

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, MAY 22, 2003, AT**
4 **9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
5 **DISPATCH ON MAY 1 AND 8, 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
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 then ask
15 everyone who intends to speak on that case, in favor or in opposition, to stand and be
16 sworn in. The applicants will then present their testimony. After the applicant has
17 spoken, the Board will ask them questions, and then anyone else who wishes to speak
18 will be given the opportunity. After everyone has spoken, the applicant, and only the
19 applicant, will be given the opportunity for rebuttal. After hearing the case, and asking
20 questions, the Board will take the matter under advisement. They will render all of their
21 decisions at the end of the meeting. If you wish to know their decision on a specific
22 case, you can either stay until the end of the meeting, or you can call the Planning
23 Office later this afternoon. This meeting is being tape recorded, so we will ask everyone
24 who speaks, to speak directly into the microphone on the podium, to state your name,
25 and to spell your last name please. And finally, out in the foyer, there are two binders,
26 containing the staff reports for each case, including the conditions that have been
27 recommended by the staff. Mr. Chairman, I do not know of any deferrals or
28 withdrawals.

29
30 Mr. Balfour - Thank you sir. Let me state for the audience, that this is a
31 public meeting, and we want everybody who wants to speak, to have a chance to
32 speak. We ask that you not get up and say the same thing that the previous person
33 said. We've got a long agenda, a lot of cases, and if you have something new to add
34 that the previous speaker didn't cover, that's fine, but to get up and be repetitive takes
35 up the time from somebody else's case that's behind you. Call the first case please.

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Deferred from Previous Meeting

A - 22-2003 **BARBARA SANDVIG** requests a variance from Section 24-9 of Chapter 24 of the County Code to build a one-family dwelling at 12241 Kain Road (Parcel 737-766-1095), zoned A-1, Agricultural District (Three Chopt). The public street frontage requirement is not met. The applicant has 0 feet public street frontage, where the Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet public street frontage.

Mr. Balfour - Do we have any others who intend to testify in this matter?
Would you raise your right hand and be sworn please?

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

Mr. Wright - Mr. Chairman, I'll have to disqualify myself from this case.

Mr. Balfour - All right, Mr. Wright.

Ms. Sandvig - I do. I'm Barbara, Bobbie Sandvig. I have some slides that I'd like to show – how do I do that?

Mr. Balfour - Mr. Blankinship will help you with that.

Ms. Sandvig - I'm a little nervous, so I'm going to be brief and just read my minutes so I don't repeat myself, if you don't mind. I'd like to ask for the mercy of the court because of a hardship and because of stress and financial expenses. I'd like for you to hear my case today. I need road frontage. I can show you that my five acres was not an illegal subdivision. I have County records and copies of the Code. I will be brief. The Board has the power to hear this. All I wanted was road frontage. I acquired this land in good faith. I wanted to build a home where my children and I will have a family subdivision. I have two children in that area now who own properties.

This is how the land started. I will be very brief. Mr. Donald Martin was given three acres of land by his parents in 1984. (number 1, please, **referring to slides projected overhead**) In 1990, through his mother's will, he inherited more land. The will does not include a map; it's a very confusing will. I have a copy of the will. This is on the back of the deed of my daughter's property, that we're talking about. The will land increased Mr. Martin's home site to eight acres, consolidation, not a division. We have three acres, and now we have five, and now we have eight, no division, consolidation. This was done in 1990. He received his three acres before 1987. So the County map of 1987 will be different, but it is through a will, and we show on #2, the County Code shows that a will does not get counted as a subdivision, so therefore he's adding land; he's not dividing. The land still has not been divided; we have one piece of land, one

82 parcel still. In 1995 he sold all eight acres and the home to my daughter, Kellie Carlo,
83 still one piece of property, one house, eight acres. My daughter bought it in 1995. In
84 March of 2000 she gave me, a family member, her mother, five acres in the back, a
85 family division does not count. Family division you can give land back and forth as long
86 as it's a straight line. I am her mother. I should be able to be given that property. I did
87 not circumvent the ordinance. In May of 2000, Kellie sold her home, first division, to
88 Garcia. That was the first division. Family division didn't count. First division was to
89 Garcia; he bought the house and three acres; it was after the gift was given to me. She
90 gave me the land in November. I came before the Board and asked them for a
91 variance. If I could get the variance, I wanted the land. I got the variance in 1999. Due
92 to unforeseen things, I did not continue building until March of 2000. In 2000 I asked for
93 well and septic; I ordered \$800 worth of house plans, and in April, before my daughter's
94 house was sold, County records will show I asked for a building permit. I asked for this
95 building permit because I had to be my own contractor. My builder went out of business
96 at the last minute, and I needed to sell my house in the spring, so I became my own
97 contractor, because I don't have central air. I have all this on records. I did what it said;
98 I asked for my building permit before Kellie sold her land; I had well and septic approved
99 in March, and that's a first division. County Code allows one division since 1987.
100 Selling it to Garcia was the one.

101
102 It appears that Mr. Blankinship and I see things differently, and I've tried repeatedly, and
103 I know he's spent a lot of time with me, I do appreciate that, but he's not to this date
104 given me any names of where the divisions were taken. At one point he told me they
105 didn't have to provide me with that information. The letters that you received on April 1
106 had two names where land was given to two different people. That's not quite the truth.
107 As you will see, he has in 1991, one acre was divided from lot 8, to Mr. Marshall. In
108 1993 one was divided to Mr. Blakely. I have where they own the same land, the same
109 house. They have nothing to do with my parcel. They are two parcels away. That
110 information is incorrect, and I told him that. I don't know if you received a correction on
111 that information or not, but I asked him, and I showed him information. I guess what I'm
112 trying to say is that, my land was divided in good faith, I have five acres of prime
113 property, it's beautiful land back there, and I have a driveway. I do not have to have
114 another driveway, we're using the family driveway, we have one driveway that will go all
115 the way back. Here's where it shows that Marshall and Blakely owned the same piece
116 of property. Behind that I have more information to verify that. I went to two other
117 County offices to find out if this was called a division. The only people who have paid
118 taxes on this parcel of land are Donald Martin, Kellie Carlo, and Garcia. I also went to
119 the records room, and I got a parent/child map. It has not been split. I asked the lady to
120 interpret it. She said, "No ma'am, it has not been split; it has been consolidated." I
121 have two parts of the County that are telling me it's not split, one part telling me it is. I
122 conclude that I have only had one division since 1987, and basically I appeal to you to
123 give me my road frontage. I'm a mother; I have two children in this area, and two of
124 them are neighbors. I didn't know that this was going to be so complicated. My family
125 and I are very close; my husband is on disability; my children will help me with him. He
126 has seizures and can't be left alone. I'm not asking for anything that Charlene
127 Rochkind, my neighbor, didn't get. Before Mr. Blankinship became the Secretary in July

128 of 1999 she got a variance with no strings attached. I have a copy of that. She owned
129 a house in front of her property. The difference was, that property was the family
130 property since 1939. My problem is, I've only had the property since 1995, and I
131 understand that Mr. Blankinship and the County like for you to own the property for a
132 long time before you divide it between family members. I can't wait another 50 years; I
133 won't be here, so I would like to say, if you have any questions, I have all kinds of
134 information. I know you've spent a lot of time with me, but I too, I was up until 2:00
135 o'clock last night, trying to make this very clear to you. Thank you.

136
137 M. Blankinship - I did make an error in that letter. The name Blakely was
138 incorrect. The Blakely and Marshall tracts are the same, and I don't have in front of me
139 the name of the owner of the tract that I meant to provide instead of Blakely. The point
140 was that there were two lots that had been divided out of the three lots that we had in
141 1987. I did get the name wrong, but the fact of the earlier division was correct.

142
143 Mr. Balfour - Did you want to respond to that?
144

145 Ms. Sandvig - Yes, I would like to know the name. I have my files.
146 Charlene Martin Rochkind owned the original house in 1939; her parents did, the
147 Martins. I have a history of the land. Her parents died, left it to the two brothers. The
148 two brothers mixed it up back up and forth. One brother is now dead, Donald Martin,
149 the one that my daughter bought the house from, he's dead; I can't ask him. The other
150 brother has some problems, I'm not going to say mental, but he's not able to confirm. I
151 just have this. If we're going to talk about the parcel, parcel 8 is eight acres. If you're
152 going to talk about the whole sixteen acres, that's something different. I don't know; I'm
153 dealing just with parcel 8. Parcel 8 started off with three acres. Then we got five more
154 through a will; we now have eight acres.

155
156 Mr. Balfour - Any questions by Board members?
157

158 Mr. Blankinship - I'll look that up on the computer, Mr. Chairman.
159

160 Mr. Balfour - No questions. Did you want to speak.
161

162 Mr. Blankinship - We can go on then, and I'll give you that name.
163

164 Mr. Blankinship - Mr. Chairman, let me just mention, back on the first case, I
165 told you the name Blakely in that letter was incorrect; the name should have
166 been Bartolotta. (*Interjected after the conclusion of A-32-2003.*)
167

168 Mr. McKinney - Well is it three acres, or is it eight acres? Does a will
169 constitute subdivided property?
170

171 Mr. Blankinship - A will does not constitute subdivision, no sir, because once
172 the will is probated by the court, the court's decision on how the property lines will end
173 up is final, and we can't question that. The issue here is that the line in the Subdivision

174 Chapter of the County Code, that says that any division of a lot that was created after
175 1987 is a subdivision. If the lot existed before 1987, you can create one lot out of it
176 without going through the subdivision process. But if it was created after 1987, then any
177 division of that lot is a subdivision.

178
179 Mr. McKinney - When was this created?
180

181 Mr. Blankinship - 1990 is when the will created this new lot. The will itself
182 does not count as that one subdivision, but the problem is

183
184 Mr. McKinney - But both of these pieces of property were there prior to 1987.
185 They haven't moved a piece of property in. They just got it in a will, and they just
186 changed the configuration of it.
187

188 Mr. Blankinship - Right, and the purpose of that 1987 requirement

189
190 Mr. McKinney - There's a fine line whether it is a subdivision or not a
191 subdivision.

192
193 Mr. Balfour - I think we've got the picture. The land changed in 1990 with
194 the will, by adding three more acres, if I understand it.
195

196 Ms. Sandvig - Five acres, yes sir.
197

198 Mr. Balfour - Five acres, and the question is whether or not that created a
199 subdivision by the addition of the land through a will, as opposed to some other way.
200 The court says no. Any other questions by Board members? Thank you ma'am.
201

202 Mr. Blankinship - There was one correction on that, a correction on my
203 correction. I corrected the name Blakely to Bartolotta. Ms. Sandvig asked me to point
204 out that the Bartolottas didn't buy the property until 2001. It was divided from the other
205 tract in 1993 or 1995, but not for the Bartolottas. They acquired it later, in 2001.
206

207 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
208 Kirkland, the Board **granted** application **A-22-2003** for a variance to build a one-family
209 dwelling at 12241 Kain Road (Parcel 737-766-1095). The Board granted the variance
210 subject to the following conditions:
211

212 1. This variance applies only to the public street frontage requirement. All other
213 applicable regulations of the County Code shall remain in force.
214

215 2. At the time of building permit application, the applicant shall submit the
216 necessary information to the Department of Public Works to ensure compliance with the
217 requirements of the Chesapeake Bay Preservation Act and the code requirements for
218 water quality standards.
219

220 3. Approval of this request does not imply that a building permit will be issued.
221 Building permit approval is contingent on Health Department requirements, including,
222 but not limited to, soil evaluation for a septic drain field and reserve area, and approval
223 of a well location.

224
225 4. The applicant shall present proof with the building permit application that a legal
226 access to the property has been obtained. The access shall share an existing entrance
227 onto Kain Road. The owners of the property, and their heirs or assigns, shall accept
228 responsibility for maintaining access to the property until such a time as the access is
229 improved to County standards and accepted into the County road system for
230 maintenance.

231
232 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
233 Negative: 0
234 Abstain: Wright 1

235
236 The Board granted this request, as it found from the evidence presented that, due to the
237 unique circumstances of the subject property, strict application of the County Code
238 would produce undue hardship not generally shared by other properties in the area, and
239 authorizing this variance will neither cause a substantial detriment to adjacent property
240 nor materially impair the purpose of the zoning regulations.

241
242 **A - 29-2003** **STACEY NELSON** requests a variance from Section 24-9 of
243 Chapter 24 of the County Code to build a one-family dwelling at
244 7131 Hughes Road (Parcel 861-695-9377 (part)), zoned A-1,
245 Agricultural District (Varina). The public street frontage requirement
246 is not met. The applicant has 0 feet public street frontage, where
247 the Code requires 50 feet public street frontage. The applicant
248 requests a variance of 50 feet public street frontage.

249
250 Mr. Balfour - Do we have any others who intend to testify in this matter?
251 Would you raise your right hand and be sworn please?

252
253 Mr. Blankinship -Do you swear that the testimony you are about to give is the truth, the
254 whole truth, and nothing but the truth, so help you God?

255
256 Ms. Nelson - I do.

257
258 Mr. Blankinship - You may sit down.

259
260 Mr. Marshall - I do. I'm John Marshall, here representing Ms. Nelson, who
261 is the owner of a six-acre parcel, a little over six acres of land, off of Hughes Road. This
262 is a private road; it's 1.6 miles long. It has a fork in it that's .3 of a mile, and another that
263 extends .6 of a mile. There are actually eleven houses on the road that use the road.
264 There is one home that actually has its driveway out onto the public part of Hughes
265 Road. Previously, you were provided a petition signed in favor of Ms. Nelson being able

266 to construct a home. It was signed by seven of the eleven people who currently live on
267 the road, having a house on the road. Subsequent to the prior meeting, we have added
268 the signature of Ms. Selph, who, although she does not have a home on the road, owns
269 a 30-acre parcel of land that is on the private road, and she has also signed this in favor
270 of Ms. Nelson getting the variance. This is based, as in my letter I think you have of
271 April 9, it's a situation where she currently, Ms. Nelson, is not a stranger to her
272 neighbors on this road.

273
274 She lives on the road now, uses the road, her parents live on the road, have a home
275 there, as well as her sister. It's a situation where Ms. Nelson is a widower, raising two
276 young children on her own, and her mother-in-law, who helps with the children, has
277 indicated a willingness to purchase her home if she's able to construct her home on the
278 six-acre parcel. As Mr. Blankinship stated in his report, the six-acre parcel division was
279 allowed, without doing a subdivision. Ms. Nelson's father intends to purchase the
280 property adjacent to the six-acre parcel that she has purchased, which would also help
281 her with her family, so that the basic impact is that you're going to have one new
282 dwelling on the road.

283
284 I think it was discussed at the last meeting we were here, Mr. Blankinship addresses it
285 in his notes, a suggestion that there was some concern about the fact that there are 21
286 acres of land in Charles City that are landlocked but for the access of Hughes Road,
287 and it has been that way since, I believe it was a timber company owned this big entire
288 parcel, so the land in Charles City, the only access to it has been throughout the years
289 by this Hughes Road. We have some problems with the suggestion of Mr. Blankinship,
290 # 6, and there are a lot of reasons why and about the restrictions. It's my opinion that
291 as far as the Charles City property goes, there's 21 acres of land there. Charles City
292 will allow eight dwellings, eight houses over there, which obviously Ms. Nelson
293 understands his concern. To his credit, Mr. Fleming, even though this isn't his case
294 because Ms. Nelson owns the property, he has the residue, which includes the Charles
295 City line, and he is amenable, as I said before, there are two tax parcels in Charles City,
296 a seven-acre parcel, and a fourteen-acre parcel, and he is amenable to recording a
297 deed restriction on those two parcels whereby they can never be subdivided, which
298 would basically mean that the most those that could come out of it, instead of the eight
299 homes that Charles City will allow without a subdivision, would be that there would be
300 two, if at some point and some time in the future, somebody wanted to buy one or either
301 one of those parcels, he'd be willing to record a deed restriction that said the seven-acre
302 parcel could not be further subdivided, as well as the fourteen-acre parcel could not be
303 subdivided. He's willing to do that. I don't know that legally he's required to. I think the
304 fact that the parcel is the only access to that property over the years has been through
305 this, I think establishes a strong case for an easement through there. Without it, it's
306 landlocked. There is no possible access through Charles City.

307
308 Mr. Nunnally - Let me ask you a question please. You've said that Ms.
309 Nelson's mother and father are buying the house next to where she wants to build.
310 That was owned by Mr. Fleming?

311

312 Mr. Marshall - Yes sir, he still owns it now, but her parents are intending to
313 buy it.
314
315 Mr. Nunnally - Is he planning on building in Charles City, do you know?
316
317 Mr. Marshall - He's not planning on building over there, no sir.
318
319 Mr. Nunnally - So he wouldn't be one of the two houses over there?
320
321 Mr. Marshall - No sir. He's not planning to do that. But he's willing
322 because he wants to help Ms. Nelson; she's his neighbor and his friend, but he's willing
323 to place those restrictions on that property over there, which greatly diminishes the
324 value of it. He's willing to do that, to satisfy the concerns, which are legitimate. If there
325 were eight houses that popped up in Charles City, I can see the concern, other than
326 running up and down the road. Conceivably, depending on if you wanted to go through
327 a subdivision process in Charles City, you might be able to get more than that, but right
328 out of the box, they'll give you eight. He's willing to do that.
329
330 Mr. McKinney - What would they give you if you went through the
331 subdivision process?
332
333 Mr. Marshall - I'm not a subdivision expert, so I don't want to speculate on
334 that; I don't think it's an issue because Mr. Fleming is willing to put those restrictions on
335 both those parcels. I think the easement that was recorded to get to her lot was 50 feet,
336 and if someone has a concern with the easement being that wide, I believe we would
337 address that in the future, looking down the road. If at some point, which I think is very
338 conceivable, with the amount of land around this private road, at some point if the
339 County took the road into its system, and you had a 50-foot easement through there,
340 then conceivably that's the width of an easement that would be required for a road to do
341 a development of some sort, so he's willing to, if they want to narrow it to 30 feet, so it
342 doesn't meet the requirements that subdivisions are required for down the road, if the
343 County ever takes that road in, he's okay with that too.
344
345 Mr. Balfour - Any other questions?
346
347 Mr. Kirkland - Is this enforceable in Charles City?
348
349 Mr. Marshall - The restriction, oh yes sir, if it's put into the deed.
350
351 Mr. Kirkland - You're going to put it on the deed.
352
353 Mr. Marshall - Put it on a deed, record a deed, basically the deed would be
354 from Scott Fleming and his wife to Scott Fleming and his wife, and it would be in the
355 deed that the grantor hereby places a restriction on the deed that this parcel can never
356 be subdivided, and that's all you have to state. The most common known one, I think, is
357 that big house out on River Road that they just re-did, put the stone wall around it. It's

358 like eight acres, and I'm sure they would love to subdivide it, but years ago they put in
359 that deed that it could never be subdivided, and once it's there, it can't be removed.

360
361 Mr. Kirkland - Just wanted to make sure.

362
363 Mr. Blankinship - I don't know if it matters to the Flemings or to you, but I think
364 you could say, "will not be subdivided unless access is provided without going across
365 this parcel." If it was subdivided in the future, and the access went out the other way, I
366 don't think that would be any concern.

367
368 Mr. Marshall - I think that's basically impossible the other way, but yes,
369 once you put a restriction on there that it can't be subdivided, then they're stuck with the
370 one lot forever. Those parcels can never be busted up; till the end of time they'll be a
371 seven-acre and a fourteen-acre parcel, no matter what happens to them, whether they
372 stay vacant or not.

373
374 Mr. McKinney - But John, you really don't know. Mr. Blankinship said if
375 somebody came in and bought all the property coming up to it and had access to
376 Charles City, and wanted to encompass these two parcels into what they purchased,
377 they would have access, then this deed restriction could be taken off. This road could
378 be closed up.

379
380 Mr. Marshall - No, the parcels could never be, once the deed restriction is
381 put on there, the parcels can never be subdivided. Can't take it off.

382
383 Mr. McKinney - But you can put an "if" in there, can't you? He's trying to
384 look out for the owner in Charles City.

385
386 Mr. Marshall - I understand, but that's not his intention.

387
388 Mr. Blankinship - If there is no other way out of there, then

389
390 Mr. Marshall - There is no other way out. We've looked at the other side in
391 Charles City, and I don't think there'll ever be a time when you can access it other than
392 right there, because there's too much land on the other side to worry about there being
393 any access.

394
395 Mr. McKinney - You never know what happens with the highway department.

396
397 Mr. Marshall - In the restriction, and I want to make clear, I read Mr.
398 Blankinship's suggestion to say that he was also placing a restriction on the residue,
399 which would be the thirty-five acres left on Mr. Fleming's parcel, which I did have a
400 problem with that. From the standpoint of what I just said, once he's long gone, and if at
401 some point the County takes that road in there, then you have a thirty-five acre parcel of
402 land with a deed restriction on it that can't be taken off and never subdivided or used for
403 anything else.

404
405 Mr. Blankinship - Clearly our problem is the private road issues.
406
407 Mr. Marshall - Right. I think you're covered with the thirty-five acre
408 remainder, because if someone ever wanted to do anything with it, and the County
409 hadn't taken the road into the system, they'd be back here before you.
410
411 Mr. Blankinship - They'd have to subdivide.
412
413 Mr. Marshall - They'd be back before you, and they'd have to go through
414 subdivision process anyway.
415
416 Mr. Nunnally - Is Ms. Nelson settled on this land? Is it all settled?
417
418 Mr. Marshall - Ms. Nelson owns the six-acre parcel, as I stated in my letter
419 to you previously. She purchased it in February.
420
421 Mr. Nunnally - Has it all been closed out, settled?
422
423 Mr. Marshall - Yes sir, she owns the land. She purchased it in February.
424
425 Mr. Nunnally - I just can't understand why they would sell a piece of land
426 like that without putting a stipulation in it that they had to get a variance. Everything
427 else down there you have to get a variance for to build, I imagine.
428
429 Mr. Marshall - Well, that's what happens when you don't use lawyers and
430 you do things on a handshake.
431
432 Mr. Nunnally - She's the one who's holding the bag then?
433
434 Mr. Marshall - Basically.
435
436 Mr. Balfour - Any other questions? Thank you, Mr. Marshall. Any
437 opposition? Would you like to say anything?
438
439 Ms. Nelson - Oh no thank you.
440
441 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
442 Kirkland, the Board **granted** application **A-29-2003** for a variance to build a one-family
443 dwelling at 7131 Hughes Road (Parcel 861-695-9377 (part)). The Board granted the
444 variance subject to the following conditions:
445
446 1. This variance applies only to the public street frontage requirement. All other
447 applicable regulations of the County Code shall remain in force.
448

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

453
454 3. Approval of this request does not imply that a building permit will be issued.
455 Building permit approval is contingent on Health Department requirements, including,
456 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
457 of a well location.

458
459 4. The applicant shall present proof with the building permit application that a legal
460 access to the property has been obtained.

461
462 5. The owners of the property, and their heirs or assigns, shall accept responsibility
463 for maintaining access to the property until such a time as the access is improved to
464 County standards and accepted into the County road system for maintenance.

465
466 6. Before a certificate of occupancy will be issued, the owner and applicant
467 shall take the steps necessary to ensure that only the additional traffic from one
468 dwelling is added to the private portion of Hughes Road. This shall be
469 accomplished by recording an easement that clearly limits the use of the private
470 road to one additional dwelling on this lot, and recording deed restrictions on the
471 residue of the property in Charles City County, prohibiting any further division that
472 would be served by the private portion of Hughes Road.

473
474 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
475 Negative: 0
476 Absent: 0

477
478 The Board granted this request, as it found from the evidence presented that, due to the
479 unique circumstances of the subject property, strict application of the County Code
480 would produce undue hardship not generally shared by other properties in the area, and
481 authorizing this variance will neither cause a substantial detriment to adjacent property
482 nor materially impair the purpose of the zoning regulations.

483
484 **A - 32-2003** **JOHN PAGE TREVILLIAN** requests a variance from Section 24-94
485 of Chapter 24 of the County Code to build an attached garage at
486 5608 Burberry Court (Kimberwicke) (Parcel 735-775-3488), zoned
487 R-3C, One-family Residence District (Conditional) (Three Chopt).
488 The minimum side yard setback and total side yard setback are not
489 met. The applicant proposes 2.3 feet minimum side yard setback
490 and 18.5 feet total side yard setback, where the Code requires 12
491 feet minimum side yard setback and 30 feet total side yard setback.
492 The applicant requests a variance of 9.7 feet minimum side yard
493 setback and 11.5 feet total side yard setback.

494

495 Mr. Balfour - Do we have any others who intend to testify in this matter?
496 Would you raise your right hand and be sworn please?

497
498 Mr. Blankinship - Do you swear that the testimony you are about to give is the
499 truth, the whole truth, and nothing but the truth, so help you God?

500
501 Mr. Trevillian - I do. I'm John Trevillian. I'm not going to reiterate anything
502 that's in the case report here. It describes the situation quite well, except it does
503 mention the possibility of an addition on the southwest corner of the house. I checked
504 into that, and I believe that would also require a variance too, the rear yard setback not
505 being met. I've also looked into the possibility of relocating; we like that area and wish
506 to stay there, but most of the new construction, and there is a lot of it in that area, we
507 know, is either not as large as our existing house, or if it is, it achieves that with a third
508 floor, which wouldn't meet our needs as well as a first floor addition here. I'll be very
509 brief. The conditions attached to it are quite generous; I would intend to meet them all
510 in their entirety. After this, if the Board approves this, I still have to get the approval of
511 the neighborhood association, which I would be doing as soon as possible. I spoke with
512 my neighbors. None of them have voiced any opposition to my plans here, and
513 hopefully it will meet with your approval as well. That's it. Any questions?

514
515 Mr. Wright - Yes, give us a little bit of background on this. What you
516 intend to do is convert your existing garage into a living space, is that correct? And
517 what is the reason for that?

518
519 Mr. Trevillian - Yes sir. Mid-term it's to allow space to let my mother move
520 in with us. My father's deceased recently. She lives in Henrico County as well, and
521 she'll getting elderly, and we intend to take her in when the time requires that.

522
523 Mr. Wright - You have no other place in the house for her to reside other
524 than doing that?

525
526 Mr. Trevillian - The other bedrooms are all on the second level. She lives in
527 a ranch house now, and would not be able to negotiate the steps.

528
529 Mr. Wright - What size garage do you propose to build?

530
531 Mr. Trevillian - Almost exactly the same size, square footage-wise as the
532 garage, another two-car existing garage. The style we're proposing, a two-car existing
533 garage with front entry, dormer room on top, is almost identical to a number of other
534 houses in the neighborhood.

535
536 Mr. Wright - On that side where the garage is to be constructed, how far
537 is that house from the property line, do you know?

538
539 Mr. Trevillian - I believe he said it was 25 feet here. Visually it is a lot,
540 because we both have driveways on that side, adjacent to each other, rather than just a

541 driveway adjacent to the side yard of a house, so visually it's quite wide.
542
543 Mr. Wright - It looks like the land is quite even, so there's no up and
544 down, no hill there?
545
546 Mr. Trevillian - Not on the side yard; it slopes down towards the back. That
547 would be past the area where the addition would be built.
548
549 Mr. Wright - You have to have access to your back yard?
550
551 Mr. Trevillian - Yes sir, and we'd be leaving enough for a walkway there. I
552 intend to build a gate there to attach to the existing fence.
553
554 Mr. Wright - Would there be room enough to get a lawnmower or vehicle
555 past it?
556
557 Mr. Trevillian - A lawnmower, yes sir.
558
559 Mr. McKinney - You've got 16.2 feet on the other side. Is there a fence?
560
561 Mr. Trevillian - Not in the front yard, no sir. We have no fence on that side.
562
563 Mr. McKinney - You could access the lawnmowers and the other stuff on
564 that side; you could negotiate that with an automobile.
565
566 Mr. Trevillian - No problem.
567
568 Mr. Wright - It looks like your lot is an odd shape.
569
570 Mr. Trevillian - It's the pie-shaped cul-de-sac.
571
572 Mr. Balfour - Any other questions? Thank you. Mrs. Trevillian, you want
573 to speak, since it's your mother-in-law coming in, any restrictions you want to add.
574 Okay, thank you.
575
576 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
577 McKinney, the Board **granted** application **A-32-2003** for a variance to build an attached
578 garage at 5608 Burberry Court (Kimberwicke) (Parcel 735-775-3488). The Board
579 granted the variance subject to the following conditions:
580
581 1. Only the improvements shown on the plan filed with the application may be
582 constructed pursuant to this approval. No substantial changes or additions to the layout
583 may be made without the approval of the Board of Zoning Appeals. Any additional
584 improvements shall comply with the applicable regulations of the County Code.
585
586 2. The new construction shall match the existing dwelling as nearly as practical.

587
 588 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
 589 Negative: 0
 590 Absent: 0

591
 592 The Board granted this request, as it found from the evidence presented that, due to the
 593 unique circumstances of the subject property, strict application of the County Code
 594 would produce undue hardship not generally shared by other properties in the area, and
 595 authorizing this variance will neither cause a substantial detriment to adjacent property
 596 nor materially impair the purpose of the zoning regulations.

597
 598 **A - 42-2003** **O. W. RHODENHISER** requests a variance from Section 24-9 of
 599 Chapter 24 of the County Code to build a one-family dwelling at
 600 8504 Mapleview Avenue (Mount Vernon Heights) (Parcel 761-757-
 601 8820), zoned R-3, One-family Residence District (Brookland). The
 602 public street frontage requirement is not met. The applicant has 0
 603 feet public street frontage, where the Code requires 50 feet public
 604 street frontage. The applicant requests a variance of 50 feet public
 605 street frontage.
 606

607 Mr. Balfour - Do we have any others who intend to testify in this matter?
 608 Would you all stand and raise your right hand and be sworn please?
 609

610 Mr. Blankinship - Do you swear or affirm that the testimony you are about to
 611 give is the truth, the whole truth, and nothing but the truth, so help you God?
 612

613 Mr. Walker - I do. Good morning; my name is Eric Walker. I'm here
 614 representing O. W. Rhodenhiser, to build a one-family dwelling at 8504 Mapleview
 615 Avenue. This parcel that he wants to build his dwelling on was considered to be a well
 616 lot. I did extensive research with Public Health, and also with the State, and no records
 617 indicate that this lot was ever used as a well lot. I've never talked with any neighbors,
 618 but based on my research, we couldn't find that this lot was used as a well lot.
 619 Furthermore, there is a lot further up in the same subdivision that's designated as a well
 620 lot that potentially was used. I'm proposing to build a dwelling on this lot and also on lot
 621 1. That 12-foot ingress and egress easement would gain access to the house. Then on
 622 the left side of the parcel, there is a 150-foot VEPCO easement. Basically, the
 623 topography of this lot slopes down to approximately a 10- to 20-foot difference from the
 624 two dwellings there on Darnell Road. To address the two issues that I picked up in the
 625 opposition letter, one being the aesthetics. Based on where I'm proposing to build the
 626 home, the two neighbors there wouldn't be able to see it because of how the property
 627 slopes. Secondly, the traffic there basically, as I indicated earlier, there's a 12-foot
 628 access, and the new homeowners wouldn't even pass those two houses. These streets
 629 on Mapleview and also on Darnell, are 50-foot roads. Even though this is an old
 630 subdivision, that meets current standards, so I'm not sure how or if adding two homes
 631 there would increase that much traffic.
 632

633 Mr. Kirkland - Mr. Walker, when was this property purchased?
634
635 Mr. Walker - I believe the original owner purchased the house next to it,
636 and I believe the other two lots back in '61.
637
638 Mr. Kirkland - And the well lot was in when?
639
640 Mr. Walker - If I'm not mistaken, this subdivision was
641
642 Mr. Kirkland - When did Mr. Rhodenhiser buy the lot?
643
644 Mr. Walker - I believe back in 1961, and at that time he doesn't believe
645 that the lot was used as a well lot, from his recollection.
646
647 Mr. Kirkland - But it was designated on a plan as a well lot.
648
649 Mr. Walker - True, true. Back then this subdivision was by itself. Forest
650 Green wasn't developed yet, so potentially if more property was purchased and this lot
651 wasn't used as a well lot, you could potentially see in the future as it being implemented
652 in some future development.
653
654 Mr. Kirkland - You say you're going to develop lot 1 also, later on?
655
656 Mr. Walker - Correct.
657
658 Mr. Kirkland - I just wonder why it didn't go all the way back and make a
659 real deep lot, for whoever wants more land there.
660
661 Mr. Walker - Again, we can speculate why it was left this way. My
662 thinking is it lends itself to future use. Again, if Forest Green wasn't developed,
663 someone could easily curve that road around and you could implement the well lot into
664 the future development. Again, my records, based on Henrico Health Department and
665 from the State, there's no indication that the lot was ever used as a well.
666
667 Mr. McKinney - Mr. Walker, what size home do you intend to build if this is
668 approved?
669
670 Mr. Walker - I intend to build an 1100, almost 1200 square foot ranch,
671 similar, but a little bit bigger than the majority of houses in the subdivision. If I'm not
672 mistaken, the majority of the houses are approximately 800 to 1,000 square feet. So
673 essentially my building these two homes would increase or enhance the value of the
674 existing property owners.
675
676 Mr. McKinney - Is this to be frame, brick or what?
677
678 Mr. Walker - It is to be a frame home with all brick siding, all four sides,

679 brick foundation, gas fireplace, and I think will compliment the area.
680
681 Mr. McKinney - Have you looked up the adjoining property owner to see
682 what the assessed value of that property is?
683
684 Mr. Walker - Yes sir. The property owner at 8506, which is also owned by
685 Mr. Rhodenhiser, is assessed totally at \$67,000 or \$68,000.
686
687 Mr. McKinney - How about the others?
688
689 Mr. Walker - Now 2803 and 2801 I didn't; they've done numerous
690 additions to those homes; I did not pull up the assessments. The ranches, similar to the
691 one at 8506, are assessed at around \$60,000 to \$70,000.
692
693 Mr. McKinney - And what do you think yours will be assessed at?
694
695 Mr. Walker - I can imagine anywhere in the \$100,000 to \$115,000 range.
696
697 Mr. McKinney - I was just reading this letter from the Henrico County Health
698 Department, that was send to you on May 20th. They're indicating there was never a
699 well, that they can determine, that was ever used, on that lot. They didn't seem to have
700 a problem with it.
701
702 Mr. Walker - They didn't. I talked extensively with Lewis Walker, in the
703 Health Department, and based on his research, he couldn't ascertain if this lot was ever
704 used as a well lot. He's also stated that if the Board grants the variance and our plat for
705 building permit, and it's routed to them, then he's willing to sign off on it.
706
707 Mr. Balfour - Any other questions?
708
709 Mr. Kirkland - Is lot 1 owned by Mr. Rhodenhiser?
710
711 Mr. Walker - Yes it is.
712
713 Mr. Balfour - Questions?
714
715 Mr. Blankinship - Did you get a copy of their petition?
716
717 Mr. Walker - No, I didn't. I somewhat addressed, I'm assuming, the two
718 issues that were brought up, one being traffic, the other being property values. Based
719 on our conversations, I think we all can agree that my building these homes here would
720 enhance and increase their property values. This lot slopes back, so obviously 2803, if
721 he looks at his back yard, at a minimum he's going to see the top of the roof.
722
723 Mr. Balfour - All right, I think we have a couple of other people may want
724 to speak, and then you'll get the chance to come back up.

725
726 Mr. Woodard - Good morning, my name is George Woodard. I live at 2803
727 Darnell Road, in Mt. Vernon Heights of course, Block H, Lot 4, adjacent to and west of
728 the well lot. I am in opposition to a variance being granted in this case, as are most of
729 my neighbors. This fact is indicated by the paper that my neighbors and I have signed.
730 I've lived in the same house for 30 years. When my wife and I bought the house, we
731 knew the well lot was there and was not sold as a buildable lot. The lot in front of the
732 well lot, which is Lot 1, and the well lot, were sold as one purchase together, at the
733 same time. The owner knew this was not to be built on, because there was no road
734 frontage to the well lot by itself. It was sold with Lot 1, probably because it was
735 considered surplus property.

736
737 In a pamphlet received from the Permit Center, there are a number of guidelines given
738 to assist in understanding a variance. One is "inability to put the property to its most
739 profitable use does not constitute an unnecessary or unusual hardship." In this case,
740 that is exactly what is being done, trying to get a variance in order to build a dwelling for
741 profit. Another guideline states that "mere convenience to the applicant is not sufficient
742 grounds for unnecessary or unusual hardship." I think this is related to the first
743 guideline I mentioned, since it would be so convenient to get a variance granted and
744 build on the well lot, then build on Lot 1. This convenience would only result in putting
745 the property to its most profitable use. As stated before, this does not constitute an
746 unusual hardship. One other guideline stated in the pamphlet is the hardship must be a
747 compelling force, and I don't believe that situation exists.

748
749 We may not live in such a nice neighborhood as River Hills, Wyndham or Laurel Glen,
750 but what we do have is a nice little area that we would like to keep just as it is. As my
751 neighbor on the corner, lot # 3, which is 2801, said, "we don't want a house sitting back
752 in the woods behind our houses like that, especially not directly stacked right behind
753 each other, looking like a row of tenant houses. In reference to what Mr. Walker said
754 about house size, I'm in the process right now of adding onto my house, which will
755 result in about a 1600 square foot house finished, and adding unfinished area, will be
756 about 2900 square feet. The neighbors at 2801 have also added on to theirs a couple
757 of times, so I just want you to please vote to deny this variance. Thank you.

758
759 Mr. Nunnally - Mr. Woodard, what is your house assessed for, do you
760 know?

761
762 Mr. Woodard - I'm not exactly sure, maybe about \$85,000 or \$90,000, at
763 this time, without the addition.

764
765 Mr. Wright - How many square feet do you have in your house at this
766 point? And you're at 2803?

767
768 Mr. Woodard - 1100 square feet, yes sir.

769
770 Mr. Balfour - Any other questions? Yes sir?

771
772 Mr. Kaufelt - I'm Ray Kaufelt. I live at 2617 Darnell Road, which is a few
773 houses up from here. There are several well lots, or properties that were designated as
774 well lots when this subdivision was built. It is my understanding that the County of
775 Henrico, subsequent to drilling the wells, allowed the water service to cross Broad
776 Street and provide water to this community. With that decision, the well lots became
777 surplus, and the owner, somehow or other, passed that property on to whoever built or
778 bought a house in that neighborhood. There are several well lots now, which are
779 people's back yards or side yards, and they're not being built upon. This would be an
780 exception to this neighborhood, to add a house to a well lot. Basically, what normally
781 would have happened, is that you would have put a house somewhere on Lot 1 here,
782 and the well lot would have simply been the back yard, and I'm not opposed to that. I'm
783 not opposed to building a house on Lot 1 and letting what we now call a well lot to be
784 someone's side yard or back yard. I live a few blocks away. If the price were
785 reasonable, I wouldn't mind owning the property, even if I didn't have access to it, just to
786 keep the neighborhood as it is. The comment was made about the cost of housing in
787 that neighborhood. We had one, three doors from me, sold last year, two-bedroom
788 bungalow, it had been modernized, for \$105,000, and that was one of the small homes.
789 I have one of the bigger homes, and you talk about a County assessment. The County
790 assessed me at \$101,000, and I'm not going to argue about it; I'd like to, but if a house
791 half my size goes down the street for \$105,000, I'm not going to complain about an
792 assessment of \$101,000. I am opposed basically to building on the well lot. If you want
793 to build on Lot 1 and have a nice big back yard for your garden or what have you, fine.
794 But I don't think it's consistent with the neighborhood. Thank you.

795
796 Mr. Balfour - Any questions? Thank you. Yes sir.

797
798 Mr. Walker - I appreciate the views of the community, and I don't want to
799 do anything to upset the community, but at the same time, you have a surplus piece of
800 property there that could potentially have a house built on it. That's what I'm proposing
801 to do. I don't think building this house would do anything to negate the value of any
802 property owners. I think building it would enhance and increase the property values of
803 the adjacent parcels. Just to give you some history, when I put a contract in with Mr.
804 Rhodenhiser, I got a call from Mr. Woodard, expressing an interest several years ago
805 with Mr. Rhodenhiser to purchase the property, potentially to build a home for his
806 mother in law, and he asked me how did I get the property; and I just explained I
807 contacted the owner, and he expressed interest in selling. I even talk to Mr. Woodard at
808 2803 about potentially building a home for his mother-in-law. I'm a little dumbfounded
809 when I got the letter stating that he didn't want a house built there. Again, based on
810 where I'm proposing to build a house on the well lot, you wouldn't see it. At a minimum,
811 the roof line from 2803, and you probably wouldn't see it at all from 2801.

812
813 Mr. Balfour - What's that little building, sitting up there to itself in that little
814 triangle? Is that a storehouse or something?

815
816 Mr. Walker - I think that's Mr. Woodard's, some kind of storage facility,

817 accessory building.
818
819 Mr. Balfour - That's his property then?
820
821 Mr. Walker - Correct.
822
823 Mr. Balfour - Your contract, do you already own it, or have you got it
824 subject to a variance?
825
826 Mr. Walker - Subject to the variance.
827
828 Mr. Balfour - Any other questions?
829
830 Mr. Kirkland - Mr. Walker, let me ask one question. Mr. Woodard stated
831 that when Lot 1 was purchased, this lot was also included, is that correct?
832
833 Mr. Walker - It's my understanding that when 8506 was purchased, he
834 also purchased the well lot, and I think subsequently after that, he also purchased Lot 1.
835
836 Mr. McKinney - Did you say 8506 or 280.....?
837
838 Mr. Walker - 8506 and the well lot.
839
840 Mr. Wright - Who owns 8506?
841
842 Mr. Walker - Mr. Rhodenhiser. He owns all three parcels.
843
844 Mr. Balfour - Any other questions? Thank you.
845

846 Upon a motion by Mr. Kirkland, seconded by Mr. Nunnally, the Board **denied**
847 application **A-42-2003** for a variance to build a one-family dwelling at 8504 Maplevue
848 Avenue (Mount Vernon Heights) (Parcel 761-757-8820). The Board denied your
849 request as it found from the evidence presented that approving the permit would be of
850 substantial detriment to adjacent property or would materially impair the purpose of the
851 zoning regulations.
852

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

856
857 **New Applications**
858

859 **A - 45-2003** **TIMOTHY HARRISON** requests a variance from Section 24-
860 95(b)(5) of Chapter 24 of the County Code to build a one-family
861 dwelling at 221 Westover Avenue (Bungalow City) (Parcel 816-728-
862 5240), zoned R-3, One-family Residence District (Varina). The lot

863 width requirement and total lot area requirement are not met. The
864 applicant has 6,400 square feet total lot area and 50 feet lot width,
865 where the Code requires 8,000 square feet total lot area and 65
866 feet lot width. The applicant requests a variance of 1,600 square
867 feet total lot area and 15 feet lot width.
868

869 Mr. Balfour - Do we have any others who intend to testify in this matter?
870 Would you raise your right hand and be sworn please?

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. Harrison - I do. Good morning. My name is Timothy Harrison. I'm
876 back again for the second time to try to get a variance for the property. The first time I
877 was not in compliance, had a lot of rubble or whatever on the property. Since then I've
878 cleaned up the property; I've given away vehicles; I've thrown away materials; I have
879 landscaped the yard, and everything I could do to come into compliance, and I'm only
880 trying to build a home for my family. We've been paying rent for more than 20 years,
881 and I paid more than I should have for this property, which was \$12,000, more than the
882 value of the property, but I needed the property, because I needed to build a home for
883 my family. My only intention is to build a nice home for my family, comply with all the
884 rules and regulations, and stay within the Code guidelines and everything. Since this
885 picture right here, I have cut the grass on the property and everything, and I'm hoping
886 I'm in compliance and will be allowed to build a house on this property. Thank you.
887

888 Mr. Nunnally - What size house are you going to build there, Mr. Harrison?
889

890 Mr. Harrison - I intend to build a 30 by 50, one-story house.
891

892 Mr. McKinney - Mr. Blankinship, you should have given us some previous
893 pictures of this, the way it was.
894

895 Mr. Harrison - I've done a lot of work on it.
896

897 Mr. Blankinship - The staff is very pleased.
898

899 Mr. Kirkland - It meets the County's approval now?
900

901 Mr. Blankinship - Yes. I didn't recognize the picture. I was out of the office
902 the day they took the photograph, and I had trouble matching it up with the old pictures.
903

904 Mr. Kirkland - You're going to keep it like this while you're building the
905 house, right?
906

907 Mr. Harrison - Yes I am. I need this house.
908

909 Mr. Balfour - Any other questions? Thank you.

910
911 Mr. Robinson - My name is Thomas Robinson, and I'm the owner of the
912 property next to 221. My address is 223 Westover Avenue. My main purpose of being
913 here is to cut off all the abuse that I've received from the owner of 221. That's my main
914 purpose, to put protection behind my property. I don't want anything built over there
915 that might drain on my property, cause a drainage problem or anything of that nature.

916
917 Mr. Kirkland - Yes sir, we understand, and now that he's cleaning the lot
918 up, and the County is really informed on where it is, I'm sure that when he builds his
919 home, it will be very well inspected, and everything will meet the Code. I think
920 everything will be just fine.

921
922 Mr. Balfour - You certainly have the right to call the County if you have a
923 question about it or want to bring something to their attention. I think that was it, no one
924 else to speak on that case.

925
926 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
927 Kirkland, the Board **granted** application **A-45-2003** for a variance to build a one-family
928 dwelling at 221 Westover Avenue (Bungalow City) (Parcel 816-728-5240). The Board
929 granted the variance subject to the following conditions:

930
931 1. This variance applies only to the lot area and width requirements. All other
932 applicable regulations of the County Code shall remain in force.

933
934 2. Connections shall be made to public water and sewer.

935
936 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
937 Negative: 0
938 Absent: 0

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

945
946 **A - 46-2003** **ANDRE AND BINA WILLIAMS** request a variance from Section
947 24-94 of Chapter 24 of the County Code to build a sunroom over
948 the existing deck at 1700 Harness Place (FoxboroDowns) (Parcel
949 805-703-4697), zoned R-3, One-family Residence District (Varina).
950 The rear yard setback is not met. The applicants propose 32 feet
951 rear yard setback, where the Code requires 40 feet rear yard
952 setback. The applicants request a variance of 8 feet rear yard
953 setback.

954

955 Mr. Balfour - Do we have any others who intend to testify in this matter?
956 Would you raise your right hand and be sworn please?
957
958 Mr. Blankinship - Do you swear that the testimony you are about to give is the
959 truth, the whole truth, and nothing but the truth, so help you God?
960
961 Mr. Farrar - I do. I'm T. A. Farrar, with Melani Brothers, who intend to
962 build the sunroom. This neighborhood section is only about a year old. We really can't
963 justify a hardship in it. When the Williams purchased the home back in September, they
964 had full intentions of enclosing it because of the mosquitoes in that area where the
965 home was built. It has a 40-foot setback. As you see in the pictures, the deck is a 9 by
966 12; we're simply going to enclose the existing deck, hopefully. We're not going to
967 change any of it whatsoever, even with the steps, we're going to put the door there as
968 well, so we're not going to intrude into any other area. Basically, they're pretty much
969 stuck with this, until there are some changes in that particular cul-de-sac. The rest of
970 the neighbors in there are going to experience the same thing if they plan on adding on
971 down the road.
972
973 Mr. Balfour - Nine by twelve? Any questions by Board members?
974
975 Mr. Wright - What's located to the rear of your property?
976
977 Mr. Farrar - I don't have that information with me, but looking at the plot
978 plan, it looks like Foxboro Downs future development.
979
980 Mr. Wright - Any houses to the rear of your property? I'm asking this
981 because whatever we've got here is not in the record. Mr. Blankinship, what is the
982 status of Foxboro?
983
984 Mr. Blankinship - I do not know. If it's shown on the map the way it is, that
985 normally indicates that they have conditional approval, but they've not yet submitted for
986 final approval.
987
988 Mr. Balfour - Nothing's back there right now?
989
990 Mr. Blankinship - To the best of my knowledge, that's right.
991
992 Mr. Nunnally - Are Mr. and Mrs. Williams here today?
993
994 Mr. Farrar - No, they're not.
995
996 Mr. McKinney - Has that Southbury Avenue been developed?
997
998 Mr. Blankinship - Normally when it's shown with dotted lines like that, it has
999 not been put through yet.
1000

1001 Mr. McKinney - So the rear yard of this would go up to the road? On the
1002 other side of the road would be proposed Foxboro Downs?

1003
1004 Mr. Blankinship - I think the rear yard of this would match the rear yard of
1005 another lot that would front on Southbury Avenue.

1006
1007 Mr. Balfour - Any other questions? Thank you sir.

1008
1009 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1010 Wright, the Board **granted** application **A-46-2003** for a variance to build a sunroom over
1011 the existing deck at 1700 Harness Place (Foxboro Downs) (Parcel 805-703-4697). The
1012 Board granted the variance subject to the following condition:

1013
1014 1. The property shall be developed in substantial conformance with the plan
1015 filed with the application. No substantial changes or additions to the layout may be
1016 made without the approval of the Board of Zoning Appeals.

1017
1018 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1019 Negative: 0
1020 Absent: 0

1021
1022 The Board granted this request, as it found from the evidence presented that, due to the
1023 unique circumstances of the subject property, strict application of the County Code
1024 would produce undue hardship not generally shared by other properties in the area, and
1025 authorizing this variance will neither cause a substantial detriment to adjacent property
1026 nor materially impair the purpose of the zoning regulations.

1027
1028 **A - 47-2003** **LOPE CASTRO** requests a variance from Section 24-94 of Chapter
1029 24 of the County Code to build a patio room over the existing deck
1030 at 2216 Flat Branch Court (Ridgefield Green) (Parcel 738-751-
1031 3422), zoned R-4C, One-family Residence District (Conditional)
1032 (Tuckahoe). The rear yard setback is not met. The applicant has
1033 25.4 feet rear yard setback, where the Code requires 35 feet rear
1034 yard setback. The applicant requests a variance of 9.6 feet rear
1035 yard setback.

1036
1037 Mr. Balfour - Is anyone here to speak on that case? Pass it by, Mr.
1038 Secretary, next case.

1039
1040 ***(The Secretary called the case again at the end of the 9:00 o'clock agenda – no***
1041 ***response. Passed by again, to be called again at end of 10:00 o'clock agenda.)***

1042
1043 ***(The Secretary called the case again at the end of the 10:00 o'clock agenda – no***
1044 ***response.)***

1045

1046 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **deferred**
1047 application **A-47-2003** for a variance to build a patio room over the existing deck at
1048 2216 Flat Branch Court (Ridgefield Green) (Parcel 738-751-3422). The case was
1049 deferred from the May 22, 2003, until the June 26, 2003, meeting, to allow the applicant
1050 or a representative time to appear at the meeting to present the case in person.

1051
1052 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1053 Negative: 0
1054 Absent: 0

1055
1056 **A - 48-2003** **CHRIS RICE** requests a variance from Section 24-96(b)(12a) of
1057 Chapter 24 of the County Code to occupy existing office space at
1058 3900-3974 Springfield Road (Springfield Commons) (Parcel 754-
1059 759-8717), zoned O-2C, Office District (Conditional) (Three Chopt).
1060 The parking requirement is not met. The applicant has 164 parking
1061 spaces, where the Code requires 178 parking spaces. The
1062 applicant requests a variance of 14 parking spaces.

1063
1064 Mr. Balfour - Do we have any others who intend to testify in this matter?
1065 Would you all raise your right hands and be sworn at one time, please?

1066
1067 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1068 truth, the whole truth, and nothing but the truth, so help you God?

1069
1070 Mr. Rice - Yes I do. My name is Chris Rice, and I am the developer of
1071 the property. What I am requesting today is a parking variance so that additional
1072 spaces in the development may be sold as medical use. There is existing medical use
1073 on the property as we speak, and most of the medical uses on the property are sort of
1074 specialty type medicals. We do not have any pediatric groups, family practices, so
1075 forth, that would line up 40 deep with flu shots, etc. Advance Cosmetic Surgery is one
1076 of the leading cosmetic surgeons in the area, and he very rarely packs his waiting room;
1077 in fact there's only six seats in his waiting room, and he has approximately 7,000 feet.
1078 The additional, there are some dentists on the property, and they tend to take the
1079 parking, but they are all one dentist practice. It's not like they're going to expand in the
1080 future, in that they are landlocked in the suites they have purchased. After meeting with
1081 Mr. Blankinship, he suggested I do a parking study, so I hired an independent person to
1082 do a study, and they counted spaces at 10 am and 1 pm in the first week of April, while
1083 all the current owners were occupying their suites. There still is approximately 7200
1084 square feet vacant. At no time were there fewer than 97 spaces available, so if you
1085 take 7200 feet, times 5, that's 36 spaces would be required for all of it to become
1086 medical. At no time were there fewer than 97 spaces; in fact it averaged about 110.
1087 You can see the development here; there is no way of predicting, when you develop an
1088 office setting, how much is going to be medical and how much is going to be office.
1089 There is a high demand for office and medical in the area, and through marketing the
1090 property, we have found that there is more of a demand for medical.
1091

1092 Mr. Balfour -- Is your rent the same for medical and the other office
1093 buildings? Do you raise the rent for the medical offices?
1094
1095 Mr. Rice - No sir, I sell the units, they are office condominiums which I
1096 sell, and I'm selling them for the same price, whether it's office or medical.
1097
1098 Mr. Balfour -- What about the landscaping? You've read the evaluation
1099 report by the County?
1100
1101 Mr. Rice - Yes sir, my original landscaper has a plan; I believe County
1102 Planning has the plan, and as soon as the plants get out of their fruitful springness, we'll
1103 plant them as soon as my landscaper recommends that they be planted.
1104
1105 Mr. Balfour - I didn't mean to interrupt, but I thought you were about
1106 through. Are you about through? Any other questions? I'm assuming that all these
1107 people are not here in favor necessarily, so you'll have a chance to come back. Anyone
1108 else in favor? All right, on the opposition, let me make a comment I made earlier, in
1109 case you weren't here, and that is, we don't want a lot of repetition. If one or two of you
1110 want to speak for the whole group, that's even better. If every one of you want to divide
1111 up and each of you say something different, that's all right, but we don't want to hear the
1112 same thing three times. Who wants to go first?
1113
1114 Mr. Blankinship - The next speakers should just come on down toward the
1115 podium.
1116
1117 Dr. Terraciano - My name is Dr. Tom Terraciano. I'm a psychologist, and the
1118 President of West End Family Counseling at 3932 Springfield. Our office is two doors
1119 down from one of the proposed new dentists' offices. I submitted a letter, I didn't make
1120 multiple copies, I'm sorry about that, when I heard that Mr. Rice had done a survey of
1121 the parking for the entire complex. I informally and unscientifically went out five times in
1122 the past week and just counted the vacant spots available in front of Building B, which is
1123 the building that I'm in and the building that Mr. Rice proposes to put another dentist in.
1124 On the four occasions that I sampled, there were eight, nine, eleven and ten spaces
1125 available in our building. If a dentist moves into that spot, there's a good chance that
1126 between the staff and patients, we would pretty much fill that entire parking lot, causing
1127 us, our patients and our staff, to park in front of Building A and Building C, which I think
1128 will cause a ripple effect and be an inconvenience, especially to our patients, so I'm
1129 opposed to this variance.
1130
1131 Mr. Kady - Good morning. My name is Darren Kady. I occupy number
1132 3900, and I'd like to address the Board and let them know that I'm opposed to this, the
1133 reason being, number one, as was just brought out. I'd like to elaborate a little bit on
1134 that survey. First of all, I feel very strongly that survey is irrelevant

1135
1136 Mr. Balfour - You talking about the survey by Mr.
1137

1138 Mr. Kady - By the independent who was unnamed as far as who
1139 surveyed that parking lot.
1140
1141 Mr. Balfour - Mr. Brookings.
1142
1143 Mr. Kady - OK, thank you. First of all, we're a relatively new complex,
1144 and you cannot take a survey based on a new complex. It takes us years to establish a
1145 business, so if one is going to survey a parking lot, based on new businesses, this is not
1146 fair. You'd have to wait at least three to five years to see if this parking lot is full to
1147 capacity. Then you could probably take a survey and establish whether there are
1148 vacant parking spaces. At this point, I haven't grown to capacity in my space. I'm sure
1149 that others have not grown to capacity. Many of them just moved in. So the reason we
1150 have that standard of four or five per thousand, is because it's based upon a track
1151 record of what's required over a period of years, not what's required within the first year.
1152 So I feel it's totally irrelevant to use that survey, so I don't feel that should even come
1153 into play here.
1154
1155 Mr. Balfour - Wouldn't that even indicate perhaps that you would need
1156 more parking spaces in the future, because businesses are developing businesses. If I
1157 hear you, you say you're going to fill up the additional parking spaces eventually, you
1158 and others perhaps, because you have new businesses that are developing. If that's
1159 true, doesn't that suggest you're going to need more parking spaces in the future?
1160
1161 Mr. Kady - No, I think we have, for instance, on my particular spot, I
1162 have 2200 square feet. The way I calculate it, it's about nine parking spaces. I'm not
1163 using nine parking spaces yet, but when I first started, within the first couple of months, I
1164 used maybe two or three; now I'm maybe up to five or six. I hope to be up to the nine
1165 eventually.
1166
1167 Mr. Kirkland - Mr. Kady, what is your business?
1168
1169 Mr. Kady - We're a marketing company.
1170
1171 Mr. Wright - Where is your office in this?
1172
1173 Mr. Kady - I'm right at the corner of 3900.
1174
1175 Mr. Wright - So you have nine parking spaces allocated to your use.
1176
1177 Mr. Kady - That's what I understand, yes. According to office space,
1178 five per 1,000 square feet.
1179
1180 Mr. Wright - When did you begin your work there?
1181
1182 Mr. Kady - I don't remember the exact date we moved in, but it's been
1183 about a year. Were there any other questions on that point? I'd like to also say that

1184 when I purchased that, essentially, we purchased those spaces, so for us or anyone to
1185 relinquish those spaces, there would be no sense to that unless we were compensated
1186 for those spaces. It's just like if somebody were asking for fifty feet of my land; then
1187 they're just going to ask for fifty feet of my land and be able to receive it without giving
1188 me compensation for it? I'm not looking for compensation; I'm just saying it would be
1189 improper for someone to take one of my spaces away. We have approximately, for
1190 simple arithmetic, say there were fourteen tenants here, or occupants. Essentially what
1191 we're saying is everyone has to sacrifice one space, whether you like it or not. You paid
1192 for it, but we're taking it back. I don't see the justice there, unless we willingly said, yes,
1193 we'd like to contribute it, but I'm not willing to contribute it. I need it; that's what I paid
1194 for, so that's another point I'd like to make. Are there any questions on that?
1195

1196 Thirdly, I don't see a hardship. I haven't heard a justified hardship here, and I was told
1197 that if these medical places or establishments went in, that would raise the value of my
1198 property. I think I'd be suffering, and the other occupants would be suffering the
1199 hardship, if they went in. So it's a reverse hardship that would be created, because as
1200 was brought out, there would be a rippling effect, and they would be parking in my
1201 spaces. These are transient people who would be coming in, with medical needs, so
1202 there would be families and just transient customers. We're not talking about
1203 professionals that are in the building, who are going to respect the spaces of one
1204 another. We're talking about the public. No one could expect us to go out there and
1205 ask the public to move out of the spaces. Even if we marked our spaces, we would get
1206 into problems with the public. So I see a whole slew of problems here, and that's why
1207 I'm in opposition.
1208

1209 Mr. Balfour - Any questions?
1210

1211 Mr. Lapkin - Good morning, gentlemen. My name is Richard Lapkin. I'm
1212 the owner at 3966 Springfield Road, which is just to the left of that yellow square. I'm
1213 going to try not to reiterate anything that's already been said; however, some of it will be
1214 an overlap. I too agree with everything that's been said previously, as far as being
1215 opposed to allowing the not putting in additional parking spaces. We are all, for the
1216 most part, new and growing businesses, which do allow for growth and needing the
1217 parking spaces to have more people coming in. Hearing that a survey that was done, I
1218 took it upon myself to do a very unscientific survey. I only had an opportunity to do it
1219 twice in two days, so I did it a total of four times. Granted, we may have a tremendous
1220 number of spaces open, but the picture is, that those are not all located in one area;
1221 they are spread throughout. Particularly in Building B, there's very few spaces
1222 available. The majority of the spaces that are available are at the end of 3974, which is
1223 on the far side of the complex. The pictures that you were shown earlier, as far as the
1224 complex and the parking spaces that were available, did not represent the entire
1225 complex. They did not show the area directly in front of Building B, which is typically
1226 mostly occupied with vehicles. As I said, in some cases there's not enough spaces in
1227 front of our own specific offices when, for example, as Mr. Rice did agree, is very taxing
1228 on the parking, and we're two doors down from the parking, and a lot of the times there
1229 is very limited parking in that area. Two of the gentlemen who are not here today and

1230 have asked me just to make mention that they are, again, against this. Dr. Valente and
1231 Dr. Fortner, both in Building C, as well as Dr. Sappington, who unfortunately had to
1232 leave for a surgical case, and he wanted me to express to you that he again is opposed
1233 to it. His practice has grown, and I think he said, tripled, within the last year more than
1234 what his projections were, and he anticipates that continuing to grow, which would
1235 necessitate keeping the number of parking spaces what we have. Enclosed with what I
1236 gave you is also a copy of a letter that was issued by Mr. Rice, I believe to the County,
1237 stating that he would not sell any additional spaces to medical units, unless additional
1238 parking spaces were available, or medical units left.

1239
1240 Mr. Nunnally - That letter is not dated; do you know when that letter was
1241 written?

1242
1243 Mr. Lapkin - No I do not; this is a copy of the letter as I received it.

1244
1245 Mr. McKinney - Mr. Lapkin, you're at 3966; how many spaces are you
1246 allowed?

1247
1248 Mr. Lapkin - I've never seen anything formally, other than the report .

1249
1250 Mr. McKinney - How many square feet do you have?

1251
1252 Mr. Lapkin - I have 1800. My understanding is that's approximately
1253 seven.

1254
1255 Mr. McKinney - When you took your survey, May 19-21

1256
1257 Mr. Lapkin - That was not my survey, sir.

1258
1259 Mr. McKinney - You said "the following represents my findings.

1260
1261 Mr. Lapkin - Yes sir, that was the other gentleman's. Mine is the "not as
1262 formal-looking one."

1263
1264 Mr. McKinney - What I'm getting at is, when this was taken, do you know,
1265 were all your spaces taken at the time?

1266
1267 Mr. Lapkin - No, I had several still in front of my office.

1268
1269 Mr. McKinney - What I'm getting at, these vacant spaces, when you grow or
1270 you get more clients, etc., you'll be needing these spaces that should be assigned when
1271 you purchase the building.

1272
1273 Mr. Lapkin - That is correct.

1274
1275 Mr. McKinney - And if they're taken by someone else, then you won't have

1276 them, or they will reduce the spaces that you should have.
1277
1278 Mr. Lapkin - That is correct. I'd also like to point out that the entire
1279 complex is not yet sold, so the survey is based on if we want to call it 25%, and that
1280 number is subject to argument, of vacant spaces, so you need to increase the number
1281 of spaces being used, or decrease the number of spaces that are currently available, if
1282 you want to take it in the same proportions.
1283
1284 Mr. McKinney - Did you state that Mr. Rice said that he would not sell to any
1285 more medical practices?
1286
1287 Mr. Lapkin - I stated that there is a copy of the letter that I received, that
1288 he sent to the County, agreeing not to sell to any more medical spaces unless existing
1289 medical offices left, or additional parking was provided, or the variances were granted.
1290
1291 Mr. McKinney - He can't provide additional parking.
1292
1293 Mr. Lapkin - That is correct, and that's why we are objecting

1294
1295 Mr. McKinney - All the parking is taken, according to the condos that you
1296 guys have bought.
1297
1298 Mr. Lapkin - That is correct, and I understand there is no additional room
1299 to put more parking spaces in.
1300
1301 Mr. Balfour - I understand from what Mr. McKinney just said, that there
1302 are 25% of your spaces left that are already allotted if he does not use them for medical.
1303
1304 Mr. Lapkin - Please understand that no spaces are specifically allotted to
1305 a specific condominium unit. It is all general parking. There are no reserved spaces out
1306 there. So if I understand your question correctly, what you're asking is, are we taking
1307 into account the spaces that are "allotted" to the vacant buildings. Yes, those numbers
1308 are figured within Mr. Rice's 100+ that are available. He is saying that there's 100
1309 spaces available, but not giving you the picture that not all the units are sold.
1310
1311 Mr. Balfour - Any other questions?
1312
1313 Mr. Kirkland - How many spaces normally do you occupy with your
1314 business?
1315
1316 Mr. Lapkin - With my business, five to six for just the employees only, and
1317 that varies. At any given time we could have another three to five with customers.
1318
1319 Mr. Balfour - So you'd be over your limit right there.
1320
1321 Mr. Lapkin - Yes sir. There's no question about it, if you base it on the

1322 7.7 or the 7 number, we'd be over the limit.
1323
1324 Mr. Kirkland - And what do you do?
1325
1326 Mr. Lapkin - Professionally, an AV company; we videotape special
1327 events; we do conversions from slides, pictures, movies, from the video, so we have
1328 what you would call a "walk-in traffic." People dropping off projects, picking up projects,
1329 larger projects that come in. Thank you gentlemen. I appreciate your listening to us.
1330
1331 Mr. Balfour - Any others to speak in opposition?
1332
1333 Mr. Nunnally - Where are you going to bring these extra spaces from if you
1334 got them? Where will these extra spaces come from? Where is the vacant land, or how
1335 do you intend to add spaces, I'm not sure I understand.
1336
1337 Mr. Rice - I'm not requesting to add spaces. I'm requesting a variance
1338 that allows me to exceed the parking requirement. I wanted to start by saying that I did
1339 point out that all the space was not sold. I told you that I had 7200 feet, multiply that
1340 times 5, told you 35 would be required, so you can deduct from the 108 average.
1341 There's no question about it, Building B is a tight parking situation, and that is the
1342 building in the back. What I would like to propose is that I will deed restrict that the
1343 vacant space in the back building would not be medical, and that any medical that I do
1344 in the future, would be in front of Building A, where the bulk of the parking is. I will deed
1345 restrict against a family practice or a pediatric practice. I've contacted my attorney, and
1346 he says I can do this in the deed, that when I sell those units, that I can deed restrict
1347 them against the burden of a family practice or a pediatric practice.
1348
1349 Mr. Balfour - Let me get those down. You said no pediatrics, no family,
1350 and no medical in B Building, whichever one that is.
1351
1352 Mr. Rice - Yes sir, no medical at all in Building B, which is the back
1353 building, where there is a tolling on the parking, and then Building A, which is the one
1354 closest to Costco's gas pumps, that's the only remaining space I have left, and that's
1355 where the majority of the vacant spaces are.
1356
1357 Mr. Balfour - I'm not suggesting by my question I'm opposed or in favor,
1358 but I thought I heard you say earlier that you had a lot of people wanting general office
1359 space and also medical. If that's the case, you've got equal number who want either or
1360 the other. Why don't you just sell them to non-doctors and be done with it?
1361
1362 Mr. Rice - Well, I do have a dentist who's under contract for about
1363 2,400 feet, I believe, and is subject to the variance being granted, and if that is the
1364 wishes of this Board, then I would adhere that no more medical after that particular use
1365 be granted, if that would be your wish.
1366
1367 Mr. McKinney - What's the difference between medical and office?

1368
1369 Mr. Rice - The terms of the definition of medical are very broad. You
1370 can have a clinic that only sees three people at a time that might occupy 3,000 feet, but
1371 that's technically a medical use.
1372
1373 Mr. McKinney - But aren't there some office spaces that have more than
1374 that?
1375
1376 Mr. Rice - Yes sir. I could sell to an office user in Building A that
1377 technically could toll 8 per thousand. There are uses in the office that you could put 8
1378 per thousand, and I think that the Code is, what, one per 100 square feet then?
1379
1380 Mr. Blankinship - For office, one per 250.
1381
1382 Mr. Rice - Right, on parking, but occupants, it could be one per 100
1383 square feet. So we could get someone in there that buys that actually uses a higher
1384 than medical use. I will state that in Building A, Dr. Raffeei is a rehabilitation therapist.
1385 If you've got a bad knee, he helps you get it back in order, and the majority of his space
1386 is not waiting rooms; it's equipment. How many people can he oversee and work on
1387 and rehabilitate at one time? All these businesses that have bought in here, at least
1388 80% of them, had been in business for a number of years, and it was just a transfer of
1389 location, and I could go and address each one individually, but I don't want to take this
1390 Board's time up. Mr. Kady, who adamantly spoke against my parking, he was in
1391 Innsbrook in the same amount of square footage five years prior to his buying this unit,
1392 in the same business he's in. I think he's pretty well managed his growth, in my opinion,
1393 but I don't know what his business plan is. As far as the value of the property, one
1394 gentleman said "the value of the property," we obviously when you have a high-demand
1395 product and you're sold out, the price goes up, and that's evident, because a few of the
1396 existing tenants in there are expanding or want to expand, and they are offering more
1397 than the purchase price for the property, which their neighbor bought, so it will drive up
1398 the price of the property.
1399
1400 Mr. McKinney - When you filed your POD with the Planning Commission to
1401 put this up, they calculated the parking for what you wanted to develop, and this has
1402 been done over years and years. What justifies you to come in and ask for 14 more
1403 spaces?
1404
1405 Mr. Rice - When my civil engineer, Jordan Engineering, a professional
1406 engineering firm, first laid it out, if you look at that space beside Building C, we had that
1407 covered with parking, and we wanted more additional parking. Because we were in the
1408 50-10 basin of the Chesapeake Bay Act, not only do we have to detain the water, but
1409 we have to clean it, so we have all these bio-detention areas. We have three on the
1410 property, that are filled with two feet of sand; the water goes through the sand; it gets
1411 cleaned, and then it goes into the detention ponds.
1412
1413 Mr. McKinney - You've got a BMP there?

1414
1415 Mr. Rice - Two, yes sir.
1416
1417 Mr. McKinney - Where the hand is, next to 3950?
1418
1419 Mr. Rice - Yes sir, and there's a bio-area too, you know, where the
1420 water has to flow in there and sink through the sand first.
1421
1422 Mr. McKinney - You could put a parking lot over that if it were designed
1423 properly?
1424
1425 Mr. Rice - Over the BMP?
1426
1427 Mr. McKinney - Yes, if you could do that, and you could park on top of it?
1428
1429 Mr. Rice - Yes sir. I would imagine. I saw it done at *American Family* I
1430 believe. I don't think it would be cost prohibitive.
1431
1432 Mr. Kirkland - It probably would. The Home Depot has one too.
1433
1434 Mr. Balfour - Mr. Rice, one more question. You may have already said it,
1435 but I want to get it clear in my mind. How much of this do you have to sell?
1436
1437 Mr. Rice - 7200 feet, of which 2400 is under contract to that dental
1438 practice.
1439
1440 Mr. Balfour - What was the total?
1441
1442 Mr. Rice - 38,470.
1443
1444 Mr. Balfour - So you've almost "maxxed" it out.
1445
1446 Mr. Rice - Yes sir.
1447
1448 Mr. Balfour - But you've still got that much left.
1449
1450 Mr. Rice - Yes sir.
1451
1452 Mr. McKinney - How much parking do you have left?
1453
1454 Mr. Rice - Twenty spaces. At the minimum, if I were to sell the rest of
1455 the spaces for office, I would need a variance for eight.
1456
1457 Mr. McKinney - And if you didn't get a variance at all, how much space could
1458 you sell?
1459

1460 Mr. Rice - All but 2,000 feet. I'd have to come in for another variance
1461 to sell it for office.
1462
1463 Mr. McKinney - So you have enough parking space now to accommodate
1464 everything other than 2,000 feet.
1465
1466 Mr. Rice - Yes sir.
1467
1468 Mr. Balfour - But you're saying you need eight.
1469
1470 Mr. Rice - At the minimum, yes sir.
1471
1472 Mr. Balfour - And you're asking for fourteen.
1473
1474 Mr. Rice - I asked for fourteen because of the dental practice, yes sir.
1475
1476 Mr. Balfour - One more question. When did you begin this venture?
1477
1478 Mr. Rice - I believe it was February of 2001, and then it finished up in
1479 '02, approximately a year ago.
1480
1481 Mr. Balfour - When did you sell your first property?
1482
1483 Mr. Rice - I sold the first property to the Terracianos, probably in
1484 February 2002.
1485
1486 Mr. Balfour - You'd just been in operation a little more than a year.
1487
1488 Mr. Rice - Yes sir. I think Dr. Solatarian, which is a dental practice, he
1489 was just straight out of medical school, and there might be one other new business, but
1490 the rest of them were established businesses who'd just moved location.
1491
1492 Mr. Balfour - Any other questions? Thank you.
1493
1494 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **denied** application
1495 **A-48-2003** for a variance to occupy existing office space at 3900-3974 Springfield Road
1496 (Springfield Commons) (Parcel 754-759-8717).
1497
1498 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1499 Negative: 0
1500 Absent: 0
1501
1502 The Board denied the request as it found from the evidence presented that approving
1503 the permit would be of substantial detriment to adjacent property or would materially
1504 impair the purpose of the zoning regulations.
1505

1506 **UP- 8-2003** **PARAMOUNT PROMOTIONS INC.** requests a temporary
1507 conditional use permit pursuant to Section 24-116(c)(1) of Chapter
1508 24 of the County Code to conduct a tent sale at 1601 Willow Lawn
1509 Drive (North Willow Lawn) (Parcel 773-736-2198), zoned B-2,
1510 Business District (Brookland).

1511
1512 Mr. Balfour - Do we have any others who intend to testify in this matter?
1513 Would you raise your right hand and be sworn please?

1514
1515 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1516 truth, the whole truth, and nothing but the truth, so help you God?

1517
1518 Mr. Hudson - Yes I do. I'm Don Hudson, here to ask the Board for
1519 permission to do a July 4th fireworks tent sale at the Willow Lawn Shopping Center. I've
1520 entered into a temporary agreement with the shopping center to do the sale. We're
1521 going to erect a 30 by 45 tent, for less than 30 days, less than June 15 till July 15. We'll
1522 probably be done by about the 10th of July, swept up and gone. We'll only be selling
1523 Virginia approved class C fireworks. I do have a letter from the Henrico County Fire
1524 Department here, with a list of conditions that we worked together on to put together so
1525 that we could comply with the Fire Department. The suggested conditions here from
1526 the County were that we'd only sell approved fireworks from the State that would require
1527 a building permit from Henrico County Fire Department. I've had those and I will work
1528 with the Fire Department. The overnight storage is no problem to us; that's how we do
1529 our storage.

1530
1531 Mr. McKinney - Mr. Hudson, we've already read all these, and if you're in
1532 agreement with them, just tell us.

1533
1534 Mr. Hudson - I'm totally in agreement with everything.

1535
1536 Mr. Kirkland - How about a couple of other suggestions. What are your
1537 hours of operation?

1538
1539 Mr. Hudson - Daylight hours, 10:00 am till we close up at 9:00 o'clock.

1540
1541 Mr. Kirkland - Seven days a week?

1542
1543 Mr. Hudson - Yes sir.

1544
1545 Mr. Balfour - Did you say 9:00 o'clock at night?

1546
1547 Mr. Hudson - At dark we usually close down.

1548
1549 Mr. Kirkland - How about security for this trailer with all the fireworks stored
1550 on the property – have you got something lined up?

1551

1552 Mr. Hudson - Yes, we rent these 20-foot cargo boxes, and they have the
1553 very secure locking.
1554

1555 Mr. Kirkland - How about a human being to make sure they don't get
1556 broken into?
1557

1558 Mr. Hudson - If that's what's required, I'll do that.
1559

1560 Mr. McKinney - Are you agreeable with those conditions, Mr. Hudson?
1561

1562 Mr. Hudson - Yes sir.
1563

1564 Mr. McKinney - And your hours of operation are going to be what?
1565

1566 Mr. Hudson - Ten am till dark, 9:00 or quarter of.
1567

1568 Mr. Balfour - And then a person for security – any other restrictions you
1569 want to ask about? Any other Board comments?
1570

1571 Mr. Hudson - Thank you for your time.
1572

1573 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1574 McKinney, the Board **granted** application **UP-8-2003** for a temporary conditional use
1575 permit to conduct a tent sale at 1601 Willow Lawn Drive (North Willow Lawn) (Parcel
1576 773-736-2198). The Board granted the use permit subject to the following conditions:
1577

- 1578 1. Only Class "C" fireworks, approved for sale within the Commonwealth of Virginia,
1579 may be offered for sale.
1580
- 1581 2. The applicant will obtain the required building permits for the erection of the tent
1582 prior to the start of the sale.
1583
- 1584 3. Any required approvals from the Henrico County Fire Marshall's Office will be
1585 obtained prior to the start of the sale.
1586
- 1587 4. All overnight storage of materials will take place in a storage unit approved by the
1588 Henrico County Fire Marshall's Office.
1589
- 1590 5. No more than 50 cases of stock may be stored on-site.
1591
- 1592 6. This temporary permit is valid for the dates June 15, 2003 through July 15, 2003
1593 only.
1594
- 1595 7. The hours of operation shall be limited to 10:00 AM - 9:00 PM.
1596

1597 8. The applicant shall hire an off-duty police officer to patrol the site between 9:00
1598 PM and 6:00 AM.

1599
1600 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1601 Negative: 0
1602 Absent: 0

1603
1604 The Board granted the request because it found the proposed use will be in substantial
1605 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1606
1607 **A - 50-2003** **PARKER LANCASTER & ORLEANS** requests a variance from
1608 Section 24-95(k) of Chapter 24 of the County Code to build a one-
1609 family dwelling at 5401 Woolshire Drive (Hampshire) (Parcel 743-
1610 774-1255), zoned R-2AC, One-family Residence District
1611 (Conditional) (Three Chopt). The minimum side yard setback is not
1612 met. The applicant proposes 24.38 feet minimum side yard
1613 setback, where the Code requires 25 feet minimum side yard
1614 setback. The applicant requests a variance of 0.62 feet minimum
1615 side yard setback.

1616
1617 Mr. Balfour - Anybody here for the half-foot variance? Pass it by.

1618
1619 *(The Secretary called the case again at the end of the 9:00 o'clock agenda – no*
1620 *response. Passed by again, to be called again at end of 10:00 o'clock agenda.)*

1621
1622 *(The Secretary called the case again at the end of the 10:00 o'clock agenda – no*
1623 *response.)*

1624
1625 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **deferred**
1626 application **A-50-2003** for a variance to build a one-family dwelling at 5401 Woolshire
1627 Drive (Hampshire) (Parcel 743-774-1255). The case was deferred from the May 22,
1628 2003, until the June 26, 2003, meeting, to allow time for the applicant or a
1629 representative to present the case

1630
1631 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1632 Negative: 0
1633 Absent: 0

1634
1635 **A - 51-2003** **WILLIAM AND GAIL WAECHTER** request a variance from Section
1636 24-94 of Chapter 24 of the County Code to build three additions at
1637 9 Ralston Road (River Road Hills) (Parcel 756-733-2315), zoned R-
1638 1, One-family Residence District (Tuckahoe). The minimum side
1639 yard setback, rear yard setback, and total side yard setback are not
1640 met. The applicants propose 9 feet minimum side yard setback, 49
1641 feet total side yard setback and 46.2 feet rear yard setback, where
1642 the Code requires 20 feet minimum side yard setback, 50 feet total

1643 side yard setback and 50 feet rear yard setback. The applicants
1644 request a variance of 11 feet minimum side yard setback, 1 foot
1645 total side yard setback and 3.8 feet rear yard setback.
1646

1647 Mr. Balfour - Do we have any others who intend to testify in this matter?
1648 Would you raise your right hand and be sworn please?
1649

1650 Mr. Wright - Mr. Chairman, I must disqualify myself.
1651

1652 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1653 truth, the whole truth, and nothing but the truth, so help you God?
1654

1655 Mr. Waechter - I do. My name is Bill Waechter. Good morning, Mr.
1656 Chairman, members of the Board. Mr. Harold C. King, who is my across-the-street
1657 neighbor, is here to lend me support. He signed the letter that is in your packet, and so
1658 in the interest of your time, I'm not going to ask him to come up here. My wife and I are
1659 seeking these variances to enlarge our house, where we've lived for about 23 years, to
1660 accommodate out-of-town children and grandchildren when they arrive. The staff report
1661 is accurate to my examination. The conditions are perfectly acceptable to us, and we
1662 hope that you'll grant the variances. I'll be happy to answer any questions.
1663

1664 Mr. Balfour - Since I live about six houses from you, can you guarantee
1665 that this is not going to increase my tax assessment?
1666

1667 Mr. Waechter - I can't do anything about that. Mr. Chairman, I'm going to
1668 tell you, I'm not the first one in the neighborhood to have created that problem.
1669

1670 Mr. Balfour - Any questions of the Board members? Thank you.
1671

1672 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1673 Nunnally, the Board **granted** application **A-51-2003** for a variance to build three
1674 additions at 9 Ralston Road (River Road Hills) (Parcel 756-733-2315). The Board
1675 granted the variance subject to the following conditions:
1676

1677 1. The property shall be developed in substantial conformance with the plan filed
1678 with the application. No substantial changes or additions to the layout may be made
1679 without the approval of the Board of Zoning Appeals.
1680

1681 2. The new construction shall match the existing dwelling as nearly as practical.
1682

1683 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4

1684 Negative: 0

1685 Abstain: Wright 1
1686

1687 The Board granted this request, as it found from the evidence presented that, due to the
1688 unique circumstances of the subject property, strict application of the County Code

1689 would produce undue hardship not generally shared by other properties in the area, and
1690 authorizing this variance will neither cause a substantial detriment to adjacent property
1691 nor materially impair the purpose of the zoning regulations.
1692

1693 **A - 52-2003** **BENJAMIN AND DELORIS MICKENS** request a variance from
1694 Section 24-94 of Chapter 24 of the County Code to build a carport
1695 at 1402 Gambrel Drive (Fair Oaks Terrace) (Parcel 828-721-3988),
1696 zoned R-4, One-family Residence District (Varina). The minimum
1697 side yard setback and total side yard setback are not met. The
1698 applicants have 0 feet minimum side yard setback and 19.9 feet
1699 total side yard setback, where the Code requires 10 feet minimum
1700 side yard setback and 25 feet total side yard setback. The
1701 applicants request a variance of 10 feet minimum side yard setback
1702 and 5.1 feet total side yard setback.
1703

1704 Mr. Balfour - Do we have any others who intend to testify in this matter?
1705 Would you raise your right hand and be sworn please?
1706

1707 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1708 truth, the whole truth, and nothing but the truth, so help you God?
1709

1710 Ms. Mickens - I do. Good morning, my name is Deloris Mickens. My home
1711 was built in 1976, and in 2003 I started building a carport. I was hoping that you'd have
1712 a picture so that you could see. I started building this carport, and I did not know that I
1713 needed a building permit, because in my neighborhood, there are other carports and
1714 garages there, and I thought this would bring my property up in value, as well as the
1715 neighborhood. When my property was built, back in 1976, on my plat they made a
1716 mistake and they had that it was 12 feet there, and it actually was 14 feet, and I had to
1717 have my property resurveyed. The neighbor on the side where my carport started being
1718 built, she wrote a letter saying that she's in approval of this, and the neighbor on the
1719 other side of me is here with me, and she's in approval of having this completed.
1720 Hopefully, you will grant me this variance so that I will be able to continue what I need to
1721 do.
1722

1723 Mr. Balfour - Any questions of Ms. Mickens?
1724

1725 Mr. Wright - Can you drive all the way through the carport to the back
1726 yard? It's open at the rear?
1727

1728 Ms. Mickens - Yes sir. Yes sir.
1729

1730 Mr. Nunnally - Do you have a contractor, Ms. Mickens?
1731

1732 Ms. Mickens - Yes, I have a family friend who had started working on it for
1733 me.
1734

1735 Mr. McKinney - Would he build you a house without a building permit, Ms.
1736 Mickens?
1737
1738 Ms. Mickens - Well, I don't think that he would go that far, but we were
1739 thinking that for a carport you didn't need it. For a garage you would need one.
1740
1741 Mr. McKinney - You made the statement that you wanted to build this carport
1742 so your house would become more valuable? The County wants to know when your
1743 house becomes more valuable so they can charge you more taxes. That's the reason
1744 for that. But it's for safety, health and welfare too, that it goes through the process. Is
1745 your contractor here?
1746
1747 Ms. Mickens - I'm learning a lot, thank you. Yes sir.
1748
1749 Mr. McKinney - Your contractor's here? Where's your contractor? I'd like to
1750 talk to your contractor. I don't think he was sworn in either, was he Mr. Blankinship?
1751
1752 Mr. Blankinship - No sir.
1753
1754 Mr. Nunnally - He's not planning to testify, I don't think.
1755
1756 Mr. Kirkland - He is now.
1757
1758 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1759 truth, the whole truth, and nothing but the truth, so help you God?
1760
1761 Mr. Watkins - I do. I am Don T. Watkins.
1762
1763 Mr. McKinney - Mr. Watkins, how long have you been a contractor?
1764
1765 Mr. Watkins - I've been building since '93.
1766
1767 Mr. McKinney - Ten years? Have you ever gone to the County and got a
1768 building permit?
1769
1770 Mr. Watkins - Several times.
1771
1772 Mr. McKinney - Why didn't you do it on this one?
1773
1774 Mr. Watkins - There was no provision on the application for a carport in the
1775 East End branch.
1776
1777 Mr. McKinney - Oh yes there are. Oh yes sir. Probably you didn't read the
1778 application very well for building and alterations. It's right on there.
1779
1780 Mr. Watkins - I didn't see a carport sir.

1781
1782 Mr. McKinney - And you've been building for ten years? What class
1783 contractor are you?
1784
1785 Mr. Watkins - A. Correction, I'm class B.
1786
1787 Mr. McKinney - B. You told Ms. Mickens it was okay to do this? That's
1788 where she got her information, from you.
1789
1790 Mr. Watkins - Yes sir. There again, on the application that I filled out in the
1791 East End branch, I didn't see any provision for
1792
1793 Mr. McKinney - Are you paying her fee to file this?
1794
1795 Mr. Watkins - No sir, but I will.
1796
1797 Mr. McKinney - Well I think you put her in a trick bag. I don't have any
1798 further questions.
1799
1800 Ms. Mickens - Your honor, I just wanted to say that the home that's in front
1801 of me, they have a carport there, and they have a garage there, so I just felt, well, I
1802 could do the same. I just didn't know.
1803
1804 Mr. McKinney - We understand where you're coming from, Ms. Mickens.
1805 We just don't understand where Mr. Watkins came from.
1806
1807 Ms. Mickens - I just feel really, really bad about this, because I want to do
1808 the right thing, and I just would hate for this to be destroyed, after I have spent so much
1809 money and time on it.
1810
1811 Mr. McKinney - Well, it looks like he did a good job.
1812
1813 Ms. Mickens - Thank you.
1814
1815 Mr. Watkins - I still say I didn't try to mislead them, but I didn't read the
1816 provision for a carport.
1817
1818 Mr. Balfour - Any other questions? Thank you folks.
1819
1820 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1821 Kirkland, the Board **granted** application **A-52-2003** for a variance to build a carport at
1822 1402 Gambrel Drive (Fair Oaks Terrace) (Parcel 828-721-3988). The Board granted
1823 the variance subject to the following conditions:
1824
1825 1. Only the improvements shown on the plan filed with the application may be
1826 constructed pursuant to this approval. No substantial changes or additions to the layout

1827 may be made without the approval of the Board of Zoning Appeals. Any additional
1828 improvements shall comply with the applicable regulations of the County Code.

1829
1830 2. The existing carport encroachment shall be removed from the adjacent property.

1831
1832 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1833 Negative: 0
1834 Absent: 0

1835
1836 The Board granted this request, as it found from the evidence presented that, due to the
1837 unique circumstances of the subject property, strict application of the County Code
1838 would produce undue hardship not generally shared by other properties in the area, and
1839 authorizing this variance will neither cause a substantial detriment to adjacent property
1840 nor materially impair the purpose of the zoning regulations.

1841
1842 **A - 53-2003 LAURIE AND CARL KNIGHT** request a variance from Section 24-
1843 94 of Chapter 24 of the County Code to build a one-family dwelling
1844 at 1237 Grapevine Road (Parcel 838-724-1625), zoned A-1,
1845 Agricultural District (Varina). The lot width requirement is not met.
1846 The applicants have 50 feet lot width, where the Code requires 150
1847 feet lot width. The applicants request a variance of 100 feet lot
1848 width.

1849
1850 Mr. Balfour - Do we have any others who intend to testify in this matter?
1851 Would you raise your right hand and be sworn please?

1852
1853 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1854 truth, the whole truth, and nothing but the truth, so help you God?

1855
1856 Ms. Knight - I do. My name is Laurie W. Knight. We've had this land in
1857 my family for quite a few years, and recently, about two years ago, my father and
1858 mother divided it into three different lots for the children. We're interested in selling one
1859 of the lots, which is beside my brother, which got a variance with you last year, and he's
1860 the lot which is right beside mine, which is 1225 Grapevine Road. He had to request a
1861 variance also, because the lot, we have a little area there that goes right between the
1862 houses that were sold, and that is the driveway that goes back in there, right off of
1863 Grapevine Road, that is 50 feet.

1864
1865 Mr. Nunnally - You say you're going to sell a lot?

1866
1867 Ms. Knight - Yes sir, we plan on selling the lot 1237 that's listed there.

1868
1869 Mr. Nunnally - Are you going to sell it to a family member?

1870
1871 Ms. Knight - Actually, it is a builder who is building. That lot is only
1872 enough for one family dwelling; it's not going to be subdivided or anything. It's 7.2

1873 acres, but there in the back of the lot, there's a lot of lowland. It goes back there where
1874 the Chickahominy Swamp area is. So he's planning on building a 2,000 square foot
1875 home back there, beside my brother. My brother told me I could speak on his behalf,
1876 that he had no problem, and the police officer who's in front of him, he didn't sound like
1877 he had a problem with it either

1878
1879 Mr. Balfour - Any other questions? Thank you ma'am.

1880
1881 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1882 McKinney, the Board **granted** application **A-53-2003** for a variance to build a one-family
1883 dwelling at 1237 Grapevine Road (Parcel 838-724-1625). The Board granted the
1884 variance subject to the following conditions:

1885
1886 1. This variance applies only to the lot width requirement. All other applicable
1887 regulations of the County Code shall remain in force.

1888
1889 2. Approval of this request does not imply that a building permit will be issued.
1890 Building permit approval is contingent on Health Department requirements, including,
1891 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1892 of a well location.

1893
1894 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1895 Negative: 0
1896 Absent: 0

1897
1898 The Board granted this request, as it found from the evidence presented that, due to the
1899 unique circumstances of the subject property, strict application of the County Code
1900 would produce undue hardship not generally shared by other properties in the area, and
1901 authorizing this variance will neither cause a substantial detriment to adjacent property
1902 nor materially impair the purpose of the zoning regulations.

1903
1904 **UP- 9-2003** **RYAN HOMES WEST** requests a temporary conditional use permit
1905 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code
1906 to allow the sales trailer to remain another year at 1195 Virginia
1907 Center Parkway (Magnolia Pointe) (Parcel 782-767-2413), zoned
1908 RTHC, Residential Townhouse District (Conditional) (Fairfield).

1909
1910 Mr. Balfour - Do we have any others who intend to testify in this matter?
1911 Would you raise your right hand and be sworn please?

1912
1913 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1914 truth, the whole truth, and nothing but the truth, so help you God?

1915
1916 Ms. Moore - I do. My name is Jennifer Moore. Good morning. I'm here
1917 on behalf of the applicant, Ryan Homes West, requesting an extension of our current
1918 temporary conditional use permit for our sales trailer, which we have at Magnolia

1919 Pointe. We are selling at a faster pace than we had planned and will not be putting a
1920 model at this site. There are 66 home sites; we have sold 30 and have 36 remaining,
1921 so we are requesting to continue to sell out of our sales trailer until we have sold all of
1922 our home sites in this community, which we plan to be out of there next spring. We
1923 have also satisfied the recommended conditions for the landscaping and added an
1924 additional shrubbery package around where you see the front mulch bed, which we just
1925 added.

1926
1927 Mr. Blankinship - We've got a better photograph than what was included in
1928 your package, if you want to look at your screen there.

1929
1930 Mr. McKinney - What was the landscaping required last year, Mr.
1931 Blankinship?

1932
1933 Mr. Blankinship - The plan that is shown here was pulled from last year's
1934 application, I believe.

1935
1936 Mr. McKinney - It doesn't look like very much landscaping on it.

1937
1938 Mr. Balfour - Any other questions of Ms. Moore? Thank you.

1939
1940 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1941 Kirkland, the Board **granted** application **UP-9-2003** for a temporary conditional use
1942 permit to allow the sales trailer to remain another year at 1195 Virginia Center Parkway
1943 (Magnolia Pointe) (Parcel 782-767-2413). The Board granted the use permit subject to
1944 the following conditions:

1945
1946 1. The trailer shall be removed from the property on or before June 1, 2004 at which
1947 time this permit shall expire. This permit shall not be renewed.

1948
1949 2. The plantings shown on the landscape plan reviewed in conjunction with the
1950 Board of Zoning Appeals' previous approval of this request shall be installed no
1951 later than June 13, 2003.

1952
1953 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1954 Negative: 0
1955 Absent: 0

1956
1957 The Board granted the request because it found the proposed use will be in substantial
1958 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1959
1960 Mr. Blankinship - We have two we passed by.

1961
1962 Mr. Balfour - A-47-2003 and A-50-2003.

1963
1964 *(The Secretary called the cases again at the end of the 9:00 o'clock agenda – no*

1965 **response. Passed by again, to be called again at end of 10:00 o'clock agenda.)**
1966 **(Ten-minute recess)**

1967
1968 Mr. Balfour - Do we have any deferrals or withdrawals on this docket?
1969

1970 Mr. Blankinship - No sir.
1971

1972 **A - 54-2003** **MICHELE VANDELINDE** requests a variance from Sections 24-
1973 95(d)(2) and 24-9 of Chapter 24 of the County Code to build a one-
1974 family dwelling at 2917 Cottrell Road (Cedar Chase) (Parcels 746-
1975 754-3350 (part) and 3163), zoned R-3, One-family Residence
1976 District (Three Chopt). The lot width requirement and public street
1977 frontage requirement are not met. The applicant has 95 feet lot
1978 width and 0 feet public street frontage, where the Code requires
1979 100 feet lot width and 50 feet public street frontage. The applicant
1980 requests a variance of 5 feet lot width and 50 feet public street
1981 frontage.
1982

1983 Mr. Balfour - Would all who plan to testify in this matter, please stand and
1984 raise your right hand and be sworn please?
1985

1986 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1987 truth, the whole truth, and nothing but the truth, so help you God?
1988

1989 Ms. Vandelinde - Yes I do. My name is Michele Vandelinde. I'm the one who
1990 has a contract to purchase this lot. I want to give you a little bit of background on the lot
1991 and about me. I'm 30 years old and recently married. I grew up in this area; I grew up
1992 in Crown Crest, which is about a mile away. I actually went to Short Pump Elementary
1993 School and Godwin High School, and I actually played in these woods long before these
1994 houses were around. As far as the property goes, I'm requesting two variances. The
1995 first is the County requirement of 100 feet of lot width; I'm shy of that by about five feet
1996 because of the irregular shape of the lot. At its widest point, the lot is 103 feet.
1997

1998 The second variance would be needed to satisfy the street frontage requirement. The
1999 access to this lot is an existing paved private drive, which is the only access to a house
2000 that currently exists there now. This property that I'm talking about, that has access by
2001 that road, as well as one of the other adjoining lots, is owned by the seller of the lot in
2002 question.
2003

2004 Which brings me to my final point, the neighbors. I understand that they've had the use
2005 of this property without having to pay for it; I'd be complaining too. The bottom line is,
2006 this is a viable building lot, where I can build a home for my family. I'm not trying to put
2007 a shack here. I'm thinking of a \$300,000 home, that would bring this lot in at upwards of
2008 \$400,000. I'm also willing to stay within neighborhood association guidelines and willing
2009 to meet all of the conditions proposed by the staff. I believe the only argument from the
2010 adjoining properties will be that the original plat for the proposed Cedar Chase

2011 Subdivision showed part of the property that we're talking about as "reserved." It is my
2012 understanding that this was not reserved as open space, but was marked as a
2013 contingency when the subdivision was first being laid out, in case it was needed. As it
2014 turned out, the extra land was not purchased by the developer, and therefore, the
2015 "reserved" note is no longer applicable. Thank you.
2016

2017 Mr. Blankinship - Mr. Chairman, I have one correction on the staff report (copy
2018 handed to Ms. Vandelinde); somehow we got condition # 4 repeated as condition # 1,
2019 so we passed out this morning a revised staff report that has the standard condition # 1.
2020

2021 Mr. Balfour - Questions by Board members? Apparently none. Thank
2022 you. The other two wish to speak, and you'll get a chance to come back up.
2023

2024 Mr. Wilson - Thank you very much, Mr. Chairman and Board members.
2025 My name is James Wilson, and I speak on behalf of my wife Peggy and myself, as we
2026 present some facts to you as we see them. I have given you a handout. Page 3 in your
2027 handout has the overhead (and I might just direct your attention there first, and then go
2028 quickly to my suggestions). You will notice I have put my house, Jim and Peggy Wilson,
2029 at the bottom, which shows you that we're at the north side at the end of that piece of
2030 property called "reserved natural." There is a single road that comes into the entrance
2031 to Deer Park, and it is heavily used by children and others going into the park. The park
2032 has paved the road and put a very nice sidewalk, but the lane is equal to only one car.
2033 The other houses around the property are at the \$225,000 to \$250,000 level. This was
2034 mentioned as a property in Cedar Chase. It is not Cedar Chase. But Cedar Chase is in
2035 fact the former boundaries of the community. Mr. Blankinship, is that how this property
2036 is described. As Cedar Chase?
2037

2038 Mr. Blankinship - It is my understanding that the reserved parcel is shown on
2039 the Cedar Chase plat as reserved within Cedar Chase, and that it's being combined
2040 with some additional land that is outside Cedar Chase.
2041

2042 Mr. Wilson - Thank you. I just needed to understand the use of Cedar
2043 Chase. As you can see, it's a flag type lot, and if you'll notice on that, before I make my
2044 final comments, that the opening for the driveway for the variance of 50 versus the 100
2045 feet seems to me to be just unreasonable, based upon the fact that there is property in
2046 there already, and that there is other traffic. The five feet on the side certainly doesn't
2047 give us concern; we see that as something that is easily handled by the rest of us. But
2048 we do not agree with the staff's evaluation that you received, that the request is
2049 consistent with the surrounding neighborhood of one-family dwellings. Should the
2050 variance be allowed, as I understand it, and thanks to Mr. Blankinship and his staff, I
2051 have the best understanding that I can have, although I am still confused, that the
2052 variance be allowed a single-family residence, equal to the Code of 1100 square feet,
2053 can be built on the property, and on that basis, it leaves us open to clearly indicate that
2054 we believe there will be a substantial detriment to the surrounding properties in Cedar
2055 Chase. We're requesting that you not approve this.
2056

2057 Mr. Wright - You say that you're concerned that an 1100-square foot
2058 house could be built on there?

2059
2060 Mr. Wilson - Yes sir.

2061
2062 Mr. Wright - If there's a condition that proposes or requires – how many
2063 square feet do you have in your house?

2064
2065 Mr. Wilson - 2800.

2066
2067 Mr. Blankinship - What do your covenants require?

2068
2069 Mr. Wilson - I do not know the covenant requirement, but it's going to be
2070 in the 2200-up. If you'll notice at the bottom of my recommendation, I have said,
2071 assuming that you pass the variance, there clearly are rules of, which we believe should
2072 be a stipulation of approving the variance, if we look back at the property, the house
2073 that's on the property now is a 1300 square feet building, and you can see how that lot
2074 has been gerimanded just up to the house, basically, in order for the land to be
2075 allowable for a building. Clearly, we're saying that if you should approve it, one of the
2076 difficulties here is that we in the surrounding houses believed, incorrectly, that the
2077 reserved land would be available to us if it were sold. But a verbal agreement is as
2078 good as the paper it's written on. So when this came up, naturally we are very, very
2079 concerned. The use of the property behind it means that we have in essence had the
2080 barrier, if you'll notice on the chart, the surrounding other side of this property, as a
2081 barrier fence that was built by the developer protecting the Cedar Chase property on the
2082 other side from the small house that's there. We believe that the builder was thinking
2083 very clearly at that point, that this property was reserved on the basis that it would be in
2084 the natural state, thus sheltering the houses around it from the small property. The
2085 owners of the property should be required to build a one-family residence of no less
2086 than 1800 square feet. There again, whatever size that we can put in there; the staff
2087 indicated that I couldn't stipulate size too much bigger. The house should be built to
2088 code distance from front boundary line and at lease 60 feet from the back boundary line.
2089 Also, the north side of the house should be no closer than 18 feet to the boundary line.

2090
2091 No animals, livestock, poultry, etc., that's a standard kind of clause, because if you look
2092 back at that property that's there, it's usable for all kinds of things. No noxious,
2093 offensive, illegal activity, etc., that's sort of standard. No building, structure, garage,
2094 carport, utility shed or other similar structure incident to the residential use of the lot
2095 shall be erected or placed on the lot. That's pretty standard to our covenant. The last
2096 one, however, does have my major concern for the use of the Deer Park, and that says
2097 that since there will be both two households and a lawn business using the private road
2098 that passes the entrance to Deer Park, we ask that the owners receiving the variance
2099 post a caution and a 5-miles-an-hour sign at the entrance to the private road. We
2100 believe it is a hazard because there's already a house there with a very small road. I've
2101 included some pictures, attachment 2 is the entrance to the park. Attachment 3 is the
2102 road. Attachment 4 shows you exactly where the variance would be granted, if you

2103 grant it, across from the park, and just a view of the property that would be the small
2104 property that these folks would be looking at when they built their house. My
2105 recommendation is that you not approve this, and if you do, to certainly allow us to ask
2106 for the variances that we have here in our presentation.
2107
2108 Mr. McKinney - You say that those conditions you read off are your
2109 suggestions – no animals?
2110
2111 Mr. Wilson - Except for household pets are permitted.
2112
2113 Mr. McKinney - How about a garage or carport?
2114
2115 Mr. Wilson - There isn't room on the property in the back, and it's part of
2116 our covenant also, in Cedar Chase, if you'll look at that property, if you come in there,
2117 and you squeeze in the back, you are in essence putting a garage that's not consistent
2118 with what's surrounding; that's all it says.
2119
2120 Mr. Wright - You can't put something on there that would violate the
2121 County Ordinance, and we're not granting any variance that would otherwise
2122
2123 Mr. Wilson - Can we ask for that variance, as they're asking for the
2124 variance on the 100 feet in the front, for example, is that the same kind of thing.
2125
2126 Mr. Wright - Whatever's built on the property would have to conform to
2127 the County Ordinance.
2128
2129 Mr. Wilson - I heard her say that. Coming here this morning, I had none
2130 of that, nor do I have any idea that she would do that.
2131
2132 Mr. Wright - This request is for the road frontage and a five-foot width at
2133 the building line.
2134
2135 Mr. Wilson - Exactly, I understand, but the private road also is a big
2136 consideration to me, but apparently not to the committee, is that correct?
2137
2138 Mr. Wright - We're just listening to the evidence.
2139
2140 Mr. Wilson - Okay, but Mr. Blankinship tried to explain to me the private
2141 road concept, and indicated that it was not really a concern of this committee that the
2142 variance; I don't know how the variance is made, I guess.
2143
2144 Mr. McKinney - What's this property being used for now, Mr. Wilson?
2145
2146 Mr. Wilson - It's natural, just as it was with the rest of the property before
2147 it was cleared.
2148

2149 Mr. McKinney - Who maintains it?
2150
2151 Mr. Wilson - It does not need maintaining.
2152
2153 Mr. McKinney - Nobody cuts the grass, or cleans it up. It's natural; it's
2154 wooded. It's as if you go into Deer Park; it's just like Deer Park.
2155
2156 Mr. Balfour - Any other questions of Mr. Wilson? I think we may have
2157 somebody else to speak.
2158
2159 Ms. Florez - I'm Dahlia Florez. I am at 2495 Cedar Cone Drive; I'm at the
2160 short end in the back of that empty lot. I have only one comment to say, that at this
2161 point if a judgment were to be passed today, I would prefer that we be given a
2162 continuance because I would really like to see the traffic and the fire inspector in there,
2163 to see what the possibilities are, should that variance, which is what we're all opposed
2164 to, not be granted. Again, like I say, we're the ones who are opposed to that 50-foot
2165 frontage, but I would really like to see a report done on the possibility of going in there
2166 for emergency purposes.
2167
2168 Mr. McKinney - What's your address?
2169
2170 Ms. Florez - I'm at 2495 Cedar Cone Drive. That's my biggest concern,
2171 more emergency management.
2172
2173 Mr. Balfour - Any other questions? Ms. Vandelinde?
2174
2175 Ms. Vandelinde - The first thing I'd like to speak to is the reserved area. I
2176 have been in communication with the original owner of this property, who is the one who
2177 sold it to Cedar Chase. He actually gave me the information about why it was marked
2178 as "reserved." It was not marked "reserved natural," as it says on there; it was just
2179 reserved, and it was a contingency for the neighborhood. Number 2 – I'm not planning
2180 on bringing chickens and cows.
2181
2182 Mr. Balfour - I think we've got that answer. What kind of house do you
2183 plan to put in there? I think you said earlier \$300,000, with a lot value of \$100,000, so
2184 you'd have a \$400,000 total value?
2185
2186 Ms. Vandelinde - Yes sir, I'm looking at putting a contemporary house in,
2187 which is completely within the ordinances and all of Cedar Chase.
2188
2189 Mr. Balfour - How many square feet are you talking about?
2190
2191 Ms. Vandelinde - I don't have a house plan in front of me, but we're talking
2192 about 2500, minimum.
2193
2194 Mr. McKinney - You don't mind that being a condition?

2195
2196 Ms. Vandelinde - No, I don't mind that being a condition; I do mind not being
2197 able to have a garage on there, because a lot of these houses do have garages, and
2198 one of the houses that's backed up there has gotten a garage that is almost all the way
2199 to their back property line. Now that's why they don't want this space taken away from
2200 them, because they've already used up all of their yard that they're paying for. As far as
2201 the usage of that land, it is very thick underbrush, and people have grass clippings and
2202 that kind of thing in there, but it's not maintained by anybody. There is more poison ivy
2203 and poison oak, which I can attest to, there than you want to believe.
2204

2205 Mr. Blankinship - Did you say that you plan to comply with all the covenants of
2206 the Cedar Chase community?
2207

2208 Ms. Vandelinde - Absolutely. Their covenants are saying a "contemporary
2209 house, and that's what most of their covenants talk about. I want a contemporary house
2210 too. They just don't know it, but they're going to love me when I get there.
2211

2212 Mr. Balfour - So you're saying both the 2500 square foot minimum and
2213 the Cedar Chase covenants you can live with?
2214

2215 Ms. Vandelinde - I can.
2216

2217 Mr. McKinney - Are you saying "you can't have a garage" is in the
2218 covenants?
2219

2220 Ms. Vandelinde - It says you can't have a freestanding garage. I'll attach it to
2221 the house.
2222

2223 Mr. Balfour - So no freestanding garage doesn't bother you either?
2224

2225 Mr. Blankinship - It's in the covenants.
2226

2227 Mr. Balfour - Any other questions?
2228

2229 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
2230 McKinney, the Board **granted** application **A-54-2003** for a variance to build a one-family
2231 dwelling at 2917 Cottrell Road (Cedar Chase) (Parcels 746-754-3350 (part) and 3163).
2232 The Board granted the variance subject to the following conditions:
2233

2234 1. This variance applies only to the lot width and public street frontage
2235 requirements. All other applicable regulations of the County Code shall remain in force.
2236

2237 2. The owners of the property, and their heirs or assigns, shall accept responsibility
2238 for maintaining access to the property until such a time as the access is improved to
2239 County standards and accepted into the County road system for maintenance.
2240

2287 standards for obtaining a variance, that the Board should find that the statutory
2288 requirements have been met. First, the strict application of the ordinance would
2289 produce an undue hardship. These properties were platted back in 1926, before the
2290 implementation of the Henrico Zoning Ordinance. What the Zoning Ordinance has
2291 basically done is render this particular parcel unusable. In that sense, strict application
2292 of the ordinance would approach confiscation. I have an enlarged copy of the 1926 plat
2293 here. We're talking about this lot down here in the corner, Lot 5 of what's labeled Block
2294 A in the plat. The hardship is not shared generally by the other properties in the same
2295 zoning district. The vast majority of the properties in this particular subdivision have the
2296 50-foot width requirement. There are a few, I would note, that do not, and I would most
2297 notably point to Lot 1 in Block A and Lot 7 in Block F; they're the two lots immediately
2298 behind the parcel in question here. Both of those lots do not have the 50-foot
2299 requirement. Both of those lots have been built upon with single-family homes
2300 consistent with the type of home that we're proposing for Lot 5.

2301
2302 Mr. Kirkland - When were they built on?

2303
2304 Mr. Rothermel - I do not know. We visually inspected those. The houses do
2305 appear to be a little bit older, so they would have been built before the Zoning
2306 Ordinance was implemented, or after obtaining variance.

2307
2308 Mr. McKinney - You're talking about the ones on Irisdale?

2309
2310 Mr. Rothermel - Yes sir. There are two houses across the road from each
2311 other on Irisdale, Lot 7 and then Lot 1, which would back up, which would back up to the
2312 parcel we're talking about, Lot 5, on Greenway Avenue. And then finally, authorization
2313 of the variance will not be of substantial detriment to the adjacent property, and the
2314 character of the district will not be changed by the granting of the variance. In fact, I
2315 would argue that the character of the surrounding area would be changed by not
2316 granting the variance. What we're proposing here again, is a single-family dwelling,
2317 consistent with the other single-family dwellings that are in this neighborhood. So in
2318 that regard it would maintain consistency and uniformity within the subdivision. For
2319 those reasons, we would ask that the Board grant this variance. I'll be happy to try to
2320 answer any questions that the Board has.

2321
2322 Mr. Kirkland - You own Lots 5, 6, and 7, is that correct?

2323
2324 Mr. Rothermel - That's correct.

2325
2326 Mr. Kirkland - Is there anything on 6 and 7?

2327
2328 Mr. Rothermel - Those have not been built upon.

2329
2330 Mr. Kirkland - Why then, couldn't you have taken and made two lots out of
2331 three? What do you see as a hardship? When you bought this land, didn't you know it
2332 was unbuildable?

2333
2334 Mr. Rothermel - I would note that the County's application does make a
2335 statement that if the applicant caused a hardship or bought the property knowing that it
2336 could not be used, the hardship is considered is considered self-imposed, and a
2337 variance is not justified. I would simply bring to the Board's attention, we would
2338 disagree with that statement. We believe that the authority out there, and if the Board
2339 wishes, I would submit it for the record. There's a case out there, Spence vs. the
2340 Virginia Beach BZA, where the Supreme Court upheld the fact that purchasing the
2341 property knowing that you need to obtain a variance, is not a self-imposed hardship that
2342 would render a variance improper.
2343
2344 Mr. Blankinship - What's the date of that?
2345
2346 Mr. Rothermel - 1998. I have a copy.
2347
2348 Mr. Blankinship - Thank you; I'd like to have that.
2349
2350 Mr. Rothermel - For that reason, we believe that the homes proposed would
2351 maintain uniformity out there and consistency with what's already out there.
2352
2353 Mr. Kirkland - So you're saying that if you split Lot 5 between 6 and 7, it
2354 wouldn't be worth your while to do it, is that what you're saying, in so many words? To
2355 make Lot 6 larger, two lots out of three, in other words.
2356
2357 Mr. Rothermel - I understand your point. I guess what I'm saying is that
2358 we're looking at Lot 5 and what the justifications are for obtaining a variance in regard to
2359 that lot.
2360
2361 Mr. McKinney - What size house are you planning on building?
2362
2363 Mr. Rothermel - My understanding is that they're going to be very similar to
2364 the ones that are already out there; they're single-family, single-story, ranch-style
2365 homes.
2366
2367 Mr. McKinney - How many square feet?
2368
2369 Mr. Rothermel - I do not know that. If the Board wishes, I would be happy to
2370 request a deferral to bring in maybe some proposed elevations. If the Board wishes to
2371 see those, I would have no problem in doing that.
2372
2373 Mr. McKinney - R-4 is how many square feet?
2374
2375 Mr. Kirkland - Mr. McKinney, do we have R-4 any more?
2376
2377 Mr. Blankinship - It's still on the books; you can't rezone R-4, but if that's what
2378 it is now

2379
2380 Mr. McKinney - It's there; so if you can't do anything with it, and it comes out
2381 of the R-4

2382
2383 Mr. Blankinship - Either 1,000 or 900

2384
2385 Mr. McKinney - 900 I think it is. Yes, we still have R-4. We don't grant it any
2386 more, but we still have some left over.

2387
2388 Mr. Balfour - Any other questions by Board members? You'll get a
2389 chance to rebut. I remind the people who said they want to testify, that we don't want
2390 any repetition; if you have something to say, say it, but don't repeat what someone
2391 ahead of you said.

2392
2393 Mr. Douton - Hi, my name is Scott Douton. I am a resident right there in
2394 the neighborhood. The fellow who is representing Dakota Associates really doesn't
2395 have a clue on impact to the neighborhood.

2396
2397 Mr. McKinney - Where do you live, Mr. Douton?

2398
2399 Mr. Douton - I live at 3021 Irisdale.

2400
2401 Mr. McKinney - 3021 Irisdale? You're way up the street from there.

2402
2403 Mr. Douton - I'm not way up the street, sir. All this is right in my back yard
2404 primarily.

2405
2406 Mr. McKinney - All right, you've got 3017 showing, and then 19 and

2407
2408 Mr. Douton - There's two vacant lots there; I'm the very next one to the
2409 left there. There are a few two-story homes; they're not all single-story dwellings there.
2410 My house is a two-story dwelling, been there since 1885. My neighbor through the
2411 woods, Mr. Anderson, he has a home that's going to become a two-story dwelling. The
2412 lady right next door to 3006 was Lot 5 on Greenway, her house is a two-story. Sticking
2413 a small home on a 43-foot lot in our neighborhood, I know they're saying that some of
2414 these homes are supposed to be going \$140,000. \$140,000 and about 2400 square
2415 feet. These type of homes, how are you going to stick a house like that on a 43-foot
2416 lot? How are you going to make it look the same as the rest of the neighborhood. All
2417 these homes are brick; a lot of them are brick in our neighborhood; it's a '40's
2418 neighborhood and all. Is wetlands issues involved in there? They're trying to build
2419 houses on wetlands; they're trying to stick little houses into these little areas like this,
2420 and knowing with all the construction that is happening in the neighborhood, and what
2421 Dakota Associates is trying to do, we'd like to beat this one out. I have here a petition
2422 that is signed by about 88 of the residents right there in that area, who are opposed to
2423 this. Their reasoning is, if it happens once, it's going to happen again. Our
2424 neighborhood cannot withstand that impact. Our schools cannot withstand the impact,

2425 as it is, from the new homes. If we let this go, it's going to go on and go on and go on,
2426 and we might as well be living in Highland Park, where our homes are side by side and
2427 three feet distance between them. The whole purpose of having a neighborhood like
2428 we've got is to have a little bit of privacy. If we keep packing them in like this, then no
2429 one's going to have privacy, and what's going to happen is a bunch of very disgruntled
2430 neighbors, because everybody's right on each other's back. I would like to give this
2431 petition to Mr. Blankinship. There are many people who are just totally opposed to this
2432 whole situation.

2433
2434 Mr. McKinney - While you're doing that, Mr. Douton, do you have a signed
2435 petition from 3007 Irisdale?

2436
2437 Mr. Douton - From 3007? That's a rental property, sir.

2438
2439 Mr. McKinney - Well, have they signed your petition?

2440
2441 Mr. Douton - No sir, he was unavailable, because he works evenings, and
2442 I get home before he goes to work.

2443
2444 Mr. McKinney - Because we were told that's a 43-foot lot too.

2445
2446 Mr. Douton - That house is a rental; 3005 is a rental. I understand that,
2447 and just like the County, when this situation first started up in '98, Mr. Holt from Dakota
2448 Associates was trying to get this place on the old planning, well and septic. That was
2449 fine back when the place was originally subdivided, but you can't do that today, because
2450 you need a minimum of one acre for a septic system, a leach field. He was trying
2451 originally to get all this on the original thing, dropping well and septic everywhere, and I
2452 understand that he's trying every little thing to go back to the old plat subdivision, but I
2453 have been told by numerous people that the old subdivision is null and void, due to the
2454 new change of codes.

2455
2456 Mr. McKinney - There's water and sewer there.

2457
2458 Mr. Douton - I'm talking, he wanted to drop wells and septic was the
2459 original plan.

2460
2461 Mr. McKinney - There's water and sewer at the street now.

2462
2463 Mr. Douton - The water and sewer stops right at my property, which to be
2464 honest with you, I can't hook up to it because there's not enough pressure at the end of
2465 the street to maintain my home.

2466
2467 Mr. McKinney - You have a well and septic?

2468
2469 Mr. Douton - Yes sir. My house was a reserve plat in home before the
2470 whole sale deal went through with Bernard Weber, who was the original owner of all of

2471 that property. I was reserved out and sold to by Mr. Weber and Mr. Holt, purchased the
2472 rest around it, and wanted to do the same, which he couldn't. Of course I am under the
2473 old grandfather clause, due to the nature of the home and the status of the home.

2474
2475 Mr. Balfour - Any questions of Mr. Douton?

2476
2477 Mr. Douton - This is a very hard impact on our neighborhood; we are a
2478 tight neighborhood, a good community, and by bringing in all this, it's making a very
2479 subsequent impact on our wetlands as well. We have a particular ecosystem in our
2480 neighborhood; I have migratory waterfowl that nest in the wetlands behind my house on
2481 a yearly basis, and the destruction of all the lands that he's already torn down, clear-cut,
2482 has made an impact on the wildlife that is there. Many hawks have had to move, and
2483 gather up into tighter areas, and all this is his doing. I can understand congesting
2484 people, but why do we have to congest wildlife as well, and make it harder on them, as
2485 well as us? People need to think of the wildlife as well as the human resources as well.

2486
2487 Mr. Balfour - If I understand it, you know he can put two houses there; you
2488 just don't want three.

2489
2490 Mr. Douton - I understand that sir. He should put two. That would be the
2491 smartest thing. I think it would be a more handsome sale if he did that. It's going to be
2492 hard to sell a house in the neighborhood on a 43-foot lot; nobody wants to pry into their
2493 car with a can opener in the morning. That's what it's going to end up being, unless
2494 people start getting street parking.

2495
2496 Mr. Balfour - Any other questions?

2497
2498 Mr. McKinney - Mr. Blankinship, I don't quite understand this condition 1 and
2499 condition 2, "but not limited to, soil evaluation for a septic drain field and reserve area,
2500 and approval of a well location," and then # 2 says, "Connections shall be made to
2501 public water and sewer."

2502
2503 Mr. Blankinship - You know, Mr. McKinney, I didn't pick up on that. There
2504 must be something wrong with my computer, because this is the same error that was
2505 made on that other one, and this is not the correct standard condition # 1, and you'll
2506 have to adjust this when you vote. If you wish to, the standard condition # 1 states that
2507 this variance is only for the public street frontage requirement and lot width requirement.

2508
2509 Mr. Douton - And I understand that it's only for this one situation, but if this
2510 passes through, how many more is the Board going to pass through when he's building
2511 throughout this area of land. He's clear-cut, he's going to have many different sections
2512 that are going to be too small. They're going to be smaller than the 50-foot requirement,
2513 and he's going to try to stick them on every little spot, and it's congesting our
2514 neighborhood. Our schools really can't take this impact.

2515
2516 Mr. Balfour - We heard you say that. Thank you sir.

2517
2518 Ms. Dranoff - Good morning. I'm Laura Dranoff. I'm speaking on behalf of
2519 my husband Albert. We live at 3001 Irisdale Avenue, the corner of Irisdale and Impala.
2520 We are in opposition to this variance. I would like to remind the Board, not that you
2521 need reminding, a 50-foot wide lot is a narrow strip of land. To reduce the width of this
2522 lot would negatively impact the value of surrounding parcels. I am here to request that
2523 the Board protect property values of existing homeowners. This lot is in a low-lying area
2524 with poor drainage. As a matter of fact, there are at least two designated areas
2525 designated as wetlands within the boundaries of this development. The County of
2526 Henrico, as of yesterday at 4:00 pm, has not received a workable plan to drain water
2527 from this area. The County has received numerous plans, none of which are workable.
2528 The water will not drain from that area, and that is per conversations with appropriate
2529 County people yesterday afternoon at 4:00 o'clock.

2530
2531 Mr. McKinney - Who did you speak with ma'am?

2532
2533 Ms. Dranoff - I spoke with Howard High, Mr. Blankinship, Mr. Hicks, Mr.
2534 Priestes. We've had lengthy conversations and meetings on site. The drain ditch that
2535 is to be placed on the easement will collect water, but will not drain. Until the developer
2536 of this property is able to come up with a plan that will allow water to flow uphill, I
2537 respectfully request that this variance be denied. This lot is not being developed by an
2538 individual who may argue a hardship. This lot is being developed for the purpose of
2539 selling new homes for financial gain. Therefore, it is difficult to believe that the Board
2540 would permit this variance based on a hardship. By the way, in the interest of full
2541 disclosure, I am a licensed realtor, and I understand property values. To squeeze
2542 something in there that would impact the existing homeowners, it does have an impact
2543 on property values. Granted, everything in Lakeside is selling at top dollar and higher
2544 than top dollar, but you can't get as much for something that has been negatively
2545 impacted.

2546
2547 Mr. McKinney - How did you know about this?

2548
2549 Ms. Dranoff - It was sent to us in the mail by the County.

2550
2551 Mr. McKinney - Did you send this, Mr. Blankinship, as adjoining property
2552 owner? This lot that they're trying to do is adjoining property owner to 3001?

2553
2554 Mr. Blankinship - The way we are showing this property on our real estate
2555 records, everything from Impala Drive, including this lot, the original lots 5, 6, 7, and 8,
2556 is all on one property record. Since Dakota owns all of that, we notified everyone
2557 around that.

2558
2559 Ms. Dranoff - All of that water that comes out of those woods where this
2560 development is supposed to go in, all of that water comes to the corner of Irisdale and
2561 Impala. At least that's the theory. Unfortunately, the water does not come to the corner
2562 of Irisdale and Impala. The engineer working for the developer designed a plan. They

2563 dug up Impala Drive; they put in a culvert to take care of the water coming out of the
2564 woods, down the ditch, along Impala, to the corner of Irisdale and Impala. That culvert
2565 is dry. I don't imagine it is as we speak, because we had enough rain yesterday so that
2566 the depth of the water will allow the water to go through the culvert. Otherwise, the
2567 water continues to stay in the ditch, stay in the woods; the culvert is dry. So how the
2568 plans will allow for water to come out of the woods, go uphill to the culvert is a real
2569 mystery to everybody, and as of 4:00 o'clock yesterday afternoon, Henrico County has
2570 not received a workable plan to drain that area.

2571
2572 Mr. Balfour - Any other questions?

2573
2574 Mr. McKinney - Then they wouldn't approve it, if they can't get a workable
2575 plan. Is Irisdale higher than Greenway? Are you higher than this property?

2576
2577 Ms. Dranoff - I don't know about Greenway, but there's a low area off of
2578 Greenway. The land needs to be developed as low-lying.

2579
2580 Mr. Blankinship - You don't have two feet of rise within 200 feet.

2581
2582 Mr. McKinney - You don't have any water problem on your property?

2583
2584 Ms. Dranoff - We didn't on our property before they put this culvert in. The
2585 reason we don't have a water problem on our property is because we have gone to the
2586 expense of putting in lots of underground drains. All of our downspouts off of both sides
2587 of the garage, off of every corner of the house, that goes through the black pipe, out to
2588 the front ditch, the side ditch, and to the back of our property, which we've got a
2589 beautiful back yard, nice grass.

2590
2591 Mr. McKinney - So it goes to the back of your property?

2592
2593 Ms. Dranoff - The back of our property backs up to the easement between
2594 our property and the development that is under consideration.

2595
2596 Mr. McKinney - In your opinion, do you say that a lot of the people on
2597 Irisdale contribute to the water problem?

2598
2599 Ms. Dranoff - It's not the people; it's the lay of the land. You cannot devise
2600 a system that will allow water to flow uphill. That water, the reason everything flows to
2601 that ditch at the corner of Irisdale and Impala, is because of the lay of the land. When
2602 they put that street in so many years ago, it was designed so that the natural flow of
2603 water would go that direction. It has never worked, by the way, but it works even less
2604 well now there's a culvert completely blocking the ditch that the contractor put in. It's
2605 been that way for six months. There's a two-inch wide opening where the culvert is
2606 extending into the ditch, which simply will not allow the flow of water except for a two-
2607 inch space, and it's up above the elevation of the ditch. This is the type work that the
2608 developer is doing, relying on the engineer that they are using.

2609
2610 Mr. McKinney - I'll tell you Ms. Dranoff, Howard High in Public Works is not
2611 going to let this be developed till that's addressed. It's really not our concern, and the
2612 policy with the County is, you can't let more water go off than is going off now, and they
2613 try to restrict it. If it is approved, and I don't know whether it will be or not, but they've
2614 got to straighten al this out.
2615
2616 Ms. Dranoff - They do have to straighten it out before any permits will be
2617 granted, because they cannot build a house in a swamp. What they've got right now is
2618 a swamp. And what they're asking you to do is to give them a larger parcel of land on
2619 which to develop a swamp.
2620
2621 Mr. Balfour - The issue before us is whether or not to grant the variance
2622 for this particular lot. Any other questions? Anyone else wish to speak? Okay sir.
2623
2624 Mr. Rothermel - I'll just respond briefly to some of the things that were said.
2625 As far as the first gentleman, he mentioned that the original intent to put a well and
2626 septic in there. The second condition of Mr. Blankinship's report recommended
2627 connection to public water and sewer. That is going to be done. Dakota, it is my
2628 understanding, is the group which extended the public water and sewer down to this
2629 area, and that's not an issue. Secondly, I think the point was made by both of the
2630 individuals who spoke, that we would be packing a house in here like a sardine. Again,
2631 I would point to the two parcels immediately behind this one. I drove out there several
2632 times, and there's no noticeable difference that you can tell by the naked eye when
2633 looking at those homes. There's two parcels that are both slightly less than 50 feet
2634 wide, which we'll build upon, which will have single-family homes on them. I would
2635 disagree with the statement that you're going to notice a house being packed in here.
2636 Lastly, I would say that a lot of the concerns that were expressed, basically revealed a
2637 position against this development in general, not this particular parcel. I think that's
2638 outside the scope of what we're here for today. Obviously, if they have legitimate
2639 concerns, obviously they need to be addressed, but for all the reasons that I've stated
2640 previously, we would ask that the Board grant this variance request. I think it's outside
2641 the scope of what we're considering here, but if the Board wishes to see elevations or
2642 anything else, we'd be happy to do that. Thank you for your time.
2643
2644 Mr. Balfour - Mr. Blankinship, were there 3003-3007 and those along
2645 there that have short frontages, were they granted by variances?
2646
2647 Mr. Blankinship - I don't know that. 3007 I just looked up on the computer,
2648 was built in 1962, so it should have required a variance.
2649
2650 Mr. McKinney - Was that less than 50 feet?
2651
2652 Mr. Blankinship - Yes sir.
2653
2654 Mr. McKinney - For 50 feet you don't need a variance.

2655
2656 Mr. Blankinship - Right.
2657
2658 Mr. Balfour - Are the others less than 50 feet, or is 3007 the only one?
2659
2660 Mr. Blankinship - 3006, I believe, is also, and I haven't looked it up; I'll be
2661 happy to do that now. It's the one across the street.
2662
2663 Mr. Balfour - The rest of them look like they might be a little wider. Looks
2664 like the house on 3003 jumps over on 3005.
2665
2666 Mr. Blankinship - When the lines were laid on there, they weren't surveyed.
2667
2668 Mr. Balfour - Any other questions by Board members? Yes ma'am?
2669
2670 *(Unidentified female, away from microphone)* - Is it too late for me to speak on
2671 behalf of the folks on Greenway Avenue?
2672
2673 Mr. Balfour - I'm sorry, yes, I apologize. I asked if there were any others,
2674 and you didn't stand up. We have a procedure that we go back to him, and that's it, but
2675 I think we heard plenty.
2676
2677 Upon a motion by Mr. Kirkland, seconded by Mr. Nunnally, the Board **denied**
2678 application **A-55-2003** for a variance to build a one-family dwelling at 3006 Greenway
2679 Avenue (West Hermitage Park) (Parcel 776-745-6163).
2680
2681 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
2682 Negative: 0
2683 Abstain: Wright 1
2684
2685 The Board denied the request, as it found from the evidence presented, that approving
2686 the permit would be of substantial detriment to adjacent property or would materially
2687 impair the purpose of the zoning regulations.
2688
2689 **A - 56-2003 HOPPER HOMES, INC** requests a variance from Section 24-
2690 95(b)(8) of Chapter 24 of the County Code to build a one-family
2691 dwelling at 11511 Edinburgh Road (McDonalds Small Farms)
2692 Parcel 744-762-9205), zoned A-1, Agricultural District (Three
2693 Chopt). The lot width requirement is not met. The applicant has
2694 132.5 feet lot width, where the Code requires 150 feet lot width.
2695 The applicant requests a variance of 17.5 feet lot width.
2696
2697 Mr. Balfour - Anyone here on that case? Anyone else here to speak?
2698 Come on down. Would you raise your right hand and be sworn please?
2699
2700 Mr. Blankinship - Do you swear that the testimony you are about to give is the

2701 truth, the whole truth, and nothing but the truth, so help you God?
2702

2703 Mr. Hopper - I do. I am Cameron Hopper, the contractor, and I've got the
2704 property in question under contract, and when I went to check out the possible building
2705 permit, I found that this property did not meet the standard width. I went back to the
2706 owners, which is an estate. The person who owns it, in an estate right now, they said
2707 they bought the property as three lots and want to sell it as three lots, and will sell them
2708 as a three-lot group, so that's why I'm requesting the variance. It's about 132.5 feet
2709 wide, which I propose the house we're going to build is about 2400 to 2500-square foot
2710 house. That would well meet the minimum required side setbacks, front and rear
2711 setbacks, and I also feel that the homes that we have built would be advantageous to
2712 the neighborhood. The neighborhood runs in the \$100,000 range of homes, and we
2713 would be putting up houses in excess of \$200,000. I've also checked to make sure that
2714 well and septic can be put on the property, and we've got some preliminary reports to
2715 indicate that would not be an issue either.

2716
2717 Mr. Balfour - Any questions of Mr. Hopper?
2718

2719 Mr. Wright - Do we have any conditions on this?
2720

2721 Mr. Balfour - Have you read the conditions proposed?
2722

2723 Mr. Hopper - Yes I have.
2724

2725 Mr. Wright - Mr. Blankinship. It looks to me on this plat, that this lot's
2726 about the same width as the other lots along that Edinburgh Road.
2727

2728 Mr. Blankinship - It isn't really noticeable, and it may not be mapped correctly
2729 on the aerial photo, but most of those lots are 150. The other two that the applicant is
2730 purchasing are 150. This is not the only lot that I saw in McDonalds Small Farms that is
2731 less than 150, but it is somewhat unusual.
2732

2733 Mr. Wright - Are other lots built on less than 150?
2734

2735 Mr. Blankinship - I believe the one right next door there, 11501, is less than
2736 150.
2737

2738 Mr. Wright - Did we grant a variance on that?
2739

2740 Mr. Blankinship - I recall that a variance was granted, but I can't remember
2741 when.
2742

2743 Mr. Wright - But it is less than 150?
2744

2745 Mr. Blankinship - I believe so. I don't have the survey in front of me, but I
2746 believe so.

2747
2748 Mr. Balfour - Any other questions of Mr. Hopper? Thank you sir. I don't
2749 believe anyone else was going to testify in that matter.

2750
2751 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
2752 McKinney, the Board **granted** application **A-56-2003** for a variance to build a one-family
2753 dwelling at 11511 Edinburgh Road (McDonalds Small Farms) (Parcel 744-762-9205).
2754 The Board granted the variance subject to the following conditions:

2755
2756 1. This variance is for the lot width requirement only. All other applicable sections
2757 of the Henrico County Zoning Ordinance, and other applicable County ordinances, must
2758 be complied with.

2759
2760 2. Approval of this request does not imply that a building permit will be issued.
2761 Building permit approval is contingent on Health Department requirements, including,
2762 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
2763 of a well location.

2764
2765 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2766 Negative: 0
2767 Absent: 0

2768
2769 The Board granted this request, as it found from the evidence presented that, due to the
2770 unique circumstances of the subject property, strict application of the County Code
2771 would produce undue hardship not generally shared by other properties in the area, and
2772 authorizing this variance will neither cause a substantial detriment to adjacent property
2773 nor materially impair the purpose of the zoning regulations.

2774
2775 Mr. Blankinship - I'd like to call the next two together, Mr. Chairman.

2776
2777 **A - 57-2003** **RODERICK L. ROBBINS** requests a variance from Section 24-94
2778 of Chapter 24 of the County Code to build a one-family dwelling at
2779 6419 Cookes Farm Drive (Turkey Island Bluffs) (Parcel 854-684-
2780 4148), zoned A-1, Agricultural District (Varina). The lot width
2781 requirement is not met. The applicant has 142 feet lot width, where
2782 the Code requires 150 feet lot width. The applicant requests a
2783 variance of 8 feet lot width.

2784

2785 **A - 58-2003** **RODERICK L. ROBBINS** requests a variance from Section 24-94
2786 of Chapter 24 of the County Code to build a one-family dwelling at
2787 6415 Cookes Farm Drive (Turkey Island Bluffs) (Parcel 854-684-
2788 3936), zoned A-1, Agricultural District (Varina). The lot width
2789 requirement is not met. The applicant has 147.77 feet lot width,
2790 where the Code requires 150 feet lot width. The applicant requests
2791 a variance of 2.23 feet lot width.

2792
2793 Mr. Balfour - Do we have any others who intend to testify in this matter?
2794 Would you raise your right hand and be sworn please?
2795
2796 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2797 truth, the whole truth, and nothing but the truth, so help you God?
2798
2799 Ms. Isaac - I do. I am Laraine Isaac. This is very unusual for the way
2800 the process works now. These two lots all went to record, I'm not sure when, but it's
2801 very recent because this subdivision is just now under construction. I hate to say it, but
2802 the mistake on the original plat was made by our firm, Engineering Design. I did find out
2803 that the person who did it, the surveyor, this was the first subdivision he'd done in the
2804 state of Virginia. Where he worked before, they measured lot width differently, and they
2805 took an average. It was an honest mistake, but it wasn't caught by the County. It
2806 wasn't caught by Planning, it wasn't caught by Real Estate, it wasn't caught by anyone,
2807 so we made a mistake, and it just went through the process. The lots were sold in good
2808 faith to a builder. He bought just these two lots. He went for a building permit and
2809 found out they didn't meet the Code. So there's no other land. Mr. Blankinship and I
2810 talked about it; we could resubdivide it and put one lot meeting all the requirements, but
2811 then it would probably be more visual to notice that one lot didn't meet anything.
2812
2813 Mr. Balfour - You could have a little reserve there and make a little park.
2814
2815 Ms. Isaac - I'll pass that on to the builder and see if he wants to do that.
2816 He paid for two buildable lots, and the amount of variance is minimal.
2817
2818 Mr. Balfour - Any questions of Ms. Isaac?
2819
2820 Mr. Wright - What type of house is he going to put down?
2821
2822 Ms. Isaac - I don't know.
2823
2824 Mr. McKinney - They're not going to be trailers, are they?
2825
2826 Ms. Isaac - It's A-1. No, I can guarantee you that.
2827
2828 Mr. Blankinship - The plat on the last page of the packet for each of these
2829 cases does show a proposed dwelling. In one case, it's 88 feet wide.
2830
2831 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2832 Kirkland, the Board **granted** application **A-57-2003** for a variance to build a one-family
2833 dwelling at 6419 Cookes Farm Drive (Turkey Island Bluffs) (Parcel 854-684-4148). The
2834 Board granted the variance subject to the following condition:
2835
2836 1. This variance applies only to the lot width requirement. All other applicable
2837 regulations of the County Code shall remain in force.

2838
2839 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2840 Negative: 0
2841 Absent: 0
2842
2843 The Board granted this request, as it found from the evidence presented that, due to the
2844 unique circumstances of the subject property, strict application of the County Code
2845 would produce undue hardship not generally shared by other properties in the area, and
2846 authorizing this variance will neither cause a substantial detriment to adjacent property
2847 nor materially impair the purpose of the zoning regulations.
2848
2849 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2850 Kirkland, the Board **granted** application **A-58-2003** for a variance to build a one-family
2851 dwelling at 6415 Cookes Farm Drive (Turkey Island Bluffs) (Parcel 854-684-3936). The
2852 Board granted the variance subject to the following condition:
2853
2854 1. This variance applies only to the lot width requirement. All other applicable
2855 regulations of the County Code shall remain in force.
2856
2857 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2858 Negative: 0
2859 Absent: 0
2860
2861 The Board granted this request, as it found from the evidence presented that, due to the
2862 unique circumstances of the subject property, strict application of the County Code
2863 would produce undue hardship not generally shared by other properties in the area, and
2864 authorizing this variance will neither cause a substantial detriment to adjacent property
2865 nor materially impair the purpose of the zoning regulations.
2866
2867 **A - 59-2003** **ROBERT S. CULLEY, III** requests a variance from Section 24-
2868 95(b)(6) of Chapter 24 of the County Code to build a one-family
2869 dwelling at 5 North Cedar Avenue (Highland Springs)(Parcel 822-
2870 725-2259), zoned R-4, One-family Residence District (Varina). The
2871 total lot area requirement is not met. The applicant has 5,000
2872 square feet total lot area, where the Code requires 6,000 square
2873 feet total lot area. The applicant requests a variance of 1,000
2874 square feet total lot area.
2875
2876 Mr. Balfour - Do we have any others who intend to testify in this matter?
2877 Would you raise your right hand and be sworn please?
2878
2879 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2880 truth, the whole truth, and nothing but the truth, so help you God?
2881
2882 Mr. Culley - Yes I do. I'm Robert Culley. Good morning, Mr. Chairman,
2883 members of the Board. I'm here to request a variance. The information in your packet

2884 appears to be correct. We need 1,000 extra square feet here in the zoning. Most of the
2885 homes in this area are built on similar sized lots. In fact, the majority of homes in this
2886 area are. Two points of interest – the lot currently is a vacant lot, and it has become a
2887 dumping ground for the neighborhood for branches and debris and currently, as
2888 needed, my next-door neighbor there, picks it up and takes it to the dump, and I pay him
2889 to cut the grass and what-not for me. Currently it doesn't have much curb appeal. I'd
2890 like to build a home there. The other point of interest, when I purchased the property, I
2891 applied for and received a building permit from Henrico County. Due to a transfer in my
2892 employment, I was not able to build, and the building permit subsequently expired. I am
2893 now in a position to reapply for a building permit, and I was told that I didn't meet the
2894 requirements. I asked when those requirements changed, if it was during the period
2895 that I let it expire, and I was told that these requirements had been in effect since 1963,
2896 so I have a little issue with getting the building permit, to begin with, and I know I
2897 allowed it to expire, and now I'd just like to get another one. That's where I'm at.

2898
2899 Mr. Nunnally - Do you live at 5 North Cedar?
2900

2901 Mr. Culley - No sir, it's a vacant lot.
2902

2903 Mr. Nunnally - Do you live next door to it?
2904

2905 Mr. Culley - No sir.
2906

2907 Mr. Nunnally - I misunderstood. I thought you said you lived next door to it
2908 a second ago.
2909

2910 Mr. Culley - No sir, my next-door neighbor; I'm the property owner. I do
2911 not live in that vicinity. On an as-needed basis, he calls me and tells me that somebody
2912 dumped a load of branches, and he takes them to the dump for me and cuts the grass,
2913 and I pay him for those services.
2914

2915 Mr. Nunnally - Are you going to build this house for yourself?
2916

2917 Mr. Culley - Originally I was going to build it for myself. I'm undecided
2918 what I want to do with it at this time. Originally I was probably going to build a home for
2919 my mother-in-law. I'm not sure whether those plans have changed or not.
2920

2921 Mr. Balfour - Any other questions? Thank you. Two people stood up. Do
2922 you want to speak for it? Go ahead.
2923

2924 Mr. McClane - My name is Olodumare McClane. I live at 8 North Daisy
2925 Avenue, right behind this. I received this letter this month. I really don't know too much
2926 about this. All I know is that he's asking for 1,000 square feet, and if that's my property,
2927 I really don't think that it's right for them to come take a piece of my land that I paid for.
2928 I'm 24 years old, and I bought my house when I was 22. I'm really just here to express
2929 my opinion about what's going on; I really don't know too much.

2930
2931 Mr. Balfour - They're not taking your land.
2932
2933 Mr. Blankinship - That's a common misunderstanding, but the Board isn't
2934 taking your land and giving it to them. It's just allowing them to build on the land that
2935 they have. By a strict application of the Code, they can't build on the land that they
2936 have, and they're asking to be allowed to build on that land.
2937
2938 Mr. Kirkland - They don't touch you.
2939
2940 Mr. Balfour - Their lot faces Cedar Avenue, and is a vacant lot. Have you
2941 got a copy of this map with a yellow mark around it? Look up there on the board.
2942
2943 Mr. McKinney - See Lot 8, and there's Lot 5, and they're not taking any of
2944 your property.
2945
2946 Mr. Balfour - If you think they are, you can check the survey, but it should
2947 border your property at one corner.
2948
2949 Mr. McKinney - They're just short 1,000 feet in total lot area, and they're
2950 asking for a variance to give them relief so they can build a house on it.
2951
2952 Mr. Balfour - Any others on that case?
2953 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2954 Wright, the Board **granted** application **A-59-2003** for a variance to build a one-family
2955 dwelling at 5 North Cedar Avenue (Highland Springs) (Parcel 822-725-2259). The
2956 Board granted the variance subject to the following condition:
2957
2958 1. This variance applies only to the lot area requirement. All other applicable
2959 regulations of the County Code shall remain in force.
2960
2961 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2962 Negative: 0
2963 Absent: 0
2964
2965 The Board granted this request, as it found from the evidence presented that, due to the
2966 unique circumstances of the subject property, strict application of the County Code
2967 would produce undue hardship not generally shared by other properties in the area, and
2968 authorizing this variance will neither cause a substantial detriment to adjacent property
2969 nor materially impair the purpose of the zoning regulations.
2970
2971 Mr. Balfour - We have two to call, who were not here on the 9:00 o'clock
2972 docket.
2973
2974 **(A-47-2003 LOPE CASTRO, and A-50-2003 PARKER LANCASTER & ORLEANS**
2975 **were called again.)**

2976
2977 On a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **approved**
2978 the Minutes of the **February 27, 2003**, Henrico County Board of Zoning Appeals
2979 meeting.
2980
2981 Minutes of the March 27, 2003, meeting of the Henrico County Board of Zoning Appeals
2982 were distributed for consideration.
2983
2984 There being no further business, and on a motion by Mr. McKinney, seconded by
2985 Mr. Kirkland, the Board adjourned until **June 26, 2003**, at 9:00 am.
2986
2987

2988

2989 Daniel T. Balfour,

2990 Chairman

2991

2992

2993 Benjamin Blankinship, AICP

2994 Secretary