

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 24, 2003,**
4 **AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
5 **DISPATCH ON APRIL 3 AND 10, 2003.**
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
Lee J. Tyson, County Planner
James F. Lehmann, County Planner
Priscilla M. Parker, Recording Secretary

7
8 Mr. Balfour - I call the meeting of the County of Henrico Board of Zoning
9 Appeals to order. Would you stand for the **Pledge of Allegiance**. Mr. Secretary, would
10 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 at that time the applicant should come to the podium. I will ask everyone
15 who intends to speak on that case, in favor or in opposition, to stand and be sworn in.
16 The applicants will then present their testimony. After the applicant has spoken, the
17 Board will ask them questions, and then anyone else who wishes to speak will be given
18 the opportunity. After everyone has spoken, the applicant, and only the applicant, will
19 be given the opportunity for rebuttal. After hearing the case, and asking questions, the
20 Board will take the matter under advisement. They will render all of their decisions at
21 the end of the meeting. If you wish to know their decision on a specific case, you can
22 either stay until the end of the meeting, or you can call the Planning Office later this
23 afternoon. This meeting is being tape recorded, so we will ask everyone who speaks, to
24 speak directly into the microphone on the podium, to state your name, and to spell your
25 last name please. And finally, out in the foyer, there are two binders, containing the
26 staff report for each case, including the conditions that have been recommended by the
27 staff.
28

29 Mr. Balfour - Thank you sir. Do we have any requests for withdrawals or
30 deferrals?
31

32 Mr. Blankinship - We do. I think the first matter to come before you, though,
33 Mr. Chairman, is a request for re-hearing. The case was **A-29-2003 Stacy Nelson**.
34

35 Mr. Balfour - Would you raise your right hand and be sworn please?
36

37 Mr. Blankinship - Do you swear that the testimony you are about to give is the
38 truth, the whole truth, and nothing but the truth, so help you God?
39

40 Mr. Marshall - Yes I do. My name is John Marshall. I'm an attorney here in
41 Richmond, and I'm here on behalf of Stacy Nelson, whose case before you was denied
42 at your previous meeting. Pursuant to the rules of the Board, I sent a letter on April 9 to
43 Mr. Blankinship, which I believe you have, outlining a lot of the things that make this
44 case unique, that I don't believe the Board was privy to at the last meeting. This is a
45 situation. It's basically a family situation. Mr. Fleming, who owned the property
46 previously, did not have his house on the market for sale, was approached by Ms.
47 Nelson, who lives on the same private road already, along with her parents and her
48 sister. Basically, Ms. Nelson is a single mother. Her husband was a Marine who was
49 killed in a helicopter crash; it was pretty well publicized. He was a local Varina boy.
50 Being from Varina, I know Ms. Nelson. She went to school with my brother. The
51 situation is that her mother-in-law helps her a great deal with her children. Her mother-
52 in-law was desirous of moving closer to Ms. Nelson to help her with her children. Ms.
53 Nelson approached Mr. Fleming, who owned some substantial acreage, about selling
54 her a piece of land so she could build a house, and thereafter her mother-in-law had
55 agreed to purchase her house, which is on the same road so she could be right there to
56 take care of the two young girls that Ms. Nelson is raising. Mr. Fleming agreed, and in
57 the same interim, even though this house wasn't on the market, Mr. Nelson, Mr. Beck I
58 should say, (I call her Beck because I went to high school with her.), but anyway her
59 father approached Mr. Fleming and said he would like to buy his house so he could
60 have one of his daughters on one side and one on the other. Currently Ms. Nelson's
61 sister lives to the left of Mr. Fleming on the same road. Currently all three family
62 members live on the road, so Mr. Fleming agreed to sell Ms. Nelson the six acres. She
63 had hoped to be able to construct a residence next to where his house is, and then
64 tentatively Mr. Beck, who is here, had agreed to purchase his home, and then Ms.
65 Nelson's mother-in-law is going to, hopefully, if the case can be approved, purchase her
66 house. She will have not only her two parents, but also her mother-in-law, right there in
67 close proximity to help take care of the two young girls that she's raising on her own. I
68 put in my letter to you, there's 50-foot easement off the road was given to access the
69 six-acre parcel. I think it's important that it's a large parcel of land; it's not a one-acre
70 parcel. The site for the house, where it is in the woods, you won't be able to see the
71 house, and none of the other people thee will be able to see it. As I also stated in my
72 letter, I have a petition here with eight of the people who were notified. There are
73 twelve houses on the road, with eight of the people who live there; they're not in
74 opposition to it. I don't think it's overly burdensome; as I explained in my letter, it's a .6-
75 mile fork on one side of the road and a .3-mile fork on the other side. There are a total
76 of twelve houses currently on the road, two of them being right literally within 15 yards
77 of where the pavement ends on the state road. They are counted as being on the
78 private road, even though they're built that close to the road. Actually, the .3-mile fork in
79 the road currently only serves three houses, Mr. Fleming's and two others. That's
80 where this site for the new house would be. I also put in there that the fifty feet was

81 used by the engineer, because that's a normal width easement, but that's also used in
82 conjunction with subdivision plans.

83
84 Mr. Nunnally - You said Mr. Fleming is now going to sell Ms. Nelson's
85 parents his home. Where is he going?

86
87 Mr. Marshall - He currently has a stable and a barn that he has decided to
88 purchase in New Kent County. His daughter is big into horse riding and jumping, and
89 there's a really nice property with a barn, etc. Mr. Fleming's a developer. He's actually
90 lived in this house longer than he has in any other. As with a lot of developers, they
91 build house, live in them for a couple of years, and then sell them.

92
93 Mr. Nunnally - Does Mr. Fleming own this land in Charles City, adjoining
94 this property that we're talking about?

95
96 Mr. Marshall - I'm not sure of the amount of acreage, but there's a little
97 acreage in Charles City, yes, as there is with some of the other parcels along the road.
98 When the timber company owned it, it overlapped between the two counties. So there's
99 land on both sides of the line. He does own some of the land that came with his parcel
100 that he purchased. Part of it was across the line in Charles City County.

101
102 Mr. Nunnally - You don't know whether he has any intentions of building
103 other houses back there on that property?

104
105 Mr. Marshall - I don't know whether he is going to build any. I know that I'm
106 his attorney, and I haven't done any sale of any of the land; in fact, I haven't even done
107 the sale of his land because Ms. Nelson's father, who wants to buy it, is waiting to see if
108 his daughter can move next door before he moves out of his house. But he does have
109 those parcels there. I haven't done any work as far as selling that land or subdividing
110 that land. By my recollection of the tax map parcels that I have, I believe there's two
111 lots or two parcels on the Charles City side of the line. There are two parcels; that's my
112 recollection.

113
114 Mr. Nunnally - You say you have a petition signed by eight people. Can
115 you let us have a copy of that? Mr. Blankinship, you've been getting a lot of calls too,
116 haven't you, against it.

117
118 Mr. Blankinship - Yes I have.

119
120 Mr. Marshall - Those are the individuals. I believe they all received notices.
121 We went by the ones who received notices. I think it's important that even Mr. Fleming,
122 when he eventually built his house, everybody who lives on the road is in the same
123 situation. They had to get a variance to build their homes. But it's not a situation where
124 he's cutting off one acre or a half an acre. He sold her a substantial piece, because
125 that's what she wanted.

126

127 Mr. McKinney - You say there are eight on this petition, Mr. Marshall?
128

129 Mr. Marshall - Yes.
130

131 Mr. McKinney - How about the other four? You couldn't get in touch with
132 them, or what?
133

134 Mr. Marshall - One individual said he wanted to see a plat; he was given
135 the plat, but he did not call back as of yesterday evening. He said he did not have a
136 problem with it if it was a six-acre parcel, but he wanted a plat. One individual is in
137 intensive care in the hospital, who said he would be willing to sign it, so we couldn't get
138 that signature.
139

140 Mr. McKinney - You have two more.
141

142 Mr. Marshall - There's definitely at least two people that I know of who
143 aren't for it. My only pain with that is that at some point they had to get a variance for
144 themselves, and the situation is, this is not an outsider, but this is a neighbor, who
145 already lives there, who is basically seeking to relocate next to her parents so her
146 mother-in-law can move in and help with her children. So it's not someone they don't
147 know, and I think that's what helps the situation as far as the people willing to sign,
148 because it's already one of their current neighbors.
149

150 Mr. Blankinship - Mr. Chairman, the gentleman who owns the fee to the land
151 where the road is, who granted the easement, which side is he on?
152

153 Mr. Marshall - Mr. Cheek, the one who actually owns the land, he's the
154 individual who said that he wouldn't have a problem with it if it were a six-acre parcel,
155 and not like a one-acre parcel, but he's the one who wanted the plat, so the engineer
156 sent him the plat, but I did not hear back from him yesterday.
157

158 Mr. Blankinship - He did not sign the petition?
159

160 Mr. Marshall - No.
161

162 Mr. Balfour - Any other questions by Board members?
163

164 Mr. Nunnally - You don't see any opposition there, do you Mr. Blankinship?
165

166 Mr. Blankinship - Mr. Cheek was one of the people who had called me; I'm not
167 sure who the other was, maybe the other one who has registered opposition still.
168

169 Mr. McKinney - Mr. Cheek owns the road? He called you?
170

171 Mr. Blankinship - Yes. Yes. Came to the office.
172

173 Mr. McKinney - And what did he tell you?
174
175 Mr. Blankinship - Well he's concerned about the number of houses going up
176 on the road. He's concerned about the property in Charles City County being
177 developed, essentially the same testimony that you heard last month, when you denied
178 the case.
179
180 Mr. McKinney - Mr. Marshall, these two parcels that are in Charles City, how
181 big are they?
182
183 Mr. Marshall - Seven acres and fourteen acres. Mr. Fleming, since he
184 owns that, and he knows that was raised as a concern, he's more than willing, if they
185 want that as a covenant or a restriction, he's glad to re-record a deed with those
186 covenants saying that he's not going to split those two parcels at all and leave them as
187 seven-acre and a fourteen-acre parcels, he's more than willing to put a restriction on a
188 deed that would be recorded in Charles City, so that it would be effective to those
189 parcels, that the grantor of the restriction certifies that those parcels can never be
190 subdivided. He's more than willing to do that to the seven-acre and the fourteen-acre
191 parcels, which would allay any concerns, as well as with reducing the width of the
192 easement of the road from 50 to 30 feet, which prevents development, in the event that
193 the road's ever paved or taken over by the state.
194
195 Mr. Blankinship - Mr. Chairman, let me just remind the Board for a second, the
196 question before you this morning is whether you wish to rehear this case. This is not
197 really the time to rehear it.
198
199 Upon a motion by Mr. Nunnally, seconded by Mr. McKinney, the Board **granted** the
200 request for a **rehearing** of Stacey Nelson's application **A-29-2003** at the May 22, 2003
201 Board of Zoning Appeals meeting.
202
203 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
204 Negative: 0
205 Absent: 0
206
207 Mr. Balfour - Are there any other deferrals or withdrawals on the 9:00
208 o'clock docket?
209
210 Mr. Blankinship - Yes sir, Mr. Chairman, **A-32-2003, John Page Trevillian**
211 has asked to defer his case to next month because he was not able to be here this
212 morning. We have that one in writing.
213
214 **A - 32-2003 JOHN PAGE TREVILLIAN** requests a variance from Section 24-94
215 of Chapter 24 of the County Code to build an attached garage at
216 5608 Burberry Court (Kimberwicke) (Parcel 735-775-3488), zoned
217 R-3C, One-family Residence District (Conditional) (Three Chopt).
218 The minimum side yard setback and total side yard setback are not

219 met. The applicant proposes 2.3 feet minimum side yard setback
220 and 18.5 feet total side yard setback, where the Code requires 12
221 feet minimum side yard setback and 30 feet total side yard setback.
222 The applicant requests a variance of 9.7 feet minimum side yard
223 setback and 11.5 feet total side yard setback.
224

225 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **deferred**
226 application **A-32-2003** for a variance to build an attached garage at 5608 Burberry Court
227 (Kimberwicke) (Parcel 735-775-3488). The case was deferred from the April 24, 2003,
228 until the May 23, 2003, meeting.
229

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

233
234 Mr. Blankinship - **A-42-2003 O. W. Rhodenhiser**, I advertised incorrectly, and
235 unfortunately you are unable to hear that case this morning, because I advertised
236 Maplewood, rather than Mapleview Road, and since there is a Maplewood Road in the
237 County, I think that's just confusing enough that it would be improper for you to hear the
238 case this morning. I've discussed that with the applicant, or the representative. He
239 wasn't thrilled, but he did understand. He does not have to re-file; it will just be re-
240 advertised; we'll take care of all that.
241

242 **A - 42-2003 O. W. RHODENHISER** requests a variance from Section 24-9 of
243 Chapter 24 of the County Code to build a one-family dwelling at
244 8504 Maplewood Avenue (Mount Vernon Heights) (Parcel 761-757-
245 8820), zoned R-3, One-family Residence District (Brookland). The
246 public street frontage requirement is not met. The applicant has 0
247 feet public street frontage, where the Code requires 50 feet public
248 street frontage. The applicant requests a variance of 50 feet public
249 street frontage.
250

251 Upon a motion by Mr. Kirkland, seconded by Mr. McKinney, the Board **deferred**
252 application **A-42-2003** for a variance to build a one-family dwelling at 8504 Mapleview
253 Avenue (Mount Vernon Heights) (Parcel 761-757-8820). The case was deferred from
254 the April 24, 2003, until the May 23, 2003, meeting.
255

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

259
260 Mr. Blankinship - The first case, Mr. Chairman, I have a verbal request to
261 defer, but we did not receive a written confirmation. Since it's the first one, we might as
262 well just call it and see what happens.
263

264 **A - 22-2003 BARBARA SANDVIG** requests a variance from Section 24-9 of

265 Chapter 24 of the County Code to build a one-family dwelling at
266 12241 Kain Road (Parcel 737-766-1095), zoned A-1, Agricultural
267 District (Three Chopt). The public street frontage requirement is
268 not met. The applicant has 0 feet public street frontage, where the
269 Code requires 50 feet public street frontage. The applicant
270 requests a variance of 50 feet public street frontage.
271

272 Mr. Blankinship - I spoke to the applicant on Tuesday. She had had some
273 trouble finding legal counsel, finally did secure legal counsel on Tuesday, but of course
274 her lawyer needed more than 48 hours to come up to speed in order to argue the case.
275 She asked if it could be deferred again. There was a Virginia Supreme Court case a
276 year or two ago; my interpretation of it is, that the Board cannot continue to defer a
277 matter month after month, but if the applicant asks the Board to defer the matter, at the
278 applicant's request, the Board can do that, even if it exceeds the statutory time limit.
279

280 Mr. Wright - I think that's valid.
281

282 Mr. Blankinship - I thought it was an odd case, but that's what the court said.
283

284 Mr. Balfour - Do I hear a motion that we defer?
285

286 Mr. Wright - Is anybody here on the case?
287

288 Mr. McKinney - Who's going to be the attorney?
289

290 Mr. Blankinship - Bill Axelle.
291

292 Upon a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **deferred**
293 application **A-22-2003** for a variance to build a one-family dwelling at 12241 Kain Road
294 (Parcel 737-766-1095). The case was deferred from the April 24, 2003, until the May
295 23, 2003, meeting.
296

297 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4

298 Negative: 0

299 Abstain: Wright 1
300

301 **A - 33-2003** **CONNIE V. SHOOK** requests a variance from Section 24-95(c)(1)
302 of Chapter 24 of the County Code to build an attached garage at
303 3109 Lupine Road (Hermitage Farms) (Parcel 770-753-6529),
304 zoned R-2, One-family Residence District (Brookland). The
305 minimum side yard setback and total side yard setback are not met.
306 The applicant proposes 4 feet minimum side yard setback and 19
307 feet total side yard setback, where the Code requires 9 feet
308 minimum side yard setback and 27 feet total side yard setback.
309 The applicant requests a variance of 5 feet minimum side yard
310 setback and 8 feet total side yard setback.

311
312 Mr. Balfour - Are there any others who expect to testify in this matter? If
313 not, would you raise your right hand and be sworn please?
314
315 Mr. Blankinship - Do you swear that the testimony you are about to give is the
316 truth, the whole truth, and nothing but the truth, so help you God?
317
318 Ms. Shook - I do. My name is Connie Shook. On the report that you
319 received, there were two errors. One was that I had lived at the residence since 1977.
320 I've lived there since 1958. It was put in my name about five years ago, but I have no
321 idea where the 1977 came from. They put that I wanted to go 24 feet out; I would love
322 to go 24, but I have asked for 23. It's going to be 24 or 26 depth, and I want 23 out.
323
324 Mr. Balfour - So you're asking for less than the notice suggested, is that
325 correct?
326
327 Ms. Shook - No, I asked for 23, but they put 24, which I'd love to have.
328
329 Mr. Balfour - But the notice went out, Mr. Secretary, for 24?
330
331 Mr. Blankinship - Yes sir.
332
333 Mr. Balfour That would be one foot less; I don't see any problem with
334 that. Go ahead.
335
336 Ms. Shook - I've got the support of everybody in my neighborhood, and I
337 would just like to attach a garage to the side of my house.
338
339 Mr. Balfour - Give us a summary of what you plan to do, Ms. Shook.
340
341 Ms. Shook - Attach a brick garage to the side of my house.
342
343 Mr. Balfour - The brick will match the brick of the house?
344
345 Ms. Shook - Yes. And he's going to match it as close as he can. The
346 peak of it will be white vinyl, like what's on the house now.
347
348 Mr. Kirkland - Ms. Shook, is this going to be a one-story garage?
349
350 Ms. Shook - Yes.
351
352 Mr. Balfour - Any other questions?
353
354 Mr. Wright - That garage will come out where your two automobiles are
355 showing in this picture?
356

357 Ms. Shook - Exactly. They did enclose a picture. Now it's on the screen

358
359 Mr. Wright - It will come right out there where those two cars are.

360
361 Ms. Shook - It won't quite cover my existing driveway.

362
363 Mr. Balfour - The fence line is your boundary line, I guess.

364
365 Ms. Shook - Yes, where the post is down. And the man next door is
366 really the only one who'll be affected, and he wrote a letter saying he didn't care what
367 kind of structure I put up. Those were his words, because he has one window, in the
368 basement, down on the ground; he just has one little window. He could really get
369 surprised.

370
371 Mr. Balfour - I notice you did get some nice letters from your neighbors;
372 you did your homework. Any other questions? Thank you ma'am.

373
374 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
375 Nunnally, the Board **granted** application **A-33-2003** for a variance to build an attached
376 garage at 3109 Lupine Road (Hermitage Farms) (Parcel 770-753-6529). The Board
377 granted the variance subject to the following conditions:

378
379 1. Only the addition shown on the plan filed with the application may be constructed
380 pursuant to this approval. No substantial changes or additions to the layout may be
381 made without the approval of the Board of Zoning Appeals. Any additional
382 improvements shall comply with the applicable regulations of the County Code.

383
384 2. The new construction shall match the existing dwelling as nearly as practical.

385
386 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
387 Negative: 0
388 Absent: 0

389
390 The Board granted this request, as it found from the evidence presented that, due to the
391 unique circumstances of the subject property, strict application of the County Code
392 would produce undue hardship not generally shared by other properties in the area, and
393 authorizing this variance will neither cause a substantial detriment to adjacent property
394 nor materially impair the purpose of the zoning regulations.

395
396 **A - 34-2003** **STEPHANIE HOLMES** requests a variance from Section 24-94 of
397 Chapter 24 of the County Code to allow the existing attached
398 garage to remain at 1505 Second Avenue (Brookland Gardens)
399 (Parcel 773-754-0932), zoned R-3, One-family Residence District
400 (Brookland). The rear yard setback is not met. The applicant has
401 27.3 feet rear yard setback, where the Code requires 40 feet rear
402 yard setback. The applicant requests a variance of 12.7 feet rear

403 yard setback.

404

405 Mr. Balfour - Are there any others who expect to testify in this matter? If
406 not, would you raise your right hand and be sworn please?

407

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

410

411 Ms. Holmes - I do. I'm Stephanie Holmes. We bought the home last year
412 in March, and we had a lot of problems with this initially with anybody finding our home,
413 because it was oriented with 8420 Ackley Avenue, and you can't see the house in full
414 bloom from Ackley, so we came down and had our address changed, and now we can
415 be found. Unfortunately, that repositions the house and leaves us with a not enough
416 minimum setback for the garage.

417

418 Mr. Wright - What's your present address?

419

420 Ms. Holmes - It's 1505 Second Avenue. We had it changed, and now we
421 get our mail, and we get our parcels, and we even get our pizza. The old sheds that
422 were on the property, they have been destroyed and removed. Those wouldn't have
423 met any kind of requirement.

424

425 Mr. Nunnally - It looks like you've got a big back yard.

426

427 Ms. Holmes - It's huge.

428

429 Mr. Balfour - Any questions of Ms. Holmes? Thank you.

430

431 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
432 Nunnally, the Board **granted** application **A-34-2003** for a variance to allow the existing
433 attached garage to remain at 1505 Second Avenue (Brookland Gardens) (Parcel 773-
434 754-0932). The Board granted the variance subject to the following condition:

435

436 1. Only the existing improvements shown on the plan filed with the application
437 will be the subject of this approval. No substantial changes or additions to the
438 layout may be made without the approval of the Board of Zoning Appeals. Any
439 additional improvements shall comply with the applicable regulations of the County
440 Code.

441

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

443 Negative: 0

444 Absent: 0

445

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

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

451
452 **A - 35-2003** **DAVID E. AND JEAN M. WILLIAMSON** request a variance from
453 Section 24-9 of Chapter 24 of the County Code to build a one-
454 family dwelling at 7070 Mosswood Road (Parcel 815-697-3917),
455 zoned A-1, Agricultural District (Varina). The public street frontage
456 requirement is not met. The applicants have 0 feet public street
457 frontage, where the Code requires 50 feet public street frontage.
458 The applicants request a variance of 50 feet public street frontage.

459
460 Mr. Balfour - Mr. Secretary, I'm going to excuse myself on this matter. Mr.
461 Wright will handle the case.

462
463 Mr. Wright - Is there anyone else to testify in this matter? If not, would
464 you raise your right hand and be sworn please?

465
466 Mr. Blankinship - Do you swear that the testimony you are about to give is the
467 truth, the whole truth, and nothing but the truth, so help you God?

468
469 Mr. Williamson - I do. I'm David E. Williamson. This property has been in the
470 Williamson family for over 60 years. In 1984 Henrico County approved three variances
471 to permit the construction of homes on three separate parcels belonging to three
472 Williamson siblings. At that time only one parcel was used to build a home, for my
473 sister, Mary Ellen W. Burley. Parcel 815-697-3917, which belongs to my wife and me,
474 was approved at the same time, in 1984, but we chose not to develop at that time. After
475 nearly 20 years, it has recently become apparent that we now need to be granted a new
476 variance in order to develop it. It is the only remaining parcel without public street
477 frontage. There are two means to access the property. The first access point is located
478 at the terminus of Mosswood Road, and I have a photo.

479
480 Mr. Wright - Mr. Secretary, is Mosswood a public road?

481
482 Mr. Blankinship - Yes sir, up until that temporary cul-de-sac.

483
484 Mr. Williamson - There are two means of access to the property. Another
485 access point is bordered by 564.02 feet easement, half of which belongs to the four-
486 acre parcel. Our intent is to access the building site from this easement. The original
487 plans drawn up in 1984 by the surveyor, Charles H. Fleet were approved by Henrico
488 County. Prior to last month, my family had never known of the existence of a potential
489 problem to ultimately develop this parcel. In June, it will be 31 years since my wife and I
490 moved into our home at 7056 Mosswood Road, with our two-year-old son, who will be
491 33 years old this July. At first we lived on a dirt road and had direct access to Strath
492 Road. Later, we built and named Mosswood Road and Barnesway Lane, to County
493 specifications, and dedicated them to Henrico County. These two roads are in the
494 Williamson Farms subdivision, which we developed and have lived in since its inception.

495 Mosswood Road and its cul-de-sac have served our neighbors and us well for nearly
496 thirty years. The impact of constructing a dwelling on this four-acre parcel will be
497 minimal on the adjacent properties. I've got some photos that show how much of the
498 houses you can see. There's one that shows the house to the right, which is my house,
499 and then there's a photo showing the back, which is Mr. Loving's house.

500
501 Mr. McKinney - Mr. Blankinship, would you put them up on the screen. We
502 want to get a vote on this; it would save a lot of time. Mr. Williamson, you can explain
503 them to us after you see them up there, because we also have them on a screen in front
504 of us.

505
506 Mr. Williamson - Number 3 is to the right of it, and that shows how much you
507 can see of the existing properties from the house site that will be built. The one on the
508 right-hand side is a view pointing from the house site back to Mr. Loving's house, which
509 is 7060 Mosswood Road, and you can barely see it. The four-acre parcel is larger than
510 any of the lots in Williamson Farms Subdivision, and the proposed structure is to be a
511 well-constructed brick home. It will surely be a complement to the subdivision and the
512 surrounding area. My family and I would very much appreciate it if the Board of Zoning
513 Appeals once again grants the variance request of 50 feet public street frontage.

514
515 Mr. Wright - All right sir. Now we'll hear from the other folks. Does
516 anyone else desire to speak?

517
518 Ms. Burley - I'm Mary Ellen Burley. I'm the sibling who has built back in
519 that area there. I'm at the end of that long private road, and I don't think that has been
520 shown. I am in favor of this, yes. They will have access to the gravel road which I have
521 maintained all these years, and there will not be any problem with their access.

522
523 Mr. Wright - How wide is that road ma'am, roughly?

524
525 Ms. Burley - Fifty feet -- it has the 50-foot easement.

526
527 Mr. Wright - Well I have, I've been the only one who's used it.

528
529 Mr. McKinney - Now you can get some help.

530
531 Ms. Burley - I just put two loads of gravel on it this week.

532
533 Mr. Wright - Anything further to say?

534
535 Ms. Burley - Can I say that I would be the only one who would be
536 involved at all, if any involvement were in fact, but I don't see any.

537
538 Mr. Wright - Does anyone else desire to speak? Come forward to the
539 mike. Are you in favor or against?

540

541 Ms. Williamson - I am in favor. We have the property directly across. I am
542 Sarah Williamson Liggan, and I think it would be a complement to the area.
543
544 Mr. Wright - Anyone else desire to speak? Would you come down to the
545 mike please. I believe you were sworn in earlier.
546
547 Mr. Loving - I'm Leonard Loving. I live at 7060 Mosswood; that's behind
548 that, and I'm opposed. Ms. Burley lives beside me, and that's a single driveway, and
549 they're wanting a right-of-way off that cul-de-sac, and they'll have to get it off that
550 driveway coming in, and they're going to build a slab home on their lot. I was opposing
551 it, as that would be the only house in our neighborhood that comes in off of another
552 driveway.
553
554 Mr. Wright - So you're in opposition to this. And you live at 7060?
555
556 Mr. Loving - That's correct. This land that's to the left of my driveway
557 coming in.
558
559 Mr. Wright - What is 7056 on that map? That looks like another house.
560
561 Mr. Loving - That's on the right side of me on my driveway coming in. I
562 have 50 feet of right-of-way.
563
564 Mr. Wright - All right sir. Anything further that you'd like to state? Thank
565 you very much. Anyone else desire to speak?
566
567 Mr. Smith - My name is Clint Smith. The desire to build a slab home on
568 this property -- my wife has a potentially debilitating disease. We wish to make it so that
569 it is a fully ADA accessible home. The home is to be about a \$250,000 one-story brick
570 home that would certainly add to the area. You will see that the home itself would be in
571 excess of 200 feet from Mr. Loving's property line. In addition, here at the bottom where
572 you see where the access would be -- the access would not be along anywhere near
573 where Mr. Loving's driveway, but however would be along with Mr. Williamson's sister's.
574 As you see, the driveway is split in half. Half of the driveway would actually be inside
575 the property. The other half is the adjacent property, so it would be a matter of access
576 within the existing property.
577
578 Mr. Wright - So you're in favor of it?
579
580 Mr. Smith - Oh absolutely, yes sir.
581
582 Mr. McKinney - If they're going to use her driveway, it's already in place, isn't
583 it?
584
585 Mr. Smith - Yes, and what will happen is that arrangements will be made
586 to make sure that the care for the driveway is shared, since the driveway is on part of

587 this parcel.

588

589 Mr. Wright - Thank you very much. Anyone else desire to speak? Mr.
590 Williamson, so you have anything further to say? You have the opportunity to rebut.

591

592 Mr. Williamson - I did want to stress that the driveway on this lot here does
593 not have anything to do with Mr. Loving's driveway. It does not even touch it, so there
594 can be no harm done to his lot, and I think that's what he was objecting to, that it would
595 deteriorate his, I guess.

596

597 Mr. Wright - All right, thank you very much. That concludes the case.

598

599 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
600 Wright, the Board **granted** application **A-35-2003** for a variance to build a one-family
601 dwelling at 7070 Mosswood Road (Parcel 815-697-3917). The Board granted the
602 variance subject to the following conditions:

603

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

606

607 2. Only the improvements shown on the plan filed with the application may be
608 constructed pursuant to this approval. No substantial changes or additions to the layout
609 may be made without the approval of the Board of Zoning Appeals. Any additional
610 improvements shall comply with the applicable regulations of the County Code.

611

612 3. At the time of building permit application, the applicant shall submit the
613 necessary information to the Department of Public Works to ensure compliance with the
614 requirements of the Chesapeake Bay Preservation Act and the code requirements for
615 water quality standards.

616

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

621

622 Affirmative: Kirkland, McKinney, Nunnally, Wright 4

623 Negative: 0

624 Abstain: Balfour 1

625

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

631

632 **A - 36-2003 MARY H. MULE** requests a variance from Sections 24-95(c)(4)

633 an24-95(c)(1) of Chapter 24 of the County Code to build a front
634 porch at 7429 Landsworth Avenue (Stuart Ridge) (Parcel 784-752-
635 0064), zoned R-4, One-family Residence District (Fairfield). The
636 front yard setback, minimum side yard setback, and total side yard
637 setback are not met. The applicant proposes 25.4 feet front yard
638 setback, 5.2 feet minimum side yard setback, and 14.4 feet total
639 side yard setback, where the Code requires 35 feet front yard
640 setback, 7 feet minimum side yard setback, and 15 feet total side
641 yard setback. The applicant requests a variance of 9.6 feet front
642 yard setback, 1.8 feet minimum side yard setback, and 0.6 feet total
643 side yard setback.
644

645 Mr. Balfour - Are there any others who expect to testify in this matter? If
646 not, would you raise your right hand and be sworn please?
647

648 Mr. Blankinship - Do you swear that the testimony you are about to give is the
649 truth, the whole truth, and nothing but the truth, so help you God?
650

651 Ms. Mulé - I do. My name is Mary H. Mulé, accent over the "e," please.
652 I want to build a porch on my house. My other porch was falling down, and my plan was
653 to, instead of just replacing the porch that was there, extend my porch as you see in the
654 picture, which you see they had already done, to the edge of the house and finish in the
655 vinyl.
656

657 Mr. Nunnally - Enclosing the deck, in effect, on your porch?
658

659 Ms. Mulé - Well, it's kind of a deck, but it's really a porch. It's about six
660 feet wide. It doesn't extend any further out than the house extends. It doesn't extend
661 any further out than the original porch extended.
662

663 Mr. Balfour - Any questions of Ms. Mulé?
664

665 Ms. Mulé - My neighbors didn't have any objection. They said, "Oh,
666 your house looks wonderful." As long as they let me keep it, it looks fine.
667

668 Mr. Balfour - Sir, did you want to add anything to that? Are you the
669 contractor?
670

671 Mr. Hamze - Yes, I'm the contractor, Robbie Hamze. What she had
672 basically, she had already a porch over the existing slab right there, and that was, as
673 she said, falling apart. She contracted me to take the porch all the way to the end of the
674 house and build basically a deck and a porch for her. She had cats nesting in the attic,
675 going through the existing porch.
676

677 Mr. Balfour - Thank you sir. Any other questions?
678

679 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
680 Wright, the Board **granted** application **A-36-2003** for a variance to build a front porch at
681 7429 Landsworth Avenue (Stuart Ridge) (Parcel 784-752-0064). The Board granted the
682 variance subject to the following conditions:

683
684 1. Only the improvements shown on the plan filed with the application may be
685 constructed pursuant to this approval. No substantial changes or additions to the layout
686 may be made without the approval of the Board of Zoning Appeals. Any additional
687 improvements shall comply with the applicable regulations of the County Code.

688
689 2. The new construction shall match the existing dwelling as nearly as practical.

690 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
691 Negative: 0
692 Absent: 0
693

694
695 The Board granted this request, as it found from the evidence presented that, due to the
696 unique circumstances of the subject property, strict application of the County Code
697 would produce undue hardship not generally shared by other properties in the area, and
698 authorizing this variance will neither cause a substantial detriment to adjacent property
699 nor materially impair the purpose of the zoning regulations.

700
701 **A - 37-2003** **VERNON L. TATE** requests a variance from Section 24-95(i)(2) of
702 Chapter 24 of the County Code to allow existing garage to remain
703 at 11868 Old Washington Highway (Parcel 773-777-1078 (part)),
704 zoned A-1, Agricultural District (Brookland). The accessory
705 structure location requirement is not met. The applicant has an
706 existing garage in the side yard, where the Code allows accessory
707 structures in the rear yard.

708
709 Mr. Balfour - Are there any others who expect to testify in this matter? If
710 not, would you raise your right hand and be sworn please?

711
712 Mr. Blankinship - Do you swear that the testimony you are about to give is the
713 truth, the whole truth, and nothing but the truth, so help you God?

714
715 Mr. Tate - I do. I'm Vernon Tate. We are in the process of purchasing
716 the old Axselle farmhouse; the house is a 1920's house that's been pretty much
717 renovated. The garage that's in question was built in 1964. I have pictures of the
718 garage showing the siding, the painting, everything, it's totally been renovated, matches
719 the home. The question is, there is a subdivision proposed to be developed here, and
720 at that point, this garage would appear to be on the side of the house, versus in the rear
721 of the house. The way the new road will be developed, the street actually comes
722 around the home. It could almost, on either side that this garage fell into, it would be
723 somewhat in question as far as the way the Code reads. The other problem would be, if
724 we were to move the garage or have to rebuild the garage, we're not sure where the

725 septic tanks and stuff like that would lie and what problems that would cause, so we're
726 hoping to keep the existing garage that matches the home exactly and is in excellent
727 condition where it is.

728
729 Mr. Balfour - Any questions of Mr. Tate?

730
731 Mr. Tate - Do you want to see these pictures that I have?

732
733 Mr. Balfour - We'll have to hold those in the file, Mr. Tate.

734
735 Mr. Blankinship - Let me just make sure it's on the record that if this
736 subdivision is not approved, then this variance is essentially moot. The variance is only
737 necessary if that road is put through there. So he's kind of taking a preventive action
738 here to make sure that if that gets done, he won't have to tear the garage down.

739
740 Mr. Tate - We are also, if necessary, willing to put in any kind of
741 Leyland pines or shrubbery or whatever fits in line with the development of the new
742 subdivision, if the subdivision is finally approved.

743
744 Mr. McKinney - Do you live there now, Mr. Tate?

745
746 Mr. Tate - No sir, we hope to move in this weekend. We currently live
747 in a project that is developed by the same developer, so we're very much aware of
748 who's developing the property.

749
750 Mr. Balfour - Any questions? Apparently not. Thank you.

751
752 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
753 Nunnally, the Board **granted** application **A-37-2003** for a variance to allow existing
754 garage to remain at 11868 Old Washington Highway (Parcel 773-777-1078 (part)). The
755 Board granted the variance subject to the following condition:

756
757 1. Only the improvements shown on the plan filed with the application may be
758 constructed pursuant to this approval. No substantial changes or additions to the layout
759 may be made without the approval of the Board of Zoning Appeals. Any additional
760 improvements shall comply with the applicable regulations of the County Code.

761
762 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

763 Negative: 0

764 Absent: 0

765
766 The Board granted this request, as it found from the evidence presented that, due to the
767 unique circumstances of the subject property, strict application of the County Code
768 would produce undue hardship not generally shared by other properties in the area, and
769 authorizing this variance will neither cause a substantial detriment to adjacent property
770 nor materially impair the purpose of the zoning regulations.

771
772 **A - 38-2003** **ROBERT H. MAGARIAN** requests a variance from Sections 24-94
773 and 24-95(t) of Chapter 24 of the County Code to build a one-family
774 dwelling at 6715 Horsepen Road (Westhaven) (Parcel 766-741-
775 0632), zoned R-3, One-family Residence District (Three Chopt).
776 The front yard setback and total lot area outside the floodplain are
777 not met. The applicant has 7,328 square feet outside the floodplain
778 and 30 feet front yard setback, where the Code requires 8,000
779 square feet outside the floodplain and 35 feet front yard setback.
780 The applicant requests a variance of 672 square feet of area
781 outside the floodplain and 5 feet front yard setback.
782

783 Mr. Wright - Mr. Chairman, I disqualify myself from this case.
784

785 Mr. Balfour - Are there any others who expect to testify in this matter? If
786 not, would you raise your right hand and be sworn please?
787

788 Mr. Blankinship - Do you swear that the testimony you are about to give is the
789 truth, the whole truth, and nothing but the truth, so help you God?
790

791 Mr. Eicher - I do. My name is James Eicher; I'm the contract purchaser
792 of this lot. I've been looking for a vacant lot for a while, and this one's been vacant,
793 basically since it was created. It was platted in 1947, and the County came and
794 established their floodplain elevation in the 1970's. That basically rendered the lot
795 unbuildable, because it doesn't meet the square footage requirement outside the
796 floodplain. The variance is essentially to get relief from that, and then also I'm
797 requesting a five-foot front yard variance to try and get a little more wiggle room in the
798 lot to put a house in there.
799

800 Mr. Balfour - Any questions of Mr. Eicher?
801

802 Mr. Kirkland - Mr. Eicher, what size home are you going to build, and is
803 there something similar to it in the neighborhood?
804

805 Mr. Eicher - Something similar. I've been working with some architects,
806 but until I found out the disposition on this, I didn't want to go ahead and get everything
807 rolling with them. It's going to be probably a story and a half, or two-story, 1100 to 1200
808 square feet. In the staff report there was a comment about it sitting a little forward of the
809 houses along Horsepen. I don't see that as a real problem; because of the topography,
810 this lot drops off pretty steeply from Horsepen, so it's going to be lower, even if it's five
811 feet forward of the others.
812

813 Mr. Blankinship - You had a similar case on Thomasville Lane a couple of
814 months ago, where if you put the house farther back, it's closer to the floodplain. If you
815 pull it farther forward, it's closer to the road. It's kind of a balancing act.
816

817 Mr. Balfour - Any other questions of Mr. Eicher?
818

819 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
820 Kirkland, the Board **granted** application **A-38-2003** for a variance to build a one-family
821 dwelling at 6715 Horsepen Road (Westhaven) (Parcel 766-741-0632). The Board
822 granted the variance subject to the following conditions:
823

824 1. Only the improvements shown on the plan filed with the application may be
825 constructed pursuant to this approval. No substantial changes or additions to the layout
826 may be made without the approval of the Board of Zoning Appeals. Any additional
827 improvements shall comply with the applicable regulations of the County Code.
828

829 2. At the time of building permit application, the applicant shall submit the
830 necessary information to the Department of Public Works to ensure compliance with the
831 requirements of the Chesapeake Bay Preservation Act and the code requirements for
832 water quality standards.
833

834 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4

835 Negative: 0

836 Abstain: Wright 1
837

838 The Board granted this request, as it found from the evidence presented that, due to the
839 unique circumstances of the subject property, strict application of the County Code
840 would produce undue hardship not generally shared by other properties in the area, and
841 authorizing this variance will neither cause a substantial detriment to adjacent property
842 nor materially impair the purpose of the zoning regulations.
843

844 **A - 39-2003** **BILL FERGUSON** requests a variance from Sections 24-95(c)(4)
845 and 24-95(c)(1) of Chapter 24 of the County Code to allow an
846 existing dwelling to remain at 3005 Ruthland Road (Ruthland)
847 (Parcel 775-748-3020), zoned R-4, One-family Residence District
848 (Brookland). The front yard setback, minimum side yard setback,
849 and total side yard setback are not met. The applicant has 24.8
850 feet front yard setback, 4.1 feet minimum side yard setback and 15
851 feet total side yard setback, where the Code requires 35 feet front
852 yard setback, 7 feet minimum side yard setback and 15 feet total
853 side yard setback. The applicant requests a variance of 10.2 feet
854 front yard setback, 2.9 feet minimum side yard setback and 4 feet
855 total side yard setback.
856

857 Mr. Balfour - Are there any others who expect to testify in this matter? If
858 not, would you raise your right hand and be sworn please?
859

860 Mr. Blankinship - Do you swear that the testimony you are about to give is the
861 truth, the whole truth, and nothing but the truth, so help you God?
862

863 Mr. Balfour - Mr. Secretary, I'm going to excuse myself in this matter. Mr.
864 Wright will handle it.

865
866 Mr. Ferguson - I do. Good morning. I'm Bill Ferguson. This property, this is
867 a plat that was established, as I understand it, in 1941, showing that these four lots
868 were, I assume, zoned at that time and platted. Lots 1 and 2 and 4 are unimproved.
869 Lot 3 does have an improvement on it, which we currently own, along with Lot 4. The
870 existing house on Lot 3 was built in 1941, and that is the non-conforming property in
871 question. I assume at that time, in 1941, that any sideline setback requirements were
872 not in effect at that time as they are today. That is the problem, and we're hoping today
873 that we can get this variance granted to clear up this matter. Do you need me to state –
874 it says the front yard setback, the minimum side yard setback, and total side yard
875 setbacks are not met. Right now we have a 24.8-foot front yard setback, a 4.1-foot
876 minimum side yard setback, and a 15-foot total side yard setback. The Code requires a
877 35-foot front yard setback, a 7-foot minimum side yard setback, and a 15-foot total side
878 yard setback. We're requesting a variance of 10.2 feet front yard, and a 2.9 minimum
879 side yard, and 4 feet total side yard setback.

880
881 Mr. Wright - You're not requesting to do anything – you're just trying to
882 clear that up?

883
884 Mr. Ferguson - Just trying to clear that up. Again, the house was built in
885 1941. I'm not sure who platted the property in the four lots, but a lady named Ms.
886 Watson built this house on Lot 3 in 1941 and lived there until just last July when we
887 purchased the property. Subsequent to that time, she has passed on. We were just
888 trying to clear that up. We also own Lot 2, which is to the left of Lot 3, and we
889 determined that there was a problem with the setbacks on Lot 3 when we applied for a
890 building permit on Lot 2, and that's when this all came about. We purchased Lot 2 from
891 the Estate of Beatrice Watson, and at that time we determined that the variance was a
892 problem on Lot 3. Obviously, we wouldn't have purchased Lot 2, or we would have
893 purchased it subject to getting this variance cleared up, had we known.

894
895 Mr. Wright - Is anyone here in opposition to this request? Would you
896 come to the microphone. Mr. Ferguson, after he has his testimony, you can rebut.

897
898 Mr. Howard - My name is Grant Howard. I live in what would be Lot 5, and
899 I just want a better understanding of if this is allowed. Would Mr. Ferguson be able to,
900 or is he already able to, build a house on Lot 4, between Ms. Watson's house and my
901 existing house?

902
903 Mr. Wright - You can answer that, Mr. Secretary, but I don't think that this
904 would have anything to do with that, if he puts a house on it that conforms to the
905 building code.

906
907 Mr. Howard - I was just hoping to get a better understanding.

908

909 Mr. Wright - Would you explain.
 910
 911 Mr. Blankinship - He could do that with or without this variance.
 912
 913 Mr. Wright - He could do that anyhow.
 914
 915 Mr. Howard - That's what I was hoping to understand, but if there was
 916 some say that I could have, that's why I'm here missing work.
 917

918 Mr. Wright - I don't believe so. He's just trying to clear up something on
 919 that other lot, but he could build on that without coming before this Board, as long as his
 920 house complied with the requirements of the County. Anyone else? Anything further?
 921

922 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
 923 Nunnally, the Board **granted** application **A-39-2003** for a variance to build allow an
 924 existing dwelling to remain at 3005 Ruthland Road (Ruthland) (Parcel 775-748-3020).
 925 The Board granted the variance subject to the following condition:
 926

927 1. This variance applies only to the location of the existing dwelling. All other
 928 applicable regulations of the County Code shall remain in force.
 929

930 Affirmative:	Kirkland, McKinney, Nunnally, Wright	4
931 Negative:		0
932 Abstain:	Balfour	1

933
 934 The Board granted this request, as it found from the evidence presented that, due to the
 935 unique circumstances of the subject property, strict application of the County Code
 936 would produce undue hardship not generally shared by other properties in the area, and
 937 authorizing this variance will neither cause a substantial detriment to adjacent property
 938 nor materially impair the purpose of the zoning regulations.
 939

940 **A - 40-2003** **BECKY AND DAVID GLEBERMAN** request a variance from
 941 Sections 24-95(i)(2) and 24-94 of Chapter 24 of the County Code to
 942 build a two-story addition at 109 Gaymont Road (River Hills)
 943 (Parcel 757-734-2631), zoned R-1, One-family Residence District
 944 (Tuckahoe). The accessory structure location requirement and
 945 minimum side yard setback are not met. The applicants have 9.99
 946 feet minimum side yard setback, 5.5 feet setback from the primary
 947 structure, a detached accessory structure in the side yard, and 0.2
 948 feet accessory structure setback, where the Code requires 20 feet
 949 minimum side yard setback, 10 feet setback from the primary
 950 structure, detached accessory structures in the rear yard, and 3
 951 feet accessory structure setback. The applicants request a
 952 variance of 10.01 feet minimum side yard setback, 4.5 feet setback
 953 from the primary structure, detached accessory structure in the side
 954 yard, and 2.8 feet accessory structure setback.

955
956 Mr. Balfour - Are there any others who expect to testify in this matter? If
957 not, would you raise your right hand and be sworn please?
958
959 Mr. Blankinship - Do you swear that the testimony you are about to give is the
960 truth, the whole truth, and nothing but the truth, so help you God?
961
962 Mr. Steele - I do. My name's Bob Steele; I'm the architect for Dave and
963 Becky. They purchased this home at 109 Gaymont approximately four months ago.
964 The original homeowner who constructed the house, approximately 50 years ago, had
965 recently passed away, so they purchased it from his estate. We worked on a two-story
966 addition for them and front porch. When we first talked with the County, we were of the
967 belief that only the front porch would need a variance. However, when we had all the
968 plans done and brought them into the County, we found out that apparently there are
969 five cars worth of garages on the property, and those two garages, although they're
970 detached, I guess it's the one to the left-hand side with the curser on it right now, never
971 really complied with any of the community or the Henrico County ordinances. It's not
972 that the Glebermans are doing any work on those. They're allowing them to remain, but
973 I guess as part of getting a building permit issued on the two-story addition to the house,
974 they need to have this matter cleared up.
975
976 Mr. Balfour - Any questions of Mr. Steele?
977
978 Mr. Wright - So the bottom line is, that by adding this new addition,
979 you've put those garages in the side yard.
980
981 Mr. Steele - I suppose that's what we did.
982
983 Mr. Wright - You're not going to change anything?
984
985 Mr. Steele - Right. From the street, it will still have the same
986 appearance, other than putting in an enclosed front porch, but certainly the garage is
987 beautiful, with a beautiful home of brick and slate.
988
989 Mr. Balfour - The garage is, if I understand it, brick too.
990
991 Mr. Steele - Yes, beautiful garages.
992
993 Mr. Wright - You don't want to tear them down, do you?
994
995 Mr. Balfour - I represented the seller in that case. That's a nice home.
996 Anyone have any questions of Mr. Steele? Thank you.
997
998 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
999 McKinney, the Board **granted** application **A-40-2003** for a variance to build a two-story

1000 addition at 109 Gaymont Road (River Hills) (Parcel 757-734-2631). The Board granted
1001 the variance subject to the following conditions:

1002
1003 1. Only the improvements shown on the plan filed with the application may be
1004 constructed pursuant to this approval. No substantial changes or additions to the layout
1005 may be made without the approval of the Board of Zoning Appeals. Any additional
1006 improvements shall comply with the applicable regulations of the County Code.

1007
1008 2. The new construction shall match the existing dwelling as nearly as practical.

1009
1010 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1011 Negative: 0
1012 Absent: 0

1013
1014 The Board granted this request, as it found from the evidence presented that, due to the
1015 unique circumstances of the subject property, strict application of the County Code
1016 would produce undue hardship not generally shared by other properties in the area, and
1017 authorizing this variance will neither cause a substantial detriment to adjacent property
1018 nor materially impair the purpose of the zoning regulations.

1019
1020 **A - 41-2003 CHARLES GLEN LLC** requests a variance from Section 24-95(c)2
1021 of Chapter 24 of the County Code to build a one-family dwelling at
1022 1900 Cornell Avenue (Crestview) (Parcel 765-743-2090), zoned R-
1023 4AC, One-family Residence District (Conditional) (Three Chopt).
1024 The rear yard setback is not met. The applicant has 24.6 feet rear
1025 yard setback, where the Code requires 25 feet rear yard setback.
1026 The applicant requests a variance of 0.4 feet rear yard setback.

1027
1028 Mr. Balfour - Are there any others who expect to testify in this matter? If
1029 not, would you raise your right hand and be sworn please?

1030
1031 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1032 truth, the whole truth, and nothing but the truth, so help you God?

1033
1034 Mr. Balfour - Mr. Secretary, I need to excuse myself from this matter.

1035
1036 Mr. Wright - Please state your name for the record.

1037
1038 Mr. Lewis - I do. My name is Monte Lewis; I'm with Lewis and
1039 Associates. We represent the applicant; we're the civil engineers on this project. This
1040 is an older subdivision which we have demo'd all the houses on, and we're going back
1041 and building new houses on these lots. This particular lot, because it's on the corner
1042 and we have less frontage on Staunton than we do on Cornell, Staunton is actually the
1043 front of the lot, according to the ordinance, although when you look at the lot, it looks
1044 like Cornell wants to be the front. We are situating the house so that it does front on
1045 Cornell. If Cornell was the front by definition, we wouldn't be before you because we'd

1046 have a side yard setback of 12 feet, instead of the 25 that you see in the plat. What we
1047 want to build is this house that has a two-car garage. The total square footage is 2,686.
1048 Of that, 480 square feet are these garages, and the garages are the ones that are over
1049 by .4 of a foot to the rear setback.

1050
1051 Mr. Wright - That's the rear corner of the garage only, is that right?
1052

1053 Mr. Lewis - Yes sir, that's correct. The front meets the setback, and
1054 presently there's not a house built on Lot 17. I don't believe there's one built on Lot 16.
1055 One is under construction on 16. Charles Glen owns all these lots adjacent to this
1056 project. Just for clarification, when we first started this project, and that is over 250 lots,
1057 we found that we have a smaller model that does not have a garage, but in this back
1058 section, all of the houses have a garage to provide a little more parking space, plus a
1059 nicer house.

1060
1061 Mr. Wright - If those gentlemen decide to speak, are you in opposition or
1062 in favor? Anyone else desire to speak? That concludes the case. Thank you very
1063 much.
1064

1065 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1066 Kirkland, the Board **granted** application **A-41-2003** for a variance to build a one-family
1067 dwelling at 1900 Cornell Avenue (Crestview) (Parcel 765-743-2090). The Board
1068 granted the variance subject to the following condition:
1069

1070 1. Only the improvements shown on the plan filed with the application may be
1071 constructed pursuant to this approval. No substantial changes or additions to the
1072 layout may be made without the approval of the Board of Zoning Appeals. Any
1073 additional improvements shall comply with the applicable regulations of the County
1074 Code.

1075
1076 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
1077 Negative: 0
1078 Abstain: Balfour 1
1079

1080 The Board granted this request, as it found from the evidence presented that, due to the
1081 unique circumstances of the subject property, strict application of the County Code
1082 would produce undue hardship not generally shared by other properties in the area, and
1083 authorizing this variance will neither cause a substantial detriment to adjacent property
1084 nor materially impair the purpose of the zoning regulations.
1085

1086 **UP- 7-2003** **RICHMOND MONTESSORI SCHOOL** requests a temporary
1087 conditional use permit pursuant to Section 24-116(c)(1) of Chapter
1088 24 of the County Code to install two temporary classrooms at 499
1089 N. Parham Road (Parcel 752-737-6676), zoned R-2 and R-3, One-
1090 family Residence District (Tuckahoe).
1091

1092 Mr. Balfour - Are there any others who expect to testify in this matter? If
1093 not, would you raise your right hand and be sworn please?

1094
1095 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1096 truth, the whole truth, and nothing but the truth, so help you God?

1097
1098 Mr. Ackerman - I do. My name is Ron Ackerman. I'm the head of school at
1099 Richmond Montessori School, and what we're asking for is a conditional use permit to
1100 put two modular units on the property, which would allow us to expand our early
1101 childhood program, which is three-, four-, and five-year-olds, to give us some much
1102 needed space for our specialty classes, which I'm referring to as music, art, foreign
1103 language, those classes. So we're requesting allowing two modular units to be on the
1104 property. We've hired an architectural firm, 3 North, they used to be Bond Hugo Farley,
1105 to do a master site plan for us, take into consideration the programmatic and enrollment
1106 needs for the future. We request this use permit to allow us time to address the current
1107 need, as well as to fully develop a plan for future structures on the site.

1108
1109 Mr. Balfour - Have you read the restrictions on the report. Are these
1110 pictures some sort of computer depiction of what they're going to look like, Mr.
1111 Secretary, or are they some that already exist? That's what the applicant submitted to
1112 us; I took it to be examples.

1113
1114 Mr. Ackerman - Yes, it's an example from the modular unit, would be a new
1115 unit from Resun Modular Units, and that's just the example that they had given us.

1116
1117 Mr. Balfour - You're talking about two, rather than four, or five, or however
1118 many they've got in this picture?

1119
1120 Mr. Ackerman - Yes. That's some other site.

1121
1122 Mr. Wright - I take it from what we have here, that these would be
1123 screened, with shrubbery, trees, and fence, so that it would not be visible from adjoining
1124 property?

1125
1126 Mr. Ackerman - I think what's being referred to in the report from the staff
1127 here at Henrico, is that the border of our property currently already has a tree border, all
1128 the way around the property, actually on all three sides. On the bottom side of this
1129 particular property, that's a six-foot wood fence, and then along the back side of the
1130 property is a tree line. There really aren't any trees particularly along that back section.
1131 There's a six-foot fence right where the cursor is right now. That section of the
1132 neighbors behind us, those two lots have houses on them, but the two houses where
1133 the cursor is now, it would be very difficult for them to even see these modular units
1134 because of where they're placed.

1135
1136 Mr. Balfour - Is one a little larger than the other?

1137

1138 Mr. Ackerman - Yes, the one that would be placed up in the end of the cul-
1139 de-sac parking lot is larger and would probably be divided. That would be the one that
1140 we would use for the specialty classes.
1141
1142 Mr. Balfour - The other one, as I recall, is more to the left.
1143
1144 Mr. Ackerman - Yes, it's a little bit more. We actually had Henrico County's
1145 inspector out, and we wanted to get it as close to the existing building as we could, and
1146 with a one-hour rated wall on what would be the closest side to the building. It would
1147 allow us to put it five feet from the building.
1148
1149 Mr. Balfour - Talk to me a second about the one at the end of the cul-de-
1150 sac. What kind of buffer do you have to the right that goes along your property line?
1151
1152 Mr. Ackerman - Essentially it's a chain link fence. Directly in front of that
1153 space, which would be up, is a soccer field, and then there's a chain link fence along
1154 the back side, and then the property drops off probably at least twelve feet, down an
1155 embankment. At the bottom of that embankment are trees that have been there a long
1156 time, so that's the only screening.
1157
1158 Mr. McKinney - Mr. Ackerman, will these trailers have restroom facilities?
1159 Mr. Secretary, I think we probably need to add a condition # 5, for the sanitary services.
1160
1161 Mr. Blankinship - Yes, I think you're right.
1162
1163 Mr. McKinney - Also, condition # 2, you said "The trailer,," and you
1164 probably should have said "The trailers,," and in # 4, "The trailers shall be
1165 removed, instead of singular.
1166
1167 Mr. Blankinship - You're certainly right. Mr. Ackerman, how do you plan on
1168 handling the sewage from the bathroom? Connected to the system, or?
1169
1170 Mr. Ackerman - At this time we're not certain. We didn't fully explore that; it
1171 either will be a separate unit, meaning a pump-out unit, or it will be attached to our
1172 current system. We think we're okay preliminarily, particularly the one that is closest to
1173 the building. That one can be attached; we're not certain on the one that's in the cul-de-
1174 sac.
1175
1176 Mr. Blankinship - Mr. McKinney, would you like just the standard condition
1177 saying it has to be something approved by the Health Department?
1178
1179 Mr. McKinney - Right, just the standard condition we usually use.
1180
1181 Mr. Ackerman - I think in the conditions also, I think it was just a
1182 misstatement – it said that we would have to give a plan by July 1, 2004 regarding how
1183 we are going to deal with the "office" space.

1184
1185 Mr. Blankinship - No, that is correct. Let me explain that to you. We've had
1186 many applications for requests like this for a two-year temporary use permit, and after
1187 about a year and nine months, we get a call asking how do I extend that two years. The
1188 answer is, you can't.
1189
1190 Mr. Wright - But this says "permanent office space."
1191
1192 Mr. Ackerman - I'm just referencing the fact that it says "office" space.
1193
1194 Mr. Blankinship - Rather than "office," it should say "classroom."
1195
1196 Mr. Wright - You understand that these trailers must be removed before
1197 July 31, 2005.
1198
1199 Mr. Ackerman - Yes I do.
1200
1201 Mr. Blankinship - And we want a plan after one year of how they're going to be
1202 removed.
1203
1204 Mr. Ackerman - Right, a permanent plan. If I understand what was said, was
1205 that another condition would be written in that says that the sewage would be
1206
1207 Mr. Balfour - Related to the sewage, and correcting singular to plural
1208 "trailers," and stating that it's a classroom, not an office.
1209
1210 Mr. McKinney - Mr. Ackerman, you may check with the Health Inspector. If
1211 you have restrooms that are within, I think, 300 feet, you may not be required to put
1212 restrooms in there, if they're accessible within 300 feet of these facilities.
1213
1214 Mr. Ackerman - We probably would not do that. We probably would put in.
1215
1216 Mr. Kirkland - What age group did you say, three to five? You'd need them
1217 inside.
1218
1219 Mr. Balfour - Any more questions at this time of Mr. Ackerman? Mr.
1220 Ackerman, you'll get a chance to say something else again. Yes sir, did you want to
1221 testify? You've already been sworn, but would you state your name and spell it, please.
1222
1223 Mr. Sjovold - Erling Sjovold, and we reside at 16 Bridgehampton Place.
1224
1225 Mr. Balfour - Is that # 16 on our map?
1226
1227 Mr. Sjovold - Yes. My concern is largely with building B, which is the
1228 largest of the buildings at the top there, at the cul-de-sac of the property. It will
1229 essentially look into the back side of our house and into our bathroom windows. We're

1230 concerned about a certain amount of lost privacy, and our main concern, I think, is that,
1231 just for the temporary structures, that the tree screen that is there, or the buffer, is
1232 minimal at best. There are some trees that were trimmed down last year, and in the
1233 winter, particularly, we look onto the back lot with the buses, and I have no idea about
1234 the size of the structure coming in, but it will be looking in right over our property. I
1235 guess I can be assured that it's at a two-year maximum. One thing we were hoping was
1236 that there could be some additional trees put in or something, at least for the temporary
1237 structures, to diminish some of the appearance. The other thing, and this is just a
1238 question of how a temporary use permit works. My wife and I are particularly concerned
1239 is if approval of this can be read as tacit approval for where the permanent structures
1240 go. I have no idea of where the permanent structures might go, and I'm not sure it's
1241 appropriate to tie that to this, but in the event that it is, we were mostly concerned about
1242 where the permanent structures go, because there doesn't seem to be a lot of room for
1243 expansion except for where these temporary structures are. We would definitely be
1244 opposed to any permanent structure that would be on the high end of the property like
1245 that.

1246
1247 Mr. Balfour - That's not really before us today, but I'm sure Mr. Ackerman
1248 would be glad to tell you. I'd be surprised if they could put it that far from the main
1249 building.

1250
1251 Mr. Sjovold - It was just a question. I'm here partly to voice some
1252 concerns and I think also to be informed.

1253
1254 Mr. Balfour - I think what you're saying is that you're not necessarily
1255 opposed to this temporary, because you know it's temporary, but secondly, you're
1256 concerned about the buffer area.

1257
1258 Mr. Sjovold - I'm concerned about the buffer and just about if approval of a
1259 temporary conditional use permit can be read subsequently as a tacit approval.

1260
1261 Mr. Balfour - No, it has nothing to do with where the permanent buildings
1262 are going to be, or the location, or anything else. Could be on the other side for all we
1263 know. But he may tell you what he's going to do. Second, we'll ask him about the
1264 buffer.

1265
1266 Mr. Wright - He would have to go through and plan a POD with the
1267 Planning Commission on that; that's a separate item. This would have no bearing on
1268 that whatsoever.

1269
1270 Mr. Sjovold - In that case, I guess we'll leave it mostly to the aesthetic
1271 quality of the temporary structures, just because the property does elevate the biggest
1272 structures there, and it starts to look down into our property.

1273
1274 Mr. Balfour - Suppose, and I'm just thinking out loud, I don't know what
1275 he'll think of it, if it's two years, maybe they could put some sort of buffer around the

1276 trailer itself.

1277

1278 Mr. Sjovold - That's actually what my wife and I were thinking it might be,
1279 if it's easy to do. I was thinking maybe some Leyland cypresses or something to soften
1280 it, we would really greatly appreciate it.

1281

1282 Mr. Balfour - You can get those at K-Mart or somewhere really cheap;
1283 let's ask him about that. Is there anything else that you want to say about that?

1284

1285 Mr. Sjovold - No, other than that.

1286

1287 Mr. Ackerman - I'm not sure if it was his wife who spoke with me a couple of
1288 days ago. I understand the situation; that's why I mentioned the property falls off, so
1289 essentially the house that the gentleman lives in is considerably lower, which probably
1290 would put their second floor more in line with looking at the structure and the soccer
1291 field. Essentially, it is also true that given the positioning, there is foliage on the trees,
1292 but the foliage is high, and generally speaking, the trunk of the tree doesn't provide
1293 much privacy.

1294

1295 Mr. Balfour - Not in the wintertime.

1296

1297 Mr. Ackerman - In the wintertime it's least protected. I did mention, if it was
1298 his wife on the phone, that we would look at some type of screening. My only concern
1299 was given the temporary conditions, that I didn't know if anything would grow
1300 significantly to screen it off in the short term, but if we can find something to put along
1301 the border side. We also, in terms of privacy, can, I think, address that in terms of
1302 where the windows are placed on that particular trailer. Since these are going to be
1303 new trailers, we have some control over the window placement so that they're not in
1304 that direction toward the gentleman's house. I think we can address that. In terms of
1305 the other question, in terms of our long term plans, we are just developing them now,
1306 but I would have to say at this point that the current placement of the modular units is
1307 unrelated to where we may build buildings in the future. What we were confronted with,
1308 is given the topography of the property, there essentially were very few places that we
1309 could place a modular unit without doing significant work on the land, in terms of
1310 leveling off in spots. We had a gentleman out there walk all around, and he said these
1311 were the two places.

1312

1313 Mr. Balfour - All right sir. We understand. Maybe if you put up some sort
1314 of fast growing, inexpensive shrubbery around your trailer, he'll work with you when you
1315 go to your plan of development. Any questions of Mr. Ackerman? Maybe you and he
1316 can get together and talk about something that will suit both of you, if we approve it.

1317

1318 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1319 McKinney, the Board **granted** application **UP-7-2003** for a temporary conditional use
1320 permit to install two temporary classrooms at 499 N. Parham Road (Parcel 752-737-
1321 6676). The Board granted the use permit subject to the following conditions:

1322
1323 1. Only the improvements shown on the plan filed with the application may be
1324 constructed pursuant to this approval. No substantial changes or additions to the layout
1325 may be made without the approval of the Board of Zoning Appeals. Any additional
1326 improvements shall comply with the applicable regulations of the County Code.

1327
1328 2. The trailers shall not be placed on the property before August 1, 2003.

1329
1330 3. The trailers shall be served by a sanitation system approved by the health
1331 department.

1332
1333 4. The trailer closer to Bridgehampton Court shall be sited to minimize the impact of
1334 windows on the adjacent one-family dwellings, and shall be screened with landscaping
1335 approved by the Planning Office.

1336
1337 5. On or before July 31, 2004 the applicant shall submit a report to the Planning
1338 Office describing their plans for permanent classroom space.

1339
1340 6. The trailers shall be removed from the property on or before July 31, 2005, at
1341 which time this permit shall expire. This permit shall not be renewed.

1342
1343 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1344 Negative: 0

1345 Absent: 0

1346
1347 The Board granted the request because it found the proposed use will be in substantial
1348 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1349
1350 **A - 43-2003** **S. AFTON QUINN** requests a variance from Section 24-95(i)(2) of
1351 Chapter 24 of the County Code to build a one-story addition on the
1352 existing deck at 5923 Old Orchard Road (Chamberlayne Farms)
1353 (Parcel 789-752-8698), zoned R-2A, One-family Residence District
1354 (Fairfield). The accessory structure location requirement is not met.
1355 The applicant has an existing detached garage in the rear yard 3
1356 feet from the principal building. Construction of a proposed addition
1357 will place the existing garage within the side yard, where the Code
1358 allows an accessory structure in the rear yard and requires it to be
1359 10 feet from the principal structure. The applicant requests a
1360 variance to keep the garage in the side yard, and a variance of 7
1361 feet accessory structure setback.

1362
1363 Mr. Balfour - Are there any others who expect to testify in this matter? If
1364 not, would you raise your right hand and be sworn please?

1365
1366 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1367 truth, the whole truth, and nothing but the truth, so help you God?

1368
1369 Mr. Quinn - I do. I'm Afton Quinn. My wife and I live in Ginter Park in a
1370 two-story house. She had two hip replacements, so we decided that we needed to be
1371 off the stairs and on one level, so we sold our house and bought the house at 5923 Old
1372 Orchard and moved in, in June of last year. Our goal from the very beginning was to
1373 put a room on the deck. There are two decks, an upper and a lower, and so we wanted
1374 to put the room on the upper deck, because we actually did need more space. We
1375 downsized considerably. We needed more space, a living room, and we expect this to
1376 be our last home, so we want to be as comfortable as we can. We had no idea what
1377 was involved; the previous homeowners, the inspector, and the contractors who've
1378 looked at it have thought that it was a possibility or thought that it could be done. We
1379 did not know about the ordinance that moved the garage if we covered the deck. So
1380 we're requesting the variance in order to put a Florida room on that upper deck. I've
1381 talked to the neighbors that you sent notices to. All of them are completely in support of
1382 us doing this, and all have signed letters to that effect.

1383
1384 Mr. Balfour - It looks like they've got you surrounded. Any questions of
1385 Mr. Quinn? All right sir, thank you. Sir, did you have anything to add? **(Nothing at all)**

1386
1387 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1388 Wright, the Board **granted** application **A-43-2003** for a variance to build a one-story
1389 addition on the existing deck at 5923 Old Orchard Road (Chamberlayne Farms) (Parcel
1390 789-752-8698). The Board granted the variance subject to the following conditions:

1391
1392 1. Only the improvements shown on the plan filed with the application may be
1393 constructed pursuant to this approval. No substantial changes or additions to the layout
1394 may be made without the approval of the Board of Zoning Appeals. Any additional
1395 improvements shall comply with the applicable regulations of the County Code.

1396
1397 2. The new construction shall match the existing dwelling as nearly as practical.

1398
1399 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1400 Negative: 0
1401 Absent: 0

1402
1403 The Board granted this request, as it found from the evidence presented that, due to the
1404 unique circumstances of the subject property, strict application of the County Code
1405 would produce undue hardship not generally shared by other properties in the area, and
1406 authorizing this variance will neither cause a substantial detriment to adjacent property
1407 nor materially impair the purpose of the zoning regulations.

1408
1409 **A - 44-2003** **CHERYL JENNINGS** requests a variance from Section 24-9 of
1410 Chapter 24 of the County Code to build a one-family dwelling at
1411 8415 Strath Road (Parcel 817-684-5605), zoned A-1, Agricultural
1412 District (Varina). The public street frontage requirement is not met.
1413 The applicant has 0 feet public street frontage, where the Code

1414 requires 50 feet public street frontage. The applicant requests a
1415 variance of 50 feet public street frontage.
1416

1417 Mr. Balfour - Are there any others who expect to testify in this matter? If
1418 not, would you raise your right hand and be sworn please?
1419

1420 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1421 truth, the whole truth, and nothing but the truth, so help you God?
1422

1423 Ms. Jennings - Yes I do. I'm Cheryl Jennings. I'm the contract holder on
1424 8415 Strath Road. I'm requesting a 50-foot variance so that I can put a one-family
1425 dwelling on it.
1426

1427 Mr. Balfour - Questions by members of the Board?
1428

1429 Mr. Nunnally - What kind of access do you have to this property?
1430

1431 Ms. Jennings - There is no frontage for the main road on Strath Road.
1432

1433 Mr. Nunnally - I see that, but how will you access the property?
1434

1435 Ms. Jennings - There is an easement, a legal easement, by recorded deed,
1436 20 feet wide.
1437

1438 Mr. Nunnally - Who will maintain that road?
1439

1440 Ms. Jennings - The rest of the property owners on that road.
1441

1442 Mr. Nunnally - Do you know how many there are at this point?
1443

1444 Ms. Jennings - I believe there are four.
1445

1446 Mr. Wright - I guess you will join in to help them?
1447

1448 Ms. Jennings - Yes I will.
1449

1450 Mr. Balfour - Have you read the six restrictions? Any questions about any
1451 of those?
1452

1453 Ms. Jennings - Yes sir. No sir.
1454

1455 Mr. Nunnally - What type of home are you building, Mr. Jennings?
1456

1457 Ms. Jennings - It will be a modular home.
1458

1459 Mr. Nunnally - What size modular home?

1460
1461 Ms. Jennings - Twenty-eight by forty-four.
1462
1463 Mr. Balfour - Any other questions of Ms. Jennings? Thank you ma'am.
1464
1465 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1466 Wright, the Board **granted** application **A-44-2003** for a variance to build a one-family
1467 dwelling at 8415 Strath Road (Parcel 817-684-5605). The Board granted the variance
1468 subject to the following conditions:
1469
1470 1. This variance applies only to the public street frontage requirement. All other
1471 applicable regulations of the County Code shall remain in force.
1472
1473 2. Only the improvements shown on the plan filed with the application may be
1474 constructed pursuant to this approval. No substantial changes or additions to the layout
1475 may be made without the approval of the Board of Zoning Appeals. Any additional
1476 improvements shall comply with the applicable regulations of the County Code.
1477
1478 3. At the time of building permit application, the applicant shall submit the
1479 necessary information to the Department of Public Works to ensure compliance with the
1480 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1481 water quality standards.
1482
1483 4. Approval of this request does not imply that a building permit will be issued.
1484 Building permit approval is contingent on Health Department requirements, including,
1485 but not limited to, soil evaluation for a septic drain field and reserve area, and approval
1486 of a well location.
1487
1488 5. The applicant shall present proof with the building permit application that a legal
1489 access to the property has been obtained.
1490
1491 6. The owners of the property, and their heirs or assigns, shall accept responsibility
1492 for maintaining access to the property until such a time as the access is improved to
1493 County standards and accepted into the County road system for maintenance.
1494
1495 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1496 Negative: 0
1497 Absent: 0
1498
1499 The Board granted this request, as it found from the evidence presented that, due to the
1500 unique circumstances of the subject property, strict application of the County Code
1501 would produce undue hardship not generally shared by other properties in the area, and
1502 authorizing this variance will neither cause a substantial detriment to adjacent property
1503 nor materially impair the purpose of the zoning regulations.
1504

1505 On a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **deferred** the
1506 **vote** on the Minutes of the **February 27, 2003**, Henrico County Board of Zoning
1507 Appeals meeting until the March 27, 2003, meeting.

1508
1509 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1510 Negative: 0
1511 Absent: 0

1512
1513 There being no further business, and on a motion by Mr. Kirkland, seconded by
1514 Mr. McKinney, the Board adjourned until **May 22, 2003**, at 9:00 am.
1515

1516 Daniel T. Balfour,
1517 Chairman

1518
1519 Benjamin Blankinship, AICP
1520 Secretary

1521