

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 25, 2002,**
4 **AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
5 **DISPATCH ON APRIL 4 AND 11, 2002.**
6

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

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

7
8 Mr. Balfour - I call the meeting of the Henrico County Board of Zoning
9 Appeals to order. Would you please stand to repeat the **Pledge of Allegiance**. Mr.
10 Secretary, would you read the rules please.
11

12 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
13 and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each
14 case. Then the applicant will come forward to the podium. At that time I'll ask all those
15 who intend to speak, in favor or in opposition, to stand, and they will be sworn in. The
16 applicants will then present their testimony. When the applicant is finished, anyone else
17 who wants to speak will be given the opportunity. After everyone has spoken, the
18 applicant, and only the applicant, will have an opportunity for rebuttal. After hearing the
19 case, and asking questions, the Board will take the matter under advisement. They will
20 render a decision at the end of the meeting. If you wish to know what their decision is,
21 you may wait until the end of the meeting, or you may call the Planning Office at the end
22 of the day. This meeting is being tape recorded, so we will ask everyone who speaks,
23 to speak directly into the microphone on the podium, and to state your name. Out in the
24 foyer, there is a binder, which has the staff report for each case, including the conditions
25 suggested by the staff. Mr. Chairman, I am not aware of any deferrals or withdrawals.
26

27 Mr. Balfour - Are there any deferrals or withdrawals for the 9:00 o'clock
28 docket? If not, I believe the first 2 cases concern the same petitioner, Mr. Secretary. I
29 see no reason why we can't take them together.
30

31 Mr. Blankinship - All right, they would be A-72 and A-73-2002.
32

33 **A - 72-2002 SYLVIA H. WRIGHT** requests a variance from Section 24-9 of

34 Chapter 24 of the County Code to build a one-family dwelling at
35 9480 Hoehns Road (Parcel 764-758-7891 (part)), zoned R-2A,
36 One-family Residence District (Brookland). The public street
37 frontage requirement is not met. The applicant has 0 feet public
38 street frontage, where the Code requires 50 feet public street
39 frontage. The applicant requests a variance of 50 feet public street
40 frontage.

41
42 **A - 73-2002** **SYLVIA H. WRIGHT** requests a variance from Section 24-9 of
43 Chapter 24 of the County Code to build a one-family dwelling at
44 9470 Hoehns Road (Parcel 764-758-7891 (part)), zoned R-2A,
45 One-family Residence District (Brookland). The public street
46 frontage requirement is not met. The applicant has 0 feet public
47 street frontage, where the Code requires 50 feet public street
48 frontage. The applicant requests a variance of 50 feet public street
49 frontage.
50

51 Mr. Balfour - Is anyone here on the first 2 cases? Would you come
52 forward. Are there any others who intend to testify for or against this? If you intend to
53 say something, and I think you might, would you all stand at once and be sworn in
54 please. Raise your right hand. Mr. Secretary.
55

56 Mr. Blankinship - Do you swear that the testimony you are about to give is the
57 truth, the whole truth, and nothing but the truth, so help you God?
58

59 Mr. Balfour - You may be seated. I'm assuming you are either speaking
60 for or against. I make the comment now, for all present, that we are glad to hear from
61 everybody who wants to speak, but we encourage you not to speak and repeat what
62 someone ahead of you has said, in that we've got a lot of people and a long docket, and
63 we'll hear the first one who speaks and hear that point, and if you've got something you
64 want to add, fine, but don't just repeat what someone ahead of you has said. Yes
65 ma'am, you may go. Would you state your name and address please.
66

67 Ms. Wright - I do. I'm Sylvia Wright; I'm the owner of this property. I had
68 planned on just giving you a history of the right-of-way itself, since that is the issue
69 before you today, the variance for a right-of-way, is that okay, and then if you have any
70 other questions, you may ask. In 1939, and I'm not sure how this works; if I touch this,
71 will that put – in 1939, if you look at the line that separates the 2 pieces of land that my
72 aunt owns, Madeline Hoehns, where it abuts my property, it says cornerstone. If you
73 look where that cornerstone is, in 1939, my grandmother actually deeded this huge
74 parcel of land to my dad, and she issued a right-of-way that started at that cornerstone,
75 went through her property, and then followed the eastern line all the way out to Hungary
76 Road. That's the original 15-foot right-of-way that exists that we've used all these
77 years. In 1970 my day conveyed to me what's depicted on this parcel as Lot 7. What
78 he did at that time, was he extended the right-of-way along the northern side and down
79 the western side to go over to Lot 7. Because we did not actually have a bridge at the

80 time, to cross over Hungary Road, what we did, is there's been in place for years, ever
81 since I can remember actually, a utility road that my dad used to farm the property. We
82 actually came down the area that I conveyed to my son in the '93, went down across an
83 existing bridge, and then followed the line of the lake, and went all the way around to
84 Lot 7, for almost 2 years until we had the actual bridge built. That utility road has been
85 in place for years. In 1983, my dad took the property that had been given to him in
86 1939 and conveyed it to me, and the right-of-way that goes out to Hungary Road itself.
87 Then in 1993 I conveyed to my son, Donald Wright and his wife Cheryl the parcel of
88 land that's there on that northeast corner, and I took the utility road that had been that
89 had been there in place all those years, and I designated it for the first time as a legal
90 right-of-way. What I'm doing this time is, I'm taking a piece of land that I bought from
91 Wilton, which is labeled R-5, and I'm taking a piece of land that's there in the southeast
92 side, and I labeled it Lot 2, designating the utility road as the right-of-way that would
93 provide access to that property, and I intend to convey that to my daughter and her son-
94 in-law, and I'm then I'm taking this other piece of land that's between Lot 2 and what's
95 labeled Lot 7, which is actually my property, taking the same utility road, and
96 designating it as the legal access to go over to Lot 1, and I intend to deed that to my son
97 and my daughter-in-law. Any questions about how the right-of-way itself works?
98

99 Mr. Blankinship - I have one question, Mr. Chairman. Susan, would you point
100 at where the Lake comes nearest to the adjoining property line. Right there the plat
101 shows less than 5 feet, but on the ground it actually looks more like 15.
102

103 Ms. Wright - It's closer to 20; I think that's a misnomer from previous
104 surveys that have been done, because it's much closer to 20. Actually, when Shannon
105 Green itself was developed, we had some problems with run-off, and the County itself
106 came in and put in some pipes and rock and built up that area.
107

108 Mr. Blankinship - So the shoreline has moved.
109

110 Ms. Wright - Right, and we have actually maintained it; we had a lot of
111 erosion run-off after Shannon Green was built, and like I said, the County itself was nice
112 enough to come in and fix it for us.
113

114 Mr. Balfour - Any other questions?
115

116 You access these properties from Hoehns Road?
117

118 Ms. Wright - Yes, Hoehns Road is the original 1939 right-of-way that was
119 conveyed to my dad, that my grandmother established, back in January of 1939.
120

121 How do you get to Lot 2 from that road.
122

123 Ms. Wright - You go down to where the A-1 begins to become R-2A, right
124 there. Now follow that property line. That is actually the easement that I dedicated to
125 my son in 1983, and I'm extending it on over and around, bordering the lake.

126
127 How wide is that easement?
128
129 Ms. Wright - I'm dedicating it as 15, same as the original road.
130
131 Mr. Balfour - Any other questions?
132
133 Ms. Wright - I guess I could just reiterate that it is all R-2A use. We have
134 R-2A except for the fact that I do have that little piece of R-5 that I bought from Wilton
135 too. It's kind of just an off piece of zoning left over from some of the building there, so
136 except for the 15-foot easement, everything else is in line with County policy.
137
138 Mr. Kirkland - Mr. Blankinship, can I ask you a question? Is 15 foot
139 enough for a County fire truck to get back in there?
140
141 Mr. Blankinship - They normally ask for, I think, 12 feet of surface, with 3 feet
142 of clearance on each side, so 18 feet is usually what they like to see, but that doesn't all
143 have to be improved on the surface.
144
145 Ms. Wright - Sir, we actually had a chimney fire; they've been to my
146 house. There was no problem. In fact, at one time the fire trucks used to come down
147 and practice shooting the water in the lake back in the lake to test their equipment, that
148 type of thing. Any other questions?
149
150 Mr. Balfour - Any other questions? If not, we'll hear from the other
151 people, and you'll have a chance to respond. Yes sir.
152
153 Mr. Brady - Good morning. My name is Luke Brady. I'd first like to give
154 Mr. Blankinship something from one of my neighbors who couldn't make the meeting.
155
156 Mr. McKinney - Mr. Brady, what are you giving the Secretary?
157
158 Mr. Brady - I gave him a letter from a neighbor who lives next door to me
159 who could not make the meeting but wanted his concerns to be part of the official
160 meeting. He was concerned that his voice wouldn't be heard, just because he couldn't
161 make the meeting, but it is a letter addressed to the Board.
162
163 Could we have a copy of that for Ms. Wright? She needs a
164 copy, and we need a copy each. You mean it's going to be passed down to us, and
165 we've got to read it individually?
166
167 Mr. Brady - I'm sorry; I'm merely the messenger; I didn't know. He just
168 asked me to bring that letter. I have a set of pictures that I'd like to hand to the Board
169 so that you'll just get a feel for what I'm saying as I say it.
170
171 Mr. Balfour - Now we have to keep the pictures if you hand them in.

172 You've just got one set of those too.

173

174 Mr. Blankinship - You're going to go over these in series?

175

176 Mr. Brady - I'm just going to tell about each picture, and this is my official
177 letter that I wish to be conveyed to the Board. I do have one for Ms. Wright. As I said,
178 my name is Luke Brady. I live with my wife Beverly at 4906 Kavanagh Court. In the site
179 plan, our home site would be designated Lot 14, and I'll explain the pictures briefly. The
180 first 3 pictures, numbered 1, 2, 3, will reflect the view of the west end of our back yard,
181 showing a chain link fence, and a road on the opposite side of the fence, which is the
182 Wright family property at the west end of my back yard. Picture # 4 was taken from the
183 position, with my back to the fence, as was shown in picture # 2. It shows the rear of
184 our home and my bedroom windows. Picture # 5 was taken from inside my bedroom,
185 looking back out at the fence. Picture # 6 is the opposite, or east end of my home,
186 showing the screened porch and a patio area. Picture # 7 was taken from the porch,
187 looking to the fence. # 8 I stood at the end of the patio to show the proximity of the road
188 to my property. The rear boundary of my yard abuts and parallels the Wright family
189 property for a distance of about 200 feet. We are separated by a chain link fence. The
190 fence provides no privacy, but was never a concern, as nothing was on the right side of
191 the property but a wooded area. The fire or service lane that originally was there was
192 very rarely used. I would say a frequency of use would be somewhere in the
193 neighborhood of 6-7 times a year, and that was it. That was the only time you would
194 see Mr. Hoehn drive his tractor, or in later years, after he passed away, Mr. Wright
195 would come buy and clean up the lane from fallen timbers that had come off the trees.
196 The lane is about 5 feet from the fence and parallels the entire 200 feet of our adjoining
197 properties. The back of our home faces the chain link fence, which is visible from each
198 of our bedrooms. The fence is also visible from our screened porch, where we spend
199 much of our time for a large part of the year. We've lived at 4906 Kavanagh Court for
200 almost 15 years. During that time, the lane on the Wright side was used infrequently, as
201 I've stated. However, during the past year, the lane has been expanded and the brush
202 cleared away. Tons of crushed rock have been spread, obviously to accommodate
203 vehicular traffic. Our bedrooms face the fence, and this vehicle traffic would be audible
204 and visible, as all vehicles make a certain amount of noise. It is the use of this road that
205 gives us cause for concern. Traffic has picked up recently, and it is obvious that our
206 privacy is gone. This infringement on our privacy, which we have enjoyed since 1987,
207 is unacceptable to us. We submit to the Board members, the privacy we have enjoyed
208 is as important as the Wright family's desire to build a home. When my wife and I
209 selected our home site, we paid the developer a premium because of the that location
210 of the home site in the wooded setting. We object to the request by Sylvia Wright for a
211 variance from Section 24-9 of Chapter 24 of the County Code, unless provisions are
212 made to protect and maintain our privacy. The chain link fence could be removed and
213 replaced with a privacy wall of some sort, high enough so vehicle occupants would not
214 be able to peer into our bedroom windows. Perhaps the road to and from the proposed
215 new residence could be located closer to the lake, and the existing lane be closed off to
216 vehicular traffic. This would provide us with a buffer of woods for privacy. We might
217 add that during Sylvia's presentation, it wasn't quite clear exactly where that road is.

218 That road does not, when it gets down to my property, it does not follow the contour of
219 the lake. It in fact parallels the fence line and swings away from the lake. It just goes
220 around the perimeter, what would be the southern perimeter of the Wright property. We
221 ask the Board members to weigh heavily the impact the zoning variance would have on
222 our privacy, peace and quiet. Thank you for your time.
223

224 Mr. Balfour - Do you live, Mr. Brady, on Kavanagh Court, is that right?
225 And so you back up close to Lot 1 and where the house would be on Lot 1, looking at
226 the map?

227
228 Mr. Balfour - Any questions of Mr. Brady? Thank you sir. Anyone else to
229 speak?

230
231 Ms. Brady - I'm Beverly Brady; I'm the wife of Luke Brady, who just
232 addressed you. For the sake of brevity, I won't read this whole thing I brought. I don't
233 want to repeat myself, but where you see the crushed rock right there, it looks like the
234 white line in the picture, until this winter that was nothing more than a dirt path, a little
235 service road as Ms. Wright just said. There were trees; there was shrubbery; over the
236 winter they took down trees; they cleared out all the small shrubby growth; they opened
237 up that area and they widened that road, and they put the crushed rock down. That did
238 not exist until the past 4 or 5 months. I was upset by this for the simple reason that it
239 seemed to me they were doing this in advance of this meeting even being held, before
240 any of us could state our objections or voice our concern about the fact that we didn't
241 want this, so I thought that was kind of putting the cart before the horse, and that didn't
242 seem right to me. I think they should have waited until the variance was granted to
243 them before they did all that work on the road.
244

245 Ms. Brady, we haven't got any control over their putting a
246 road in there. They haven't built a house yet, have they? That's what they're here for.
247 They can put a road in there if they want; they don't have to come to the County to get
248 approval for that.
249

250 Ms. Brady - OK, I didn't understand that. That was my point. Thank you
251 sir.

252
253 Mr. Balfour - Next.

254
255 Ms. Pandey - I'd like to state, my name is Shilpa Pandey, and I have some
256 pictures also, if you could justIt's "S-h-i-l-p-a," and my last name is "P-a-n-d-e-y,"
257 and those are in chronological order as I'm going to speak about them. First of all, I'd
258 like to say "good morning" to all of you, and I live on 4907 Kavanagh Court, along with
259 my father, mother, and sister. I have been chosen by my parents to speak on their
260 behalf. Before starting, I would like to also state that because I feel so strongly about
261 this issue, that I am missing 2 important lectures in college in order to be here.
262

263 First of all, I would like to present these pictures, and I have put a sticky label to say

264 where the proposed road is, with a little arrow. The first picture is meant to show the
265 proximity of the road near our fence. Right behind the fence is our vegetable garden.
266 Right where you see the sticky label, underneath that, is where the proposed road is
267 going to be. The second picture, as well as the third picture, are of what you can see
268 from the fence enclosing our yard. Looking back from the road through the fence, this is
269 what you would see. The fourth picture is of what you can see of the road from our
270 deck. Once again, I've placed another sticky label with an arrow showing where the
271 proposed road would be. Once again, we have a clean view of anyone who traverses
272 through the road. The fifth picture is taken from the garden, once again highlighting
273 where the road will be in respect to our property. I'd just like to remind the Board that
274 since this is springtime, the leaves soften the view from our back yard, but in the other
275 seasons, there are no leaves, and everything is wide open and stark. As you can see
276 from these pictures, our privacy will be negatively affected by having traffic of any sort
277 going right by the fence.

278
279 Now I'd like to state for you our personal reasons for opposing this variance. For over
280 14 years, my family and I have been living on 4907 Kavanagh Court. When my father
281 bought this house, he bought it specifically because of the picturesque lake view. When
282 we sit on the porch to eat dinner, have friends over, and chat on the deck, or just relax
283 with a good book, we love viewing the lake. My parents love gardening and plant
284 vegetables every springtime. Over the years, my parents have built this house into their
285 dream home, somewhere where they can relax after a hard day at work, somewhere
286 where they can live in peace and quiet when they retire. Had they known that there
287 would be so much activity in the back yard, and that their privacy would be negatively
288 impacted, they would never have purchased this house.

289
290 As the Wright family has begun to chop trees and clear land, it has been evidently clear,
291 that not only will the tranquility we have enjoyed for over 14 years be destroyed, but our
292 privacy will also diminish greatly, by the house and road they are planning to build
293 directly behind our house.

294
295 From 3 of the bedrooms on the second story of the house, we have a clear view of
296 everything that happens behind us. Sadly, our family's wish for privacy and peace is
297 going to be obstructed by the house being built directly behind ours.

298
299 In addition to their building a house that would negatively affect our families, the
300 proposed road will compromise our right to privacy and tranquility. Any stranger on the
301 road, even inadvertently, would be able to see what we are doing in our house.
302 Furthermore, any noise from traffic can be heard from each room of the house and
303 would be of great disturbance to us.

304
305 In conclusion, our family strongly opposes the request by Sylvia Wright to use this area
306 as an access road. To rectify the situation, we suggest that Sylvia Wright build her
307 house closer to the main road. Not only would this be a more convenient route for her,
308 but it would also respect our family's desire for privacy and maintain our beautiful view
309 of the lake. By building the house closer to the main road, it would also ensure that she

310 have privacy, and neither of us would have to view each other's day-to-day activities.
311 Thank you.

312
313 Wouldn't that just create problems of the same concern for
314 the people who live on Macllroy Court, if you moved it to the east?

315
316 Ms. Pandey - I don't have the map right up here with me.

317
318 Mr. Blankinship - Susan, could we put the map up.

319
320 Show me what you mean, Miss Pandey, by the main road.
321 What do you consider the main road?

322
323 Ms. Pandey - I know there's one road that they use to access more to the
324 east of our property, and

325
326 Mr. Blankinship - So for example, they could put 2 houses on Lot 2, rather
327 than 1 on Lot 2 and 1 on Lot 1.

328
329 Ms. Pandey - If you want, I have a copy of my letter to give to you.

330
331 Mr. Wright - I have a question. Are you opposing both of these cases, or
332 just opposing the one that concerns Lot 1.

333
334 Ms. Pandey - I'm speaking on behalf of the access area that's going to be
335 right behind our back yard.

336
337 Mr. Wright - So that's Lot 1. So you're not speaking in respect to the
338 other request.

339
340 Mr. Balfour - Any other questions? Thank you. Yes sir.

341
342 Mr. Mehrotra - Good morning. My name is Kamal Mehrotra. I haven't
343 brought any pictures or anything of the sort that's been presented. I live at 4904
344 Macllroy Court, which is in fact, the best description is, that 4906 Kavanagh Court,
345 where the Bradys live, I live on the right side, just beside it, and the proposed road just
346 goes beside the fence line, and I am right over there. So 4906 Kavanagh Court, 4907
347 Kavanagh Court and 4904 Macllroy Court, we are in the same thing. The fence line is
348 adjacent to our property. Recently what I observed is that there is a lot of traffic going
349 on day or night, it doesn't matter, but it does produce a lot of inconvenience, and it
350 seems our privacy has been invaded, in fact.

351
352 What kind of traffic, you say a lot of traffic?

353
354 Mr. Mehrotra - Well, trucks, and so forth, in recent time there has been an
355 increase in this activity.

356
357 You mean using the lake, when you say they're going back
358 there to fish or have a picnic or something, is that what you're talking about?
359
360 Mr. Mehrotra - No sir, it's just heavy trucks.
361
362 You mean the ones building the road?
363
364 Mr. Mehrotra - Yes, so once this thing, from Lot # 1, as Ms. Wright has
365 proposed, if that thing is built, well what happens if that road becomes general traffic?
366
367 It's not general traffic; it's just one house going back there.
368
369 Mr. Mehrotra - Well once the road is built, people are going to use it, and
370 they're going to find short ways, and they'll start using that thing, and it seems our
371 privacy is definitely going to be invaded, and whatever property we have, we bought this
372 property with the sense that we'll have privacy, there's nothing on the other side, and
373 nobody's going to come up from the back side.
374
375 Mr. Balfour - I don't mean to be argumentative, I don't mean to cut you off,
376 but I live in a neighborhood where there was one home behind me, and I saw a lot of
377 woods, and all of a sudden they came back in there, and they put 9 homes in a cul-de-
378 sac, and I'm now looking at 3 or 4 homes, directly into their decks, bedrooms, and
379 kitchens, so it's not unusual for these people to request it.
380
381 Mr. Mehrotra - It is true, people can request that, and that is why I'm here to
382 express my disagreement over this thing. The Board should consider these things as
383 far as we are also citizens. We have the right to come and present our case.
384
385 Mr. Balfour - I understand.
386
387 Mr. Mehrotra - I'm not here to make a decision on your behalf. You make
388 the decision sir. That's all I have, nothing more. Thank you sir.
389
390 Ms. Parpia - Good morning. My name is Shainaz Parpia, and my
391 address is 4905 Kavanagh Court, and we have just moved like 7 months before, and
392 before buying the property, we saw that everything was okay, peace, and now we find
393 something is going wrong. We bought this house like 7 months before, I don't want to
394 say anything else because they already said everything.
395
396 Mr. Balfour - I appreciate that, but what is your address?
397
398 Ms. Parpia - 4905 Kavanagh Court.
399
400 Mr. Balfour - Ms. Wright.
401

402 Ms. Wright - First of all, I am only dedicating to the shortest point that we
403 talked about, as far as the legal access. From there on, the utility road does run parallel
404 to the fence, and my son intends to use that as his private driveway, but I'm not actually
405 making it a legal access at that point, only to the point of touching his property. Yes, we
406 have been in, and yes, we have graded the road, and we have put some gravel back on
407 it, and that type of thing. One issue that has come us, they have talked about the fence.
408 The fence was actually installed during the Shannon Green project, and it's part of a
409 buffer that was installed by Shannon Green itself to protect our privacy. So the fence
410 and 40 feet of each one of these people's back yard is supposed to be a buffer to us.
411 They're also not supposed to cut down any tree of more than 5 inches in diameter. It
412 was set up to protect the R-2 from the R-3 higher density usage. I don't think I could
413 use a lower use; I'm actually planning on putting one house on 1.32 acre and one house
414 on 2.93 acre. It will only be general service traffic, such as an UPS, a mailman, a fire
415 engine, hopefully not, that type of thing, and normal one-family use that would be going
416 to that one house.

417
418 Mr. Balfour - It doesn't connect over with Tanfield Drive?
419

420 Ms. Wright - Absolutely not, sir, it is a private driveway. It has no access.
421 Unfortunately, people do look at the County map and come flying up my road and then
422 almost hit my tool shed in the back, and then realize that they're not on a county road.
423

424 Mr. Balfour - Maybe you should put a sign at the entrance.
425

426 Ms. Wright - It says "private property" all the way in, and they still do that,
427 but there is no access. This access is only to us; it does not connect to anything behind
428 it. As far as the traffic, I have had the surveyors in, and I've had the soil scientists over
429 there, so those are the trucks that have been in on the property, doing the work on the
430 property.
431

432 Mr. Balfour - Thank you Ms. Wright. Are there any questions of Ms.
433 Wright?
434

435 Mr. Kirkland - Ms. Wright, this home, it won't be connected to public water
436 or sewer, will it?
437

438 Ms. Wright - No sir, we can't; the sewer actually runs parallel on the north
439 side of my property, right parallel with the lake, and we did connect my son, Donald, and
440 his wife, Cheryl, but there's too much of a distance between the houses, so it will have
441 private sewer and private well water on both lots.
442

443 Mr. Balfour - Thank you ma'am.
444

445 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
446 Nunnally, the Board **granted** application **A-72-2002** for a variance to build a one-family

447 dwelling at 9480 Hoehns Road (Parcel 764-758-7891 (part)). The Board granted the
448 variance subject to the following conditions:

449
450 1. This variance applies only to the public street frontage
451 requirement. All other applicable regulations of the County Code shall remain in force.

452
453 2. At the time of building permit application, the applicant shall
454 submit the necessary information to the Department of Public Works to ensure
455 compliance with the requirements of the Chesapeake Bay Preservation Act and the
456 code requirements for water quality standards.

457
458 3. At the time of building permit application the owner shall
459 demonstrate that the two parcels created by this division have been conveyed to
460 members of the immediate family, and the subdivision ordinance has not been
461 circumvented.

462
463 4. Approval of this request does not imply that a building permit
464 will be issued. Building permit approval is contingent on Health Department
465 requirements, including, but not limited to, soil evaluation for a septic drainfield and
466 reserve area, and approval of a well location.

467
468 5. The applicant shall present proof with the building permit
469 application that a legal access to the property has been obtained.

470
471 6. The owners of the property, and their heirs or assigns, shall
472 accept responsibility for maintaining access to the property until such a time as the
473 access is improved to County standards and accepted into the County road system for
474 maintenance.

475
476 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
477 Negative:
478 0
479 Absent:
480 0

481
482 The Board granted this request, as it found from the evidence presented that, due to the
483 unique circumstances of the subject property, strict application of the County Code
484 would produce undue hardship not generally shared by other properties in the area, and
485 authorizing this variance will neither cause a substantial detriment to adjacent property
486 nor materially impair the purpose of the zoning regulations.

487
488 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
489 Nunnally, the Board **granted** application **A-73-2002** for a variance to build a one-family
490 dwelling at 9470 Hoehns Road (Parcel 764-758-7891 (part)). The Board granted the
491 variance subject to the following conditions:

492

493 1. This variance applies only to the public street frontage
494 requirement. All other applicable regulations of the County Code shall remain in force.

495
496 2. At the time of building permit application, the applicant shall
497 submit the necessary information to the Department of Public Works to ensure
498 compliance with the requirements of the Chesapeake Bay Preservation Act and the
499 code requirements for water quality standards.

500
501 3. At the time of building permit application, the owner shall
502 demonstrate that the two parcels created by this division have been conveyed to
503 members of the immediate family, and the subdivision ordinance has not been
504 circumvented.

505
506 4. Approval of this request does not imply that a building permit
507 will be issued. Building permit approval is contingent on Health Department
508 requirements, including, but not limited to, soil evaluation for a septic drainfield and
509 reserve area, and approval of a well location.

510
511 5. The applicant shall present proof with the building permit
512 application that a legal access to the property has been obtained.

513
514 6. The owners of the property, and their heirs or assigns, shall
515 accept responsibility for maintaining access to the property until such a time as the
516 access is improved to County standards and accepted into the County road system for
517 maintenance.

518
519 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

520 Negative: 0

521
522 Absent: 0

523
524
525 The Board granted this request, as it found from the evidence presented that, due to the
526 unique circumstances of the subject property, strict application of the County Code
527 would produce undue hardship not generally shared by other properties in the area, and
528 authorizing this variance will neither cause a substantial detriment to adjacent property
529 nor materially impair the purpose of the zoning regulations.

530
531 Mr. Balfour - Next case.

532
533 **A - 74-2002** **G. DOUGLAS HAYDEN, JR.** requests a variance from Section 24-
534 94 of Chapter 24 of the County Code to build an attached garage at
535 9404 Sir Barry Drive (Pinedale West) (Parcel 750-747-4223), zoned
536 R-2A, One-family Residence District (Tuckahoe). The minimum
537 side yard setback and total side yard setback are not met. The
538 applicant proposes 9.73 feet minimum side yard setback and 24.68

539 feet total side yard setback, where the Code requires 12 feet
540 minimum side yard setback and 30 feet total side yard setback.
541 The applicant requests a variance of 2.27 feet minimum side yard
542 setback and 5.32 feet total side yard setback.

543
544 Mr. Balfour - Would you state your name please. Anyone else expect to
545 speak on this matter, for or against it? You may speak for it? All right sir, will you both
546 raise your right hands and be sworn in?

547
548 Mr. Blankinship - Do you swear that the testimony you are about to give is the
549 truth, the whole truth, and nothing but the truth, so help you God?

550
551 Mr. Balfour - All right Mr. Hayden.

552
553 Mr. Hayden - I do. My name is Douglas Hayden; I'm at 9404 Sir Barry
554 Drive. Thank you, Mr. Chairman, Board. I have spoken to my neighbors about this
555 prior to even going forward for a plan, and I can put the detached to the rear of the
556 house and build a 2-car garage. Also, I could, instead of requesting a variance, go 18.6
557 feet from the house in width, and then extend the garage, which would be attached to
558 side of the house, 24 feet in length, and use the drive-in from the side of the house. I
559 don't have as much turning space doing that, and it is from an aesthetic standpoint,
560 what I was concerned about, and that's why I approached my neighbors prior to doing
561 this. The Peskins, who live directly to the right of my house, of the driveway, thought
562 that this would be the better position for them, because we do look upon woods in the
563 back of the area, and there's a creek that runs in the back, and the County owns part of
564 the wooded area, and they did not want their view distorted by having a garage in the
565 back of the house. That is why I've gone and decided to attach it to 12 feet of the rear
566 of my house, and then extend 12 feet beyond that, for a 24 by 24 garage.

567
568 Mr. Balfour - Your neighbors at 9402, is that what you're talking about?

569
570 Mr. Hayden - 9402, yes sir.

571
572 Mr. Balfour - Any questions of Mr. Hayden? Yes sir, would you like to
573 speak?

574
575 Mr. Hamm - I'm Wilford P. Hamm. I live at 9401 Sir Barry Drive, and I've
576 talked to some of the neighbors, and I just want to reiterate that it'll be a good thing in
577 our neighborhood, nobody seems to object, especially the chap who lives next door. So
578 I just came to support him.

579
580 Mr. Balfour - Thank you sir. Any others to speak?

581
582 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
583 Kirkland, the Board **granted** application **A-74-2002** for an attached garage at 9404 Sir

584 Barry Drive (Pinedale West) (Parcel 750-747-4223). The Board granted the variance
585 subject to the following condition:

586
587 1. Only the improvements shown on the plan filed with the application may be
588 constructed pursuant to this approval. No substantial changes or additions to the layout
589 may be made without the approval of the Board of Zoning Appeals. Any additional
590 improvements shall comply with the applicable regulations of the County Code.

591
592 2. At the time of building permit application, the applicant shall submit the
593 necessary information to the Department of Public Works to ensure compliance with the
594 requirements of the Chesapeake Bay Preservation Act and the code requirements for
595 water quality standards.

596
597 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
598 Negative: 0
599 Absent: 0

600
601 The Board granted this request, as it found from the evidence presented that, due to the
602 unique circumstances of the subject property, strict application of the County Code
603 would produce undue hardship not generally shared by other properties in the area, and
604 authorizing this variance will neither cause a substantial detriment to adjacent property
605 nor materially impair the purpose of the zoning regulations.

606
607 Mr. Balfour - Next case.

608
609 **A - 75-2002 CURTIS C. AND ALLIE W. BULLOCK** request a variance from
610 Section 24-9 of Chapter 24 of the County Code to build a one-
611 family dwelling at 1560 Burning Tree Road (Parcel 805-694-1510),
612 zoned A-1, Agricultural District (Varina). The public street frontage
613 requirement is not met. The applicants have 0 feet public street
614 frontage, where the Code requires 50 feet public street frontage.
615 The applicants request a variance of 50 feet public street frontage.

616
617 Mr. Balfour - Anyone else expect to speak for or against this case?
618 Would you raise your right hand please.

619
620 Mr. Blankinship - Do you swear that the testimony you are about to give is the
621 truth, the whole truth, and nothing but the truth, so help you God?

622
623 Mr. Bullock - I do. I'm Curtis Bullock. We're here to request a variance to
624 build a single-family home at 1560 Burning Tree Road. We purchased this property in
625 1998, and the owner at that time provided us with a plat that was dated 1944, so it
626 appears that this property has existed in its present stage for some time. We do not
627 have, as you see from the map, any street frontage, but there is a deeded right-of-way,
628 15 feet, leading and from Burning Tree Road. We own both parcels, parcel 214-A-21
629 and also the one that we're proposing to build on, 214-A-28.

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You have 4-acre parcels back there?

Mr. Bullock - Yes, both of them are 3.7 acres each, and we are going to build on the parcel nearest Burning Tree Road. Initially, we came down and asked for a variance because we were going to build on the back parcel. It was our hopes at that time that we would come in from where it says Woodside Street. The owner had agreed to deed us access to come in from Burning Tree, but it appears to have been some problems with her mortgage company. They did not want her to deed access that way, so that's when we decided to come back and go to the original right-of-way from Burning Tree Road and build on the first parcel, which is Burning Tree.

Mr. Balfour - You've read the conditions on your case, sir. Are you in agreement with them?

Mr. Bullock - Yes I have. Yes, I am.

Mr. Balfour - Are there any other questions? Thank you sir. Ms. Bullock, do you want to say anything?

After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Wright, the Board **granted** application **A-75-2002** for a variance to build a one-family dwelling at 1560 Burning Tree Road (Parcel 805-694-1510). The Board granted the variance subject to the following conditions:

1. This variance applies only to the public street frontage requirement. All other applicable regulations of the County Code shall remain in force.
2. Approval of this request does not imply that a building permit will be issued. Building permit approval is contingent on Health Department requirements, including, but not limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well location.
3. The applicant shall present proof with the building permit application that a legal access to the property has been obtained.
4. The owners of the property, and their heirs or assigns, shall accept responsibility for maintaining access to the property until such a time as the access is improved to County standards and accepted into the County road system for maintenance.

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

The Board granted this request, as it found from the evidence presented that, due to the unique circumstances of the subject property, strict application of the County Code

676 would produce undue hardship not generally shared by other properties in the area, and
677 authorizing this variance will neither cause a substantial detriment to adjacent property
678 nor materially impair the purpose of the zoning regulations.
679

680 Mr. Balfour - Next case.
681

682 **A - 76-2002** **KEVIN W. OSBY** requests a variance from Section 24-9 of Chapter
683 24 of the County Code to build a one-family dwelling at 4800
684 Charles City Road (AASBE Estates) (Parcel 838-700-0718), zoned
685 A-1, Agricultural District (Varina). The public street frontage
686 requirement is not met. The applicant has 0 feet public street
687 frontage, where the Code requires 50 feet public street frontage.
688 The applicant requests a variance of 50 feet public street frontage.
689

690 Mr. Balfour - Anyone other than the 2 people standing expect to testify for
691 or against this matter.
692

693 Mr. Blankinship - Do you swear that the testimony you are about to give is the
694 truth, the whole truth, and nothing but the truth, so help you God?
695

696 Mr. Osby - I do. My name is Kevin W. Osby. I'd just like to request a
697 50-foot public street frontage. There's already a driveway leading back. I'd like to be
698 able to tie into that driveway to go to my property.
699

700 Mr. Balfour - This is off Charles City Road? This is past those 2 other
701 homes?
702

703 Mr. Osby - My father, and the driveway will actually come over in front
704 of my brother's house.
705

706 Mr. Balfour - Your brother is probably to the right of where you want to
707 build?
708

709 How wide is the access?
710

711 Mr. Osby - 50 feet.
712

713 The access road is 50 feet wide?
714

715 Mr. Osby - Yes sir. The driveway's been used for 13-14 years.
716

717 Mr. Balfour - Any other questions of Mr. Osby?
718

719 You have read the conditions for this? You in agreement
720 with them?
721

722 Mr. Osby - Yes sir. Yes sir.

723

724 Mr. J. Osby - My name is Jerry Osby. I'm his father. I own the land, and
725 I'm just speaking for him. I'm in agreement with it; I gave him the land.

726

727 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
728 Wright, the Board **granted** application **A-76-2002** for a variance to build a one-family
729 dwelling at 4800 Charles City Road (AASBE Estates) (Parcel 838-700-0718). The
730 Board granted the variance subject to the following conditions:

731

732 1. The property shall be developed in substantial conformance with the plan filed
733 with the application. No substantial changes or additions to the layout may be made
734 without the approval of the Board of Zoning Appeals.

735

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

740

741 3. At the time of building permit application the owner shall demonstrate that the
742 parcel created by this division has been conveyed to members of the immediate family,
743 and the subdivision ordinance has not been circumvented. If this condition cannot be
744 met, the owner shall submit a subdivision plat for review and approval by the Planning
745 Office.

746

747 4. The applicant must present proof with the building permit application that a legal
748 access to the property has been obtained.

749

750 5. Approval of this request does not imply that a building permit will be issued.
751 Building permit approval is contingent on Health Department requirements, including,
752 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
753 of a well location.

754

755 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
756 Negative:		0
757 Absent:		0

758

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

764

765 Mr. Balfour - Next case.

766

767 **UP- 9-2002 GLEN ALLEN FREE WILL BAPTIST CHURCH** requests a

768 temporary conditional use permit pursuant to Section 24-116(c)(1)
769 of Chapter 24 of the County Code to locate a temporary building at
770 11101 Old Washington Highway (Parcel 771-770-6598), zoned A-1,
771 Agricultural District (Brookland).
772

773 Mr. Balfour - Any others expect to speak for or against this case? Would
774 you all raise your right hands please.
775

776 Mr. Blankinship - Do you swear that the testimony you are about to give is the
777 truth, the whole truth, and nothing but the truth, so help you God?
778

779 Mr. Maness - I do. Good morning. I'm Pastor Maness, of the Glen Allen
780 Free Will Baptist Church. We purchased this trailer with the idea and understanding
781 when we bought it, to use it for the church until we got our building finished. Little did I
782 know we had to have other things done, so we placed it on the property, and we have
783 had the area re-surveyed, relocated, and permission to place it there and shorten up the
784 fire line, the fire hydrant, so that it complies with everything in the County requirements.
785 The use of the building would be while we construct our building. We presently have
786 the loan application in that should be approved the first of May, and as soon as that
787 comes in, we'll be involved in our further construction.
788

789 Mr. Balfour - You understand in the conditions that it expires 2 years from
790 now.
791

792 Mr. Maness - So we've got to get going right quick. We do have
793 everything ready to begin the parking lot, which we want to put parking in so we'll have
794 access. We'll not put blacktop until such time as we finish the building. We understand
795 that we need to put in curbing so that the fire hydrant and the water meter box, which is
796 about 50 feet from the entrance, would be protected, and then we'd like to place our
797 water, etc. hook-up, so that it'll be usable. We already have the sewer line at the
798 junction box and ready to hook up everything to it.
799

800 Mr. Balfour - Any questions?
801

802 Mr. Kirkland - You ready condition # 2 also?
803

804 Mr. Maness - I read it, but I don't recall it.
805

806 Mr. Kirkland - Concerning all the permits that you'll need with the facility, to
807 make sure you'll get all those.
808

809 Mr. Maness - Let me look at it, to make sure I understand what you're
810 saying. A building permit, yes we'll have to go back through and get a permit and all
811 that. I think we've complied with that in terms of, and we'll just have to resubmit it. I
812 understand.
813

814 Mr. Kirkland - Thank you sir.
815
816 Is that sand, or is that picture taken in the snow?
817
818 Mr. Maness - I'm sorry, I didn't hear you.
819
820 Looks like your picture was taken in the snow or sand.
821
822 Mr. Maness - I think the picture probably faded because of construction.
823 That's probably gravel and dirt and some grass. We'd been doing a lot of construction
824 at the time.
825
826 Mr. Blankinship - I honestly don't remember what was on the ground when we
827 took it. It might have been snow; that was about a month ago.
828
829 Mr. Balfour - Would either of you like to speak?
830
831 Mr. Wade - I'm Donald Ray Wade; I'm also a Deacon at the church and
832 a Trustee, and I'm also the general contractor. Of course we know all the rules and
833 regulations of the building program. We've got it all in step to do so as soon as we can
834 get our finances straight, and we'd appreciate it so much if we could move into it as a
835 conditional use, because that would help us financially to be able to keep going on
836 doing the Lord's work. We'd appreciate your consideration in giving us a conditional
837 use permit.
838
839 Mr. Balfour - Any questions of Mr. Wade?
840
841 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
842 Nunnally, the Board **granted** application **UP-9-2002** for a temporary conditional use
843 permit to locate a temporary building at 11101 Old Washington Highway (Parcel 771-
844 770-6598). The Board granted the use permit subject to the following condition:
845
846 1. This permit shall expire on April 25, 2004 and shall not be renewed. The
847 temporary building shall be removed by that date.
848
849 2. A building permit will be required (if not previously acquired) for the placement of
850 this temporary building on the property. All necessary permits and approvals shall be
851 acquired by the applicant at the time of building permit approval.
852
853 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
854 Negative: 0
855 Absent: 0
856
857 The Board granted this request as it found from the evidence presented that authorizing
858 this use permit will not be of substantial detriment to adjacent property and will not
859 materially impair the purpose of the zoning regulations.

860
861 Mr. Balfour - Next case.
862
863 **UP- 10-2002** **SPRINT PCS** requests a temporary conditional use permit pursuant
864 to Section 24-116(c)(1) of Chapter 24 of the County Code to locate
865 a temporary Cell-on-wheels at 625 E. Laburnum Avenue (Highland
866 Gardens) (Parcel 795-738-4741), zoned B-1, Business District
867 (Fairfield).
868
869 Mr. Balfour - Any others who wish to speak for or against this case? All
870 right, sir, would you be sworn in.
871
872 Mr. Blankinship - Do you swear that the testimony you are about to give is the
873 truth, the whole truth, and nothing but the truth, so help you God?
874
875 Mr. McLemore - I do. Good morning, Mr. Chairman, members of the Board.
876 My name is Gil McLemore, and I'm zoning Coordinator for Sprint PCS, and I'm here this
877 morning in representation of the applicant. In brief summation, Sprint PCS has filed a
878 temporary conditional use permit application in order to locate a cell on wheels, or
879 COW, from April 29 through May 7, on the subject parcel. On this COW is a self-
880 contained base station and antenna. The antenna will extend to a maximum of 100
881 feet. It will occupy less than a 30-foot by 20-foot portion of land to be leased during the
882 requested permit time frame. The permit requested will allow Sprint PCS to provide
883 needed coverage to the influx of area visitors present for the upcoming race series to be
884 held at the adjacent Richmond International Raceway. I would submit to the Board that
885 this request is identical to one approved last year at the same location. With that, Sprint
886 respectfully requests approval of the temporary use, and I'd be happy to answer any
887 questions that you may have.
888
889 You understand, we say that this expires on May 7, 2002. Is
890 that satisfactory?
891
892 Mr. Balfour - Any other questions?
893
894 Mr. McKinney - Let me ask you a question, Mr. McLemore. Will you also do
895 the fall races?
896
897 Mr. McLemore - Unfortunately, at this point Sprint doesn't know whether or
898 not they'll have the money to be able to allocate for that race, so right now we're just
899 taking everything we've got right in front of us. I apologize that we're not able to plan
900 that far in advance, but I may be back in due time to request a permit then as well.
901
902 Mr. Balfour - Any other questions? Thank you sir.
903
904 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
905 Wright, the Board **granted** application **UP-10-2001** for a temporary conditional use

906 permit to locate a temporary Cell-on-wheels at 625 E. Laburnum Avenue (Highland
907 Gardens) (Parcel 795-738-4741). The Board granted the use permit subject to the
908 following conditions:

- 909
- 910 1. The Cell on Wheels shall not remain on the site longer than fifteen days at any
911 time.
 - 912
 - 913 2. This permit shall expire on May 7, 2002.

914

915 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5	
916 Negative:			0
917 Absent:			0

918

919 The Board granted this request as it found from the evidence presented that authorizing
920 this use permit will not be of substantial detriment to adjacent property and will not
921 materially impair the purpose of the zoning regulations.

922

923 Mr. Balfour - Next case

924

925 **UP- 11-2002** **E. R. PLASTER, JR., INC.** requests a conditional use permit
926 pursuant to Sections 24-52(d) and 24-103 of Chapter 24 of the
927 County Code to extract materials from the earth at 6650 Hines
928 Road (Parcels 855-695-5768 and 8710), zoned A-1, Agricultural
929 District (Varina).

930

931 Mr. Balfour - Any others to speak for or against this matter? Would you
932 both be sworn in please.

933

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

936

937 Mr. Deal - Good morning, gentlemen. My name is John Deal. I
938 represent E. R. Plaster, Inc. concerning this renewal of a permit. We've been getting
939 this renewed since 1981 to mine this property on Hines Road. We've been over the
940 conditions; we have no problem with the conditions. As to the evaluation at the bottom
941 of the first page, we right now have an engineering firm to determine the new common
942 boundary line between this property that the mining pit is on, versus the property that
943 was sold at the rear of it. There have been some problems with getting that line with
944 some exactitude, because the creek in White Oak Swamp seems to vary quite a bit
945 each year, and survey to survey to the creek, so we've got a moving common boundary
946 line, and that's the reason for the delay on this. I'd be glad to answer any questions you
947 might have.

948

949 Mr. Balfour - Any questions of Mr. Deal?

950

951 Mr. Wright - How many trucks do you anticipate will be accessing this

952 property per hour?
953
954 Mr. Deal - I'll let Mr. Plaster answer that.
955
956 Mr. Plaster - Yes sir, I'm Steve Plaster, from E. R. Plaster.
957
958 Mr. Wright - I want to get some idea of the frequency of the trucks
959 entering the property.
960
961 Mr. Plaster - In an hour, at the most, it would probably be 4.
962
963 Mr. Wright - And that would go on most all day, during the period of the
964 use?
965
966 Mr. Plaster - Yes sir.
967
968 Mr. Blankinship - We do have the standard conditions on that, Mr. Wright.
969
970 Mr. Wright - I saw that, that you've got to have no more than 3 together,
971 but I was trying to get some idea of the frequency.
972
973 Mr. Balfour - Any other questions of Mr. Deal?
974
975 We haven't had any problems with them, have we Mr.
976 Blankinship?
977
978 Mr. Blankinship - No sir, not that I'm aware of. Mike sent an e-mail stating that
979 he didn't have any concerns.
980
981 Mr. Balfour - Any other questions? Thank you, gentlemen.
982
983 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
984 Wright, the Board **granted** application **UP-11-2001** for a conditional use permit to
985 extract materials from the earth at 6650 Hines Road (Parcels 855-695-5768 and 8710).
986 The Board granted the use permit subject to the following condition:
987
988 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of
989 the County Code.
990
991 2. Before beginning any work, the applicant shall provide a financial guaranty in an
992 amount of \$2,000.00 per acre for each acre of land to be disturbed, for a total of
993 \$18,600.00, guaranteeing that the land will be restored to a reasonably level and
994 drainable condition. This permit does not become valid until the financial guaranty has
995 been approved by the County Attorney. The financial guaranty may provide for
996 termination after 90 days notice in writing to the County. In the event of termination, this
997 permit shall be void, and work incident thereto shall cease. Within the next 90 days the

998 applicant shall restore the land as provided for under the conditions of this use permit.
999 Termination of such financial guaranty shall not relieve the applicant from its obligation
1000 to indemnify the County of Henrico for any breach of the conditions of this use permit. If
1001 this condition is not satisfied within 90 days of approval, the use permit shall be void.
1002

1003 3. The applicant shall submit within 45 days of the approval of this permit, a revised
1004 Erosion and Sedimentation Control Plan reflecting the change in property boundaries
1005 and any applicable changes as required by Section 24-103 of the Zoning Ordinance.
1006 This plan will be reviewed by the Planning Office and Department of Public Works for
1007 approval. Throughout the life of the operation, the applicant shall continuously satisfy
1008 the Department of Public Works that erosion control procedures are properly
1009 maintained, and shall furnish plans and bonds that the department deems necessary.
1010 The applicant shall provide certification from a licensed professional engineer that
1011 dams, embankments and sediment control structures meet the approved design criteria
1012 as set forth by the State. If this condition is not satisfied within 90 days of approval, the
1013 use permit shall be void.
1014

1015 4. Before beginning any work, the applicant shall obtain a mine license from the
1016 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
1017 within 90 days of approval, the use permit shall be void.
1018

1019 5. Before beginning any work, the areas approved for mining under this permit shall
1020 be delineated on the ground by five-foot-high metal posts at least five inches in diameter
1021 and painted in alternate one foot stripes of red and white. These posts shall be so
1022 located as to clearly define the area in which the mining is permitted. They shall be
1023 located, and their location certified, by a certified land surveyor. If this condition is not
1024 satisfied within 90 days of approval, the use permit shall be void.
1025

1026 6. In the event that the Board's approval of this use permit is appealed, all
1027 conditions requiring action within 90 days will be deemed satisfied if the required actions
1028 are taken within 90 days of final action on the appeal.
1029

1030 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
1031 state and local regulations administered under such act applicable to the property, and
1032 shall furnish to the Planning Office copies of all reports required by such act or
1033 regulations.
1034

1035 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings
1036 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.
1037

1038 9. No operations of any kind are to be conducted at the site on Saturdays, Sundays,
1039 or national holidays.
1040

1041 10. All means of access to the property shall be from the established entrance onto
1042 Hines Road.
1043

- 1044 11. The applicant shall erect and maintain gates at all entrances to the property.
1045 These gates shall be locked at all times, except when authorized representatives of the
1046 applicant are on the property.
1047
- 1048 12. The applicant shall post and maintain a sign at the entrance to the mining site
1049 stating the name of the operator, the use permit number, the mine license number, and
1050 the telephone number of the operator. The sign shall be 12 square feet in area and the
1051 letters shall be three inches high.
1052
- 1053 13. The applicant shall post and maintain "No Trespassing" signs every 250 feet
1054 along the perimeter of the property. The letters shall be three inches high. The
1055 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
1056 enforce the "No Trespassing" regulations, and agreeing to send a representative to
1057 testify in court as required or requested by the Division of Police.
1058
- 1059 14. Standard "Truck Entering Highway" signs shall be erected on Hines Road on
1060 each side of the entrances to the property. These signs will be placed by the County, at
1061 the applicant's expense.
1062
- 1063 15. The applicant shall post and maintain a standard stop sign at the entrance to
1064 Hines Road.
1065
- 1066 16. The applicant shall provide a flagman to control traffic from the site onto the
1067 public road, with the flagman yielding the right of way to the public road traffic at all
1068 times. This flagman will be required whenever the Division of Police deems necessary.
1069
- 1070 17. All roads used in connection with this use permit shall be effectively treated with
1071 calcium chloride or other wetting agents to eliminate any dust nuisance.
1072
- 1073 18. The operation shall be so scheduled that trucks will travel at regular intervals and
1074 not in groups of three or more.
1075
- 1076 19. Trucks shall be loaded in a way to prevent overloading or spilling of materials of
1077 any kind on any public road.
1078
- 1079 20. The applicant shall maintain the property, fences, and roads in a safe and secure
1080 condition indefinitely, or convert the property to some other safe use.
1081
- 1082 21. If, in the course of its preliminary investigation or operations, the applicant
1083 discovers evidence of cultural or historical resources, or an endangered species, or a
1084 significant habitat, it shall notify appropriate authorities and provide them with an
1085 opportunity to investigate the site. The applicant shall report the results of any such
1086 investigation to the Planning Office.
1087

1088 22. Open and vertical excavations having a depth of 10 feet or more, for a period of
1089 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
1090 public safety.

1091
1092 23. Topsoil shall not be removed from any part of the property outside of the area in
1093 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
1094 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
1095 within the authorized mining area and provided with adequate erosion control
1096 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought
1097 to the site to provide the required five-inch layer of cover. All topsoil shall be treated
1098 with a mixture of seed, fertilizer, and lime as recommended by the County after soil
1099 tests have been provided to the County.

1100
1101 24. No offsite-generated materials shall be deposited on the mining site without prior
1102 written approval of the Director of Planning. To obtain such approval, the operator shall
1103 submit a request stating the origin, nature and quantity of material to be deposited, and
1104 certifying that no contaminated or hazardous material will be included. The material to
1105 be deposited on the site shall be limited to imperishable materials such as stone, bricks,
1106 tile, sand, gravel, soil, asphalt, concrete and like materials, and shall not include any
1107 hazardous materials as defined by the Virginia Hazardous Waste Management
1108 Regulations.

1109
1110 25. A superintendent, who shall be personally familiar with all the terms and
1111 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms
1112 and conditions of this use permit, shall be present at the beginning and conclusion of
1113 operations each work day to see that all the conditions of the Code and this use permit
1114 are observed.

1115
1116 26. A progress report shall be submitted to the Board on April 31 of each year from
1117 the date of the Board's action. This progress report must contain information
1118 concerning how much property has been mined to date of the report, the amount of land
1119 left to be mined, how much rehabilitation has been performed, when and how the
1120 remaining amount of land will be rehabilitated, and any other pertinent information about
1121 the operation that would be helpful to the Board.

1122
1123 27. Excavation shall be discontinued by April 31, 2004, and restoration accomplished
1124 by not later than April 31, 2005, unless a new permit is granted by the Board of Zoning
1125 Appeals.

1126
1127 28. The rehabilitation of the property shall take place simultaneously with the mining
1128 process. Rehabilitation shall not be considered completed until the mined area is
1129 covered completely with permanent vegetation.

1130
1131 29. All drainage and erosion and sediment control measures shall conform to the
1132 standards and specifications of the Mineral Mining Manual Drainage Handbook. Any
1133 drainage structures in place prior to October 14, 1992 and which do not conform to the

1134 Mineral Mining Manual Drainage Handbook may remain in place until such time as any
1135 reconstruction is required at which time said structures shall be brought into
1136 conformance with the Mineral Mining Manual Drainage Handbook.
1137

1138 30. Failure to comply with any of the foregoing conditions shall automatically void this
1139 permit.
1140

1141 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5	
1142 Negative:			0
1143 Absent:			0

1144
1145 The Board granted this request as it found from the evidence presented that authorizing
1146 this use permit will not be of substantial detriment to adjacent property and will not
1147 materially impair the purpose of the zoning regulations.
1148

1149 Mr. Balfour - Next case.
1150

1151 **A - 77-2002** **WANDA J. HARRIS** requests a variance from Section 24-9 of
1152 Chapter 24 of the County Code to build a one-family dwelling at
1153 2559 Yarnell Road (Parcel 814-695-9604), zoned A-1, Agricultural
1154 District (Varina). The public street frontage requirement is not met.
1155 The applicant has 0 feet public street frontage, where the Code
1156 requires 50 feet public street frontage. The applicant requests a
1157 variance of 50 feet public street frontage.
1158

1159 Mr. Balfour - Does anyone else expect to speak either for or against this
1160 matter. Stand up, raise your hand, and we'll swear you in.
1161

1162 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1163 truth, the whole truth, and nothing but the truth, so help you God?
1164

1165 Ms. Harris - I'm Wanda Harris, owner of the said property at 2559 Yarnell
1166 Road, and I'm here to obtain road frontage to have access to that property.
1167

1168 How would you access this property?
1169

1170 Ms. Harris - There is a 600-foot easement, I believe, that extends from
1171 Yarnell Road back to that property.
1172

1173 How wide is the easement?
1174

1175 Ms. Harris - Thirty feet wide.
1176

1177 Thirty feet wide. And is that of record? Is that a deeded
1178 easement?
1179

1180 Ms. Harris - I have a deed, I believe, but I'm not sure whether or not it's
1181 giving me a right-of-way to that property. When we purchased the property, the realtor
1182 said that it was a right-of-way that I would have to get to that property.
1183

1184 You understand that one of the conditions with this
1185 application, is that if this is approved, you have to satisfy the zoning office that you do
1186 have a deeded right-of-way to the property, a legal right-of-way, is something that would
1187 have to be recorded.
1188

1189 Mr. Balfour - Any other questions of Ms. Harris?

1190
1191 Have you read all the conditions? Are they acceptable to
1192 you?

1193
1194 Ms. Harris - Yes I have.

1195
1196 This is for your own personal use, this house, right?
1197

1198 Ms. Harris - Yes.

1199
1200 Mr. Balfour - Yes sir.
1201

1202 Mr. Baker - I'm Max H. Baker. I'd like to know first, has Ms. Harris got a
1203 permit to build on this property?
1204

1205 Mr. Blankinship - She can't get the building permit, sir, until after this variance
1206 is approved.
1207

1208 Mr. Baker - I have a thing to say about Ms. Harris. I'd be delighted to
1209 have her build on the property, but I have a couple of questions. In 1949 I bought this
1210 property, and I had 5 little children. When I bought it, I bought it with the hopes in mind
1211 of giving each one part of them acres I bought to build on when they got a chance. In
1212 1954 I got a permit to build my house, and then later on, my son, he got a permit to
1213 build his. Then my daughter, she went to get a permit to build. They said the lot she
1214 had wouldn't pass the test. This property that Ms. Harris has is the same exact one that
1215 my daughter tried to get a permit for, and my daughter gave the lot away. She didn't
1216 sell it to Ms. Harris, but a man by the name of Suggs. He gave her \$1,000 for it. What
1217 bothered me is the fact that now we can't let anybody build on the rest of it.
1218

1219 Mr. Wright - The fact of the matter is, Mr. Baker, no house can be built on
1220 this lot unless it satisfies the requirements of the County at the time that they apply for
1221 the building permit. They will have to have proven that it would perk for septic tank, that
1222 there will be water there. Those things would all have to be satisfied, so if we grant this,
1223 and that doesn't come to pass, she couldn't build on it anyhow.
1224

1225 Mr. Baker - Well I have nothing against Ms. Harris at all. I'd be happy for

1226 her to build on it if she can, but that's the situation, the way I feel about it.

1227

1228 Mr. Balfour - Any other questions? Do you have anything further Ms.
1229 Harris?

1230

1231 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1232 Kirkland, the Board **granted** application **A-77-2001** for a variance to build a one-family
1233 dwelling at 2559 Yarnell Road (Parcel 814-695-9604). The Board granted the variance
1234 subject to the following conditions:

1235

1236 1. This variance applies only to the public street frontage requirement. All other
1237 applicable regulations of the County Code shall remain in force.

1238

1239 2. Approval of this request does not imply that a building permit will be issued.
1240 Building permit approval is contingent on Health Department requirements, including,
1241 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1242 of a well location.

1243

1244 3. The applicant shall present proof with the building permit application that a legal
1245 access to the property has been obtained.

1246

1247 4. The owners of the property, and their heirs or assigns, shall accept responsibility
1248 for maintaining access to the property until such a time as the access is improved to
1249 County standards and accepted into the County road system for maintenance.

1250

1251 5. At the time of building permit application, the applicant shall submit the
1252 necessary information to the Department of Public Works to ensure compliance with the
1253 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1254 water quality standards.

1255

1256 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5	
1257 Negative:			0
1258 Absent:			0

1259

1260 The Board granted this request, as it found from the evidence presented that, due to the
1261 unique circumstances of the subject property, strict application of the County Code
1262 would produce undue hardship not generally shared by other properties in the area, and
1263 authorizing this variance will neither cause a substantial detriment to adjacent property
1264 nor materially impair the purpose of the zoning regulations.

1265

1266 Mr. Balfour - Next case.

1267

1268 **A - 78-2002 CHARLES C. AND ELIZABETH G. FOWLER** request a variance
1269 from Section 24-94 of Chapter 24 of the County Code to build an
1270 addition at 8202 Larcom Lane (University Heights) (Parcel 756-740-
1271 0641), zoned R-2, One-family Residence District (Tuckahoe). The

1272 minimum side yard setback and rear yard setback are not met. The
1273 applicants propose 10 feet minimum side yard setback and 40 feet
1274 rear yard setback, where the Code requires 12.8 feet minimum side
1275 yard setback and 45 feet rear yard setback. The applicants request
1276 a variance of 2.8 feet minimum side yard setback and 5 feet rear
1277 yard setback.
1278

1279 Mr. Balfour - Any others expect to speak for or against this case? Raise
1280 your right hand and be sworn in please.

1281
1282 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1283 truth, the whole truth, and nothing but the truth, so help you God?
1284

1285 Mr. Fowler - My name is Charles Fowler. My address is 8202 Larcom
1286 Lane. Currently I live in a 1600 square foot ranch house on a corner lot, facing Larcom
1287 Lane and the side street of Sharon. The lot I'm on has a very large setback from
1288 Larcom Lane, I believe it states here, about 77 feet, whereas the rear has about a little
1289 over 45 feet. What we'd like to do is put a 20-foot family room addition on the back of
1290 the house, as well as a guest bedroom and master bath. What that would require is a
1291 5-foot setback off the rear property line and off the neighbor's side of the house, of
1292 course the street's on one side, but on the house neighboring mine, I'll need about a
1293 2.8-foot setback from the property line on their side. I did previously speak with all the
1294 neighbors, that I was going to be putting in a variance request, and I did not have any
1295 objections.

1296
1297 Your house seems to be sitting a little far back, in any case,
1298 from your front yard?
1299

1300 Mr. Fowler - It's a very large front yard; I'm not really sure exactly why
1301 they built it that far back from the road.

1302
1303 Do you face Larcom?
1304

1305 Mr. Fowler - Yes sir, I do.
1306

1307 Mr. Balfour - Any other questions of Mr. Fowler?
1308

1309 Mr. Fowler, have you read the conditions, only one condition,
1310 but I did want to point out, it says "Only the improvements shown on the plan filed with
1311 the application may be constructed....." You can't make any changes to that which
1312 you've already.....
1313

1314 Mr. Fowler - I understand, and I'm fine with that.
1315

1316 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1317 McKinney, the Board **granted** application **A-78-2002** for a variance to build an addition

1318 at 8202 Larcom Lane (University Heights) (Parcel 756-740-0641). The Board granted
1319 the variance subject to the following condition:

1320
1321 1. Only the improvements shown on the plan filed with the application may be
1322 constructed pursuant to this approval. No substantial changes or additions to the
1323 layout may be made without the approval of the Board of Zoning Appeals. Any
1324 additional improvements shall comply with the applicable regulations of the County
1325 Code.

1326
1327 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1328 Negative: 0
1329 Absent: 0

1330
1331 The Board granted this request, as it found from the evidence presented that, due to the
1332 unique circumstances of the subject property, strict application of the County Code
1333 would produce undue hardship not generally shared by other properties in the area, and
1334 authorizing this variance will neither cause a substantial detriment to adjacent property
1335 nor materially impair the purpose of the zoning regulations.

1336
1337 Mr. Balfour - Next case.

1338
1339 **A - 79-2002** **STEVEN W. MORGAN** requests a variance from Section 24-
1340 95(c)(4) of Chapter 24 of the County Code to build an addition at
1341 10626 Jordan Drive (Glen Allen Heights) (Parcel 771-767-9205),
1342 zoned R-3, One-family Residence District (Fairfield). The front yard
1343 setback is not met. The applicant has 29.63 feet front yard
1344 setback, where the Code requires 35 feet front yard setback. The
1345 applicant requests a variance of 5.37 feet front yard setback.

1346
1347 Mr. Balfour - Any others expect to testify for or against this matter? Raise
1348 your right hand and be sworn in, please.

1349
1350 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1351 truth, the whole truth, and nothing but the truth, so help you God?

1352
1353 Mrs. Morgan - I do. My name is Tara Morgan; I'm the wife of Steven
1354 Morgan. We reside at 10626 Jordan Drive, and we are requesting, as you can see on
1355 this end, to build an addition of 12 feet out, I think, but it's going to be flush with the front
1356 of the house. It's exactly the same as the house next door to us if they built an addition
1357 onto theirs. And that's basically all we're asking for, is that permit, to make the house
1358 bigger for our kids.

1359
1360 Looks like you're taking a stoop or something that's already
1361 there and extending that out, in the picture.

1362
1363 Mrs. Morgan - Well it was kind of a porch over there on the side, and we

1364 took that down. The house was built in 1942, and so we would like to add it on all the
1365 way to the back, all down the side, and that's it. It won't come out any further in the
1366 front yard.

1367
1368 Mr. Balfour - Are there any questions of Mrs. Morgan? Apparently not.
1369 Thank you, Mrs. Morgan.

1370
1371 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1372 Wright, the Board **granted** application **A-79-2002** for a variance to build an addition at
1373 10626 Jordan Drive (Glen Allen Heights) (Parcel 771-767-9205). The Board granted
1374 the variance subject to the following condition:

1375
1376 1. This variance applies only to the front yard setback. All other applicable
1377 regulations of the County Code shall remain in force.

1378
1379 2. The new construction shall match the existing dwelling as nearly as practical.

1380
1381 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1382 Negative: 0
1383 Absent: 0

1384
1385 The Board granted this request, as it found from the evidence presented that, due to the
1386 unique circumstances of the subject property, strict application of the County Code
1387 would produce undue hardship not generally shared by other properties in the area, and
1388 authorizing this variance will neither cause a substantial detriment to adjacent property
1389 nor materially impair the purpose of the zoning regulations.

1390
1391 Mr. Balfour - We'll take a short recess and then start the 10:00 o'clock
1392 agenda.

1393
1394 I call the meeting back to order. Do we have any deferrals or withdrawals on the 10:00
1395 o'clock docket, Mr. Secretary? I understand the Secretary has a case he'd like to bring
1396 to our attention from a previous hearing – Mr. Blankinship?

1397
1398 Mr. Blankinship - Thank you, Mr. Chairman. This is a case that you heard a
1399 couple of months ago. This is the plan (on screen) that was approved with the variance
1400 application, **A-167-2001**. This is the plan that was submitted for approval, and as usual,
1401 there was a condition on the approval of the variance, stating that they could only build
1402 the improvements shown on the plan. I'm only showing you the second floor. There
1403 were changes on the ground floor as well, but it was the changes on the second floor
1404 that got the building permit staff concerned, and they brought the question to me, and I
1405 thought I should bring it to you. This is the plan that was submitted with the building
1406 permit, and as you can see, it is a very different plan. It's 4 feet longer, so there is a
1407 change in the footprint, but I don't think the change in footprint was as much a concern
1408 to the building permit review staff as the other improvements that are shown on the
1409 second floor of this building now. You see a full bath and a small kitchen that were not

1410 shown, and actually couldn't be approved, and you also see 2 sets of stairs now, which
1411 just raised some questions in the building permit staff's minds about what this space
1412 was going to be used for, how it was going to be improved, and whether it was within
1413 the bounds of what the Board considered at the time the variance was approved.
1414 Rather than just go back and forth with the applicants over this, I thought it best just to
1415 bring it before you and just let you give us some guidance on whether you believe these
1416 plans are substantially in accord with what you approved back in 2001, or whether you
1417 would like to see the staff hold the line on what was before you at that time.
1418

1419 Mr. Balfour - Are the applicants here?

1420
1421 Put the other one back up first, the one that was approved.
1422 This shows just attic storage.
1423

1424 Mr. Balfour - Would you raise your right hand, please, and be sworn in.
1425 Do you swear to tell the truth, and nothing but the truth, so help you God? Anyone else
1426 here expect to speak on this, one way or the other? State your name please.
1427

1428 Mr. Menner - I do. I'm Roger Menner. When we put the original
1429 application in, we had called the Planning Office, and asked them about things like
1430 guest rooms and situations like this. When we got the application and got everything
1431 together, we had like a week or so to draw up the plans. We really hadn't thought out
1432 how it all would work out, but the issue was the height of the roof. We put this in,
1433 knowing that the height of the roof was the issue. When we were here at the hearing,
1434 and I guess you guys transcript these things; you can pull the transcript. We were
1435 asked if that area would every be finished off, by one of you, I don't remember who
1436 asked, and we said yes, it potentially could be a guest room or an art studio, or
1437 whatever else somebody else might use it for, but we also did state that we were aware
1438 that you couldn't make an apartment out of it, and we had no desire to do that. We
1439 were also told by the Planning Office that an apartment had to have a kitchen, and a
1440 kitchen consisted of not a sink and refrigerator, but a sink, refrigerator, and stove, that if
1441 you didn't have a stove, you essentially didn't have a kitchen, and we had no desire to
1442 place anything like that up there.
1443

1444 Mr. Balfour - Is that something we said, somebody here said that?

1445
1446 Mr. Menner - It would have been in Mr. Blankinship's office, when we were
1447 making phone calls about it, initially. When we resubmitted it, we didn't think there
1448 would be an issue, because the height of the roof was the issue. We'd already been
1449 told, and the zoning regulations provide that you can have a guest house for non-paying
1450 guests or employees employed on the premises could live in a place, or that sort of
1451 thing, so we did not feel like that would be an issue. When we brought the plan down
1452 for the building permit, we expected to go to the Planning Office in person, but we're on
1453 a well and septic, so it had to go to Health Department first, so we weren't just able to
1454 go to just walk through the steps and talk to them about it.
1455

1456 Mr. Balfour - The kitchen, dining room, living room, and breakfast room
1457 and utility room were added to the main house; that would have already be done when it
1458 came before us, from the transcript. So now you've added something to this garage
1459 that we weren't aware of.

1460
1461 Mr. Menner - There are plans also to improve the house some more by
1462 adding a second floor and everything, and this elevation is going to match the elevation
1463 on the house. That was the reason for having the roof line the way it is.

1464 We still want to keep the storage and everything; we didn't realize this would be that big
1465 of a problem. The roofline hasn't changed, the height of the roof hasn't changed or
1466 anything. He's right; we did make it a little wider, 4 feet. There are 2 sheds on the
1467 property we want to tear down, and we got to thinking, well more storage for that, and
1468 then we got to thinking of storing bicycles and stuff, that it might need to be just a little
1469 bit bigger.

1470
1471 So you've added a bathroom as well though, it appears, is
1472 that right?

1473
1474 Mr. Menner - Up at the top? Yes. If it's going to be a guest room, you'd
1475 obviously have to have a bathroom there, and as I stated in the first hearing, we're
1476 aware that you can't have an apartment, you can't rent it permanently, but non-paying
1477 guests could stay there, family, and that sort of thing, for a short time, and that's what
1478 we were told by the Planning Office when we first investigated this. Like I said, we
1479 hadn't really given that much thought to this type of layout, because the issue when we
1480 came before you before, was the height of the roof, and drawing the elevation was we
1481 thought, the critical thing.

1482
1483 Mr. Balfour - Any questions by the Board?

1484
1485 Is that a kitchen?

1486
1487 Mr. Menner - No sir. That's just a counter and a sink; if it's going to be
1488 utilized for doing artwork or whatever,

1489
1490 So there's no cooking?

1491
1492 Mr. Menner - There's no cooking, and we hadn't considered a refrigerator
1493 or anything either. If it's a problem, we can eliminate that aspect of it; we just didn't
1494 realize that it would be that big of a deal, and like I say, we expected to talk to the
1495 Planning Office when we brought it down.

1496
1497 You added steps on the other end I see?

1498
1499 Mr. Menner - Well, to separate the storage from the finished area, that
1500 was the thing to do. You still have to access the storage.

1501

1502 What's that square thing in the middle that's not designated,
1503 somebody drew in with a pencil it looks like?
1504
1505 Mr. Menner - We didn't draw that in. It appears that maybe someone drew
1506 that in as that would be where a bed would go.
1507
1508 Mr. Balfour - Any other questions? Where's the 4 feet addition, on the
1509 sides?
1510
1511 Mr. Menner - Yes, it added to the side; it didn't add anything to the front or
1512 back, so it didn't change the height of the roof or the front elevation or anything like
1513 that?
1514
1515 Mr. Balfour - Have your neighbors seen your new plans?
1516
1517 Mr. Menner - No, they haven't, but we don't have any neighbors actually.
1518 On either side, they're both empty lots. Behind us there's a hundred acres, all wooded,
1519 so there's no real neighbors, and nobody objected beforehand, and we spoken to
1520 neighbors about it, and nobody had any real objection about it.
1521
1522 The 4 feet on the side is within the zoning requirements, isn't
1523 it, I mean that doesn't violate anything, does it?
1524
1525 Mr. Menner - No it doesn't go over the, I think it's a 5-foot setback. We've
1526 got about, I think it's going to come out to be 17 or 18, I believe I drew on there 20, but
1527 just the other day, like I say, it's all wooded, and we just recently cleared it all, and we
1528 were able to pull a string line on the property line and get precise measurements. No,
1529 it's not going to encroach on any of the setbacks.
1530
1531 Mr. Balfour - Any other questions? Any other people to talk on this
1532 matter? Thank you.
1533
1534 Mr. McKinney - Mr. Blankinship, now what was your concern on this exactly?
1535
1536 Mr. Blankinship - The condition on the variance states that the approval is only
1537 for the improvements shown on the plan filed with the case, and the plans that were
1538 filed with the building permit were in my view substantially different from what was
1539 approved with the case.
1540
1541 Mr. McKinney - Four feet wider, and what else?
1542
1543 Mr. Blankinship - The additional improvements upstairs, the plumbing and so
1544 forth upstairs, and the 2 stairs also.
1545
1546 Mr. McKinney - In the minutes they stated that possibly a guest room at that
1547 time. Do you consider this a guest room?

1548
1549 Mr. Blankinship - Yes sir.
1550
1551 Mr. McKinney - Well what he said at the time when he was allowed to do this
1552
1553
1554 Mr. Blankinship - What he said in his oral testimony; it wasn't reflected on his
1555 plans that the Board approved.
1556
1557 Mr. McKinney - But he made the statement that it would possibly be a guest
1558 room, which would be in the interior of the building, not outside where anybody else
1559 could see it. Are you considering any of this a kitchen?
1560
1561 Mr. Blankinship - What's shown on the plan is not a kitchen, no sir.
1562
1563 Mr. McKinney - Have you looked at it? Have you actually looked at what
1564 they've done?
1565
1566 Mr. Blankinship - It's still under permit. We haven't issued the building permit.
1567
1568 Mr. McKinney - Thank you. The height is going to remain what we
1569 approved?
1570
1571 Mr. Menner - Yes sir.
1572
1573 Mr. McKinney - Any that was the issue that was before us?
1574
1575 Mr. Menner - Yes sir, that was the issue that was before you, and that's
1576 why we didn't think that this differed substantially, because the elevation was the same,
1577 the height was the same, everything else appears the same. I think we may have
1578 added a door or two in the bottom, to have access out the back, and that sort of thing.
1579
1580 Mr. Balfour - The distinction, I guess, is this – when you said you might
1581 add a guest room, you added a bathroom with a guest room. Your guest room includes
1582 a bathroom and a bedroom I suppose you're saying.
1583
1584 Mr. Menner - Well, I guess we figured, when we called, they didn't seem to
1585 think that was a problem at your office, that the issue was putting a stove in, and that
1586 sort of thing. It is a detached garage, so people couldn't very well use the bathroom in
1587 the garage or come to the house. The garage is about 80 or 100 feet from the house.
1588 We have an acre and a half; it's a pretty substantial lot.
1589
1590 That's a sink and a counter?
1591
1592 Mr. Menner - Yes, a sink and a counter.
1593

1594 Are there electrical outlets in there too?
1595
1596 Mr. Menner - Yes, you would have to wire everything for electric and have
1597 some sort of heating system. We figured we'd just do like baseboard heat or
1598 something, because it's not going to be used.
1599
1600 Mr. Blankinship, but for the height concern, they could do
1601 what they suggest here, couldn't they?
1602
1603 Mr. Blankinship - Yes, if it hadn't been for the condition on the variance, we
1604 probably would have approved this. On the other hand, if they had gone higher, we
1605 would have simply required them to apply for a new variance. They wouldn't be here in
1606 an informal setting like this.
1607
1608 Mr. Balfour - In the reconsideration of **A-167-2001**,

1609
1610 Mr. Blankinship - It was my sense from the conversation that no one is really
1611 opposed to approving that building permit, is that accurate.
1612
1613 Mr. Balfour - We'll take direction, and the approval will stand.
1614
1615 Mr. Balfour - There were no deferrals or withdrawals as I recall. Would
1616 you call the first case please.
1617

1618 **A - 80-2002** **BETHLEHEM BAPTIST CHURCH** requests a variance from
1619 Section 24-95(a)(1)a. of Chapter 24 of the County Code to install a
1620 steeple at 4210 Penick Road (Parcel 773-747-0576), zoned R-4,
1621 One-family Residence District (Brookland). The height requirement
1622 is not met. The applicant proposes a height of 82.9 feet, where the
1623 Code allows a height of 50 feet. The applicant requests a variance
1624 of 32.9 feet in height.
1625

1626 Mr. Balfour - Any others expect to testify for or against this matter? Raise
1627 your right hand and be sworn in, please.
1628
1629 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1630 truth, the whole truth, and nothing but the truth, so help you God?
1631
1632 Mr. Balfour - Let me make a short comment for those who were not here
1633 for the 9:00 o'clock docket, that is, that we're glad to hear from everyone, but we do ask,
1634 since it's a long docket, that if you're speaking, several of you as a group, that you not
1635 repeat what the previous speaker said, because we try to listen pretty carefully. If you
1636 have something new to add, or a new twist, that's fine, but we'd rather not hear things
1637 repeated, because that just takes up time on a case that's further down on the docket.
1638 Yes ma'am, would you identify yourself, please
1639

1640 Mrs. Brubaker - I do. Yes sir, Mr. Chairman, members of the Board. My
1641 name is Peggy Brubaker; I'm the chairman of the Memorial Committee for Bethlehem
1642 Baptist Church. Bethlehem Baptist Church requests approval of a height variance so
1643 that we may install a 40-foot fiberglass steeple on our church sanctuary. The steeple,
1644 under the current Code, would exceed the normal height requirement. We're asking
1645 that you approve a one-time variance of 32 feet 9 inches, which would allow us to install
1646 the steeple. This is something our congregation has wanted for a long time. The
1647 addition of a steeple is being made possible through a generous gift in memory of her
1648 husband, by one of our members. We are asking for your approval so we may carry out
1649 her wishes.

1650
1651 Mr. Balfour - Are there any questions of Mrs. Brubaker?

1652
1653 I take it we do have a nice drawing showing the steeple as it
1654 would appear. I assume you are going to take care to insure that all safety
1655 requirements and so forth are met, so that the steeple wouldn't fall off on somebody or
1656 blow off in a storm.

1657
1658 How old is that church?

1659
1660 Mrs. Brubaker - One hundred and sixty-five years old, the church has been
1661 established, but I think the current building was built in 1920.

1662
1663 Mr. Balfour - That's a pretty building. Any other questions?

1664
1665 Mr. Kirkland - Mr. Blankinship, let me ask you a question. This would
1666 require a building permit, correct? So all the safety concerns would be met then?

1667
1668 Mr. Blankinship - Yes.

1669
1670 The building requirements would take care of my concern,
1671 I'm sure.

1672
1673 Mr. Balfour - Either of you gentlemen like to speak? She said it all?
1674 Three heads nod. Thank you.

1675
1676 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1677 Nunnally, the Board **granted** application **A-80-2002** for a variance to install a steeple at
1678 4210 Penick Road (Parcel 773-747-0576). The Board granted the variance subject to
1679 the following condition:

1680
1681 1. This variance applies only to the maximum height for a steeple. All other
1682 applicable regulations of the County Code shall remain in force.

1683
1684 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1685 Negative: 0
1686 Absent: 0

1687
1688 The Board granted this request, as it found from the evidence presented that, due to the
1689 unique circumstances of the subject property, strict application of the County Code
1690 would produce undue hardship not generally shared by other properties in the area, and
1691 authorizing this variance will neither cause a substantial detriment to adjacent property
1692 nor materially impair the purpose of the zoning regulations.

1693
1694 Mr. Balfour - Next case.

1695
1696 **UP- 12-2002** **RYAN HOMES** requests a temporary conditional use permit
1697 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code
1698 to locate a sales trailer for a subdivision at 10350 Woodman Road
1699 (Woodman Hills) (Parcel 774-764-5666), zoned R-3, One-family
1700 Residence District (Fairfield).

1701
1702 Mr. Balfour - Anyone else plan to speak for or against this matter? Raise
1703 your right hand and be sworn in, please.

1704
1705 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1706 truth, the whole truth, and nothing but the truth, so help you God?

1707
1708 Mr. Balfour - State your name.

1709
1710 Mr. Meinser - I do. Mr. Chairman, members of the Board, my name is
1711 Kenneth Meinser; I'm here on behalf of Ryan Homes to request this use of a temporary
1712 sales trailer in our new subdivision, Woodman Hills, on Woodman Road, across from
1713 the depot. It is temporary; it is used for selling until we can get a spec or a model in
1714 there. It may remain, depending on how brisk sales are, until sales are complete. It will
1715 be landscaped; it will be screened somewhat. The developer's committed to putting in
1716 the entrance feature, which does involve a fence, so it will be fairly well screened. It will
1717 be visible from the road somewhat, but we think that it will be landscaped very nicely,
1718 and the parking area will be done very nicely, and it won't detract from the surroundings.

1719
1720 Have you read the conditions?

1721
1722 Mr. Meinser - Yes sir, no problem.

1723
1724 What happened to Gene Smith?

1725
1726 Mr. Meinser - I think he had another meeting.

1727
1728 Mr. Balfour - Any other questions? Thank you sir.

1729

1730 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1731 Wright, the Board **granted** application **UP-12-2002** for a temporary conditional use
1732 permit to locate a sales trailer for a subdivision at 10350 Woodman Road (Woodman
1733 Hills) (Parcel 774-764-5666). The Board granted the use permit subject to the following
1734 condition:

1735
1736 1. This office trailer will be removed by December 31, 2003. No application will be
1737 submitted to renew this permit, extend the time on this permit or reapply for this permit
1738 so as to extend the time that this trailer is on this property.

1739
1740 2. This office trailer will be serviced by a water and sanitary system approved by the
1741 Health Department.

1742
1743 3. The applicant will provide a landscape plan and lighting plan for the site at the
1744 time of building permit submission.

1745
1746 4. The off-street parking will be graveled and 5 spaces provided.

1747
1748 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1749 Negative: 0
1750 Absent: 0

1751
1752 The Board granted this request as it found from the evidence presented that authorizing
1753 this use permit will not be of substantial detriment to adjacent property and will not
1754 materially impair the purpose of the zoning regulations.

1755
1756 Mr. Balfour - Next case.

1757
1758 **A - 81-2002** **RANDALL AND MELINDA HARDEN** request a variance from
1759 Section 24-94 of Chapter 24 of the County Code to build an
1760 addition at 5504 Belstead Court (Belstead at Wyndham) (Parcel
1761 739-776-3402), zoned R-2, One-family Residence District (Three
1762 Chopt). The rear yard setback is not met. The applicants propose
1763 33 feet rear yard setback, where the Code requires 45 feet rear
1764 yard setback. The applicants request a variance of 12 feet rear
1765 yard setback.

1766
1767 Mr. Balfour - Any others to speak for or against this matter? Raise your right
1768 hand and be sworn in, please.

1769
1770 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1771 truth, the whole truth, and nothing but the truth, so help you God?

1772
1773 Mrs. Harden - Yes. My name's Melinda Harden; my family and I live at
1774 5504 Belstead Court, and we're requesting a variance of the rear setback to build an
1775 addition, to us it's going to be a sunroom. It'll look exactly like the rest of our house,

1776 same brick foundation, same siding, same everything. The builder/contractor has
1777 assured us everything will look exactly the same.

1778
1779 Mrs. Harden, have you read the conditions proposed?

1780
1781 Mrs. Harden - Yes sir.

1782
1783 This is going to extend out from where you've got the deck it
1784 looks like, is that right?

1785
1786 Mrs. Harden - Right next to the deck; the deck will stay. Right there.

1787
1788 Is there any other dwelling directly behind your house?

1789
1790 Mrs. Harden - The picture he showed just there, that's actually more at an
1791 angle. If you stand and look directly at it, you're mainly looking at the corner, the pie of
1792 their yard.

1793
1794 They seem to be.....they're on Jamison Place I believe.

1795
1796 Mrs. Harden - Yes, that's right, West Chase, right behind us.

1797
1798 Seems to be a pretty good distance between the rear of that
1799 house and yours.

1800
1801 Mrs. Harden - Yes, with trees and everything. And our neighbors on each
1802 side of us, I've of course spoken to all of them; they won't even be able to see it
1803 because of the circle, the angle of their cul-de-sac. They offered to come down here in
1804 support if I needed them.

1805
1806 Mr. Balfour - Have you got any other questions for Mrs. Harden? Thank
1807 you, Mrs. Harden.

1808
1809 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1810 McKinney, the Board **granted** application **A-81-2002** for a variance to build an addition
1811 at 5504 Belstead Court (Belstead at Wyndham) (Parcel 739-776-3402). The Board
1812 granted the variance subject to the following condition:

1813
1814 1. Only the improvements shown on the plan filed with the application may be
1815 constructed pursuant to this approval. No substantial changes or additions to the layout
1816 may be made without the approval of the Board of Zoning Appeals. Any additional
1817 improvements shall comply with the applicable regulations of the County Code.

1818
1819 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1820 Negative: 0

1821 Absent: 0

1822
1823 The Board granted this request, as it found from the evidence presented that, due to the
1824 unique circumstances of the subject property, strict application of the County Code
1825 would produce undue hardship not generally shared by other properties in the area, and
1826 authorizing this variance will neither cause a substantial detriment to adjacent property
1827 nor materially impair the purpose of the zoning regulations.

1828
1829 Mr. Balfour - Next case.

1830
1831 **UP- 13-2002 SIMONS HAULING CO.** requests a conditional use permit pursuant
1832 to Sections 24-103 and 24-52(d) of Chapter 24 of the County Code
1833 to extract materials from the earth at 2655 Lacywood Lane (Parcel
1834 840-722-1635), zoned A-1, Agricultural District (Varina).

1835
1836 Mr. Balfour - Are there others to speak for or against this matter? If you
1837 might, go ahead and raise your right hand and be sworn in, please.

1838
1839 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1840 truth, the whole truth, and nothing but the truth, so help you God?

1841
1842 Mr. Cochran - Mr. Chairman, members of the Board, my name is John
1843 Cochran. I'm with Youngblood, Tyler, & Associates, representing Simons Hauling Co.
1844 This is requesting approval for a borrow pit, which has been in operation since
1845 approximately 1990 on this property. The pit is operated by Simons Hauling Co.,
1846 exclusively for them. Material is extracted by track hoe, loaded on the trucks for the use
1847 of Simons Hauling Co. The pit is used sporadically, when they need it, on an as-
1848 needed basis, approximately 2-3 weeks every 2 or 3 months. We have read the
1849 conditions and are in agreement, and I'd be happy to answer any questions you may
1850 have.

1851
1852 Approximately how many trucks would be going in and out
1853 each day?

1854
1855 Mr. Cochran - Well, it's not used on a daily basis. It's used when they need
1856 it, and I'm going to say, 10 or 11 trucks a day when it's being used.

1857
1858 That's just Mr. Simons' trucks?

1859
1860 Mr. Cochran - That's correct. Very rarely are contract haulers used.

1861
1862 Do we have any problems with it, Mr. Blankinship?

1863
1864 Mr. Blankinship - No sir.

1865
1866 You've read all the conditions?

1867

1868 Mr. Cochran - Yes, we're in agreement with the conditions.

1869

1870 Mr. Balfour - Any other questions? Thank you sir.

1871

1872 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1873 Kirkland, the Board **granted** application **UP-13-2002** for a conditional use permit to
1874 extract materials from the earth at 2655 Lacywood Lane (Parcel 840-722-1635). The
1875 Board granted the use permit subject to the following conditions:

1876

1877 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of
1878 the County Code.

1879

1880 2. Before beginning any work, the applicant shall provide a financial guaranty in an
1881 amount of \$2,000.00 per each acre of land to be disturbed, for a total of \$74,000.00
1882 guaranteeing that the land will be restored to a reasonably level and drainable condition.
1883 This permit does not become valid until the financial guaranty has been approved by the
1884 County Attorney. The financial guaranty may provide for termination after 90 days
1885 notice in writing to the County. In the event of termination, this permit shall be void, and
1886 work incident thereto shall cease. Within the next 90 days the applicant shall restore
1887 the land as provided for under the conditions of this use permit. Termination of such
1888 financial guaranty shall not relieve the applicant from its obligation to indemnify the
1889 County of Henrico for any breach of the conditions of this use permit. If this condition is
1890 not satisfied within 90 days of approval, the use permit shall be void.

1891

1892 3. Before beginning any work, the applicant shall submit erosion control plans to the
1893 Department of Public Works for review and approval. Throughout the life of the
1894 operation, the applicant shall continuously satisfy the Department of Public Works that
1895 erosion control procedures are properly maintained, and shall furnish plans and bonds
1896 that the department deems necessary. The applicant shall provide certification from a
1897 licensed professional engineer that dams, embankments and sediment control
1898 structures meet the approved design criteria as set forth by the State. If this condition is
1899 not satisfied within 90 days of approval, the use permit shall be void.

1900

1901 4. Before beginning any work, the applicant shall obtain a mine license from the
1902 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
1903 within 90 days of approval, the use permit shall be void.

1904

1905 5. Before beginning any work, the areas approved for mining under this permit shall
1906 be delineated on the ground by five-foot-high metal posts at least five inches in diameter
1907 and painted in alternate one foot stripes of red and white. These posts shall be so
1908 located as to clearly define the area in which the mining is permitted. They shall be
1909 located, and their location certified, by a certified land surveyor. If this condition is not
1910 satisfied within 90 days of approval, the use permit shall be void.

1911

- 1912 6. In the event that the Board's approval of this use permit is appealed, all
1913 conditions requiring action within 90 days will be deemed satisfied if the required actions
1914 are taken within 90 days of final action on the appeal.
1915
- 1916 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all state
1917 and local regulations administered under such act applicable to the property, and shall
1918 furnish to the Planning Office copies of all reports required by such act or regulations.
1919
- 1920 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings
1921 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.
1922
- 1923 9. No operations of any kind are to be conducted at the site on Saturdays, Sundays,
1924 or national holidays.
1925
- 1926 10. All means of access to the property shall be from the established entrance onto
1927 Grapevine Road.
1928
- 1929 11. The applicant shall erect and maintain gates at all entrances to the property.
1930 These gates shall be locked at all times, except when authorized representatives of the
1931 applicant are on the property.
1932
- 1933 12. The applicant shall post and maintain a sign at the entrance to the mining site
1934 stating the name of the operator, the use permit number, the mine license number, and
1935 the telephone number of the operator. The sign shall be 12 square feet in area and the
1936 letters shall be three inches high.
1937
- 1938 13. The applicant shall post and maintain "No Trespassing" signs every 250 feet
1939 along the perimeter of the property. The letters shall be three inches high. The
1940 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
1941 enforce the "No Trespassing" regulations, and agreeing to send a representative to
1942 testify in court as required or requested by the Division of Police.
1943
- 1944 14. Standard "Truck Entering Highway" signs shall be erected on Grapevine Road on
1945 each side of the entrances to the property. These signs will be placed by the County, at
1946 the applicant's expense.
1947
- 1948 15. The applicant shall post and maintain a standard stop sign at the entrance to
1949 Grapevine Road.
1950
- 1951 16. The applicant shall provide a flagman to control traffic from the site onto the
1952 public road, with the flagman yielding the right of way to the public road traffic at all
1953 times. This flagman will be required whenever the Division of Police deems necessary.
1954
- 1955 17. All roads used in connection with this use permit shall be effectively treated with
1956 calcium chloride or other wetting agents to eliminate any dust nuisance. The haul road
1957 shall be paved to a minimum width of 24 feet back to the Binns property line.

- 1958
1959 18. The operation shall be so scheduled that trucks will travel at regular intervals and
1960 not in groups of three or more.
1961
1962 19. Trucks shall be loaded in a way to prevent overloading or spilling of materials of
1963 any kind on any public road.
1964
1965 20. The applicant shall maintain the property, fences, and roads in a safe and secure
1966 condition indefinitely, or convert the property to some other safe use.
1967
1968 21. If, in the course of its preliminary investigation or operations, the applicant
1969 discovers evidence of cultural or historical resources, or an endangered species, or a
1970 significant habitat, it shall notify appropriate authorities and provide them with an
1971 opportunity to investigate the site. The applicant shall report the results of any such
1972 investigation to the Planning Office.
1973
1974 22. If water wells located on surrounding properties are adversely affected, and the
1975 extraction operations on this site are suspected as the cause, the effected property
1976 owners may present to the Board evidence that the extraction operation is a contributing
1977 factor. After a hearing by the Board, this use permit may be revoked or suspended, and
1978 the operator may be required to correct the problem.
1979
1980 23. Open and vertical excavations having a depth of 10 feet or more, for a period of
1981 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
1982 public safety.
1983
1984 24. Topsoil shall not be removed from any part of the property outside of the area in
1985 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
1986 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
1987 within the authorized mining area and provided with adequate erosion control
1988 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought
1989 to the site to provide the required five-inch layer of cover. All topsoil shall be treated
1990 with a mixture of seed, fertilizer, and lime as recommended by the County after soil
1991 tests have been provided to the County.
1992
1993 25. No offsite-generated materials shall be deposited on the mining site without prior
1994 written approval of the Director of Planning. To obtain such approval, the operator shall
1995 submit a request stating the origin, nature and quantity of material to be deposited, and
1996 certifying that no contaminated or hazardous material will be included. The material to
1997 be deposited on the site shall be limited to imperishable materials such as stone, bricks,
1998 tile, sand, gravel, soil, asphalt, concrete and like materials, and shall not include any
1999 hazardous materials as defined by the Virginia Hazardous Waste Management
2000 Regulations.
2001
2002 26. A superintendent, who shall be personally familiar with all the terms and
2003 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms

2004 and conditions of this use permit, shall be present at the beginning and conclusion of
2005 operations each work day to see that all the conditions of the Code and this use permit
2006 are observed.

2007
2008 27. A progress report shall be submitted to the Board on May 31 of each year from
2009 the date of the Board's action. This progress report must contain information
2010 concerning how much property has been mined to date of the report, the amount of land
2011 left to be mined, how much rehabilitation has been performed, when and how the
2012 remaining amount of land will be rehabilitated, and any other pertinent information about
2013 the operation that would be helpful to the Board.

2014
2015 28. Excavation shall be discontinued by May 31, 2004, and restoration accomplished
2016 by not later than May 31, 2005, unless a new permit is granted by the Board of Zoning
2017 Appeals.

2018
2019 29. The rehabilitation of the property shall take place simultaneously with the mining
2020 process. Rehabilitation shall not be considered completed until the mined area is
2021 covered completely with permanent vegetation.

2022
2023 30. All drainage and erosion and sediment control measures shall conform to the
2024 standards and specifications of the Mineral Mining Manual Drainage Handbook. Any
2025 drainage structures in place prior to October 14, 1992 and which do not conform to the
2026 Mineral Mining Manual Drainage Handbook may remain in place until such time as any
2027 reconstruction is required at which time said structures shall be brought into
2028 conformance with the Mineral Mining Manual Drainage Handbook.

2029
2030 31. Failure to comply with any of the foregoing conditions shall automatically void this
2031 permit.

2032
2033 32. All loaded trucks from this site shall travel south along Grapevine Road, west
2034 along Meadow Road and south along Drybridge Road to Route 60. Empty trucks shall
2035 return by the same route.

2036
2037 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2038 Negative: 0
2039 Absent: 0

2040
2041 The Board granted this request as it found from the evidence presented that authorizing
2042 this use permit will not be of substantial detriment to adjacent property and will not
2043 materially impair the purpose of the zoning regulations.

2044
2045 Mr. Balfour - Next case.

2046
2047 **UP- 14-2002 JEWISH COMMUNITY CENTER** requests a temporary conditional
2048 use permit pursuant to Section 24-116(c)(1) of Chapter 24 of the
2049 County Code to locate a temporary office trailer at 5403 Monument

2050 Avenue (Parcel 770-736-3957), zoned A-1, Agricultural District
2051 (Tuckahoe).

2052
2053 Mr. Balfour - All who intend to testify in this matter, for or against, please raise
2054 your right hand and be sworn in, please.
2055

2056 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2057 truth, the whole truth, and nothing but the truth, so help you God?
2058

2059 Mr. Balfour - Would you state your name.
2060

2061 Mr. Bowen - Yes I do. Steve Bowen, with Whiting-Turner Contracting;
2062 we're the general contractors.
2063

2064 Is this a pretty big trailer – we noticed it covers 2 districts,
2065 Brookland and Tuckahoe.
2066

2067 Mr. Bowen - No, it overlaps into the city, pretty close to the line. There is
2068 currently a temporary office trailer at the Jewish Center, on the corner of the building.
2069 It's been there for a number of years. The plan is to relocate that, to make
2070 improvements to the facility, building additions and also utility improvements, which will
2071 install a new road, all new storm drainage. It will be moved behind our existing
2072 construction trailer, which we already have a permit for, and then an additional office
2073 trailer will be set next to that to house people who will be coming out of the building
2074 when we are renovating their space. They will have water, sewer, power, the whole 9
2075 yards.
2076

2077 Mr. Balfour - Looks like next to the tennis courts maybe, in the picture?
2078

2079 Mr. Bowen - Yes, it's on the old tennis courts. It's actually on top of the
2080 old tennis courts, a little bit to the side. They're not there anymore.
2081

2082 Mr. Balfour - Any questions by Board members? Apparently not. Thank
2083 you sir.
2084

2085 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
2086 McKinney, the Board **granted** application **UP-14-2002** for a temporary conditional use
2087 permit to locate a temporary office trailer at 5403 Monument Avenue (Parcel 770-736-
2088 3957). The Board granted the use permit subject to the following conditions:
2089

2090 1. This approval is for two office trailers that will be removed by March 1, 2003. No
2091 application will be submitted to extend the time these trailers are allowed on this
2092 property.
2093

2094 2. These office trailers will be serviced by a water and sanitary system
2095 approved by the Health Department.

2096
2097 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2098 Negative: 0
2099 Absent: 0
2100
2101 The Board granted this request as it found from the evidence presented that authorizing
2102 this use permit will not be of substantial detriment to adjacent property and will not
2103 materially impair the purpose of the zoning regulations.
2104
2105 Mr. Balfour - Next case.
2106
2107 **A - 82-2002** **ROBERT CLARKE WALKER** requests a variance from Section 24-
2108 94 of Chapter 24 of the County Code to cover an existing patio at
2109 11900 Brentmoor Court (Brentmoor at Wyndham) (Parcel 740-777-
2110 7561), zoned R-4, One-family Residence District (Three Chopt).
2111 The rear yard setback is not met. The applicant proposes 27 feet
2112 rear yard setback, where the Code requires 35 feet rear yard
2113 setback. The applicant requests a variance of 8 feet rear yard
2114 setback.
2115
2116 Mr. Balfour - Any others expect to talk, for or against, on this matter?
2117 Raise your right hand and be sworn in, please.
2118
2119 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2120 truth, the whole truth, and nothing but the truth, so help you God?
2121
2122 Mr. Balfour - State your name please.
2123
2124 Mr. Walker - I do. My name is Robert Clarke Walker. I'm requesting a
2125 variance to cover an existing patio.
2126
2127 Mr. Balfour - You're not going to change size, just going to build?
2128
2129 Mr. Walker - I'm going to cover the existing, and use the matching as far
2130 as the shingles, the paint will be the same, it'll actually be 8 columns that run across it.
2131 It won't be screened in, but it will be columns that cover the existing patio.
2132
2133 Mr. Balfour - So you back up to Dominion Club Drive?
2134
2135 Mr. Walker - Yes sir. There's a road approximately 10-15 feet behind
2136 those pine trees. There's a common area between the evergreens and the road.
2137
2138 Mr. Balfour - Any questions of Mr. Walker?
2139
2140 Say again, how is this going to be constructed? What are
2141 the materials?

2142
2143 Mr. Walker - It'll be fiberglass columns, 8 columns that will surround the
2144 existing patio, and it'll be just a shed style roof, with matching siding as well as the
2145 shingles.
2146
2147 It'll match the house?
2148
2149 Mr. Walker - Yes sir.
2150
2151 When you say siding, are you going to enclose it?
2152
2153 Mr. Walker - No sir, it's a shed style. It'll come off, if you look, it's
2154 approximately
2155
2156 Mr. McKinney - Oh, you're talking about the siding on the side, the gable end
2157 of it.
2158
2159 Mr. Walker - Yes sir.
2160
2161 Mr. Balfour - Any other questions of Mr. Walker? Thank you sir.
2162
2163 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
2164 McKinney, the Board **granted** application **A-82-2002** for a variance to cover an existing
2165 patio at 11900 Brentmoor Court (Brentmoor at Wyndham) (Parcel 740-777-7561). The
2166 Board granted the variance subject to the following conditions:
2167
2168 1. This variance applies only to the rear yard setback. All other applicable
2169 regulations of the County Code shall remain in force.
2170
2171 2. The new construction shall match the existing dwelling as nearly as practical.
2172
2173 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2174 Negative: 0
2175 Absent: 0
2176
2177 The Board granted this request, as it found from the evidence presented that, due to the
2178 unique circumstances of the subject property, strict application of the County Code
2179 would produce undue hardship not generally shared by other properties in the area, and
2180 authorizing this variance will neither cause a substantial detriment to adjacent property
2181 nor materially impair the purpose of the zoning regulations.
2182
2183 Mr. Balfour - Next case.
2184
2185 **A - 83-2002** **CARYN FEINBERG** requests a variance from Section 24-41(e) of
2186 Chapter 24 of the County Code to build a sunroom at 2609 Stoney
2187 Court (Winchester Pointe) (Parcel 730-755-7310), zoned RTH,

2188 Residential Townhouse District (Three Chopt). The rear yard
2189 setback is not met. The applicant proposes 11 feet rear yard
2190 setback, where the Code requires 30 feet rear yard setback. The
2191 applicant requests a variance of 19 feet rear yard setback.
2192

2193 Mr. Balfour - Are there any others to speak for or against this matter?
2194 Raise your right hand.
2195

2196 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2197 truth, the whole truth, and nothing but the truth, so help you God?
2198

2199 Ms. Feinberg - My name is Caryn Feinberg. I live at the address, 2609
2200 Stoney Court, and I'm here just to request that you approve the variance for my home
2201 so that I could put up a sunroom in the back of my home. It actually is going to replace
2202 where the deck is now, and it'll be 12 by 12, and on the other side of this, you can't
2203 really see it, is going to be a narrow deck, a small deck, on the other side of the
2204 sunroom.
2205

2206 What's to the rear of your property?
2207

2208 Ms. Feinberg - It's a maintenance road behind, that goes down to Wilde
2209 Lake. There is also a common area, and I believe Wilde Lake owns that in part, and
2210 Winchester Point owns a section of that as well.
2211

2212 Mr. Balfour - Any other questions of Ms. Feinberg?
2213

2214 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
2215 McKinney, the Board **granted** application **A-83-2002** for a variance to build a sunroom
2216 at 2609 Stoney Court (Winchester Pointe) (Parcel 730-755-7310). The Board granted
2217 the variance subject to the following conditions:
2218

2219 1. Only the improvements shown on the plan filed with the application may be
2220 constructed pursuant to this approval. No substantial changes or additions to the layout
2221 may be made without the approval of the Board of Zoning Appeals. Any additional
2222 improvements shall comply with the applicable regulations of the County Code.
2223

2224 2. The new construction shall match the existing dwelling as nearly as
2225 practical.
2226

2227 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
2228 Negative:		0
2229 Absent:		0

2230
2231 The Board granted this request, as it found from the evidence presented that, due to the
2232 unique circumstances of the subject property, strict application of the County Code
2233 would produce undue hardship not generally shared by other properties in the area, and

2234 authorizing this variance will neither cause a substantial detriment to adjacent property
2235 nor materially impair the purpose of the zoning regulations.

2236
2237 Mr. Balfour - Next case.

2238
2239 **A - 84-2002** **GLENN AND KERRI COOK** request a variance from Section 24-94
2240 of Chapter 24 of the County Code to build a screened porch at
2241 5022 Snowmass Terrace (The Meadows) (Parcel 752-765-0897),
2242 zoned R-3AC, One-family Residence District (Conditional) (Three
2243 Chopt). The rear yard setback is not met. The applicants propose
2244 25.98 feet rear yard setback, where the Code requires 35 feet rear
2245 yard setback. The applicants request a variance of 9.02 feet rear
2246 yard setback.

2247
2248 Mr. Balfour - Any others expect to testify for or against this matter? Raise
2249 your right hand and be sworn in, please.

2250
2251 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2252 truth, the whole truth, and nothing but the truth, so help you God?

2253
2254 Mr. Bator - Yes. My name is Henry Bator. They asked me to come
2255 down here in case you had any questions. I'm actually the contractor. They want to
2256 build a screened in porch over the existing deck, and build an attached deck onto it.
2257 The back of the house right now, the way it's set, the sun hits it all day long, so they
2258 can't use it, because there's no tree coverage or anything, so it's very hot out there.
2259 There's also a water reservoir out there, so there's a lot of bugs out there.

2260
2261 Mr. Wright - And the deck would be, not coming off the rear, but to the
2262 side, it appears?

2263
2264 Mr. Bator - Right where the porch is now, where the deck is now, that's
2265 the area that's going to be screened in, and then, if you're looking at the back of the
2266 house to the left of that, that area is going to have a small deck, so they can put like a
2267 grill and stuff on there and cook on it.

2268
2269 Mr. Wright - And that's almost 26 feet from the property line, which
2270 seems to face a pond, is that right? There's a pond behind them?

2271
2272 Mr. Bator - The pond is directly behind them.

2273
2274 Mr. Wright - What's the size of the proposed screened porch?

2275
2276 Mr. Bator - I don't have that with me, actually.

2277
2278 Mr. Wright - Does that show in the application? I don't have the
2279 application. Is that going to be the same size as the deck?

2280
2281 Mr. Bator - No, actually it's going to be 2 feet larger than the deck, so it
2282 would be 2 feet deeper to the back yard.
2283

2284 Mr. Wright - We need to know what size it's going to be, so we can fix
2285 that if we were to approve it. Looks like 10 by 16 – is that the deck or the porch? If I
2286 heard you right, that might be the deck, and the porch is next to it.
2287

2288 Mr. Bator - The 10 by 16 is what's existing now, so that's going to be a
2289 little bit larger
2290

2291 Mr. Wright - We need to know what you're going to build. We can't
2292 approve just something that's off in space, or that's in your imagination.
2293

2294 Mr. Bator - There was a set of plans that were drawn up and submitted
2295 with the variance.
2296

2297 Mr. Wright - I'm trying to get to it. This shows a screened porch, 19 by 12
2298 – is that what you want? What you put in this? That works out to the variance that you
2299 wanted – 9 feet if I recall.
2300

2301 Mr. Bator - Correct. Yes, and then there's a deck off to the side of it.
2302 Right, I know we need 2 feet more, because what's there goes back 10 feet from the
2303 house, and we're making it 12 feet.
2304

2305 Mr. Wright - The deck is 10 feet by 11 feet.
2306

2307 Mr. Bator - Right, but the deck has different setbacks from something
2308 that has a roof on it.
2309

2310 Mr. Balfour - Any other questions? Thank you sir.
2311

2312 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
2313 McKinney, the Board **granted** application **A-84-2002** for a variance to build screened
2314 porch at 5022 Snowmass Terrace (The Meadows) (Parcel 752-765-0897). The Board
2315 granted the variance subject to the following condition:
2316

2317 1. Only the improvements shown on the plan filed with the application may be
2318 constructed pursuant to this approval. No substantial changes or additions to the
2319 layout may be made without the approval of the Board of Zoning Appeals. Any
2320 additional improvements shall comply with the applicable regulations of the County
2321 Code.
2322

2323 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2324 Negative: 0

2325 Absent: 0

2326
2327 The Board granted this request, as it found from the evidence presented that, due to the
2328 unique circumstances of the subject property, strict application of the County Code
2329 would produce undue hardship not generally shared by other properties in the area, and
2330 authorizing this variance will neither cause a substantial detriment to adjacent property
2331 nor materially impair the purpose of the zoning regulations.

2332
2333 Mr. Balfour - Next case.

2334
2335 Mr. Blankinship - The next 2 are companion cases, Mr. Chairman.

2336
2337 **A - 85-2002** **GARY THOMPSON** requests a variance from Section 24-94 of
2338 Chapter 24 of the County Code to build a one-family dwelling at
2339 610 Daisy Avenue (Parcel 824-729-5540 (part)), zoned R-2A, One-
2340 family Residence District (Varina). The public street frontage
2341 requirement is not met. The applicant has 0 feet public street
2342 frontage, where the Code requires 50 feet public street frontage.
2343 The applicant requests a variance of 50 feet public street frontage.

2344
2345 **A - 86-2002** **GARY THOMPSON** requests a variance from Section 24-94 of
2346 Chapter 24 of the County Code to build a one-family dwelling at
2347 616 Daisy Avenue (Parcel 824-729-5540 (part)), zoned R-2A, One-
2348 family Residence District (Varina). The public street frontage
2349 requirement is not met. The applicant has 0 feet public street
2350 frontage, where the Code requires 50 feet public street frontage.
2351 The applicant requests a variance of 50 feet public street frontage.

2352
2353 Mr. Balfour - Anyone else here to speak on this matter, for or against?
2354 Will all of you who are standing up, raise your right hand and be sworn in, please.

2355
2356 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2357 truth, the whole truth, and nothing but the truth, so help you God?

2358
2359 Mr. Balfour - All right sir, who's going to speak first?

2360
2361 Mr. Thompson - I do. Gary Thompson. I currently own the property.
2362 Requesting the variance on the road frontage for 2 lots to be conveyed in relation with
2363 the rules and regulations of a family subdivision for Henrico.

2364
2365 And these are 2 adjacent lots, it looks like, backing up to a
2366 pond?

2367
2368 Mr. Thompson - Yes sir.

2369
2370 You have access to these lots, coming in from the end of
2371 Daisy Avenue, and then you go left to the frontage of both lots.

2372
2373 How are you going to get from the end of Daisy Avenue to
2374 the lots in question?
2375
2376 Mr. Thompson - Basically, you'll take a left immediately as you enter the
2377 property, and the right-of-way will go right down the property line toward the left.
2378
2379 Do you have a legal authorized right-of-way now?
2380
2381 Mr. Thompson - That, and the conveyance of the lots, we decided to wait
2382 until after we got the variances before we actually changed hands, so yes, that is in the
2383 plans, but neither one has been done yet until after we went through this process.
2384
2385 You're saying your contract to purchase includes rights to
2386 get to both lots.
2387
2388 Mr. Thompson - Yes sir, we're conveying the lots.
2389
2390 You live back there now, Mr. Thompson? And these 2
2391 houses will be built for immediate family?
2392
2393 Mr. Thompson - Yes sir. Yes sir.
2394
2395 How wide is that right-of-way going to be?
2396
2397 Mr. Thompson - I'm trying to see exactly what it is. It was to conform to the
2398 County Code by the Draper Aden firm that I had do it. I'm thinking that they have 20
2399 feet; I think that's what it is. He was in touch with the County, and whatever the County
2400 told him it needed to be, is what they drew it up as.
2401
2402 How big are these lots?
2403
2404 Mr. Thompson - One of them is between .5 and .6 of an acre, and the other's
2405 between .8 and .9 of an acre.
2406
2407 Mr. Balfour - Other questions by Board members?
2408
2409 What type home are you planning on building back there?
2410
2411 Mr. Thompson - I'm not the one who'll be building them, but from my
2412 understanding, they'll be conforming to the, I believe they'll both be rancher style, and
2413 they'll be at least as big as the other houses that they're adjacent to. I believe one of
2414 them will be brick, and she is speaking for the other one.
2415
2416 Mrs. Thompson - It will probably be brick also.
2417

2418 Mr. Thompson, have you read the conditions that have been
2419 proposed?
2420
2421 Mr. Balfour - Would you like to say anything?
2422
2423 Mrs. Thompson - No, just one of the lots is my husband's and mine; we are his
2424 mother-in-law and father-in-law, and the other will be his son's.
2425
2426 Mr. Balfour - Any other questions at this time? We'll hear from the other
2427 2, and if they are opposed to it, you'll have a chance to make further comments if you
2428 like. Thank you. Yes sir.
2429
2430 Mr. Albus - Good morning. My name is Erich Albus, and I live on the
2431 end of the street of Daisy Avenue. The only thing is, what I have to discuss is the
2432 drainage. There is a whole lot of water coming if we have a heavy rainfall, and it's
2433 washed already a whole lot out of his property, and I hope he won't change that. When
2434 he's got only a small entrance at the end of the street, that is maybe 12 feet wide, and
2435 the rest is the drainage of the street. I'm worried about this drainage. I can show you a
2436 picture of what has happened years ago, before Mr. Thompson owned the land. To
2437 show you how strong the water comes down.
2438
2439 Was that before Daisy Avenue was put in there?
2440
2441 Mr. Albus - No, no. That just happened in 1970, and it washed part of
2442 the street out. At the end of the street, he's got a way into his house.
2443
2444 Mr. Blankinship - Is this you in 1970 sir?
2445
2446 Mr. Albus - That is my son. It washed even the heavy part of the ditch
2447 out.
2448
2449 Your concern is, that if he builds these houses, that he
2450 makes sure he's got culverts and ditches enough to provide sufficient drainage?
2451
2452 Mr. Albus - I just want to leave it like it is. Otherwise, if he changes that,
2453 and throw that concrete wall down, it will be maybe a mess and everything.
2454
2455 You want him to maintain the road up to the end of Daisy, is
2456 that right?
2457
2458 Mr. Albus - The end of Daisy, yes. And as far as I know, he needs 50
2459 feet request for a house. I don't know how he can get 50 feet. Daisy ends there, and
2460
2461
2462 Mr. Balfour - Mr. Blankinship, what's at the end of Daisy right now?
2463

2464 Mr. Blankinship - It just ends.
2465
2466 Mr. Balfour - Does it have a wall, or pipe, or what's there?
2467
2468 Mr. Albus - There's a pipe that goes in the ground that goes to his
2469 property.
2470
2471 The picture shows just a hole that looks like it's part of the
2472 street.
2473
2474 Mr. Albus - The County filled that hole up again, that was a part of Daisy
2475 that broke out, and the County filled that up with 50 truckloads. You know how heavy
2476 the rain was coming down, the water's coming down when we have a heavy rainfall,
2477 and the County filled it up with 50 trucks about, and needed 3 trucks of cement or
2478 concrete, or whatever you call it, to fix that spot of drainage. That is about half of the
2479 road, and the other half is his, Mr. Thompson's entrance to his house.
2480
2481 Mr. Kirkland - Mr. Blankinship, won't condition # 2 address any drainage
2482 problems going to the Department of Public Works?
2483
2484 Mr. Blankinship - Yes, that will all be reviewed by Public Works.
2485
2486 Mr. Kirkland - The Department of Public Works of Henrico County, sir, will
2487 cover any major drainage problems when the permit is issued and after the home is
2488 built, so that should protect you.
2489
2490 Mr. Balfour - Any other questions? Was there someone else who wished
2491 to speak? Mr. Thompson, do you have anything further to say?
2492
2493 Mr. Thompson - I understand what Mr. Albus is speaking of, but what he's
2494 talking about is to the right side of Daisy Avenue. He lives on the last lot at the end of
2495 the hard surface of Daisy on the right-hand side, and there's a large concrete culvert
2496 that goes down from the end of Daisy right beside where his property ends. As far as
2497 these 2 lots that we're requesting, that really doesn't have anything to do with where the
2498 drainage is that he was talking about. If there is ever any house built beside his
2499 property, that would become an issue on that lot, but right now the lots that we're
2500 requesting are to the left of the extension of Daisy Avenue, which really doesn't involve
2501 the culvert he was speaking of at all.
2502
2503 When did you build your house – in 1990?
2504
2505 We granted a variance in 1990 to build a house on 48 acres
2506 – I guess it was part of the property you owned at the time? And at that time we had the
2507 same discussion, and we had a condition which is not on this case, but I would suggest
2508 we put in, that required that you have the Public Works Department review any
2509 improvements in relationship to the drainage. Do you have any problem with a

2510 condition of that nature?

2511
2512 Mr. Thompson - Not at all. Before we built our house, the status of the end of
2513 Daisy, it was an open concrete culvert right at the end of the road. You could not even
2514 drive on to our property because of the width of this open culvert. After we got the
2515 variance, the County offered to provide a pipe. I believe it was if we purchased the
2516 pipe, they would put it in and cover it over, leaving an open area to the left of the pipe,
2517 to where it would not be an open culvert any more. That's what the County ended up
2518 doing. The way that that area is right now, the rainwater does not wash onto our
2519 property. It either washes down the right side where the concrete culvert Mr. Albus
2520 spoke of, is, or it's channeled into the hole on the left side, and then it runs through the
2521 pipe, again to the right-hand side of the road. The drainage is not really a problem now.
2522 I don't think that we would ever want to change that concrete culvert that he's speaking
2523 of, because if we ever did anything, we would probably put a collection basin in down at
2524 the end of that large concrete culvert and put an in-ground pipe down to the right. If we
2525 ever did anything, it would be something like that; it would never be to restrict the
2526 drainage that's already there, because that wouldn't be in anybody's best interests.

2527
2528 Mr. Balfour - All right sir, thank you. Was there anyone else to speak on
2529 this matter?

2530
2531 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2532 Wright, the Board **granted** application **A-85-2002** for a variance to build a one-family
2533 dwelling at 610 Daisy Avenue (Parcel 824-729-5540 (part)). The Board granted the
2534 variance subject to the following conditions:

- 2535
2536 1. This variance applies only to the public street frontage requirement. All other
2537 applicable regulations of the County Code shall remain in force.
2538
2539 2. At the time of building permit application, the applicant shall submit the
2540 necessary information to the Department of Public Works to ensure compliance with the
2541 requirements of the Chesapeake Bay Preservation Act and the code requirements for
2542 water quality standards.
2543
2544 3. At the time of building permit application the owner shall demonstrate that the
2545 two parcels created by this division have been conveyed to members of the immediate
2546 family, and the subdivision ordinance has not been circumvented.
2547
2548 4. The applicant shall present proof with the building permit application that a legal
2549 access to the property has been obtained.
2550
2551 5. The owners of the property, and their heirs or assigns, shall accept responsibility
2552 for maintaining access to the property until such a time as the access is improved to
2553 County standards and accepted into the County road system for maintenance.

2554
2555 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2556 Negative: 0
2557 Absent: 0

2558
2559 The Board granted this request, as it found from the evidence presented that, due to the
2560 unique circumstances of the subject property, strict application of the County Code
2561 would produce undue hardship not generally shared by other properties in the area, and
2562 authorizing this variance will neither cause a substantial detriment to adjacent property
2563 nor materially impair the purpose of the zoning regulations.

2564
2565 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2566 Wright, the Board **granted** application **A-86-2002** for a variance to build a one-family
2567 dwelling at 616 Daisy Avenue (Parcel 824-729-5540 (part)). The Board granted the
2568 variance subject to the following conditions:

2569
2570 1. This variance applies only to the public street frontage requirement. All other
2571 applicable regulations of the County Code shall remain in force.

2572
2573 2. At the time of building permit application, the applicant shall submit the
2574 necessary information to the Department of Public Works to ensure compliance with the
2575 requirements of the Chesapeake Bay Preservation Act and the code requirements for
2576 water quality standards.

2577
2578 3. At the time of building permit application the owner shall demonstrate that the
2579 two parcels created by this division have been conveyed to members of the immediate
2580 family, and the subdivision ordinance has not been circumvented.

2581
2582 4. The applicant shall present proof with the building permit application that a legal
2583 access to the property has been obtained.

2584
2585 5. The owners of the property, and their heirs or assigns, shall
2586 accept responsibility for maintaining access to the property until such a time as the
2587 access is improved to County standards and accepted into the County road system for
2588 maintenance.

2589
2590 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2591 Negative: 0
2592 Absent: 0

2593
2594 The Board granted this request, as it found from the evidence presented that, due to the
2595 unique circumstances of the subject property, strict application of the County Code
2596 would produce undue hardship not generally shared by other properties in the area, and
2597 authorizing this variance will neither cause a substantial detriment to adjacent property
2598 nor materially impair the purpose of the zoning regulations.

2599
2600 Mr. Balfour - Next case.
2601

2602 **A - 87-2002** **THOMAS P. AND KAREN S. HAESEKER** request a variance from
2603 Section 24-94 of Chapter 24 of the County Code to build an
2604 attached garage at 12469 Burnside Lane (Steveston) (Parcel 739-
2605 752-6501), zoned R-4C, One-family Residence District
2606 (Conditional) (Tuckahoe). The rear yard setback and total side
2607 yard setback are not met. The applicants propose 27 feet rear yard
2608 setback and 21.6 feet total side yard setback, where the Code
2609 requires 35 feet rear yard setback and 25 feet total side yard
2610 setback. The applicants request a variance of 8 feet rear yard
2611 setback and 3.4 feet total side yard setback.
2612

2613 Mr. Balfour - Anyone else to speak for or against this matter? Raise your
2614 right hand and be sworn in, please.
2615

2616 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2617 truth, the whole truth, and nothing but the truth, so help you God?
2618

2619 Mr. Haeseker - I do. My name is Tom Haeseker, and the reason I'm here is
2620 to ask you to grant a variance so that we can build a detached garage, which would
2621 include a bedroom over the top, and then down on the lower floor, there would also be a
2622 mudroom and a utility room. The reason we're doing this is that in the last 5 years,
2623 we've had 2 more children. We have a total of 4 now, and we need more space. We've
2624 talked to our neighbors about it, and they have no problem with us doing this, and we'd
2625 just like if you'd consider granting the variance for us.
2626

2627 If we approve it, this becomes a woodshed for the bad child?
2628

2629 Mr. Haeseker - I don't know. I have an idea it'd be too much of a palace for
2630 him.
2631

2632 What's located, what would be adjacent on the rear of the
2633 property across from where this proposed garage would be built? Looks like another
2634 building there
2635

2636 Mr. Haeseker - Our next-door neighbors have a detached garage there as
2637 well.
2638

2639 That's a garage also?
2640

2641 Mr. Haeseker - You know, we were thinking about putting a detached
2642 garage in also, but when we talked to our neighbors, they would prefer that we attach it,
2643 and we would prefer that we attach it too.
2644

2645 And there's a little house, it looks like, that backs up to you
2646 from Stranford Place as well, that's a shed I guess, is that right?
2647

2648 Mr. Haeseker - That's the neighbors behind us.
2649
2650 Mr. Balfour - Any other questions of Mr. Haeseker?
2651
2652 Mr. Haeseker - Oh, one other thing. In the proposed variance, it says the
2653 setback would be 8 feet and 3.4 feet, and actually they would be 10 feet and 3.9 feet.
2654
2655 Oh we've got a problem.
2656
2657 Mr. Haeseker - Well, we've got it on the application; the County changed it.
2658
2659 The County changed it incorrectly?
2660
2661 Mr. Haeseker - My wife went down, and the County drew this in, but it didn't
2662 wind up on these specifications. Should be 3.9 feet , instead of 3.4 feet, and 10 instead
2663 of 8.
2664
2665 So you've got 2 feet one way and a few inches the other?
2666 What did the notice say that went out to people?
2667
2668 Mr. Blankinship - The notice would say the same thing that's in the ad, 8 feet
2669 and 3.4 feet.
2670
2671 When was the change made in the application? You got a
2672 copy of the original application in the file?
2673
2674 Shows 10.8 in the drawing.
2675
2676 Mr. Blankinship - Is this drawing still correct? That shows an 8-foot variance
2677 to the rear yard.
2678
2679 Mr. Haeseker - The drawing is correct.
2680
2681 It must be that they altered it a little bit between the drawing
2682 and the edge of the property line. Based on the drawing, you need 3.4 feet side yard,
2683 and you need 8 in the rear.
2684
2685 That's probably where it came from. They must have
2686 checked your plans, and found out that you were asking for more than you need.
2687
2688 Mr. Blankinship - If the drawing is correct, then the ad is correct and the notice
2689 is correct.
2690
2691 Mr. Balfour - Thank you for bringing that to our attention. Any other
2692 questions? Apparently not. Thank you sir.
2693

2694 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
2695 McKinney, the Board **granted** application **A-87-2002** for a variance to build an attached
2696 garage at 12469 Burnside Lane (Steveston) (Parcel 739-752-6501). The Board granted
2697 the variance subject to the following condition:

2698
2699 1. Only the improvements shown on the plan filed with the application may be
2700 constructed pursuant to this approval. No substantial changes or additions to the
2701 layout may be made without the approval of the Board of Zoning Appeals. Any
2702 additional improvements shall comply with the applicable regulations of the County
2703 Code.

2704
2705 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2706 Negative: 0
2707 Absent: 0

2708
2709 The Board granted this request, as it found from the evidence presented that, due to the
2710 unique circumstances of the subject property, strict application of the County Code
2711 would produce undue hardship not generally shared by other properties in the area, and
2712 authorizing this variance will neither cause a substantial detriment to adjacent property
2713 nor materially impair the purpose of the zoning regulations.

2714
2715 Mr. Balfour - Next case.

2716
2717 **A - 88-2002** **ROBERT P. CHEESEMAN** requests a variance from Section 24-
2718 95(i)(2)f. of Chapter 24 of the County Code to build an in-ground
2719 pool at 7800 Biscayne Road (Williamsburg Park) (Parcel 763-750-
2720 6445), zoned R-3, One-family Residence District (Three Chopt).
2721 The minimum side yard setback is not met. The applicant proposes
2722 33 feet side yard setback, where the Code requires 60 feet side
2723 yard setback. The applicant requests a variance of 27 feet total
2724 side yard setback.

2725
2726 Mr. Balfour - Anyone else to speak for or against this matter? Raise your
2727 right hand and be sworn in, please.

2728
2729 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2730 truth, the whole truth, and nothing but the truth, so help you God?

2731
2732 Mr. Cheeseman - I do. My name is Robert Cheeseman. We reside at 7800
2733 Biscayne Road, and we request that you approve our variance to put in a built-in pool in
2734 our back yard.

2735
2736 Mr. Balfour - You understand that if it's approved, you have to get these
2737 various permits that are listed in the conditions?

2738
2739 Mr. Cheeseman - Yes sir, I'm aware of the conditions, and I approve of them.

2740
2741 You say it's in the back yard, and we say it's in the side yard,
2742 is that what we're saying here?
2743

2744 Mr. Cheeseman - No sir, it's in our back yard, but it's the side setback because
2745 we're located on a corner curved lot. We have a 10-foot setback where that fence is
2746 that you're looking at, and on the other side of the property is Biscayne Road, and
2747 because we're on a curve, it's a 60-foot setback, so we would only be able to put in
2748 something maybe 20 foot.

2749
2750 What's the proposed size of the pool? And what type of
2751 fence or whatever will you have around the pool?

2752
2753 Mr. Cheeseman - 20 by 40, sir. We currently have a 6-foot stockade fence
2754 surrounding the whole back yard.

2755
2756 You need something around the pool.

2757
2758 Mr. Cheeseman - Yes sir, we have that on our drawings, a 4-foot fence to
2759 surround the pool itself, but we currently have a 6-foot stockade fence surrounding the
2760 whole back yard.

2761
2762 What type of fence will the 4-foot one be, what will it be built
2763 out of?

2764
2765 Mr. Cheeseman - Probably vinyl. I don't know that we're required to have 2
2766 fences, but we have 5 children.

2767
2768 In other words, you don't want 20 children.

2769
2770 - I think you're required to have something around the pool to
2771 protect the pool from somebody falling in it.

2772
2773 Mr. Cheeseman - We had planned to have a floating alarm put in the pool
2774 itself, and we do have currently a 6-foot stockade fence surrounding the whole back
2775 yard. We plan on putting a 4-foot fence as per the drawing.

2776
2777 Mr. McKinney - You don't need it if you've got a fence around your yard; I
2778 think the latch has to be 4 feet off the ground.

2779
2780 Mr. Balfour - Any other questions? Thank you.

2781
2782 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
2783 McKinney, the Board **granted** application **A-88-2002** for a variance to build an in-
2784 ground pool at 7800 Biscayne Road (Williamsburg Park) (Parcel 763-750-6445). The
2785 Board granted the variance subject to the following condition:

2786
2787 1. Only the improvements shown on the plan filed with the application may be
2788 constructed pursuant to this approval. No substantial changes or additions to the
2789 layout may be made without the approval of the Board of Zoning Appeals. Any
2790 additional improvements shall comply with the applicable regulations of the County
2791 Code.

2792
2793 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2794 Negative: 0
2795 Absent: 0

2796
2797 The Board granted this request, as it found from the evidence presented that, due to the
2798 unique circumstances of the subject property, strict application of the County Code
2799 would produce undue hardship not generally shared by other properties in the area, and
2800 authorizing this variance will neither cause a substantial detriment to adjacent property
2801 nor materially impair the purpose of the zoning regulations.

2802
2803 Mr. Balfour - Next case.

2804
2805 **UP- 15-2002 HENRICO DOCTORS HOSPITAL** requests a temporary
2806 conditional use permit pursuant to Section 24-116(c)(1) of Chapter
2807 24 of the County Code to continue use of mobile angio lab at 1602
2808 Skipwith Road (Parcel 761-745-3004), zoned O-3, Office District
2809 (Three Chopt).

2810
2811 Mr. Balfour - Any others expect to testify for or against this matter? Raise
2812 your right hand and be sworn in, please.

2813
2814 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2815 truth, the whole truth, and nothing but the truth, so help you God?

2816
2817 Mr. Booth - I do. Mr. Chairman, members of the Board, my name is
2818 Craig Booth. I'm a project architect with Gresham, Smith and Partners. We were the
2819 architects for the original temporary use structure that was constructed 2 years ago in
2820 the summer of 2000. As you know, we originally got the temporary use permit in April of
2821 2000 and had every intention to utilize it on a temporary basis until a more permanent
2822 location on the hospital campus was found for a mobile connector. A couple of things
2823 have happened in the meantime. We actually did look at one option, which is viable;
2824 however we have not proceeded to do floor plans or pursue it because we have also
2825 been looking from a master planning perspective of other areas on the hospital campus
2826 that might serve as a better location for the temporary connector.

2827
2828 The other thing is, as you know, late last year HCA purchased HEALTHSOUTH, which
2829 is now Henrico Doctors Hospital on Parham Road, which forced the hospital
2830 administration to consider what types of services were going to be offered at Forest vs.
2831 Parham. So this is one of those services that has been put into question as to the most

2832 efficient way and the most efficient location to offer the service. Aware that our
2833 temporary use permit was expiring this month, we wanted to come before you to
2834 request permission to continue to use the temporary structure to serve the cases that
2835 Henrico Doctors currently has. I guess I'd be open to answer any questions for you. I
2836 brought Ron Buchanan here with me; he's the Director of Engineering at Henrico
2837 Doctors Forest also.

2838
2839 Mr. Blankinship, I noticed that you said the Board didn't have
2840 the authority to approve this request.

2841
2842 Mr. Blankinship - The Code allows temporary permits under 116(c)(1) for a
2843 period not to exceed 24 months.

2844
2845 And no renewal.

2846
2847 When it was granted, it was granted for a period not to
2848 exceed 24 months.

2849
2850 Mr. McKinney - Why are they here, Mr. Blankinship?

2851
2852 Mr. Balfour - Are you advised that you need to amend your Plan of
2853 Development rather than come before us?

2854
2855 Mr. Booth - Yes, Mr. Blankinship made us aware of that. We'd be more
2856 than happy to do that. The only thing with that is, originally it was constructed as a
2857 temporary use group B occupancy with the Building Permit Department, and so of
2858 course of combustible materials, because it was a temporary structure. We really have
2859 no intention of wanting to keep the building on a long-term basis. As I've shown on the
2860 board here, we do have one option which we are interested in pursuing. Maybe Ron, if
2861 you want to say a few words to that? Amending the Plan of Development for the
2862 campus isn't something that we really would want to do; however, in order to continue to
2863 use it, until we construct a permanent solution for the mobile connector, is something
2864 that, of course, we will do.

2865
2866 Our problem is, number 1, apparently we're limited by the
2867 Code, and secondly, if we continue to extend it, then you can continue to plan. I don't
2868 want to be ornery about it, but that's the way the public might look at it.

2869
2870 Mr. Balfour - Comments by Board members?

2871
2872 Mr. McKinney - Mr. Blankinship, if they moved this trailer on another part of
2873 their lot and came back in on a new case, could we hear it?

2874
2875 Mr. Blankinship - That's an interesting question. Our position as staff, ever
2876 since the Duval case, has been that when applicants come in with a request like this,
2877 we tell them up front, that it's our position that the Board cannot extend the permit, but if

2878 they want to bring the application forward, we put it in front of you. That question really
2879 comes to you.

2880
2881 Mr. McKinney - I understand. We've got a copy of the Code. It's for 24
2882 months, pretty cut and dried, but it was approved for that site, where that trailer lab is.
2883 Now my question, if they moved it over to a different area on their land and applied for a
2884 new one, if they need it for another 24 months, could that be done?

2885
2886 Mr. Blankinship - I don't have a cut and dried yes or no answer for that, but if
2887 they brought me an application like that, I would put it in front of you and do the best I
2888 could to review it for you. I think that's a decision the Board has to make; I don't think
2889 it's one staff can make for you.

2890
2891 Mr. McKinney - You might want to run that one by the County Attorney and
2892 hear his opinion on that, because apparently we can't extend the one they've got.

2893
2894 Mr. Balfour - If you ask for a new location though, I think they're going to
2895 have to request a new permit. You can't just extend this one. What we're saying it,
2896 lawyers take a long time to say it, the point is, he will ask the County Attorney for an
2897 opinion, and if you'd like to keep in contact with Mr. Blankinship and find out if you can
2898 make a new application for a new location for the trailer, and the County Attorney
2899 approves it, you can try that, or you can go the Plan of Development route, but we can't
2900 do anything today.

2901
2902 Mr. Booth - We just wanted to come before you and make you aware of
2903 the situation. We have every intention of constructing a permanent mobile connector on
2904 the site.

2905
2906 Mr. Balfour - I have a suggestion for you. If the County Attorney approves
2907 it, and you can make a new application for a new location on the same piece of
2908 property, that might be an out for you.

2909
2910 Mr. McKinney - That still doesn't mean that it will get granted.

2911
2912 Mr. Kirkland - If they move it just a foot, that would be a new location,
2913 right?

2914
2915 Mr. McKinney - I guess it's up to this Board. I don't think a foot would be
2916 considered a new location.

2917
2918 Mr. Wright - You've got to use some reason there.

2919
2920 Mr. Balfour - Thank you.

2921
2922 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **denied** application
2923 **UP-15-2002** for a conditional use permit to continue use of mobile angio lab at 1602

2924 Skipwith Road (Parcel 761-745-3004). The Board denied your request because the 24-
2925 month period allowed by the County Code has expired.

2926
2927 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2928 Negative: 0
2929 Absent: 0

2930
2931 Mr. Balfour - Next case.

2932
2933 **A - 89-2002** **GENYA W. GLASS** requests a variance from Section 24-94 of
2934 Chapter 24 of the County Code to build an addition at 8909
2935 Rearden Road (Mooreland Farms) (Parcel 745-731-1795), zoned
2936 R-1, One-family Residence District (Tuckahoe). The rear yard
2937 setback is not met. The applicant proposes 43 feet rear yard
2938 setback, where the Code requires 50 feet rear yard setback. The
2939 applicant requests a variance of 7 feet rear yard setback.

2940
2941 Mr. Balfour - Any others expect to testify for or against this matter? Raise
2942 your right hand and be sworn in, please.

2943
2944 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2945 truth, the whole truth, and nothing but the truth, so help you God?

2946
2947 Ms. Glass - I do. My name is Genya Glass, and I live at this residence
2948 with my husband. We're interested in putting on an addition that would be 15 by 30 feet
2949 to the rear of the house. Because the house itself is built slightly back in the lot itself, it
2950 wouldn't be possible to add an addition to the front of it in any way, and it wouldn't look
2951 very good anyway. What we would like to do is, although there is a 50-foot setback
2952 requirement, putting that addition on, the 15 by 30-foot room, would mean that we would
2953 need a variance of 7 feet. The setback would then be 43 feet. To the side, in terms of
2954 it's distance to the next house, we would have 29 feet, which is well within the setback
2955 limit, I think it's 20 feet to the side there. The purpose of this addition is a workroom for
2956 me. Our children are gone, and I would like some space with running water. We would
2957 have, as you can see in the plans, there would be a sink in the room for art work, and
2958 there would be, we're not planning to put a bathroom in, but we put the rough-in would
2959 be done for a future bathroom. There would be an entrance from the garage, as well as
2960 the outside where the driveway is, and to the back we would extend a little porch area
2961 that we have, so that it would just look nice, it would connect with the addition.

2962
2963 Nobody has said anything negative to me; it's just for my own personal us, and we have
2964 very good screening to the back. The addition would go off of the current garage, so
2965 that the height of the roof would be identical to the what the current height of the roof is.
2966 It would be extended in the direction of a very large magnolia tree, as well as permanent
2967 evergreens or cedars, but directly where the extension would be, there is a huge
2968 magnolia; therefore there wouldn't be, between that and the cedars, I don't think it could
2969 be possibly visible to any of the houses to the rear of us. Are there any questions?

2970
2971 What is located to the rear of you?
2972
2973 Ms. Glass - There is a street called Butterfield, that comes to a cul-de-
2974 sac, and there's a house – that house you can't see, as you can see in the photograph,
2975 because of the cedars and the magnolia.
2976
2977 It's well screened?
2978
2979 Ms. Glass - Yes, it's very well screened.
2980
2981 Is that a kitchen on the other side that extends out already?
2982
2983 Ms. Glass - That's a garage. Actually we would be taking a portion of
2984 the garage and enclosing that, because it's an oversized 2-car garage, and we've been
2985 using one area just for storage, having children who bring things back from college. It
2986 was a convenient place to plunk stuff between semesters. They're a little older now,
2987 and I'd rather use that for my workroom space.
2988
2989 Mr. Balfour - Any questions of Ms. Glass?
2990
2991 Ms. Glass - Actually, there's one question I had – I did read at the end
2992 what the conditions are. The one question that I had when looking at the plan – would it
2993 be considered a huge difference or change to switch where the stairs on the back
2994 connect with the porch? If I were to change them from one side to the other, is that
2995 considered a big difference? I just thought I'd ask; I didn't know what that meant. After
2996 sort of mulling that over in my mind, I thought it might look nicer.
2997
2998 Mr. Blankinship - No, that wouldn't be considered substantial.
2999
3000 That's not in the rear yard, is it?
3001
3002 Ms Glass - Yes, going off the deck

3003
3004 The change you're suggesting or you might make, wouldn't
3005 encroach further into the rear yard, that's what I'm saying. That's your concern here,
3006 the rear yard.
3007
3008 Ms. Glass - I just wanted to make sure I knew what "substantial" was,
3009 and you were all here, so I thought I would ask.
3010
3011 Mr. Balfour - Any other questions? Thank you. Apparently not.
3012
3013 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
3014 McKinney, the Board **granted** application **A-89-2002** for a variance to build an addition

3015 at 8909 Rearden Road (Mooreland Farms) (Parcel 745-731-1795). The Board granted
3016 the variance subject to the following condition:

3017
3018 1. Only the improvements shown on the plan filed with the application may be
3019 constructed pursuant to this approval. No substantial changes or additions to the
3020 layout may be made without the approval of the Board of Zoning Appeals. Any
3021 additional improvements shall comply with the applicable regulations of the County
3022 Code.

3023
3024 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
3025 Negative: 0
3026 Absent: 0

3027
3028 The Board granted this request, as it found from the evidence presented that, due to the
3029 unique circumstances of the subject property, strict application of the County Code
3030 would produce undue hardship not generally shared by other properties in the area, and
3031 authorizing this variance will neither cause a substantial detriment to adjacent property
3032 nor materially impair the purpose of the zoning regulations.

3033
3034 Mr. Balfour - Next case.

3035
3036 **UP- 16-2002 COKESBURY BOOKSTORE** requests a temporary conditional use
3037 permit pursuant to Section 24-116(c)(1) of Chapter 24 of the
3038 County Code to hold a tent sale at 3700 West End Drive (Parcel
3039 759-757-0604), zoned B-2, Business District (Brookland).

3040
3041 Mr. Balfour - Any others expect to testify for or against this matter? Raise
3042 your right hand and be sworn in, please.

3043
3044 Mr. Blankinship - Do you swear that the testimony you are about to give is the
3045 truth, the whole truth, and nothing but the truth, so help you God?

3046
3047 Ms. Thompson - I do. I am Ellen Thompson, the Area Sales Manager for
3048 Cokesbury Bookstore in the Virginia area. Cokesbury is owned by the United Methodist
3049 Church and has operated a bookstore in this area for 120 years. We have had tent
3050 sales since 1995. When we had the first one, I did come over to the County and ask if
3051 we needed a permit, and they said we didn't need one. Since we have been told that
3052 we are in violation, we are now working to become in total compliance. We have made
3053 our plans this year, hopefully for a smaller tent that will not require a building permit.
3054 We're working with a commercial and professional tent company that we've always
3055 worked with, and have sent them copies of the Code as well. We strive to be good
3056 corporate citizens. The area is always left as well or better than it was before. The
3057 conditions will be met. Our agreement is currently verbal, but I will get a written
3058 agreement from the owner of the parking lot and have that available for review. The
3059 tent will be removed on Saturday, May the 18th, after the conclusion of the sale, and for
3060 the sake of all of our customers who call me every day, wanting to know when our tent

3061 sale is, I just asked if we could please have it this year.

3062
3063 You lose 8 spaces due to the tent – will that cause you any
3064 great problem in your parking area?

3065
3066 Ms. Thompson - What we do is, I don't know if you have pictures, but right
3067 across Hanley Drive is a large area that belongs to Tuckernuck Square Shopping
3068 Center, which is what we have always used in the past. I have photographs, customers
3069 park across the street, and that's the request for the agreement with the Tuckernuck
3070 Square ownership. We have verbal agreement now, and I will get a written agreement
3071 prior to the sale, just to make sure we are all in agreement. We maintain handicapped
3072 spaces, once the tent is up. My staff parks across in Tuckernuck Square, and other
3073 customers park across there.

3074
3075 What will be the hours of the day of the sale, the same hours
3076 as the store hours?

3077
3078 Ms. Thompson - The same hours as the store hours, 9 to 5 Thursday and
3079 Friday, and 10 to 5 on Saturday.

3080
3081 So it would all be in daylight?

3082
3083 Ms. Thompson - All in daylight.

3084
3085 How long have you been at this location?

3086
3087 Ms. Thompson - We've been at this location since September of 1992.

3088
3089 And you moved from downtown, at 5th and Grace.

3090
3091 Ms. Thompson - We're the best-kept secret in Richmond

3092
3093 Mr. Balfour - Any questions? Thank you.

3094
3095 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
3096 Wright, the Board **granted** application **UP-16-2002** for a temporary conditional use
3097 permit to to hold a tent sale at 3700 West End Drive (Parcel 759-757-0604). The Board
3098 granted the use permit subject to the following conditions:

3099
3100 1. The tent will be removed by Monday, May 20, 2002.

3101
3102 2. A copy of the agreement with the adjacent Shopping Center, Tuckernuck
3103 Square, to use their parking spaces shall be submitted with the building permit
3104 application for the tent.

3105
3106 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

3107 Negative: 0
3108 Absent: 0

3109
3110 The Board granted this request as it found from the evidence presented that authorizing
3111 this use permit will not be of substantial detriment to adjacent property and will not
3112 materially impair the purpose of the zoning regulations.

3113
3114 Mr. Balfour - Next case.

3115
3116 **A - 90-2002** **ABID KRAK** requests a variance from Section 24-94 of Chapter 24
3117 of the County Code to build a one-family dwelling at 5401 Dickens
3118 Road (Parcel 773-744-3103 (part)), zoned R-2, One-family
3119 Residence District (Brookland). The rear yard setback and total lot
3120 area requirement are not met. The applicant has 16,574 square
3121 feet total lot area and 30 feet rear yard setback, where the Code
3122 requires 18,000 square feet total lot area and 45 feet rear yard
3123 setback. The applicant requests a variance of 1,426 square feet
3124 total lot area and 15 feet rear yard setback.

3125
3126 Mr. Balfour - Any others expect to testify for or against this matter? All
3127 who expect to testify, raise your right hand and be sworn in, please.

3128
3129 Mr. Blankinship - Do you swear that the testimony you are about to give is the
3130 truth, the whole truth, and nothing but the truth, so help you God?

3131
3132 Mr. Balfour - All right, sir, state your name.

3133
3134 Mr. Krak - I do. My name is Abid Krak. I live at 5401 Dickens Road. I
3135 got this place about a year and a half ago. My existing house was built back in about
3136 1923 or something like that. The reason why I purchased this place was because there
3137 was a complete lot and house and garage needed to be remodeled. I've been working
3138 on it. Also, that size of lot I thought would give me a chance to build another house on
3139 it. I got a set of plans and everything I've been working on it by myself, the whole thing.
3140 Part of my business is renovation and building new houses. I'm originally from Bosnia,
3141 and the way over there is to build your own house. That's my dream in this country. I
3142 came out here about 8 years ago. On that picture, I've been working on that house
3143 since I bought it back in December 2000. That old barn, that's my next step, to rebuild
3144 it, and in case I get the building permit for new house, I'm going to stay there my whole
3145 life. Existing house, I've got a bunch of my family here; I'm going to put my in-laws or
3146 my brother in existing house over here.

3147
3148 Mr. McKinney - Say that last part again, you're doing what? It looks like from
3149 your plan that you've got a 2-story frame house and a 2-story frame house with a
3150 question mark, and a 2-story garage.

3151
3152 Mr. Krak - Yes.

3245 Mr. Early - 5313 is, I think, 1.8 acres.
3246
3247 Okay, and how about the one across the street?
3248
3249 Mr. Early - I think that's a half an acre.
3250
3251 How could that be a half an acre and comply with the Code?
3252
3253 Mr. Early - It's a house that was built in back in the '20's.
3254
3255 Are you the landowner he's have to talk to, to square off that
3256 lot?
3257
3258 Mr. Early - No sir, I'm a sideline owner, but that's not the rear
3259 requirement that he's requesting on the side. If he bought from me, he'd meet the size
3260 requirement, but he wouldn't meet his setback.
3261
3262 Mr. Balfour - Any other questions? Thank you. Next fellow.
3263
3264 Mr. Wenk - Brian Wenk's my name, and I live at 3011 Krueger Drive.
3265 I'm the gentleman that you're requesting talking about the back setback; I'm the one
3266 behind him. I'm also speaking for Mrs. Blanton, who is adjoining; she's here also; she's
3267 on the left side, or right side, depending how you're looking at the road. My wife and I
3268 bought this piece of property and built our house back in 1974-75, and we had to meet
3269 all the variances and requests from the County, and also, when I was building in that
3270 neighborhood, we liked it because of the rural setting and the large lots that the people
3271 had, and we loved the extra space between the houses, and everything. I guess the
3272 laws have changed; I had to go to all of my adjoining property owners and get a letter
3273 signed by them saying it was okay to build up in there. Mr. Krak has been working on
3274 this house, like he stated, for 14 months; it's still not complete. I assume he has a
3275 permit to do all this. I checked with the County Building Permits. The only permits he's
3276 gotten were for electrical and plumbing; he's done some major structural work to the
3277 house, with no permits for that, and mechanical work. I don't know where you stand on
3278 that deal. If he takes as long as he's been doing rebuilding this house, I hate to think
3279 how long the whole area is going to be in disarray with building another house. I'm also
3280 concerned about, if he gets this variance, then he's going to request to convert that
3281 garage into another house, and then we're going to have 3 houses right there in that
3282 little area. I have some pictures, if you want to see a little bit more detail of the area that
3283 I took last week, of the type of stuff that we have, construction around. The trash has
3284 been blowing around in the neighbor's yards and not cleaned up, and then we have to
3285 pick it up. Also, during the excavation that he did when he was working on his house
3286 and knocking out some trees and stuff; then he put in another driveway, and I can't
3287 believe that the County approved that. It is a dangerous road, with those turns through
3288 there, it's very dangerous. Once every 2 months someone's in that ditch; matter of fact,
3289 there was one in there last week. The excavation caused him to tear up his green field,
3290 and he had to get a sewer line run up windover, to hook onto the sewer, and also the

3291 area that was excavated where he wants to build his house, I've been there a little over
3292 25 years, and there's been a natural drain-off of water coming over Krueger Drive and
3293 running on down into Dickens Road into that ditch, and he's going to build his house,
3294 the plans look like right in the middle of this drain area. I'd be concerned about
3295 whoever's going to be living there, that there's going to be a lot of wetlands formed.
3296 The wife and I are just a little tired of all the mess and stuff that's been there by driving
3297 into our house in the last year. The wife and I are against this, as well as Ms. Blanton,
3298 and I'm not interested in selling any of my property so he can meet his requirements.
3299

3300 Mr. Blankinship - Did you say "not interested"?

3301
3302 Mr. Wenk - "Not interested."

3303
3304 So your property abuts his on the rear, and you would not
3305 sell him a piece of property?
3306

3307 Mr. Wenk - Yes sir. No sir.

3308
3309 Mr. Kirkland - Mr. Wenk, you might have said this, but how big is your lot
3310 again?
3311

3312 Mr. Wenk - My lot is 8.8 acres.

3313
3314 How about Mrs. Blanton's?
3315

3316 Ms. Blanton's - 1.4 acres.

3317
3318 Mr. Wenk - If you need those pictures, you're welcome to them.
3319

3320 Mr. Balfour - Any other questions by Board members? Thank you. Yes
3321 sir.
3322

3323 Mr. West - My name is Frank West. I have the distinction of living
3324 across the street at 5400. Directly across the street, completely across the street. I'm
3325 opposed to this maneuver because of the condition of his yard, and the pictures show
3326 very vividly, the drainage problem there. That's what I look at every morning, and if this
3327 is an example of what he's going to do henceforth, I'm completely 100% against it.
3328 Also, I'll put on that, it's not a used car lot, which it's being used as. Obviously, I'm
3329 opposed to it. Are there any questions from anyone else?
3330

3331 Mr. West, one of the problems, no matter what we do, that's
3332 not going to take care of looking into that lot. If we deny this, it's going to remain the
3333 same. If it were built upon and a nice house

3334
3335 Mr. West - This has been here 90 days, right there. Thank you for your
3336 time.

3337
3338 Mr. Wenk - I also think I forgot to bring up, that during the excavation,
3339 when Dwight Snead came in there and they backed in a backhoe or a dozer in there to
3340 do this excavation, because I happened to be coming home and saw it happen, we
3341 have a cinder block retainer wall on each side of our driveway coming into this Krueger
3342 Drive, that Mr. Krueger built himself years ago, and the tractor-trailer ran in and knocked
3343 the block wall down on his side of the road, and today the cinder blocks are still laying in
3344 the ditch and haven't been replaced by the construction people who did it or Mr. Krak.
3345 That's another thing I wanted to point out, that is also the looks of the area for the last 6-
3346 8 months.

3347
3348 Mr. Balfour - Mr. Krak. I'm going to try to answer a couple of these
3349 questions of my neighbors. First of all, can you back that picture on please, that
3350 drainage problem or something. That picture is about, I connected new sewer lines to
3351 the County sewer, that picture is about 2 or 3 months old.

3352
3353 Mr. Blankinship - More like a month, but you get the idea.
3354
3355 Are you trying to tell me it doesn't look like that now?

3356
3357 Mr. Krak - This is what it looks like now.
3358
3359 Well it doesn't make any difference how old the picture is, if
3360 it still looks like that.

3361
3362 Mr. Krak - I'm going to fix that; that's not going to be a big deal.

3363
3364 So whether the pictures 2 or 3 months old doesn't make any
3365 difference. If it still looks the same, it's as if it were taken yesterday, or this morning.

3366
3367 Mr. Krak - And also, that new drain field I put from the rear property
3368 line, all the way down to that ditch on Dickens Road. Any hard rain, you can't see any
3369 water on my property. All water will go down to the ditch. And that debris they're talking
3370 about to the north; that's the filled dirt. I tried to level the ground, put in new grass. A
3371 little more down, to the left (directing photographs). I want to ask my neighbors – that
3372 property, what did it look like before I purchased this place? You couldn't even see from
3373 Dickens Road to part of the house and old barn. All bushes, and I cut 18 trees,
3374 removed everything. I hired a company from Ashland to bring me 15 loads of fill dirt. In
3375 the back, as you can see, I've tried to level up the ground a little bit. Like I said, I've
3376 been working on the place since I bought it in December 2000. We're talking about a
3377 building permit – I don't need a building permit to put the stucco on the house, do I?
3378 No. I don't need a building permit to put the new sheet rock inside my house – no. I
3379 don't need a building permit to put the drywall in the basement – no.

3380
3381 Mr. McKinney - Yes you do.
3382

3383 Mr. Blankinship - You probably do on the last 2 – the stucco you're probably
3384 okay, but the drywall I think you probably do.
3385
3386 Mr. McKinney - You need a building permit for renovations.
3387
3388 Mr. Krak - Just to take the old plaster out, old plaster down and put new
3389 drywall.
3390
3391 Mr. Kirkland - That's considered renovation, and that requires a permit in
3392 Henrico.
3393
3394 Mr. Blankinship - You could tear up the electrical work and cause a fire by
3395 doing that, so they want to get it inspected. You can call the building officials office any
3396 time to find out whether a permit is necessary. That's not really the question before us
3397 today.
3398
3399 Mr. Krak - That debris will go this year. My next step, like I said, to
3400 rebuild that old barn, and I want it to stay on this place, this property will be a nicer
3401 property in the neighborhood. That's why I got this place, to answer these questions.
3402 And also, I've got one question for all of you guys. Can you run a property line on my
3403 property. You've got a picture of it. Plot plan, Krueger Road. Can you show me where
3404 is my property line on Krueger Road, on this side?
3405
3406 Mr. Blankinship - I'd have to have a survey to answer that question.
3407
3408 Mr. Krak - My property line runs in the middle of Krueger Road – what
3409 happens if I want to put a fence in it. Where am I supposed to put a fence?
3410
3411 Mr. Blankinship - Probably you wouldn't be allowed to put a fence in the road.
3412 Assuming that it's a deeded right-of-way, the other property owners have the right to
3413 prevent you.
3414
3415 Mr. Krak - That's what I 'm talking about. And that garage was built in
3416 1919. I want to put new fence all over my property. Where on this side can I put the
3417 fence in?
3418
3419 We can't give you opinions on those things right now; we've
3420 got one question in front of us, and that's whether or not you can build a house without
3421 the square footage that you need.
3422
3423 Mr. Krak - Okay, let's go back to the main story.
3424
3425 Mr. Balfour - You guys tell me, do I get building permit to build a new
3426 house or not, or do I have to wait?
3427
3428 Mr. Balfour - We're not going to tell you now, but unless you've got

3429 anything further to say, otherwise we appreciate your coming before us today.

3430
3431 Mr. Blankinship - They'll be voting in a few minutes if you want to wait.

3432
3433 We make a decision at the end of the docket on these
3434 cases.

3435
3436 Mr. Blankinship - There are only 2 cases left.

3437
3438 Upon a motion by Mr. Kirkland, seconded by Mr. Nunnally, the Board **denied**
3439 application **A-90-2002** for a variance to build a one-family dwelling at 5401 Dickens
3440 Road (Parcel 773-744-3103 (part)). The Board denied your request as it found from the
3441 evidence presented that approving the permit would be of substantial detriment to
3442 adjacent property or would materially impair the purpose of the zoning regulations.

3443
3444 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
3445 Negative: 0
3446 Absent: 0

3447
3448 Mr. Balfour - Next case.

3449
3450 **A - 91-2002 PAUL F. AND VALERIE M. KLING** request a variance from
3451 Section 24-94 of Chapter 24 of the County Code to build an
3452 addition at 7310 Normandy Drive (Sunset Hills) (Parcel 762-741-
3453 7754), zoned R-3, One-family Residence District (Tuckahoe). The
3454 minimum side yard setback and total side yard setback are not met.
3455 The applicants propose 5 feet minimum side yard setback and 16.2
3456 feet total side yard setback, where the Code requires 7.5 feet
3457 minimum side yard setback and 22.5 feet total side yard setback.
3458 The applicants request a variance of 2.5 feet minimum side yard
3459 setback and 6.3 feet total side yard setback.

3460
3461 Mr. Balfour - Any others to speak on this matter, for or against? Raise
3462 your right hand and be sworn in, please.

3463
3464 Mr. Blankinship - Do you swear that the testimony you are about to give is the
3465 truth, the whole truth, and nothing but the truth, so help you God?

3466
3467 Mrs. Kling - I do. I'm Valerie Kling, speaking on behalf of my husband
3468 and myself, and we are seeking a variance of 2.5 feet in minimum side yard setback
3469 and 6.3 feet in total side yard setback. That will allow us to renovate to expand our
3470 livable space. The placement of our current garage, which you see in the picture there,
3471 necessitates attachment to it as we add a family room onto the back of our house. This
3472 attachment, as I understand it, will alter the rules for the setback from the property line
3473 for that garage that's existing there. On our street, we're one of the last houses on our
3474 block to make an addition; however, we're one of the few houses with a garage that

3475 creates this impediment. So the addition we hope to build will not come any closer to
3476 the property line than the garage that's already there, and we believe that the
3477 appearance of both the garage and the whole property will be improved by the planned
3478 addition. The neighbors around us are in agreement. They support this request for a
3479 variance, and the neighbors on the side that's closest to this garage have sent a letter.

3480
3481 Mr. Balfour - Any questions of Mrs. Kling?

3482
3483 I'm trying to get, I'm looking at, not that, but the diagram that
3484 we were given, so your proposal is to convert your garage that's there now to a
3485 bedroom.

3486
3487 Mrs. Kling - Yes, but we are also doing a family room behind our house,
3488 and so as we add the family room, that attaches that garage.

3489
3490 So what you're saying is, the addition that you're proposing
3491 will not encroach any more into the side yard than what it is already. It's already there.

3492
3493 Mrs. Kling - Right. It's already there, but I think the rules are different if
3494 the garage is attached, and so we need the variance because we hope to do an
3495 attachment.

3496
3497 And what will be in the other addition? You're going to
3498 convert the garage to a bedroom; what's going to be the other addition?

3499
3500 Mrs. Kling - A family room and a little breakfast room area.

3501
3502 The other addition does not cause any variance request or
3503 violate any of the ordinance requirements, is that correct?

3504
3505 Mr. Blankinship - That's correct.

3506
3507 Mr. Balfour - Any other questions of Mrs. Kling? Thank you.

3508
3509 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
3510 McKinney, the Board **granted** application **A-91-2002** for a variance to build an addition
3511 at 7310 Normandy Drive (Sunset Hills) (Parcel 762-741-7754). The Board granted the
3512 variance subject to the following conditions:

3513
3514 1. Only the improvements shown on the plan filed with the application may be
3515 constructed pursuant to this approval. No substantial changes or additions to the layout
3516 may be made without the approval of the Board of Zoning Appeals. Any additional
3517 improvements shall comply with the applicable regulations of the County Code.

3518
3519 2. The new construction shall match the existing dwelling as nearly as practical.

3520

3521 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
 3522 Negative: 0
 3523 Absent: 0

3524
 3525 The Board granted this request, as it found from the evidence presented that, due to the
 3526 unique circumstances of the subject property, strict application of the County Code
 3527 would produce undue hardship not generally shared by other properties in the area, and
 3528 authorizing this variance will neither cause a substantial detriment to adjacent property
 3529 nor materially impair the purpose of the zoning regulations.

3530
 3531 Mr. Balfour - Last case.

3532
 3533 **A - 92-2002 STEVEN L. AND DOROTHY LANDIS** request a variance from
 3534 Section 24-95(i)(2) of Chapter 24 of the County Code to build a
 3535 detached garage at 1805 Cloister Court (Wynmoor) (Parcel 737-
 3536 749-4819), zoned R-2, One-family Residence District (Tuckahoe).
 3537 The accessory structure location requirement is not met. The
 3538 applicants propose an accessory structure in the side yard, where
 3539 the Code allows accessory structures in the rear yard.

3540
 3541 Mr. Balfour - Any others expect to testify for or against this matter? Raise
 3542 your right hand and be sworn in, please.

3543
 3544 Mr. Blankinship - Do you swear that the testimony you are about to give is the
 3545 truth, the whole truth, and nothing but the truth, so help you God?

3546
 3547 Mr. Landis - Yes sir. I'd like to make a note that my name is Steven L.
 3548 Landis on there, and the subdivision is Wynmoor. We're requesting a variance to build
 3549 a detached garage at the end of the driveway, off to the side. It is my understanding
 3550 that it does not meet the normal requirement for being in the rear of the yard. The
 3551 reason we're locating it there is that the storm drain from the cul-de-sac, when we
 3552 bought the property, was originally in the easement to the very far right of that picture,
 3553 and the drain, we got a building permit to have an attached garage added to the right
 3554 side of the house, and when they went to dig for the footing, they found that the drain
 3555 was there instead of over where the easement is.

3556
 3557 Mr. Blankinship - A 60 by 38 inch pipe? In your yard?

3558
 3559 Mr. Landis - It's right under my driveway.

3560
 3561 Mr. Blankinship - Everybody makes mistakes.

3562
 3563 Mr. Landis - So at this point that's about the only spot we can build,
 3564 where we're wanting to build.

3565
 3566 I don't understand the statement that says you've asked the

3567 Planning Office to approve a detached garage while the relocation of the easement is
3568 pending. What happens when that's corrected.

3569
3570 Mr. Blankinship - Then it will no longer be in the easement. The easement will
3571 run between the house and the garage, where the pipe was actually put by the
3572 contractor.

3573
3574 It still will have a detached garage.

3575
3576 Mr. Blankinship - Yes, that's correct.

3577
3578 Whether the easement's pending or not, has no bearing on
3579 what they're trying to do, does it?

3580
3581 Mr. Blankinship - Right, we just wanted to clarify for you that the easement
3582 itself is not an issue. The easement itself if not a cause for concern.

3583
3584 Mr. Balfour - Any questions of Mr. Landis? Apparently there are none.
3585 Thank you.

3586
3587 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
3588 Kirkland, the Board **granted** application **A-92-2002** for a variance to build a detached
3589 garage at 1805 Cloister Court (Wynwood) (Parcel 737-749-4819). The Board granted
3590 the variance subject to the following conditions:

3591
3592 1. Only the improvements shown on the plan filed with the application may be
3593 constructed pursuant to this approval. No substantial changes or additions to the layout
3594 may be made without the approval of the Board of Zoning Appeals. Any additional
3595 improvements shall comply with the applicable regulations of the County Code.

3596
3597 2. The new construction shall match the existing dwelling as nearly as
3598 practical.

3599
3600 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
3601 Negative: 0
3602 Absent: 0

3603
3604 The Board granted this request, as it found from the evidence presented that, due to the
3605 unique circumstances of the subject property, strict application of the County Code
3606 would produce undue hardship not generally shared by other properties in the area, and
3607 authorizing this variance will neither cause a substantial detriment to adjacent property
3608 nor materially impair the purpose of the zoning regulations.

3609
3610 Minutes of the January 24, 2002, Board of Zoning Appeals meeting were distributed for
3611 consideration.

3612

3613 There being no further business, and on a motion by Mr. Kirkland, seconded by
3614 Mr. Nunnally, the Board adjourned until May 23, 2002, at 9:00 am.

3615
3616

3617 Daniel T. Balfour,

3618 Chairman

3619

3620 Benjamin Blankinship, AICP

3621 Secretary

3622