accessory
1815 structure location requirement is not met. The applicant proposes to
1816 build a garage partly in the side yard, where the Code allows
1817 accessory structures in the rear yard. The applicant requests a
1818 variance to locate an accessory structure partly in the side yard.

1819
1820 Mr. Kirkland - Anyone else wish to speak on this case? If you would sir,
1821 raise your right hand and be sworn in.

1822
1823 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1824 truth, the whole truth, and nothing but the truth, so help you God?

1825

1826 Mr. Kirkland - Would you state your name for the record. Have all your
1827 notices been turned in according to the Code. They're in the file. Proceed with your
1828 case.

1829
1830 Mr. Hicks - Michael Hicks. Yes sir. Can you pull up the plat of the home
1831 on the lot. Due to the location of my home on the plat there, the line drawn across the
1832 rear of the property really limits the amount of available space that's there, taking in the
1833 fact that it's an 8-foot easement. They chose to build the house close to the right side of
1834 the lot, and when you draw the line across the back side there, it comes midway down
1835 that fence line. It truly limits the buildable space.

1836
1837 Mr. Wright- Why do you need a 28-foot depth on this garage?
1838

1839 Mr. Hicks - Actually, I was going for 28 on the width, and 24 on the
1840 depth, of the garage. I want to do woodworking in there and also to be able to store
1841 yard utensils and whatnot, to keep from putting another structure in the back yard to try
1842 to store other things. With an extended-cab, full-size truck, you need to try to have
1843 some space to be able to do anything other than to just park a vehicle and not store
1844 anything at all in that area.

1845
1846 Mr. Wright- Will you extend your drive that you've already got over, to
1847 come into the
1848

1849 Mr. Hicks - That drawing right there, that was the original drawing of the
1850 gravel driveway. When you pull up the actual picture, I've changed the angle a little bit
1851 to bring the driveway along with the side of the property, the way that it comes in and it
1852 goes down next to the home. The way that the inside of the house is structured also, it
1853 wasn't feasible to do an attached garage, because there wouldn't have been any
1854 accessible entry into the home. To try to place the garage directly down from the
1855 driveway, if you bring the 8 feet away from the fence line, 10 feet away from the corner,
1856 right there at the deck, it will leave a very tight walkway to try to clear around the deck to
1857 go into the back yard right there. If you put the structure like where that hand is, it truly
1858 limits any of the rear yard access right there where the "lot 4" is written. I'm in the
1859 process of doing a lot of landscaping and by putting the garage over as far as I can on
1860 the corner of the property, it allows me a much larger space right there to do shrubbery
1861 and landscape and that type of thing.

1862
1863 Mr. Wright- You meet the side yard requirements and the rear yard
1864 requirements, you have no problem there.
1865

1866 Mr. Blankinship - And if the angles were square, you'd meet the location
1867 requirement.
1868

1869 Mr. Hicks - Right. If I turned it, though, if you stand up at the front of the
1870 property
1871

1872 Mr. Blankinship - I mean if the house

1873

1874 Mr. Hicks - Yes sir, and in fact, I guess I was naïve to all of this, because
1875 when I came up to submit plans up there, the fellow laid his ruler across and said, "Uh,
1876 you got a little problem here. I didn't even realize the way that the rear yard setback
1877 was determined, by the angle of the house. He said, "wow, the way your house is on
1878 this plot, you're really limited to not much more than a shed. I realize that whoever
1879 came out and surveyed, he stated that he thought I could place a 24 by 24, but I'll tell
1880 you, I went out there with the string and the ruler, and like I said, I went 10 feet off, and
1881 it sure looked like about the best I could get was maybe 18 by 20. Average pick-up
1882 truck is 16 feet, 17 feet long in itself, and I guess that's the hardship.

1883

1884 Mr. Wright- Your house is on a cul-de-sac, which causes a little problem
1885 with the location, and the lot is a little odd-shaped in that regard.

1886

1887 Mr. Hicks - Right, the lot's odd-shaped enough, but the way that they
1888 placed the house on it, it throws even a harder kink into trying to do any type of
1889 structure on it. The way that it is right now, I'm basically leaving all of the yard, any type
1890 of yard utensils that I have to use or whatever, are left outside to the elements. That's
1891 the reason why I'm asking for that much space, to just have one building on the rear of
1892 the property.

1893

1894 Mr. Kirkland - Any other questions? Anyone else wish to speak? That
1895 concludes the case.

1896

1897 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1898 Nunnally, the Board **granted** your application **A-55-2001** for a variance build a detached
1899 garage at 9500 Kingscroft Drive (Kingston) (Tax Parcel 29-2-G-4). The Board granted
1900 the variance subject to the following condition:

1901

- 1902 1. Only the garage shown on the plan filed with the application may be
1903 constructed pursuant to this approval. No substantial changes or additions
1904 to the layout may be made without the approval of the Board of Zoning
1905 Appeals. Any additional improvements shall comply with the applicable
1906 regulations of the County Code.

1907

1908 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1909 Negative: 0

1910 Absent: 0

1911

1912 The Board granted this request, as it found from the evidence presented that, due to the
1913 unique circumstances of the subject property, strict application of the County Code
1914 would produce undue hardship not generally shared by other properties in the area, and
1915 authorizing this variance will neither cause a substantial detriment to adjacent property
1916 nor materially impair the purpose of the zoning regulations.

1917

1918 Mr. Kirkland - Next case, Mr. Blankinship.
1919
1920 **UP- 12-2001 ATLANTIC LEASING ASSOCIATES** requests a temporary
1921 conditional use permit pursuant to Section 24-116(c)(1) of Chapter
1922 24 of the County Code to locate an office trailer at 4508 Oakleys
1923 Lane (Tax Parcel 155-A-6), zoned M-1, Light Industrial District
1924 (Varina).
1925
1926 Mr. Kirkland - Anyone else wish to speak? If you would, raise your right
1927 hand and be sworn in.
1928
1929 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1930 truth, the whole truth, and nothing but the truth, so help you God?
1931
1932 Mr. Kirkland - State your name for the record. Have all your notices been
1933 turned in? We have them in the file. State your case.
1934
1935 Ms. Isaac - I do. Lorraine Isaac. Yes sir. Atlantic Leasing owns the
1936 property to the north. They have gotten a plan of development , and through that plan
1937 of development have gotten 2 administrative approvals, to put temporary trailers on their
1938 present property. One of those trailers has been erected, and is adjacent to their
1939 existing office building. Since the approval of their second administrative approval, they
1940 have finally bought the gold mine. And I know we're all sorry to see the gold mine go.
1941 They are doing a feasibility study right now to see if the gold mine can be rehabilitated,
1942 or if they're going to have to bulldoze it down and start over. But that process has
1943 started. In the meantime, they need office area, and so they have decided that the
1944 trailer they were going to put on the north side of the property should be relocated to
1945 this property they now own. I don't like surprises, and I know you don't like surprises,
1946 but I got a surprise yesterday. Because of the handicap accessibility requirements,
1947 Building Inspections wants them to relocate the trailer. I have a drawing of where it
1948 really has to go in order to get the handicap access.
1949
1950 Mr. Kirkland - Building Inspections stated this?
1951
1952 Ms. Isaac - Yes, in order to meet their requirements, and it was the way
1953 the doors on the trailer were and being able to get ramps to it, that it necessitated a 90-
1954 degree rotation.
1955
1956 Mr. Blankinship- What happens to the fence?
1957
1958 Ms. Isaac - Well, I'd like to talk about the fence. This would be the
1959 location; it's really not that different from what was submitted, but this is what we would
1960 like approved.
1961
1962 Mr. Balfour - Mr. Secretary, so we have any problem about needing
1963 notices if landowners don't like where it's going to be now? I hate to bring that up.

1964

1965 Mr. Blankinship - I don't thing so, Mr. Balfour. The notice doesn't really
1966 provide that detail of information; it just gives people the fact that there will be a public
1967 hearing, and if they have strong feelings about the case, that they should be here at the
1968 hearing.

1969

1970 Mr. Balfour - The notice that they get doesn't tell them where the trailer is?

1971

1972 Mr. Blankinship - No sir.

1973

1974 Ms. Isaac - The notice letter I sent, it was just I sent a cover letter saying
1975 that we would be placing a temporary office trailer on the property.

1976

1977 Mr. Balfour - No problem. I'll rely on my Secretary. If he said that, I'm
1978 satisfied.

1979

1980 Ms. Isaac - So for the proposed condition number 1, I would like that to
1981 apply to this revised plan. I have no problem with condition number 2. Condition
1982 number 3, they have no plans to connect this building to water and sewer. It will be an
1983 office building, and the facilities would be in the adjacent building. That is the office
1984 trailer they have now, that is allowed under their plan of development. It has no water
1985 or sewer, and the people can just walk to their normal building for anything they need.

1986

1987 Mr. McKinney- Mr. Secretary, how about the expiration date of the
1988 temporary permit?

1989

1990 Mr. Kirkland - It was left out of the conditions.

1991

1992 Mr. McKinney- How long do you want it Ms. Isaac?

1993

1994 Ms. Isaac - My understanding was that it was only good for two years.

1995

1996 Mr. Kirkland- So you want it the full 2?

1997

1998 Ms. Isaac - Because they don't know which direction they're going on the
1999 renovation or reconstruction, they would like the entire 2 years.

2000

2001 Mr. Wright- Are you saying there are facilities in that building that's on
2002 the property that could be used by the people in the trailer?

2003

2004 Ms. Isaac - The facilities are to the north. On the map that I was sent, it
2005 shows the existing building. Directly to the north, and they'll just extend the sidewalk
2006 down.

2007

2008 Mr. Wright- So that's part of the project?

2009

2010 Ms. Isaac - The property to the north is the property originally owned by
2011 Atlantic Industrial, and then they have purchased this Gold Mine site, so it's going to be
2012 within just a few feet of their existing office building.
2013
2014 Mr. Wright- How many people would be using this trailer?
2015
2016 Ms. Isaac - Probably only 4 or 5.
2017
2018 Mr. Wright- They would be there all day?
2019
2020 Ms. Isaac - Probably in and out. If you're ever over there, nobody's in
2021 their office very long. The office is continually, they're back and forth, and that's how
2022 they're existing trailer's working.
2023
2024 Mr. Wright- So in other words, they have activities that they have to
2025 attend to outside of the trailer during the daytime. They're not there all day just in the
2026 trailer?
2027
2028 Mr. Wright- - You want this to expire on Saturday, the 26th of April 2003.
2029
2030 Ms. Isaac - Sounds good.
2031
2032 Mr. Wright - And you want condition number 3 deleted?
2033
2034 Ms. Isaac - Yes. And in condition number 4, there are no plans to put
2035 any additional lighting in. And since this is industrial property, and it's surrounded by
2036 industrial property, I would like to request that they put up some kind of screening fence
2037 instead of landscaping. That is what was required with the plan of development, on the
2038 other trailer, that it be put behind a wooden fence. And this is temporary.
2039
2040 Mr. Blankinship - Where would the fence be? There is a fence shown on the
2041 previous plan, but I didn't see it on the plan you presented today.
2042
2043 Ms. Isaac - I talked to Evan Williams, who's an owner of Atlantic
2044 Industrial, and he thought it would probably be across the end facing Oakley's.
2045
2046 Mr. Wright- Which end would that be?
2047
2048 Ms. Isaac - Something in this area.
2049
2050 Mr. Wright- A fence there? Would it come around to the front?
2051
2052 Ms. Isaac - I guess that depends on you. If we put a fence, where would
2053 you like it?
2054
2055 Mr. Wright- Ben, where do you want a fence?

2056
2057 Mr. Blankinship - Well I think the view from Oakley's is mostly what we're
2058 concerned about. It's all industrial property around there, so I don't think there's
2059 anything really sensitive.

2060
2061 Mr. Wright- So would that take the place of condition 4?

2062
2063 Ms. Isaac - That a fence would be erected on the Oakley's Lane side of
2064 the trailer.

2065
2066 Mr. Kirkland - Any other questions? Got all those little changes there, Mr.
2067 Blankinship?

2068
2069 Mr. Blankinship - Sure

2070
2071 Mr. Kirkland - Does anyone else wish to speak? That concludes the case.

2072
2073 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2074 Wright, the Board **granted** your application **UP-12-2001** for a temporary conditional use
2075 permit to locate an office trailer at 4508 Oakleys Lane (Tax Parcel 155-A-6). The Board
2076 granted the use permit subject to the following conditions:

2077
2078 1. Only the trailer shown on the plan submitted at the public hearing may be
2079 constructed pursuant to this approval. No substantial changes or additions to the layout
2080 may be made without the approval of the Board of Zoning Appeals. Any additional
2081 improvements shall comply with the applicable regulations of the County Code.

2082
2083 2. At the time of building permit application, the applicant shall submit the
2084 necessary information to the Department of Public Works to ensure compliance
2085 with the requirements of the Chesapeake Bay Preservation Act and the code
2086 requirements for water quality standards.

2087
2088 3. A six-foot-high privacy fence shall be erected between the trailer and Oakley's
2089 Lane.

2090
2091 4. The trailer shall be removed from the property no later than April 26, 2003, at
2092 which time this permit shall expire. This permit shall not be renewed.

2093
2094 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2095 Negative: 0
2096 Absent: 0

2097
2098 The Board granted the request because it found the proposed use will be in substantial
2099 accordance with the general purpose and objectives of Chapter 24 of the County Code.

2100
2101 Mr. Kirkland - Next one, sir.

2102
2103 Mr. Blankinship - **A-56-2001** has been deferred to the May meeting.
2104
2105 **A - 57-2001** **SHIRLEY D. HALL** requests a variance from Section 24-9 of
2106 Chapter 24 of the County Code to build a single-family dwelling at
2107 8351 New Market Heights Lane (Tax Parcel 250-A-10A (part)),
2108 zoned A-1, Agricultural District (Varina). The public street frontage
2109 requirement is not met. The applicant has 0 feet public street
2110 frontage, where the Code requires 50 feet public street frontage.
2111 The applicant requests a variance of 50 feet public street frontage.
2112
2113 Mr. Blankinship - Mr. Chairman, I should have said this case and the next one
2114 are companion cases.
2115
2116 Mr. Kirkland - If you would, call that one too.
2117
2118 **A - 58-2001** **SHIRLEY D. HALL** requests a variance from Section 24-9 of
2119 Chapter 24 of the County Code to build a single-family dwelling at
2120 8353 New Market Heights Lane (Tax Parcel 250-A-10A (part)),
2121 zoned A-1, Agricultural District (Varina). The public street frontage
2122 requirement is not met. The applicant has 0 feet public street
2123 frontage, where the Code requires 50 feet public street frontage.
2124 The applicant requests a variance of 50 feet public street frontage.
2125
2126 Mr. Kirkland - Does anyone else wish to speak on this case? If you all
2127 would raise your right hand and be sworn in.
2128
2129 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2130 truth, the whole truth, and nothing but the truth, so help you God?
2131
2132 Mr. Kirkland - Would you state your name for the record please. Have all
2133 the notices been turned in according to County Code? We have them in the file. Okay,
2134 state your case.
2135
2136 Ms. Hall - I do. Shirley Hall, and my daughter-in-law, Christina Hall.
2137 Yes sir. I have 3 some acres off of Route 5, and I would like to divide it between my
2138 children and myself. It would be 3 houses. Two of the houses would need road
2139 frontage and the variance for road frontage. It's for my son and my daughter and
2140 myself. I'm widowed. I baby-sit for them. They in turn help me with yard work,
2141 household things, and things like that, so it would be so convenient for the 3 to live there
2142 together.
2143
2144 Mr. Kirkland - Any questions?
2145
2146 Mr. Wright- There are 3 parcels showing on this, A, B, and C.
2147

2148 Ms. Hall - My daughter would build on one parcel, which has road
2149 frontage. I would build on one, and my son would build on the other. They are the 2
2150 that need the road frontage, the variance for the road frontage.

2151
2152 Mr. Wright- I didn't see the road frontage for any

2153
2154 Ms. Hall - I don't think it's on here, but there is County road frontage
2155 that was put back in the year 2000. The County had purchased property from me for
2156 this road in '99, and since that time, it's been hard-surfaced and black-topped and it's
2157 now considered a County road.

2158
2159 Mr. Wright- That's New Market Heights Lane. It's been extended to your
2160 property.

2161
2162 Ms. Hall - Right. Eventually it will be used as an access to, and
2163 extension of Dorey Park.

2164
2165 Mr. Wright- Our plat does not show that.

2166
2167 Ms. Hall - Right. It doesn't quite show it on here either.

2168
2169 Mr. Balfour- What's adjacent to this property? Is it a park or something?

2170
2171 Ms. Hall - Across the County road, in front of the property, it's going to
2172 be an access to Dorey Park in the next few years. I owned like 7 acres there, and after
2173 my husband died, I sold the home and 4 acres and kept the 3, thinking that eventually I
2174 would build down in that area. Like I said, I baby-sit for my son and daughter, and they
2175 in turn help me with the upkeep of the house and the yard, and things like that, so I was
2176 trying to divide the 3 acres between; it would make it so easy for the 3 of us.

2177
2178 Mr. Kirkland - Any other questions by Board members? Anyone else wish
2179 to speak? That concludes the case, ma'am.

2180
2181 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2182 Wright, the Board **granted** your application **A-57-2001** for a variance build a single-
2183 family dwelling at 8351 New Market Heights Lane (Tax Parcel 250-A-10A (part)). The
2184 Board granted the variance subject to the following conditions:

2185
2186 1. This variance applies only to the public street frontage requirement. Any
2187 additional improvements shall comply with the applicable regulations of the County
2188 Code.

2189
2190 2. At the time of building permit application, the applicant shall submit the
2191 necessary information to the Department of Public Works to ensure compliance with the
2192 requirements of the Chesapeake Bay Preservation Act and the code requirements for
2193 water quality standards.

2194
2195 3. At the time of building permit application, the owner shall demonstrate that the
2196 parcels created by this division have been conveyed to members of the immediate
2197 family, and the subdivision ordinance has not been circumvented.
2198

2199 4. Approval of this request does not imply that a building permit will be issued.
2200 Building permit approval is contingent on Health Department requirements, including,
2201 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
2202 of a well location.
2203

2204 5. The applicant shall present proof with the building permit application that a
2205 legal access to the property has been obtained.
2206

2207 6. The owners of the property, and their heirs or assigns, shall accept
2208 responsibility for maintaining access to the property until such a time as the access
2209 is improved to County standards and accepted into the County road system for
2210 maintenance.
2211

2212 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2213 Negative: 0
2214 Absent: 0
2215

2216 The Board granted this request, as it found from the evidence presented that, due to the
2217 unique circumstances of the subject property, strict application of the County Code
2218 would produce undue hardship not generally shared by other properties in the area, and
2219 authorizing this variance will neither cause a substantial detriment to adjacent property
2220 nor materially impair the purpose of the zoning regulations.
2221

2222 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2223 Wright, the Board **granted** your application **A-58-2001** for a variance build a single-
2224 family dwelling at 8353 New Market Heights Lane (Tax Parcel 250-A-10A (part)). The
2225 Board granted the variance subject to the following conditions:
2226

2227 1. This variance applies only to the public street frontage requirement. Any
2228 additional improvements shall comply with the applicable regulations of the County
2229 Code.
2230

2231 2. At the time of building permit application, the applicant shall submit the
2232 necessary information to the Department of Public Works to ensure compliance with the
2233 requirements of the Chesapeake Bay Preservation Act and the code requirements for
2234 water quality standards.
2235

2236 3. At the time of building permit application the owner shall demonstrate that the
2237 parcels created by this division have been conveyed to members of the immediate
2238 family, and the subdivision ordinance has not been circumvented.
2239

2240 4. Approval of this request does not imply that a building permit will be issued.
2241 Building permit approval is contingent on Health Department requirements, including,
2242 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
2243 of a well location.
2244

2245 5. The applicant shall present proof with the building permit application that a legal
2246 access to the property has been obtained.
2247

2248 6. The owners of the property, and their heirs or assigns, shall accept responsibility
2249 for maintaining access to the property until such a time as the access is improved to
2250 County standards and accepted into the County road system for maintenance.
2251

2252 The Board granted this request, as it found from the evidence presented that, due to the
2253 unique circumstances of the subject property, strict application of the County Code
2254 would produce undue hardship not generally shared by other properties in the area, and
2255 authorizing this variance will neither cause a substantial detriment to adjacent property
2256 nor materially impair the purpose of the zoning regulations.
2257

2258 Mr. Kirkland - Next one sir.
2259

2260 Mr. Blankinship - Once again, Mr. Chairman, we have 2 companion cases.
2261

2262 **A - 59-2001** **HENRICO PROPERTIES, L.L.C.** requests a variance from Section
2263 24-52(d)(1) of Chapter 24 of the County Code to grade a riparian
2264 planting bench at 3651 Britton Road (Tax Parcels 206-A-33 and
2265 217-A-31), zoned A-1, Agricultural District (Varina). The setback for
2266 grading operations is not met. The applicant has 0 feet setback for
2267 grading operations, where the Code requires 100 feet setback for
2268 grading operations. The applicant requests a variance of 100 feet
2269 setback for grading operations.
2270

2271 **UP- 13-2001** **HENRICO PROPERTIES, L.L.C.** requests a conditional use permit
2272 pursuant to Sections 24-52(d) and 24-103 of Chapter 24 of the
2273 County Code to amend UP-11-2000, extract materials from the
2274 earth at 3651 Britton Road (Tax Parcels 206-A-33 and 217-A-31),
2275 zoned A-1, Agricultural District (Varina).
2276

2277 Mr. Kirkland - Anyone else wish to speak on this case? If you would sir,
2278 raise your right hand and be sworn in.
2279

2280 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2281 truth, the whole truth, and nothing but the truth, so help you God?
2282

2283 Mr. Kirkland - State your name for the record. Have all adjacent
2284 landowners been contacted? We have them in the file. Okay, proceed with your case.
2285

2286 Mr. Higginbotham - Yes sir. James Higginbotham. Yes sir. What we are
2287 requesting, members of the Board, is that we be allowed to adjacent to I-295, which is
2288 currently a buffer zone, and it will still be a buffer zone, but be able to excavate down
2289 and bring this elevation within approximately 1 foot of the water table in the wet pond,
2290 which will result from the pit once the excavation is complete, which will allow us to
2291 make a riparian planting bench and I call it a wetland area. We contacted Virginia
2292 Department of Transportation, and I had a letter that's being passed out to you right
2293 now, where the Virginia Department of Transportation does support this concept, and
2294 the original plan as shown on the board up here came over to Mr. Gallmeyer, who's
2295 here today. I met with him, and he said he would prefer that we stay away from the
2296 buffer zone adjoining his property, so the plan has been amended. I've got an amended
2297 right here. In talking to Mr. Gallmeyer, I told him that the solid line that I've drawn, that
2298 we would cut that corner off the solid line I've drawn in ink, to avoid any trees. It really
2299 wouldn't be necessary up in that tight corner, to leave that intact. Again, each of you
2300 should have a letter from Mr. Newman with VDOT supporting it. I think it's a win-win
2301 situation that we're going to have a body of water, and if we can turn this area adjacent
2302 to 295 into a planting bench, a wetland area, that environmentally we're doing the right
2303 thing, and I think it's a win-win situation.

2304
2305 Mr. Wright- Would you describe for the record what a riparian bench is.
2306

2307 Mr. Higginbotham - To the best of my knowledge, we cannot call it a wetland
2308 area until we get the Corps of Engineers to call it a wetland area. Our goal is to get it
2309 down within a foot, you put a foot of topsoil in there, and I've got Greg Koontz from
2310 Koontz-Bryant is here, but it's his expert, Mel Thomas, who says the ideal planting
2311 bench is a foot of topsoil within 6 inches of the water table. You're really not under
2312 water, but you've got constant water feeding it, and that's the desired criteria for a
2313 wetland area, but until we get the Corps to bless it as a wetland area, it's still what they
2314 call a planting bench.

2315
2316 Mr. Wright- No wood involved in that?
2317

2318 Mr. Higginbotham - I don't think so.
2319

2320 Mr. Kirkland - Mr. Blankinship, do we have any concerns from Henrico
2321 County on this at all?
2322

2323 Mr. Blankinship - Not that I'm aware of. I see Mr. Hackett shaking his head
2324 "no" in the audience. We were a little concerned about bringing that grading up closer
2325 to the Gallmeyer property, and I was pleased this morning to hear from Mr.
2326 Higginbotham that they had revised the plan. The right-of-way against 295 is, of
2327 course, already substantial, and they've done quite a bit of grading in that area already,
2328 so I don't think there's really anything to be concerned with.

2329
2330 Mr. Kirkland - Anyone else wish to speak? If not, that concludes the cases.
2331

2332 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2333 Wright, the Board **granted** your application **A-59-2001** to grade a riparian planting
2334 bench at 3651 Britton Road (Tax Parcels 206-A-33 and 217-A-31). The Board granted
2335 the variance subject to the following condition:

2336
2337 1. This variance applies only to the setback requirement for extraction
2338 operations. The use shall comply with all conditions of the applicable Use
2339 Permit, and all applicable regulations of the County Code.

2340
2341 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2342 Negative: 0
2343 Absent: 0

2344
2345 The Board granted this request, as it found from the evidence presented that, due to the
2346 unique circumstances of the subject property, strict application of the County Code
2347 would produce undue hardship not generally shared by other properties in the area, and
2348 authorizing this variance will neither cause a substantial detriment to adjacent property
2349 nor materially impair the purpose of the zoning regulations

2350
2351 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2352 Wright, the Board **granted** your application **UP-13-2001** for a conditional use permit to
2353 grade a riparian planting bench at 3651 Britton Road (Tax Parcels 206-A-33 and 217-A-
2354 31). The Board granted the conditional use permit subject to the following conditions:

2355
2356 1. This permit is subject to all requirements of Section 24-103 of Chapter 24 of the
2357 County Code.

2358
2359 2. Monday through Friday hours of operation shall be from 6:00 a.m. to 6:00 p.m.
2360 when Daylight Savings Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other
2361 times. Saturday hours of operation shall be 8:00 a.m. to 1:00 p.m.

2362
2363 3. No operations of any kind are to be conducted at the site on Sundays or on
2364 national holidays.

2365
2366 4. Open and vertical excavations having a depth of 10 feet or more for a period of
2367 more than 30 days, shall be effectively sloped to a 2 to 1 slope or flatter to protect the
2368 public safety.

2369
2370 5. All means of access to the property shall be from the public right of way of the
2371 proposed I-895.

2372
2373 6. A superintendent who shall be personally familiar with all the terms and
2374 conditions of Section 24-103 of Chapter 24 of the County Code as well as the
2375 terms and conditions of UP-13-2001, shall be present at the beginning and
2376 conclusion of operations each work day to see that all conditions of said Code
2377 and said Use Permit are carefully observed.

- 2378
2379 7. Topsoil shall not be removed from any part of the property outside of the area in
2380 which extraction is authorized. Sufficient topsoil shall be stockpiled on the property for
2381 respreading in a layer with five (5) inches of minimum depth. If the site does not yield
2382 sufficient topsoil, additional topsoil shall be brought to the site to provide the required
2383 five-inch layer of cover. All topsoil shall be treated with a mixture of seed, fertilizer, and
2384 lime as recommended by the County of Henrico after the results of soil tests have been
2385 submitted to the County of Henrico. All topsoil shall be stockpiled within the authorized
2386 borrow area and provided with adequate erosion control protection.
2387
- 2388 8. The rehabilitation of the property shall take place simultaneously with the
2389 extraction process. Rehabilitation shall not be considered completed until the extraction
2390 area is covered completely with permanent vegetation.
2391
- 2392 9. Responsibility for maintaining the property, fences, and roads in a safe and
2393 secure condition indefinitely, or for converting the property to some other safe use, shall
2394 rest with the applicant.
2395
- 2396 10. Entrance gates shall be erected and maintained at all entrances to the property.
2397 These gates shall be locked at all times, except when authorized representatives of the
2398 applicant are on the property.
2399
- 2400 11. Erosion Control Plans shall be submitted to the Department of Public Works for
2401 review and approval at time of application for the Use Permit. Throughout the life of this
2402 extraction operation, the applicant shall continuously satisfy the Department of Public
2403 Works that erosion control procedures are properly handled and furnish plans and
2404 bonds that the department deems necessary. The applicant shall provide certification
2405 from a licensed professional engineer that dams, embankments and sediment control
2406 structures meet standard and approved design criteria as set forth by the State.
2407
- 2408 12. The areas approved for extraction under this permit shall be delineated on the
2409 ground by the erection of five (5) foot high metal posts at least five (5) inches in
2410 diameter and painted in alternate one (1) foot stripes of red and white. These posts
2411 shall be so located as to clearly define the area in which the extraction is permitted.
2412 They shall be located, and the location certified by a certified surveyor, within ninety
2413 (90) days of the date of approval of this use permit by the Board of Zoning Appeals, or
2414 this use permit is void.
2415
- 2416 13. "No Trespassing" signs shall be posted and maintained on the property to warn
2417 against use of the property by unauthorized persons. The minimum letter height shall
2418 be three inches, and signs are to be posted every 250 feet along the perimeter of the
2419 property. The applicant shall furnish the Chief of Police a letter authorizing enforcement
2420 by the County Police Officers of the "No Trespassing" regulations, and agreeing to send
2421 a representative to court for purposes of testimony whenever required or requested by
2422 the Division of Police.
2423

2424 14. Excavation operations shall be discontinued on said site by April, 30, 2002, and
2425 restoration accomplished not later than April 30, 2003 unless a new permit is applied for
2426 by not later than 60 days before the expiration of the permit, and is subsequently
2427 granted by the Board of Zoning Appeals.
2428

2429 15. A financial guaranty satisfactory to the County Attorney shall be posted with the
2430 Secretary of the Board of Zoning Appeals for extracting materials from 23.44 acres, in
2431 an amount of \$2,000.00 per acre for each disturbed acre of land included, for a total of
2432 \$46,880.00 guaranteeing that the land will be restored to a reasonably level and
2433 drainable condition with a minimum slope on the restored property being five to one or
2434 flatter. The guaranty may provide for the termination of the obligations after 30 days
2435 notice in writing. Such notice shall be served upon the principal and upon the obligee
2436 as provided by law for the service of notices. At the termination of the aforesaid 30 day
2437 notice to the principal, all authority of the principal under this use permit to extract
2438 materials, and work incident thereto shall cease, provided the applicant has not
2439 furnished another guaranty suitable to the County within said 30 days. The principal
2440 shall then proceed within the next ensuing 30 days following the termination of its
2441 authority under this use permit, to accomplish the complete restoration of the land as
2442 provided for under the terms of this permit. A notice of termination by such surety shall
2443 in no event relieve the surety from its obligation to indemnify the County of Henrico for a
2444 breach of the conditions of this use permit.
2445

2446 16. The applicant shall furnish a certification each year, verifying that the guaranty is
2447 in effect, premiums have been paid, and the bonding company reaffirms its
2448 responsibility under the use permit conditions. This certification shall be submitted to
2449 the Board on April 30th of each year.
2450

2451 17. This permit does not become valid until the guaranty, required in condition No.
2452 15, has been posted with the County, and necessary approval received. This must be
2453 accomplished within 30 days of the Board's action, or the action becomes invalid.
2454

2455 18. A progress report shall be submitted to the Board on April 30th of each year
2456 during the life of this permit. This progress report must contain information concerning
2457 how much property has been disturbed to date of the report, the amount of land left to
2458 be disturbed, and how much rehabilitation has been performed, and when and how the
2459 remaining amount of land will be rehabilitated, and any and all pertinent information
2460 about the operation that would be helpful to the Board.
2461

2462 19. If, in the course of its preliminary investigation or operations, applicant discovers
2463 evidence of the existence of cultural or historical material or the presence on the site of
2464 significant habitat or an endangered species, it will notify appropriate professional or
2465 governmental authorities and provide them with an opportunity to investigate the site,
2466 and applicant will report the results of such investigation to the Planning Office.
2467

2468 20. The applicant shall comply with the Chesapeake Bay Preservation Act and all
2469 state and local regulations administered under such act applicable to the property and

2516 your right hand and be sworn in.
2517
2518 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2519 truth, the whole truth, and nothing but the truth, so help you God?
2520
2521 Ms. Bumgardner - Yes.
2522
2523 Mr. Bumgardner - Yes.
2524
2525 Mr. Kirkland - State your name for the record please. Have all your notices
2526 been turned in according to County Code. We have them in the file. Okay, state your
2527 case.
2528
2529 Ms. Bumgardner - Martine Bumgardner. Yes. We purchased our home in 1990
2530 and originally we had the house set back 10 more feet than the rest of the properties,
2531 mainly because we had a lot of oak trees in the front. We wanted to preserve those, not
2532 knowing that we would be running into an issue with having to be 45 feet off the back
2533 line, which we didn't know. We knew about the easement and that's about all we knew,
2534 and there's a 15-foot easement in the back. We plan to add on, and with that, we would
2535 like to ask for a 15-foot variance so that we can do the addition that we're looking for.
2536 We're looking to put a family room on the back. We were asked about changing the
2537 orientation, but right now if we change the orientation, we would lose the kitchen
2538 windows at the bottom and the bathroom window at the top, as well as the electrical box
2539 running straight out. There's a power box that goes right out into a corner of our yard,
2540 so we would have to re-route all of those things, and I don't know how you would do that
2541 through the driveway or the house if we did the addition, making it change the
2542 orientation. I hope I haven't confused you.\

2543
2544 Mr. Wright- What's located to the rear of your property?
2545
2546 Ms. Bumgardner - Right now all there is, is property with several acres.
2547
2548 Mr. Wright- It's just open land.
2549
2550 Ms. Bumgardner - It's just open land, and there is some wet area in the very
2551 back like a creek, so I don't know if anybody will be building back there.
2552
2553 Mr. Wright- Is it wooded or just open?
2554
2555 Ms. Bumgardner - It's all wooded.
2556
2557 Mr. Blankinship - Put up photo 2 Susan. I was looking to the back.
2558
2559 Ms. Bumgardner - I had taken some more pictures of myself, I don't know if you
2560 need those, to show the angle of where the electrical box is on our property.
2561

2562 Mr. McKinney- Ms. Bumgardner, did you and your husband figure he was
2563 going to do this, is the reason you didn't put a deck on the back of the house?
2564

2565 Ms. Bumgardner - Excuse me?
2566

2567 Mr. McKinney- Did you and your husband decide you were going to put the
2568 addition on the back? Is that the reason there's no deck on the back of the double
2569 door?
2570

2571 Ms. Bumgardner - Yes. That's right, yes sir. We've been for some time
2572 debating on what kind of an addition, and then also to get the financing of course, so
2573 that's why we've never put any deck or any stairs or anything.
2574

2575 Mr. McKinney- Is this a Bumgardner brick job?
2576

2577 Ms. Bumgardner - Yes, my husband's a subcontractor, so that's right.
2578

2579 Mr. Kirkland - Any other questions by Board members? Anyone else with
2580 to speak on this case? That concludes the case, ma'am.
2581

2582 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
2583 Wright, the Board granted your application A-60-2001 for a variance to build an addition
2584 at 9621 Dove Hollow Lane (Dove Hollow) (Tax Parcel 50-15-B-25). The Board granted
2585 the variance subject to the following condition:
2586

- 2587 1. Only the improvements shown on the plan filed with the application may be
2588 constructed pursuant to this approval. No substantial changes or additions
2589 to the layout may be made without the approval of the Board of Zoning
2590 Appeals. Any additional improvements shall comply with the applicable
2591 regulations of the County Code.
2592

2593 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2594 Negative: 0
2595 Absent: 0
2596

2597 The Board granted this request, as it found from the evidence presented that, due to the
2598 unique circumstances of the subject property, strict application of the County Code
2599 would produce undue hardship not generally shared by other properties in the area, and
2600 authorizing this variance will neither cause a substantial detriment to adjacent property
2601 nor materially impair the purpose of the zoning regulations.
2602

2603 Mr. Kirkland - Next case.
2604

2605 **A - 61-2001** **ANN BERRY** requests a variance from Section 24-95(k) of Chapter
2606 24 of the County Code to allow an existing dwelling to remain at
2607 2300 Ginter Street (Park View) (Tax Parcel 94-15-13-16), zoned R-

2608 4, One-family Residence District (Brookland). The minimum side
2609 yard setback is not met. The applicant has 5 feet minimum side
2610 yard setback, where the Code requires 10 feet minimum side yard
2611 setback. The applicant requests a variance of 5 feet minimum side
2612 yard setback.
2613

2614 Mr. Blankinship - Mr. Chairman, before we go on, let me mention that the staff
2615 report notes that the applicant also applied for a vacation of 5 feet of right-of-way that
2616 was granted yesterday by the Board of Supervisors.
2617

2618 Mr. Kirkland - Thank you sir. Anyone else wish to speak on this case?
2619 Ma'am, if you would, raise your right hand and be sworn in.
2620

2621 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2622 truth, the whole truth, and nothing but the truth, so help you God?
2623

2624 Mr. Kirkland - State your name for the record. Has everyone been notified
2625 according to County Code? You've got them in? Then proceed with the case.
2626

2627 Ms. Berry - Ann Berry. Yes sir. This is a house that was built in about
2628 1942. We purchased it in 1962, and I believe it was surveyed at that time, and we
2629 seem to remember that the survey stakes included the house well within the property,
2630 as well as shrubbery and trees and backyard picket fence. So in 1993, we wanted to
2631 close in our side porch and build a little extension, which would be a bay area. It was a
2632 25-inch extension, so our builder drew his plan according to the plat that was furnished
2633 me by the County, and his building permit was approved, and he built this, and we
2634 believe it was a very nice addition that would be an asset to the neighborhood. It
2635 certainly added to the comfort and the appearance of the house. So earlier this year,
2636 we got a sales contract on the house, and when we were ready to close, the survey
2637 showed that we were over our property line, and so we're request a variance that would
2638 allow the house to stand where it is with the addition. You can see the little extension of
2639 the bay area. It was only a 25-inch extension. So that we can proceed with the sale of
2640 the house and close on it, the closing was really set for March 30, but of course it's
2641 been delayed.
2642

2643 Mr. Kirkland- Ms. Berry, I've read into this case, and I see that one of the
2644 problems you've had, is that in all of Lakeside, Wilson Road had a 60-foot right-of-way,
2645 and that's what caused the problems, and that's why you went for the vacation, so that
2646 was an unusual situation.
2647

2648 Mr. Blankinship - You can see in the photo there, there's plenty of side yard
2649 here. What that property line is doing right up against the house, nobody seems to
2650 know.
2651

2652 Mr. Wright- Who owns that area?
2653

2654 Mr. Blankinship - It's the right-of-way; it's County right-of-way.
2655
2656 Mr. Wright- The yard is County right-of-way?
2657
2658 Mr. Blankinship - All the way over to the main part of the house, until
2659 yesterday, with the bay extending out into it. Today you've got 3 feet between the bay
2660 and the right-of-way line.
2661
2662 Mr. McKinney- Well if they granted that yesterday, does she need this
2663 variance?
2664
2665 Mr. Blankinship - Yes, because the setback is greater. She spoke with real
2666 property about vacating more right-of-way, but they preferred not to vacate so much,
2667 just to vacate what was necessary and then use the variance for the balance.
2668
2669 Mr. Kirkland - Any other questions by Board members?
2670
2671 Mr. Wright- At least she's got some comfort that the bay is not in the
2672 street.
2673
2674 Ms. Berry - Actually, from the edge of the bay to the beginning of the
2675 surface road, is about 21 feet.
2676
2677 Mr. Kirkland - Any other questions by Board members? Anyone else wish
2678 to speak? Ma'am, that concludes the case.
2679
2680 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
2681 Nunnally, the Board **granted** your application **A-61-2001** for a variance allow an existing
2682 dwelling to remain at 2300 Ginter Street (Park View) (Tax Parcel 94-15-13-16). The
2683 Board granted the variance subject to the following condition:
2684
2685 1. This variance applies only to the side yard setback requirements for the
2686 existing house as shown on the plat submitted with the application. Any additional
2687 improvements shall comply with the applicable regulations of the County Code.
2688
2689 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2690 Negative: 0
2691 Absent: 0
2692
2693 The Board granted this request, as it found from the evidence presented that, due to the
2694 unique circumstances of the subject property, strict application of the County Code
2695 would produce undue hardship not generally shared by other properties in the area, and
2696 authorizing this variance will neither cause a substantial detriment to adjacent property
2697 nor materially impair the purpose of the zoning regulations.
2698

2699 There being no further business, and on a motion by Mr. McKinney, seconded by Mr.
2700 Wright, the Board adjourned until May 24, 2001, at 9:00 am.

2701

2702

2703

2704 Richard Kirkland,

2705 Chairman

2706

2707 Benjamin Blankinship, AICP

2708 Secretary

2709