

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, NOVEMBER 18,**
4 **2004, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**
5 **TIMES-DISPATCH ON OCTOBER 28 AND NOVEMBER 4, 2004.**
6

Members Present: **R. A. Wright, Chairman**
 James W. Nunnally, Vice-Chairman
 Elizabeth G. Dwyer, Esq., CPC
 Helen E. Harris
 Richard Kirkland

Also Present: **David D. O’Kelly, Assistant Director of Planning**
 Benjamin Blankinship, Secretary
 James F. Lehmann, County Planner
 Priscilla M. Parker, Recording Secretary

7
8 Mr. Wright - Ladies and gentlemen, welcome to the November meeting of
9 the Board of Zoning Appeals. Would you please stand and join me for the **Pledge of**
10 **Allegiance to the Flag of Our Country.** Mr. Secretary, would you read the rules,
11 please.
12

13 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
14 and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each
15 case. Then at that time the applicant should come to the podium. I will ask everyone
16 who intends to speak on that case, in favor or in opposition, to stand and be sworn in.
17 The applicants will then present their testimony. After the applicant has spoken, the
18 Board will ask them questions, and then anyone else who wishes to speak will be given
19 the opportunity. After everyone has spoken, the applicant, and only the applicant, will
20 have an opportunity for rebuttal. After hearing the case, and asking questions, the
21 Board will take the matter under advisement. They will render all of their decisions at
22 the end of the meeting. If you wish to know their decision on a specific case, you can
23 either stay until the end of the meeting, or you can call the Planning Office later this
24 afternoon, or you can check the website. The vote on each case will be posted to our
25 website within an hour of the end of the meeting. This meeting is being tape recorded,
26 so we will ask everyone who speaks, to speak directly into the microphone on the
27 podium, to state your name, and to spell your last name please. And finally, out in the
28 foyer, there are two binders, containing the staff report for each case, including the
29 conditions that have been recommended by the staff.
30

31 Mr. Wright - Thank you sir. Do we have any requests for withdrawals or
32 deferrals?
33

34 Mr. Blankinship - Yes sir, there are two, A-124-2004, the first case on the
35 agenda, has been withdrawn. That came in just yesterday by phone, so we don't have
36 it in writing. A-141-2004, at the bottom of page 2 of the agenda, has been withdrawn,
37 and that we do have in the file.

38
39 **Beginning at 9:00**

40
41 **A-124-2004** **CADMUS GROUP** requests a variance from Section 24-94 to build
42 a containment basin for fuel tank at 2905 Byrd Hill Road (Parcel
43 777-743-3330), zoned M-1, Light Industrial District (Brookland).
44 The front yard setback is not met. The applicant proposes 19 feet
45 front yard setback, where the Code requires 25 feet front yard
46 setback. The applicant requests a variance of 6 feet front yard
47 setback.

48
49 The Board allowed withdrawal of the application for the above-referenced variance.

50
51 **A-134-2004** **WILLIAM E. MARANO** requests a variance from Sections 24-95(k)
52 and 24-9 to build a one-family dwelling at 2801 Irisdale Avenue
53 (Hermitage Park) (Parcel 777-746-9404), zoned R-4, One-family
54 Residence District (Brookland). The minimum side yard setback
55 and public street frontage requirement are not met. The applicant
56 has 46 feet public street frontage and a minimum side yard setback
57 of 8 feet, where the Code requires 50 feet public street frontage
58 and a minimum side yard setback of 10 feet. The applicant
59 requests a variance of 4 feet public street frontage and 2 feet side
60 yard setback.

61
62 Mr. Wright - Does anyone else desire to speak with reference to this
63 case? Would you raise your right hand and be sworn please?

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

67
68 Mr. Marano - I do. William Marano. We have a lot 9 on Irisdale Avenue.
69 We would like a variance in order to build a one-family dwelling. The lot is not wide
70 enough across the front because years ago, back in the '50's, my father-in-law donated
71 three feet of the land for the County to build a road through there for Woodrow Terrace.
72 We're asking for a variance in order to build a house on that lot. It's a one-family
73 dwelling. My mother-in-law owns the lot; she's 94 years old now, and she's living with
74 her daughter, who right now has Alzheimer's. We don't know how much longer they
75 can stay together in the home, and we would like to sell the lot to have money put aside
76 in case my mother-in-law has to go into the nursing home.

77
78 Ms. Dwyer - Is it a one-and-a-half story house, is that what you're
79 proposing?

80
81 Mr. Marano - Yes, I think that's what the drawing shows.
82
83 Ms. Dwyer - Are you building it, or
84
85 Mr. Marano - No, a contractor will be building it.
86
87 Ms. Dwyer - This is farther away from the front lot line than the house
88 next door.
89
90 Mr. Marano - Yes, the house next door was the original one on that lot,
91 and of course they didn't have any zoning things at that time, so they just built them
92 wherever they wanted. Most all of the other houses built since then have been set back
93 to the Code distance, I guess. I don't know how far they have to be back.
94
95 Mr. Kirkland - Mr. Marano, where will the driveway be? I see you have a
96 gravel driveway - is that going to be the driveway to the home on the side on Woodrow
97 Terrace?
98
99 Mr. Marano - Yes, on Woodrow Terrace.
100
101 Mr. Nunnally - Do you have a contract on this, subject to this variance?
102
103 Mr. Marano - Yes sir, we do.
104
105 Mr. Nunnally - Who is the builder?
106
107 Mr. Marano - I don't know his name.
108
109 Mr. Nunnally - You have a contract on it, and you don't know his name?
110
111 Mr. Marano - The real estate lady
112
113 Mr. Wright - He's going to have to be sworn.
114
115 Mr. Blankinship - Do you swear that the testimony you are about to give is the
116 truth, the whole truth, and nothing but the truth, so help you God?
117
118 Mr. Caskey - I do. Mark Caskey, and I'm the owner of Caskey
119 Construction Company.
120
121 Mr. Nunnally - You're the one who's going to build the house?
122
123 Mr. Caskey - Right. We are going to build the house on that lot.
124
125 Mr. Nunnally - How many square feet, or can you give us an idea?

126 Mr. Caskey - I submitted a set of floor plans for the house. I believe it has
127 1417 total square feet. It's a Cape Cod style house. There's two bedrooms upstairs
128 and a bedroom downstairs, two full bathrooms.
129
130 Mr. Kirkland - Is it vinyl sided?
131
132 Mr. Caskey - Yes it is proposed to have vinyl siding. And the foundation is
133 of block and brick, brick front foundation, block on the sides.
134
135 Mr. Wright - It looks as if this house will be set back further from the
136 street than the house next door, 2803.
137
138 Mr. Caskey - Right. The County requirements for R-4 have a twenty-five
139 foot setback for the front yard. The house next door obviously didn't meet that. Again, I
140 don't know why that wasn't the case originally when it was built, but we're planning to
141 maintain the County setbacks when we build the house.
142
143 Mr. Wright - I think it's fifty feet.
144
145 Mr. Blankinship - It's a thirty-five foot setback.
146
147 Mr. Caskey - I'm sorry; I thought it was twenty-five, but it's thirty-five.
148
149 Mr. Wright - In your case report, you said the Code required fifty feet.
150
151 Mr. Blankinship - Fifty feet public street frontage.
152
153 Mr. Wright - So that's the frontage, okay. So his problem is frontage and
154 not setback.
155
156 Mr. Kirkland - Mr. Blankinship, does this lot meet the square footage
157 requirement for R-4?
158
159 Mr. Blankinship - Yes sir, the exception standards require 6,000, and he's got
160 7,144.
161
162 Mr. Wright - Any further questions of members of the Board? Is anyone
163 here in opposition to this request? Hearing none, that concludes the case. Thank you
164 very much for appearing.
165
166 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
167 Nunnally, the Board **granted** application **A-134-2004** for a variance to build one-family
168 dwelling at 2801 Irisdale Avenue (Hermitage Park) (Parcel 777-746-9404). The Board
169 granted the variance subject to the following condition:
170

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

174
175 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
176 Negative: 0
177 Absent: 0
178

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

184
185 **A-136-2004** **CHRISTINE N. ROGERS** requests a variance from Section 24-94
186 to build an attached carport at 2712 Timber Court (Terry Heights)
187 (Parcel 771-762-4762), zoned R-3, One-family Residence District
188 (Brookland). The minimum side yard setback and total side yard
189 setback are not met. The applicant proposes 5 feet minimum side
190 yard setback and 16 feet total side yard setback, where the Code
191 requires 12 feet minimum side yard setback and 30 feet total side
192 yard setback. The applicant requests a variance of 7 feet minimum
193 side yard setback and 14 feet total side yard setback.

194
195 Mr. Wright - Does anyone else desire to speak with reference to this
196 case? Would you raise your right hand and be sworn please?
197

198 Mr. Blankinship - Do you swear that the testimony you are about to give is the
199 truth, the whole truth, and nothing but the truth, so help you God?
200

201 Ms. Rogers - I do. Christine Rogers. I built my house in 1967 in Terry
202 Heights. We did not have garages or carports at that time. In the meantime, the side of
203 my house where we're building the carport, gets extremely hot, and the cars get very,
204 very hot. I'm not able to go out and stay in the sun, to do anything to my car like
205 washing it or anything like that. The amount of yard that they allow us would not go any
206 further than where the garage is. If you set it in the four feet, than it would make the left
207 side of the garage completely useless at that time. For medical reasons, the garage is
208 no good to me in getting in and out of my house and doing what I have to do, because it
209 had to be set back when it was built, I think ten feet.

210
211 Mr. Kirkland - Ms. Rogers, do you use the garage at all. Do you put cars in
212 the garage?
213

214 Ms. Rogers - No.

215
216 Mr. Kirkland - What's it for then?

217
218 Ms. Rogers - My husband's hobby equipment's in it now, but I can't,
219 driving all the way back to the garage is not helping me where I go right in that door.
220
221 Ms. Harris - Ms. Rogers, are you going to tear down the old garage?
222
223 Ms. Rogers - No.
224
225 Ms. Dwyer - You had two different drawings in your package, and one
226 showed a carport that I think showed a carport that is within the Code requirements, and
227 one shows sort of a double carport that you desire.
228
229 Ms. Rogers - It's a double carport because the amount allowed would
230 completely block the left side of the door.
231
232 Ms. Dwyer - The problem with the smaller carport is what?
233
234 Ms. Rogers - It would block the garage and make the garage useless on
235 the left side.
236
237 Ms. Dwyer - So there's not enough distance between the carport and the
238 garage to maneuver around to get in that other door? I couldn't tell from the picture. I
239 see what you're saying.
240
241 Mr. House - My name is David House, with Home Exterior Concepts, the
242 builder of the project. The garage sets back about twelve feet from the house, and you
243 couldn't maneuver a car, and then if you had a car in the carport, you would have to
244 literally back the car all the way out to the road each time you wanted to access the
245 garage.
246
247 Mr. Wright - What type of construction would this be?
248
249 Mr. House - Frame. We're going to do frame construction, and a set of
250 plans are in the drawing.
251
252 Mr. Wright - Will it be open on the sides?
253
254 Mr. House - Yes sir. It will be open; it's a true carport. It will be open on
255 the sides, having post construction tying it into the house, shingles matching the house,
256 and siding would also match and conform to the house and the current structure.
257
258 Mr. Wright - So you'd just have two supports, one on the front and one on
259 the back, and the rest would be open?
260
261 Mr. House - I believe the drawings are there; it's either two or three
262 supports.

263
264 Ms. Rogers - It's four supports.
265
266 Mr. Wright - It shows six by six posts, and I don't know how many.
267
268 Ms. Rogers - There's one out here in front; there's two that are going to be
269 against the house, and two that are going to be out further.
270
271 Mr. Wright - I'm more concerned with those on the side near your
272 neighbor. There will be two, one on the front and one on the back.
273
274 Mr. House - Yes sir. That conforms, I believe with the current plans. If
275 we needed to, we could add one.
276
277 Ms. Harris - Do your neighbors know that you're going to build this
278 carport? Have they expressed their consent or
279
280 Ms. Rogers - Yes, I have letters from four of the neighbors who were in
281 there, and then the one that it would affect the most, next door, has written a letter in
282 since he got notice.
283
284 Ms. Dwyer - Is that the Hamlet?
285
286 Ms. Rogers - Yes.
287
288 Mr. Wright - Any further questions of members of the Board? Is anyone
289 here in opposition to this request? Hearing none, that concludes the case. Thank you
290 very much for appearing.
291
292 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Ms.
293 Dwyer, the Board **granted** application **A-136-2004** for a variance to an attached carport
294 at 2712 Timber Court (Terry Heights) (Parcel 771-762-4762). The Board granted the
295 variance subject to the following conditions:
296
297 1. Only the improvements shown on the plan filed with the application may be
298 constructed pursuant to this approval. Any additional improvements shall comply with
299 the applicable regulations of the County Code.
300
301 2. The new construction shall match the existing dwelling as nearly as practical.
302
303 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
304 Negative: 0
305 Absent: 0
306
307 The Board granted this request, as it found from the evidence presented that, due to the
308 unique circumstances of the subject property, strict application of the County Code

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

312
313 **A-137-2004** **ERNEST CERVENY** requests a variance from Section 24-95(c)(4)
314 to build a front porch at 9908 Royerton Drive (Laurel Park) (Parcel
315 771-761-9640), zoned R-3, One-family Residence District
316 (Brookland). The front yard setback is not met. The applicant
317 proposes 26 feet front yard setback, where the Code requires 35
318 feet front yard setback. The applicant requests a variance of 9 feet
319 front yard setback.

320
321 Mr. Wright - Does anyone else desire to speak with reference to this
322 case? Would you raise your right hand and be sworn please?

323
324 Mr. Blankinship - Do you swear that the testimony you are about to give is the
325 truth, the whole truth, and nothing but the truth, so help you God?

326
327 Mr. Cerveny - I do. Ernest Cerveny. We are requesting a variance to build
328 a front porch, and I will need about a nine-foot variance to meet that 35-foot restriction.
329 Primarily, it's for my wife; she has arthritis in her lower back, and she has trouble getting
330 in and out of the house. There's just a stoop on it, especially during inclement weather,
331 and by having a porch, it would be easy to accommodate her to get out, get an umbrella
332 up and, lock the door, and then leave the house and come back in the same way.
333 That's primarily the reason for my request for the variance. We have a plan submitted
334 with it also. It will have a shed roof, all exposed wood will be salt-treated, and the shad
335 roof will have just a regular pine timber. It will be ten feet eastward and sixteen feet
336 north and south.

337
338 Ms. Dwyer - I noticed on the plan, the porch would have a shed roof with
339 asbestos shingles? Why did you chose asbestos?

340
341 Mr. Cerveny - Yes. They're the roofing shingles.

342
343 Ms. Dwyer - Just the regular roofing? Maybe not asbestos, but

344
345 Mr. Cerveny - I said asbestos, but I meant like a regular roof shingles.

346
347 Ms. Dwyer - An asphalt maybe? It just kind of jumped out at me.

348
349 Mr. Wright - Mr. Cerveny, do any other houses in this block have porches
350 that extend into the front yard like this one?

351
352 Mr. Cerveny - Not in the same block. Two blocks up, on Royerton, there's
353 one at about 9719. I don't have a picture of that, but that's about the measurement of
354 the same one, and that's the same distance from the road. There are several that have

355 just, not the stoop, but a deck.
356
357 Ms. Dwyer - So the exterior of the porch would be the salt-treated timber
358 and not the painted white porch

359
360 Mr. Cerveny - no, I wanted salt-treated because of low
361 maintenance and then all exposed wood with the exception of the roof would be pine,
362 and that would be covered with paint or vinyl, and all the other exposed wood would be
363 salt-treated wood.
364

365 Ms. Dwyer - So the columns would be painted to match the trim of the
366 house, or would they be

367
368 Mr. Cerveny - no, the columns would also be salt-treated.
369

370 Ms. Dwyer - So they would not be painted or covered. So that would be
371 somewhat different from the way the house looks, and one of the conditions that staff
372 imposes is that the new construction shall match the existing dwelling, and you don't
373 really have salt-treated, exposed wood on the existing house.
374

375 Mr. Cerveny - It's vinyl clad. The only thing I could do would be vinyl clad
376 the posts and the bottom part, and the railing.
377

378 Ms. Dwyer - There are other materials, aluminum kinds of rails, that kind
379 of thing that would be

380
381 Mr. Cerveny -that would be a lot more expensive; the salt-treated
382 would be less, and I plan to build it myself, and I'm using the salt-treated wood with the
383 low maintenance, and I'm treating the wood itself with a conditioner.
384

385 Ms. Cerveny - My name is Blanche Cerveny. We do have a carport in the
386 back that is with the salt-treated lumber, and the driveway is lined with the salt-treated
387 lumber also.
388

389 Ms. Dwyer - Would you have a handicapped access, like a ramp, or
390 would this be steps?
391

392 Mr. Cerveny - This would be regular steps.
393

394 Ms. Cerveny - At this point.
395

396 Mr. Wright - Any further questions of members of the Board? Is anyone
397 here in opposition to this request? Hearing none, that concludes the case. Thank you
398 very much for appearing.
399

400 After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr.
401 Kirkland, the Board **granted** application **A-137-2004** for a variance to build a front porch
402 at 9908 Royerton Drive (Laurel Park) (Parcel 771-761-9640). The Board granted the
403 variance subject to the following conditions:

404
405 1. Only the improvements shown on the plan filed with the application may be
406 constructed pursuant to this approval. Any additional improvements shall comply with
407 the applicable regulations of the County Code.

408
409 2. The new construction shall match the existing dwelling as nearly as practical.

410
411 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
412 Negative: 0
413 Absent: 0
414

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

420
421 **A-138-2004** **JANE W. COLLINS** requests a variance from Section 24-41(e) to
422 build a sunroom over the existing deck at 1723 Logwood Circle
423 (Gayton Forest Townhouses) (Parcel 743-747-2652), zoned RTH,
424 Residential Townhouse District (Tuckahoe). The rear yard setback
425 is not met. The applicant proposes 20 feet rear yard setback,
426 where the Code requires 30 feet rear yard setback. The applicant
427 requests a variance of 10 feet rear yard setback.

428
429 Mr. Wright - Does anyone else desire to speak with reference to this
430 case? Would you raise your right hand and be sworn please?

431
432 Mr. Blankinship - Do you swear that the testimony you are about to give is the
433 truth, the whole truth, and nothing but the truth, so help you God?

434
435 Ms. Collins - I do. Jane W. Collins. I'm here requesting ten feet rear yard
436 variance to build a sunroom over the existing deck at my home. The Code requires
437 thirty feet, and the application proposes twenty feet, and the Code requires thirty feet,
438 so I'm requesting ten feet variance.

439
440 Ms. Dwyer - I notice that your next-door neighbor has a sunroom that
441 seems to extend even further out than yours would. Did they obtain a variance?

442
443 Mr. Blankinship - I'm sure they did. It's mentioned in the report.

444
445 Ms. Dwyer - The report says that a number of the townhouses in your

446 neighborhood have built these. You have a fairly substantial berm behind your house
447 that would shield the neighborhood behind you from any additional building that you
448 would do.

449
450 Ms. Collins - That's right.
451
452 Ms. Dwyer - The neighbor on the other side, the staff report mentions that
453 it is visible but it's a considerable distance from your home.
454

455 Ms. Collins - About ten feet.
456
457 Ms. Dwyer - It looked farther than that when I was out there, maybe
458 twelve, at least from the rear yards. It looked to be a fairly large common area.
459

460 Ms. Collins - I thought you meant my adjoining neighbor.

461
462 Ms. Dwyer - No. I'm looking at the common area.
463

464 Ms. Collins - Yes, it is a good distance.
465

466 Mr. Wright - Any further questions of members of the Board? Is anyone
467 here in opposition to this request? Hearing none, that concludes the case. Thank you
468 very much for appearing.
469

470 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Ms.
471 Harris, the Board **granted** application **A-138-2004** for a variance to build sunroom over
472 the existing deck at 1723 Logwood Circle (Gayton Forest Townhouses) (Parcel 743-
473 747-2652). The Board granted the variance subject to the following conditions:
474

475 1. Only the improvements shown on the plan filed with the application may be
476 constructed pursuant to this approval. Any additional improvements shall comply with
477 the applicable regulations of the County Code.
478

479 2. The new construction shall match the existing dwelling as nearly as practical.
480

481 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
482 Negative: 0
483 Absent: 0
484

485 The Board granted this request, as it found from the evidence presented that, due to the
486 unique circumstances of the subject property, strict application of the County Code
487 would produce undue hardship not generally shared by other properties in the area, and
488 authorizing this variance will neither cause a substantial detriment to adjacent property
489 nor materially impair the purpose of the zoning regulations.
490

491 **A-139-2004** **ANN L. VOGT** requests a variance from Section 24-95(c)(1) to

492 build a storage room at 1409 Chowan Road (Forest Heights)
493 (Parcel 759-742-9662), zoned R-3, One-family Residence District
494 (Tuckahoe). The total side yard setback is not met. The applicant
495 proposes 17 feet total side yard setback, where the Code requires
496 21 feet total side yard setback. The applicant requests a variance
497 of 4 feet total side yard setback.
498

499 Mr. Wright - Does anyone else desire to speak with reference to this
500 case? Would you raise your right hand and be sworn please?
501

502 Mr. Blankinship - Do you swear that the testimony you are about to give is the
503 truth, the whole truth, and nothing but the truth, so help you God?
504

505 Ms. Vogt - I do. My name is Ann L. Vogt, and I own the property. Due
506 to conversion by the previous owner, what used to be a school porch and a side utility
507 storage room, was converted to an open-ended deck. That was a number of years ago.
508 I just need an enclosed storage room, because there's no utility or storage area that's
509 enclosed, but part of the house, because I need to store household equipment and
510 supplies, and the closets in the house are very small, and they're just jam packed with
511 stuff, and the addition would be on the side of the house, pretty inconspicuous. The
512 neighbor next door has said it was fine with him. I have a letter in your packet from him.
513 It would meet the addition building and construction would meet the rest of the house. It
514 would be a concrete block foundation, and then it would be vinyl sided, and then it
515 would be a roof that meets the same shingle coloring. The side door right now that I
516 don't use, I can use to enclose the addition. It's a very small addition, but it would help
517 me a great deal. It's twelve feet by four feet inside dimensions, and I am requesting a
518 variance of the total side yard setback of a touch over three feet.
519

520 Ms. Dwyer - Ms. Vogt, did you mean that the side door would give you
521 access to the new storage area?
522

523 Ms. Vogt - It would, and I have already two doors, one to the front and
524 one to the back, so there are two exits already in the house, in addition to the side door,
525 but it would give me access to that addition.
526

527 Ms. Dwyer - So you would not have another door from the addition
528 outside?
529

530 Ms. Vogt - No, I wouldn't. Only a window, and right now I'm using part
531 of the open-ended den area to put the drier in, which it would stay. I wouldn't intend to
532 put any electrical or plumbing equipment in the room.
533

534 Ms. Harris - Ms. Vogt, in the picture that shows your house and part of
535 your neighbor's house, is this the neighbor who sent the letter that we have a copy of?
536

537 Ms. Vogt - Yes.

538
 539 Ms. Dwyer - And the roofline would be in line with the existing back of the
 540 house.
 541
 542 Ms. Vogt - Yes. It would look fine.
 543
 544 Mr. Wright - This would be a full one-story addition?
 545
 546 Ms. Vogt - Yes, it would just go straight into where the main part of the
 547 house is and just give me more room.
 548
 549 Mr. Wright - Any further questions of members of the Board? Is anyone
 550 here in opposition to this request? Hearing none, that concludes the case. Thank you
 551 very much for appearing.
 552

553 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.
 554 Nunnally, the Board **granted** application **A-139-2004** for a variance to build a a storage
 555 room at 1409 Chowan Road (Forest Heights) (Parcel 759-742-9662). The Board
 556 granted the variance subject to the following conditions:
 557

- 558 1. Only the improvements shown on the plan filed with the application may be
 559 constructed pursuant to this approval. Any additional improvements shall comply with
 560 the applicable regulations of the County Code.
 561
- 562 2. The new construction shall match the existing dwelling as nearly as practical.
 563

564 Affirmative:	Dwyer, Harris, Kirkland, Nunnally, Wright	5
565 Negative:		0
566 Absent:		0

567
 568 The Board granted this request, as it found from the evidence presented that, due to the
 569 unique circumstances of the subject property, strict application of the County Code
 570 would produce undue hardship not generally shared by other properties in the area, and
 571 authorizing this variance will neither cause a substantial detriment to adjacent property
 572 nor materially impair the purpose of the zoning regulations.
 573

574 **A-140-2004** **ERIC WALKER** requests a variance from Section 24-9 to build a
 575 one-family dwelling at 11385 Mill Road (Parcel 766-773-4246
 576 (part)), zoned A-1, Agricultural District (Brookland). The public
 577 street frontage requirement is not met. The applicant has 0 feet
 578 public street frontage, where the Code requires 50 feet public street
 579 frontage. The applicant requests a variance of 50 feet public street
 580 frontage.
 581

582 Mr. Wright - Does anyone else desire to speak with reference to this
 583 case? Would you please stand and everybody be sworn at the same time?

584
585 Mr. Blankinship - Do you swear that the testimony you are about to give is the
586 truth, the whole truth, and nothing but the truth, so help you God?
587
588 Mr. Walker - I affirm. Good morning; my name's Eric Walker. I'm here
589 requesting a variance to build a single-family dwelling on Mill Road. This dwelling will
590 be a two-story frame with two-car attached garage, side entry. I didn't give you guys
591 copies of the foundation, but I would be happy to pass this around so you can see
592 exactly what I propose building. I also have a copy of a plat that I got from Planning,
593 which shows this parcel prior to I-295 being constructed, and at that time, this parcel
594 would have allowed for or had more road frontage to legally split this parcel. So at that
595 juncture, I'm requesting a variance to build this home.
596
597 Mr. Wright - Mr. Blankinship, I believe there's an error in our report. It
598 says this property adjoins Interstate 64; that should be I-295.
599
600 Mr. Blankinship - Yes sir, it certainly should.
601
602 Mr. Kirkland - Mr. Walker, are you planning to build a house right now in
603 the back, I assume, of the piece of the property. Are you going to build one in the front
604 too, eventually? Is that what the deal is?
605
606 Mr. Walker - That is correct.
607
608 Mr. Kirkland - You need the easement to get to the one in the back?
609
610 Mr. Walker - That's correct.
611
612 Mr. Kirkland - That has rather steep topography going down into that lot.
613
614 Mr. Walker - It does, and I intend on accessing the parcel, if you're
615 looking from the road to the parcel, closer to the left, because that lends itself to not
616 being so steep there.
617
618 Mr. Kirkland - It looks like there was an old roadbed there right along Mill,
619 that went right over into the property.
620
621 Mr. Walker - I believe so. I've walked the property several times, and
622 that's the conclusion I've come to.
623
624 Mr. Kirkland - Now you have an option, I assume, to buy this and to do all
625 this, correct.
626
627 Mr. Walker - Correct, and I have a contract which is contingent on 1)
628 getting this variance approved, and 2) getting a building permit.
629

630 Mr. Kirkland - What size lots surround this property?
631

632 Mr. Walker - If I'm not mistaken, the adjacent subdivision, Holly Grove,
633 consists of one-acre lots. If you go to the south of 295, there's a residential
634 development that was developed a year or two ago, which, if I'm not mistaken, are third-
635 acre lots. What I'm proposing is two one-acre, plus, lots.
636

637 Mr. Wright - Mr. Walker, how would this house face?
638

639 Mr. Walker - What I'm proposing is to face the parcel in the front, the
640 house is to be parallel to the road, and the parcel behind, somewhat to be comparable
641 to that.
642

643 Mr. Wright - So you're saying the house would face Mill Road?
644

645 Mr. Walker - Both houses would generally face Mill Road, correct.
646

647 Mr. Kirkland - Is the reason you have the one shoved close to the other
648 side property line because the septic field and the well and all that's got to go in there?
649

650 Mr. Walker - That's correct. I-295 lends itself to have an additional
651 setback that you have to stay off of that interstate, and that's what's forcing me to push
652 the house closer to Holly Grove.
653

654 Mr. Wright - What size house would it be?
655

656 Mr. Walker - Both houses are approximately 2500 square feet of frame
657 construction with vinyl siding, two-car attached garage with side entry.
658

659 Mr. Wright - And this is a single story, or two-story?
660

661 Mr. Walker - Two story.
662

663 Ms. Harris - Mr. Walker, when I do travel 295 a lot, I'm trying to visualize
664 your property and how it abuts 295.
665

666 Mr. Walker - This property, if you're heading west on 295, just before the
667 overpass of Mill Road, and just before Staples Mill Road, the property would be on your
668 right.
669

670 Ms. Harris - So it's not level?
671

672 Mr. Walker - Once you get down off of Mill Road, the property is
673 somewhat level, yes ma'am.
674

675 Ms. Harris - This road that we're looking at, through this slide, is this Mill

676 Road?
677
678 Mr. Walker - Yes ma'am.
679
680 Ms. Harris - So we don't have a picture of 295 and the property?
681
682 Mr. Blankinship - No ma'am, we don't.
683
684 Mr. Walker - If you look at this elevation, or this picture here, you'll see
685 the intersection.
686
687 Ms. Harris - I saw this, but I was concerned about the elevation.
688
689 Mr. Walker - If I'm not mistaken, this property is elevated slightly higher
690 than 295, so visibility is somewhat limited, and if you look at the subdivision behind it,
691 which is Hunton Estates, you get a visual on how similar it would be.
692
693 Mr. Kirkland - Mr. Walker, if you just built one house, you wouldn't need
694 this variance, would you?
695
696 Mr. Walker - That is correct.
697
698 Mr. Wright - Any further questions of members of the Board? All right,
699 Mr. Walker, if you'll just have a seat, and we'll assume this is the opposition. If you'll
700 come forward, those of you who are going to speak. You've already been sworn.
701 Would you please state your name for the record.
702
703 Mr. Fogg - My name's Dave Fogg. I live at 3507 Bekah Lane. We first
704 had some concerns, or I did, about the square footage. It didn't really state it on the
705 drawing that we looked at, at the County, and being as that was, it looked like it was
706 about a 1300 square foot, and I went around and talked to the neighbors about it, and
707 everyone was upset about the square footage, so we've addressed that, that at least it
708 met the 1600 square foot that we would have wanted to see on that property. That was
709 a neighborhood concern. As a personal concern, I feel like the house would be too
710 close to my property.
711
712 Mr. Wright - And you live where?
713
714 Mr. Fogg - I live at lot 2.
715
716 Mr. Wright - It backs right up to this property.
717
718 Mr. Fogg - And being twenty-five feet off of the line there, I have
719 concerns about it damaging my tree roots from my tree line that comes down the back
720 of the property. I feel like the house should at least be the fifty feet required back off of
721 the property line that the house would need to be if it was built back to back.

722
723 Mr. Wright - This house he says will face Mill Road.
724
725 Mr. Fogg - That's correct, but if it was built conventionally, most houses
726 are back to back, so it would be a fifty feet off of the back line if it were a typical
727 situation. Then the house would have to meet the fifty feet setback requirement. He's
728 turning the house around and therefore making it the twenty-five feet. I feel like that's
729 too close to my property in that situation, and aesthetically, it looks bad, and I feel like it
730 may have an adverse affect on my property value.
731
732 Ms. Dwyer - Mr. Blankinship, this is an A-1 – is there a fifty foot
733 requirement for rear setback?
734
735 Mr. Blankinship - Fifty feet front and rear, and fifty feet total side yard and
736 twenty feet minimum side yard.
737
738 Mr. Wright - So the way this property's situated, the side would be twenty
739 feet minimum.
740
741 Mr. Fogg - That's correct. It doesn't have to be the twenty-five.
742 Theoretically, he could shift it over another five feet and still comply with the zoning
743 requirements of the A-1.
744
745 Ms. Dwyer - You just want the house farther away from your

746
747 Mr. Fogg - Personally, I don't want it there at all, but if I had to have a
748 house there, I certainly would want it at least the fifty feet off. My other question was
749 had he had a perk test done, and I know he's going to have public water, but if the perk
750 test has been done, is that the exact location, or if it hasn't been done, is it possible that
751 once you've approved it, that the house may shift and be somewhere else on the
752 property, not in this location? I'm not sure – did you say you'd had a perk test?
753
754 Mr. Wright - We'll ask him that. The conditions, if this is approved, the
755 condition is that he has to satisfy the perk test. If it doesn't, he can't build on it.
756
757 Mr. Fogg - I understand that, but I'm talking about the location of the
758 perk test, that determines the location of the house.
759
760 Mr. Wright - We'll explore that with him when he comes back for rebuttal.
761
762 Mr. Fogg - Okay. I guess Henrico County outlawed flag lots a few years
763 ago, and basically that's what we're creating here, is a flag lot, and I assume that you
764 understand the reasons for that, that it was aesthetically unpleasing for the flag lots. I
765 do have concerns about the resale value of my property, with that being so close to my
766 property line.
767

768 Ms. Dwyer - What is the size of your lot?
769

770 Mr. Fogg - I have a one-acre lot, and actually, if you'll look on your
771 aerial photograph, part of my property is the back pie shape on the back there also. So
772 I'm on two sides of the property.
773

774 Mr. Kirkland - Mr. Fogg, how far is the rear of your home to his property
775 line? What's the distance, do you have any idea?
776

777 Mr. Fogg - I failed to measure that. I had to have met at least the fifty
778 feet from my property line to my house, so I would say 75-90 feet, something of that
779 nature.
780

781 Ms. Harris - Mr. Blankinship, on our information, we're concerned more
782 about the fifty-foot public street frontage. I was wondering about the side setback as far
783 as the rear, he's concerned about the rear setback. If we take up this issue with the
784 fifty-foot public street frontage, would we later have to take up the issue about the side
785 and rear setbacks?
786

787 Mr. Blankinship - The requirement is only twenty feet, so the drawing that he
788 submitted would meet that. Now if you wanted to require, as a condition of the
789 variance, if you feel like it would mitigate the impacts of the variance to require a greater
790 setback on that side, you could certainly do that.
791

792 Mr. Wright - We could put whatever conditions we think proper if we grant
793 this.
794

795 Ms. Harris - With an acre of land, I would think that you could very well
796 issue or change the dimensions to five more feet. I don't think that's the major problem
797 here. The major problem is public street frontage, right?
798

799 Mr. Blankinship - Public street frontage is what brings us here. Just eyeballing
800 it, it looks like there's about twenty-five feet to play with there on the southern side,
801 going toward the interstate. By the way, while I'm speaking, I've been running the
802 geographic information system on my computer here, and the location of this house
803 appears to be about twenty feet higher than the interstate. I was surprised that it's that
804 much higher.
805

806 Mr. Fogg - I also have concerns about the traffic for the person coming
807 out of that property, either front or back of that property, that once you come out of the
808 school zone at Glen Allen Elementary School, it's a raceway coming over that overpass,
809 and traffic is just flying down there. Every morning, when I take my children to school, I
810 fear someone's going to rear end me. As you know, they've had tremendous
811 development in that area, and the County, or Department of Transportation hasn't
812 addressed the fact that we need a crossover from our street, which we were told we
813 were going to be given a few years ago, when Hunton Development purchased that

814 land. We haven't seen a thing about that. With all the increased traffic, they've got
815 proposals for another hundred homes down the street, I have concerns about coming
816 up out of that hole to get up on the road. I think what's going to happen, is they're going
817 to have to build a berm or bring the elevation up, build a dirt mound, to actually get up
818 out of that property, is the way I see it. They can't just come up that steep incline; it's
819 going to have to have some type of ramp built to get out of there.

820
821 Mr. Kirkland - Mr. Blankinship, can you look up the elevation difference
822 between Mill Road and that first lot?

823
824 Ms. Dwyer - And while you're doing that, Mr. Blankinship, can you do two
825 things at once?

826
827 Mr. Kirkland - I would say it's at least twenty-five feet difference in
828 elevation.

829
830 Mr. Blankinship - I'm showing 276 where the house would go, and 290 at the
831 street, so it's fourteen; now that's measuring at one particular point.

832
833 Mr. Kirkland - You're talking about the home in the back of the property,
834 correct?

835
836 Mr. Blankinship - The contour, the two homes are at about the same elevation,
837 and the surface of Mill Road, that north-bound lane is at 290, and both houses appear
838 to lie on the 276 contour. The problem is that it is fairly steep; all of that elevation is
839 right at the front of the lot.

840
841 Ms. Dwyer - My next question is, if this variance were not granted, this
842 land could still be developed; it would just require a public street to come into the
843 property, and then houses to have access to that public street, as opposed to the flag
844 lot.

845
846 Mr. Blankinship - Yes ma'am, it could be rezoned and developed.

847
848 Ms. Dwyer - It wouldn't need to be rezoned, if he still just did the two
849 houses.

850
851 Mr. Kirkland - So he could just build two houses, or just one house?

852
853 Ms. Dwyer - Probably two, if it's A-1, and it's more than two acres.

854
855 Mr. Blankinship - If he built a public street.

856
857 Mr. Kirkland - He'd have to build a road into it.

858
859 Mr. Blankinship - Two hundred and sixty feet, or three hundred feet of public

860 street.

861

862 Mr. Wright - Anything further, sir?

863

864 Mr. Fogg - I think I've addressed everything that I could think of, but I
865 would appreciate your consideration on the matters that I've brought up.

866

867 Mr. Kaplan - Good morning. My name is Eric Kaplan. I live at 3509
868 Bekah Lane, and I guess the aerial shows better where I'm situated. I'm at the corner of
869 Mill and Bekah. I have concerns about this. I appreciate the carefulness with which
870 you've asked questions, and I think Mr. Kirkland was right on, in that this is a choice
871 between one or two houses, by and large, in this property, at this variance. And that's
872 pretty important to us. As you know, this is a nicely developing community; it's been
873 heralded as a planning success, and the staff and County leadership, as well as the
874 community interest, is to credit for that. I think this is probably not the area to grant
875 variances without considerable consideration for the impact on the remaining
876 community development.

877

878 I think you'll notice that, in order to accomplish this, the road would be built right on my
879 back property line. It's not something that I certainly anticipated. I would believe that
880 the owner of this parcel, when they acquired it, knew what the Code was, and that they
881 could not without a variance, anticipate building more than one house there, in which
882 case a road needn't go along my back property line. Coincidentally, when I bought my
883 house about twenty years ago, I was told I would never have more than one house
884 behind me, because the shape of the property doesn't lend itself to that. I think if you
885 look at how our houses are situated on the lots, you'll notice that this is considerably
886 different. The proposal is considerably different.

887

888 Our street, with the exception of the end of the cul-de-sac, we each have approximately
889 100 feet of road frontage. This certainly does not. As you'll notice, where the two
890 houses, Dave Fogg is my next-door neighbor who spoke earlier, notice the separation
891 between our houses is considerable with the road adjoining my back property and the
892 housing that they intend to put there, this would be different than the way the community
893 has developed and what we're proud of. I suggest that this is not the community to
894 break the rules, if you will, and this particular lot is certainly not one that should be taken
895 lightly. As Dave pointed out, this road would sit right at the crest of a bridge, just off the
896 crest of the bridge. This particular picture indicates the incline, and the aerial picture
897 that I have that has the case number, probably better indicates the location of the bridge
898 with respect to where the road would go. I wouldn't want to be one of the people
899 coming out of that into a blind road, where I couldn't see people coming across the top
900 of the bridge. I certainly don't know that you'd want to put two families in there. I'd ask
901 for your consideration for the community, and I think as evidence of our interest. There
902 are three of the ten of us here who could make it. Thank you.

903

904 Mr. Wright - All right sir, thank you very much.

905

906 Ms. Trichur - Good morning. My name is Carol Trichur, and I live at 3505
907 Bekah Lane. I'm the third lot from Mill Road down Bekah Lane. Several of my
908 concerns have already been addressed by my neighbors and yourselves, through your
909 questions as well. Our primary concern that brought my attention was the original plans
910 that showed a smaller amount of square footage for the construction than was
911 consistent with our neighborhood. The developer has addressed that and has met the
912 minimum required square footage based on our street and the neighborhood
913 developments as well.

914
915 I also have concern about the access of this second property, this rear property, onto
916 Mill Road. It is a blind drive. There will have to be a tremendous amount of excavation
917 and construction done to build that up high enough to get a vehicle on and off Mill Road,
918 and I have some concern that this would in effect almost be used like an alley in a back
919 road subdivision or a small street area. Mr. Walker spoke earlier, there is an old farm
920 lane there; there is an old driveway that did allow the farmers who used the property to
921 access this area, but it is much, much closer to 295, and it would not be effective for the
922 homeowners to use along that point. Basically, that's our main concern, and with the
923 amount of traffic that is on 295, and the tremendous amount of road noise that we get, I
924 do not see this property being particularly attractive to a new family who would want to
925 live there with no protection or shelter from this highway. They would be able to see it;
926 they would be able to hear it, and I would anticipate a big turnover in the residents in
927 that particular dwelling, in both of those, and that is not consistent with the homes along
928 Bekah Lane or the newer areas through the Hunton Estates and on the opposite side of
929 Mill Road, Hunton Park or the additional development there as well. So our concerns
930 are basically the size and the turnover, keeping consistent with what has previously
931 been done in our neighborhood as well. Thank you.

932
933 Ms. Harris - What is the typical square footage for the community?

934
935 Ms. Trichur - On Bekah Lane?

936
937 Ms. Harris - Your subdivision.

938
939 Ms. Trichur - The minimum required was 1600, but I don't know what the
940 typical house is, I think somewhat larger than that.

941
942 Mr. Wright - What is yours?

943
944 Ms. Trichur - 1650.

945
946 Mr. Wright - Do you hear the noise from 295 at your house?

947
948 Ms. Trichur - Oh, extreme. When you're in your back yard, at the rear of
949 the property, you're unable to speak to another person who is out there with you.
950 During the night the traffic stops. But from 5:00 am until around midnight, the traffic is
951 extreme, and the truck traffic is very noisy as well. There's some ruts and some bad

952 areas along 295 that cause the empty trucks to vibrate and make a lot of noise.

953

954 Mr. Wright - I didn't know whether there were any plans for the State or
955 somebody to put a sound barrier along there, like they do for a lot of subdivisions.

956

957 Ms. Trichur - I'm unaware of that, if there is. Noise is an issue, and folks
958 in Hunton have addressed this, complained about that in other zoning meetings that
959 they've attended as well. They're a long way from us.

960

961 Mr. Wright - Thank you very much. All right, Mr. Walker, you have a brief
962 moment to rebut.

963

964 Mr. Walker - Thank you. I appreciate the homeowners, Ms. Trichur, Mr.
965 Kaplan, and Mr. Fogg's concerns, and I would like to spend a brief moment to address
966 those concerns. This property, as it exists, was the result of the construction of 295.
967 Prior to 295, this property had considerably more road frontage onto Mill Road.
968 Because of 295, it lended this property to not be developed to its fullest possibilities.
969 Speaking toward the driveway or access onto Mill Road, I propose to construct that
970 driveway towards the right of the parcel, specifically because the topography would
971 allow you to do that. As you move further away from 295 or the overpass, the
972 topography gets a lot less steep, and in terms of building a berm or bringing in a lot of
973 dirt, to be honest with you, I don't think that's necessary, based on where I'm proposing
974 to put that driveway.

975

976 Mr. Kaplan and Mr. Fogg mentioned, specifically Mr. Fogg, mentioned the distance of
977 that house in the rear to his back yard. I'm not opposed to shifting the house somewhat
978 closer to 295 to accommodate him. In addition to that, I'm not opposed to constructing
979 a privacy fence along the right side of the property, which in itself would break up any
980 view between the two homes.

981

982 They brought up some good points in regards to the noise. That's something I thought
983 about when I put this property under contract. If you look, you don't have it in your
984 exhibits, but if you were to travel into Hunton Estates, you have some houses there that
985 back up to 295, similar to what I'm proposing on these two parcels. There is a small
986 issue, but that is a marketing issue that, as a contractor, I'm willing to undertake. I'm
987 proposing to build a 2500 square foot home, which is comparable to Holly Grove, is
988 considerably larger than what the minimum requirements are. These two homes would
989 be, I believe an asset to the community and to Mill Road.

990

991 Mr. Wright - How far would you be willing to set the house off, fifty feet
992 from the north line? You've got what, roughly twenty-five feet now?

993

994 Mr. Walker - Currently it's set at twenty-five feet.

995

996 Mr. Wright - It looks like, with the building setback line that's on that plat,
997 you have room to do that without violating anything.

998
999 Mr. Walker - I would consider that if the Board grants this with the
1000 condition; I would consider that.
1001
1002 Ms. Dwyer - This will have a septic system?
1003
1004 Mr. Walker - Yes ma'am.
1005
1006 Ms. Dwyer - And have you done a study for the drain field?
1007
1008 Mr. Walker - I have not had anybody come out yet to look at it. My first
1009 concern was getting this variance approved, and then I would move forward to
1010 addressing that issue. Because that back parcel and the front parcel is an acre, it lends
1011 itself to having several different locations potentially to put that drain field.
1012
1013 Ms. Dwyer - If it's required that it be fifty feet off the line, then the house
1014 would have to be fifty feet off the line, even if the drain field would interfere with that, so
1015 that may cause you some problems.
1016
1017 Mr. Walker - I understand, but what I'm hoping, because this is an acre-
1018 plus, we have more opportunity to locate it in a way that won't impede that condition.
1019
1020 Ms. Harris - You said you were a contractor? Have you built other
1021 homes, 25+ square feet?
1022
1023 Mr. Walker - Yes ma'am; I've built homes as large as 4,000 square feet.
1024 I've built two beautiful homes on Pump Road down near Gayton. Both of those homes
1025 are approximately 3,000 square feet. I've also built some smaller homes, over off of
1026 Chamberlayne Estates, off Azalea. I've built some beautiful entry-level homes over
1027 there that range from 1100 to 1500 square feet, so I have the capability to build any size
1028 home necessary.
1029
1030 Ms. Harris - I noticed that you are very specific in where you want to
1031 place this house, first house. What is it about the land that we can't just put it
1032 somewhere else, anywhere else?
1033
1034 Mr. Walker - The house?
1035
1036 Ms. Harris - The land – I'd like to know about the lot. I know the perk test
1037 will come later, but I was wondering if there are any other problems that you foresee.
1038
1039 Mr. Walker - In regards to where we've set the house, when we submitted
1040 the variance with the County, they require us to put a buildable area on the plat along
1041 with a building type to show where the house is going to be set. What guides me to
1042 actually place that house is the setbacks. As long as I'm within that buildable, I'm in
1043 conformance with the County requirements. So what I did was to put a house type

1044 approximately where I wanted to put it, just so you can see how it impacts the other
1045 properties. Again, I'm not opposed to a condition of fifty feet on that back parcel.

1046
1047 Ms. Dwyer - For the other lot, that fronts on Mill Road, how would that
1048 gain access to Mill – would that use the easement road here or have a separate
1049 access?

1050
1051 Mr. Walker - The way I have it illustrated shows a separate access, but
1052 what I would do is utilize a portion of the easement towards the front for both driveways.

1053
1054 Ms. Dwyer - So there'd be only one access to Mill Road?

1055
1056 Mr. Walker - Yes ma'am.

1057
1058 Ms. Harris - If I could ask the neighbors to stand, and only three spoke,
1059 but I'd like the neighbors to stand. Someone just left. In view of the good will, ill will,
1060 whatever is going on here, I was wondering if you have any plans, I know you build the
1061 homes and sell them, but what do you do when you have neighbors who don't want you
1062 to build a house? Are you obligated as a developer, a builder, to do anything to improve
1063 the relations? For example, the community has a noise problem. I don't think it's your
1064 problem; I think it's a community problem. I just wondered if you had anything in your
1065 experience that would pull the neighborhood together.

1066
1067 Mr. Walker - It really depends on the concerns of the neighborhood. The
1068 neighbors who spoke – Mr. Fogg spoke specifically to the distance from his house.
1069 That's a legitimate issue he has, and again, I'm willing to address that issue by giving
1070 him or moving the house fifty feet from my property line. It really depends on what the
1071 issues are. In terms of the noise, I would be a champion or advocate for the State to
1072 put a sound barrier on that, but again, that's solely up to their discretion. My plans
1073 against 295 are to put as much shrubbery as feasible to somewhat break up the noise
1074 and the visibility of 295. What's great about this property, as Mr. Blankinship spoke to,
1075 it's approximately twenty feet above 295, so it's at the point where you're driving on 295,
1076 the visibility – you may see the rooftops of these homes, which is great. It helps the
1077 marketability of both homes.

1078
1079 Mr. Wright - Any further questions of members of the Board? Hearing
1080 none, that concludes the case. Thank you very much for appearing.

1081
1082 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1083 Nunnally, the Board **denied** application **A-140-2004** for the above-referenced variance.

1084
1085 Affirmative: Kirkland, Nunnally, Wright 3
1086 Negative: Dwyer, Harris, 2
1087 Absent: 0

1088

1089 The Board denied your request as it found from the evidence presented that there was
1090 no "hardship approaching confiscation," and authorizing this variance would be of
1091 substantial detriment to adjacent property.

1092
1093 **A-141-2004** **RON AND DONNA ESSEX** request a variance from Section 24-94
1094 to build an attached 2-car garage at 11102 Brewer Court
1095 (Ridgefield) (Parcel 733-752-8065), zoned R-2A, One-family
1096 Residence District (Tuckahoe). The rear yard setback and total
1097 side yard setback are not met. The applicants propose 29 feet total
1098 side yard setback and 40 feet rear yard setback, where the Code
1099 requires 30 feet total side yard setback and 45 feet rear yard
1100 setback. The applicants request a variance of 1 foot total side yard
1101 setback and 5 feet rear yard setback.

1102
1103 Mr. Blankinship - **A-141-2004** has been withdrawn.

1104
1105 The Board allowed withdrawal of the application for the above-
1106 referenced variance.

1107
1108 **A-142-2004** **K. CHRISTIAN HARKSEN** requests a variance from Section 24-
1109 95(b)(6) to build a one-family dwelling at 2113 Oakwood Lane
1110 (Bryan Park Heights) (Parcel 781-746-2969), zoned R-4, One-
1111 family Residence District (Fairfield). The total lot area requirement
1112 is not met. The applicant has 5,100 square feet total lot area,
1113 where the Code requires 6,000 square feet total lot area. The
1114 applicant requests a variance of 900 square feet total lot area.

1115
1116 Mr. Wright - Does anyone else desire to speak with reference to this
1117 case? Would you raise your right hand and be sworn please?

1118
1119 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1120 truth, the whole truth, and nothing but the truth, so help you God?

1121
1122 Ms. Busch - It is. I'm Barbara Busch, representing Mr. Harksen, who
1123 cannot be here today. We are not the only small lot in that subdivision. Almost every
1124 lot in there is fifty to sixty feet wide. Of course, we do already meet that requirement,
1125 and that's not the problem. The problem is the total square footage of the lot, and we
1126 need to have a minimum of 6,000 square feet. We currently have 5,100 square feet.
1127 Again, all the lots in that area are small. We're not the only ones over there. If you will
1128 look at 2117 Oakwood Lane, 2119 Oakwood Lane, 2112 Oakwood Lane, and 2114
1129 Oakwood Lane, and that's just four; there are others. They also do not meet the total
1130 square footage size requirement, but they have houses on them. So we're not asking
1131 for anything unusual that would not fit in with the subdivision. 2117 has 5,587 square
1132 feet. 2119 has 5,486; 2112 has 5,504; and 2114 has 5,664, so they're all between 5400
1133 and 5600 square feet anyhow. We are the only vacant lot in that block that does not
1134 have a house, but yet the seller, the owner is still paying taxes on something that he is

1135 being told is unusable. We cannot pull from a backyard neighbor, a side yard neighbor,
1136 because we are the only vacant lot, so it's not like we can acquire additional land
1137 somewhere else and then add it to our parcel to make it larger. Being that we have no
1138 place to pull any additional land from, and it does fit in with the area already, and he's
1139 still paying taxes, it's a hardship for him, to be told that the property is worth \$24,000,
1140 when in essence it's really worth \$0 to him if he can't do anything with it. He can't sell it;
1141 he can't will it; he can't trade it. I could see if it was a problem with total square footage,
1142 perhaps if it was a health issue, because let's say that you needed to get well and septic
1143 in there, and certainly a lot of this size would not be large enough to get well and septic
1144 in there; however water and sewer does run the full length of the street. So it's not that
1145 it can't be done; there's plenty of lot size to get the water and sewer in and still get the
1146 house in there. In fact, most of the houses on this street are Cape Cods, about 1380
1147 square feet, some a little less, some a little larger. With the setbacks of the back and
1148 the side and the front requirements, we would still have enough to get a house in there
1149 and still have plenty of room left over. If you did a house that was thirty-five by forty,
1150 that would be 1400 square feet, which is the average size over there anyhow, and that's
1151 just if we did a one-story. If you did a Cape Cod, which is one and a half stories, you
1152 would have 2100 square feet, so it's not going to encroach on the neighbors and make
1153 it look out of place. It is the right size lot for the neighborhood and the right size house
1154 for the neighborhood. We're just asking for you to make the same consideration you
1155 have for others over the years.

1156
1157 Mr. Wright - How much frontage does this lot have?

1158
1159 Ms. Busch - This lot has fifty feet, and I have a plat that I can give you as
1160 Exhibit A if you would like to see it. It's a subdivision plat. I don't have the entire
1161 subdivision, but I do have the street with our parcel and the adjacent parcels next to it.
1162 Would you like to see that?

1163
1164 Mr. Wright - That would be fine.

1165
1166 Mr. Kirkland - Ms. Busch, has your client asked either neighbor on either
1167 side if they'd wish to purchase any part of this lot?

1168
1169 Ms. Busch - If he purchases a portion of the lot

1170
1171 Mr. Kirkland - if they would like to split it between the two of them
1172 or buy it – have you asked either one?

1173
1174 Ms. Busch - They're not interested in doing that. Good try.

1175
1176 Mr. Kirkland - You kept talking about how much taxes they're spending on
1177 this; I was just trying to see if that would relieve it in some way.

1178
1179 Ms. Dwyer - So you can commit to putting a house on this lot that will not
1180 encroach on the required setbacks.

1181
1182 Mr. Wright - That's the same size as lot 10, isn't it?
1183
1184 Ms. Busch - Right, lot 10 is just a tad bit larger actually; that's sixty feet
1185 wide; ours is fifty feet wide, and there are others that are fifty feet wide, of course, and
1186 it's not the lot width or the road frontage we're having a problem with; it's the total
1187 square footage, but yes, it is a little bit larger next door, and they have a Cape Cod
1188 there, one and a half stories, about 1380 square feet. We certainly have the room to do
1189 this same, almost identical house, next door, and still have it fit in with the neighborhood
1190 so it doesn't look out of place.
1191
1192 Mr. Wright - How many square feet is included in lot ten?
1193
1194 Ms. Busch - It is sixty feet wide, and on one side it runs – it's right about
1195 6,000.
1196
1197 Mr. Wright - So it's pretty close.
1198
1199 Ms. Busch - Yes, and we've got 5100, and there's four other ones, to the
1200 left and across the street, that are also not 6,000 square feet, and every one of those
1201 have houses on them. In fact in one case, the boundary line was moved in the past,
1202 and they got the County to move the boundary line for them. We're not asking to move
1203 any boundary lines; we're just asking for us to be able to use what we have.
1204
1205 Ms. Dwyer - This subdivision was platted in late '40's or early '50's before
1206 the zoning ordinance that now applies?
1207
1208 Ms. Busch – That's correct. We do understand that; however the
1209 subdivision was cut up at that time. He just did not file for a building permit at that time,
1210 and so it's a shame that they go by the time that you actually file the building permit, not
1211 by the time you cut it up. If they always went by the time they cut it up, he'd have a
1212 useless piece of property for the rest of his life. He couldn't do anything with it.
1213
1214 Mr. Blankinship - Actually, we do go by the old standard, but even the old
1215 standard required 6,000.
1216
1217 Ms. Busch - Then they must have gotten variances, because what about
1218 2112, 2114, 2117, and 2119? They are not 6,000 square feet; even then they were not.
1219
1220 Mr. Blankinship - I don't know at what point those were built.
1221
1222 Ms. Harris - Ms. Busch, do you have any sample plans, blueprints? You
1223 mentioned that you could have a one-story house built with so many square feet.
1224
1225 Ms. Busch - There's many plans you can put on there. There's
1226 thousands you can get into a book.

1227
1228 Ms. Harris - I'm asking if you have anything in mind.
1229
1230 Ms. Busch - We're probably going to build another Cape Cod, because
1231 just about everything over there is a Cape Cod; it's a lot easier to build up than it is to
1232 build out, because you don't take up as much square footage on the lot, which would
1233 then save the lot space, which we are trying to save, and thereby not encroach on other
1234 neighbors as well. But we would have our minimum side yard setbacks, the back, the
1235 front, all of that would be there, and you would have the same amount of space
1236 between the houses now as you would after we're done building there.
1237
1238 Mr. Nunnally - Is it going to be of brick construction?
1239
1240 Ms. Busch - Probably going to be brick front. It's going to be hard to
1241 duplicate brick today. You're talking about \$107 a square foot to \$114 a square foot to
1242 duplicate brick today.
1243
1244 Mr. Nunnally - Yes, but it looks like there's a brick house on each side of
1245 this lot.
1246
1247 Ms. Busch - It is. It would probably have to be brick front or maybe brick
1248 on three sides, but it would be hard to do brick on four sides and still keep the price
1249 down for that neighborhood. People would not be able to afford that in that
1250 neighborhood. There are a few really, really big ones over there, but generally, the
1251 Cape Cods under 1400 square feet are going for less than \$140,000, some like
1252 \$120,000, and in the teens. So if you duplicate brick, you're way over \$160,000 on that,
1253 sir. We'd like to.
1254
1255 Ms. Harris - Are you a builder?
1256
1257 Ms. Busch - No, I am not. I know the business; I'm a real estate agent.
1258
1259 Ms. Harris - Do you see the fireplug in the front of the lot?
1260
1261 Ms. Busch - Yes, we do.
1262
1263 Ms. Harris - Had you considered what you're going to do, how would that
1264 affect square footage?
1265
1266 Ms. Busch - It looks like it's further towards the front; certainly it's in front
1267 of the house, but I don't think it's right where they want to build the house. It's not
1268 directly where they're going to place the actual house.
1269
1270 Ms. Dwyer - Do you have a measurement on how far back that hydrant
1271 is?
1272

1273 Mr. Blankinship - No, I don't. It should be in the right-of-way though.

1274
1275 Ms. Busch - That shouldn't be a problem if it's in the right-of-way; we
1276 have to be set back twenty-five feet off the road anyhow. You can't build that close to
1277 the road, so it shouldn't be in our way.

1278
1279 Ms. Harris - I think we have a picture of it in our packet.

1280
1281 Ms. Busch - And I could not find anywhere at the County that showed
1282 there was an easement that ran straight through the middle of the lot, that would
1283 prevent us from putting the house there, just across the front, but not into the lot.

1284
1285 Mr. Wright - Any further questions of members of the Board? Is anyone
1286 here in opposition to this request? Hearing none, that concludes the case. Thank you
1287 very much for appearing.

1288
1289 After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr.
1290 Wright, the Board **granted** application **A-142-2004** for a variance to build a one-family
1291 dwelling at 2113 Oakwood Lane (Bryan Park Heights) (Parcel 781-746-2969). The
1292 Board granted the variance subject to the following condition:

1293
1294 1. This variance applies only to the total lot area requirement. All other applicable
1295 regulations of the County Code shall remain in force.

1296
1297 Affirmative: Dwyer, Harris, Nunnally, Wright 4
1298 Negative: Kirkland, 1
1299 Absent: 0

1300
1301 The Board granted this request, as it found from the evidence presented that, due to the
1302 unique circumstances of the subject property, strict application of the County Code
1303 would produce undue hardship not generally shared by other properties in the area, and
1304 authorizing this variance will neither cause a substantial detriment to adjacent property
1305 nor materially impair the purpose of the zoning regulations.

1306
1307 **A-143-2004** **LINDA HARDWICKE** requests a variance from Section 24-41(e) to
1308 build a screened porch over the existing deck at 2703 Stingray
1309 Court (Winchester Pointe) (Parcel 730-754-6587), zoned RTH,
1310 Residential Townhouse District (Three Chopt). The rear yard
1311 setback is not met. The applicant proposes 21 feet rear yard
1312 setback, where the Code requires 30 feet rear yard setback. The
1313 applicant requests a variance of 9 feet rear yard setback.

1314
1315 Mr. Wright - Does anyone else desire to speak with reference to this
1316 case? Would you raise your right hand and be sworn please?

1317
1318 Mr. Blankinship - Do you swear that the testimony you are about to give is the

1319 truth, the whole truth, and nothing but the truth, so help you God?

1320

1321 Ms. Hardwicke - I do. My name is Linda Hardwicke. My request is for a
1322 variance of nine feet. I live in a townhouse development. I'm in a duplex unit. The
1323 setback requirement is thirty feet, and I need a variance of nine feet. My property backs
1324 up to the main road of Winchester Pointe. There is probably an additional buffer of
1325 about fifteen feet behind my home, with a wooded area. There are many other units
1326 within my subdivision that already have screened porches, Florida rooms, and so forth.
1327 By the way, this already has the homeowners' association approval.

1328

1329 Ms. Dwyer - Ms. Hardwicke, I was looking at the drawings that you had,
1330 showing the porch, and it looked like on one side it was a ten-foot porch, and on the
1331 other side it shows a six-foot porch. I guess I was trying to figure that out. It appears to
1332 be straight across the back, so is the porch going to vary?

1333

1334 Ms. Hardwicke - What it is, is a ten by fourteen deck, and it's the conversion
1335 of that deck, but on one end of the deck there is a small storage area that comes out.
1336 That backs up to the fireplace in the living room, so the actual porch will be ten feet
1337 coming out and then fourteen feet across. It just looks strange.

1338

1339 Mr. Wright - It will be exactly where the location of the deck is. Not any
1340 further into the rear?

1341

1342 Ms. Hardwicke - Yes sir. No sir.

1343

1344 Ms. Dwyer - So actually the porch will be ten feet across on both sides;
1345 it's just showing six feet of screened porch where it abuts the storage area.

1346

1347 Ms. Hardwicke - That is correct.

1348

1349 Mr. Wright - And behind your house is the street? Is there a common
1350 area back there also?

1351

1352 Ms. Hardwicke - Yes sir. And there is a wooded area back there. It varies
1353 because the lot angles off. If you look at the aerial, I'm the one in yellow; you can see
1354 the wooded area back there. It probably goes from fifteen feet to twenty-five feet, so
1355 there is a buffer to all surrounding neighbors except the ones up there on Stoney Court.

1356

1357 Mr. Wright - Any further questions of members of the Board? Is anyone
1358 here in opposition to this request? Hearing none, that concludes the case. Thank you
1359 very much for appearing.

1360

1361 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Ms.
1362 Harris, the Board **granted** application **A-143-2004** for a variance to build a screened
1363 porch over the existing deck at 2703 Stingray Court (Winchester Pointe) (Parcel 730-
1364 754-6587). The Board granted the variance subject to the following conditions:

1365
1366 1. Only the improvements shown on the plan filed with the application may be
1367 constructed pursuant to this approval. Any additional improvements shall comply with
1368 the applicable regulations of the County Code.

1369
1370 2. The new construction shall match the existing dwelling as nearly as practical.

1371
1372 Affirmative: Dwyer, Harris, Kirkland, Nunnally 4
1373 Negative: Wright 1
1374 Absent: 0

1375
1376 The Board granted this request, as it found from the evidence presented that, due to the
1377 unique circumstances of the subject property, strict application of the County Code
1378 would produce undue hardship not generally shared by other properties in the area, and
1379 authorizing this variance will neither cause a substantial detriment to adjacent property
1380 nor materially impair the purpose of the zoning regulations.

1381
1382 **A-144-2004** **DONNA SCHURMAN** requests a variance from Section 24-
1383 95(i)(2)a. to build a detached carport and workshop at 2210
1384 Persimmon Trek (Covered Bridge) (Parcel 743-753-1354), zoned
1385 C-1, Conservation District and R-4, One-family Residence District
1386 (Three Chopt). The accessory structure size limit is not met. The
1387 applicant proposes 1,234 square feet of accessory structures,
1388 where the Code allows 683 square feet of accessory structures.
1389 The applicant requests a variance of 551 square feet.

1390
1391 Mr. Wright - Does anyone else desire to speak with reference to this
1392 case? Would you raise your right hand and be sworn please?

1393
1394 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1395 truth, the whole truth, and nothing but the truth, so help you God?

1396
1397 Ms. Schurman - I do. My name is Donna Schurman. I want two things. I
1398 want a tool shed so my husband will have a place to play, and I want a carport so that
1399 I'll have a place for my brand new baby to live. I turned 45 this year, and I was very
1400 fortunate to find my dream car, so I bought my Sebring convertible, and I have no
1401 garage and no carport now, and I really don't want it to get snowed on. We live in a
1402 beautiful subdivision; we love our home. We have a driveway that goes on forever, and
1403 the rear of our yard is an all natural area. There is no grass, and we had a tool shed
1404 back there, but we gave it away, and we would really like to have had the carport at the
1405 end of the driveway there where we park our cars, but there's a drainage culvert, a drop
1406 at the street that runs between our driveway and our neighbor's driveway. If we stayed
1407 within the guidelines, we could attach a carport to the house, but we're not able to do
1408 that because of the drainage culvert, and we could build the shed separately and still be
1409 within the limitations that are allowed. All of the options that are available to us that are
1410 within the limitations are architecturally undesirable. We believe that the best looking

1411 thing to do is build the shed and attach the carport to it instead of attaching it to the
1412 house. To attach any of it to the house, by way of a breezeway or a covered
1413 breezeway, would look horrible, so this is what we propose, and our neighbors love the
1414 idea, and I do have a letter of approval, for you, that they've approved the plans and
1415 don't have any objections.

1416
1417 Mr. Wright - What's the size of your lot?

1418
1419 Ms. Schurman - Huge.

1420
1421 Mr. Wright - Do you know how many square feet? It looks pretty large to
1422 me. Mr. Blankinship, do we know what the size of the lot is?

1423
1424 Mr. Blankinship - I don't see it listed here. Just eyeballing it, I would guess
1425 that it's in the neighborhood of, it looks like 100 by 400, so 40,000 square feet, roughly
1426 an acre.

1427
1428 Mr. Wright - What the problem here is the requirement in the Code is
1429 geared to the size of lot for this zoning area, and your lot well exceeds that, so when
1430 you look at it from that viewpoint, it's not affecting the neighborhood or anything,
1431 because of the size of the accessory buildings relative to the size of the lot. That's the
1432 problem. You have behind this proposed carport shed, it appears that we have a lot of
1433 screening, trees, etc. Can you see your neighbor to the rear?

1434
1435 Ms. Schurman - Only in the winter when the leaves are down.

1436
1437 Mr. Wright - And that's still a long distance from this point to the
1438 neighbor's line. This is not in the flood plain, is it, Mr. Blankinship?

1439
1440 Mr. Blankinship - The proposed building is not, no sir.

1441
1442 Mr. Wright - Part of the property is though, isn't it?

1443
1444 Mr. Blankinship - Yes sir.

1445
1446 Ms. Schurman - Yes, and thanks to Isabel, we do know how far the water will
1447 come. It came up every bit to the dotted line.

1448
1449 Ms. Harris - Is that gazebo considered in the accessory structure
1450 allotment?

1451
1452 Ms. Schurman - But it has our hot tub in it; we're not moving it.

1453
1454 Mr. Wright - Any further questions of members of the Board? Is anyone
1455 here in opposition to this request? Hearing none, that concludes the case. Thank you
1456 very much for appearing.

1457
1458 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Ms.
1459 Harris, the Board **granted** application **A-144-2004** for a variance to build a detached
1460 carport and workshop at 2210 Persimmon Trek (Covered Bridge) (Parcel 743-753-
1461 1354). The Board granted the variance subject to the following condition:

1462
1463 1. Only the improvements shown on the plan filed with the application may be
1464 constructed pursuant to this approval. Any additional improvements shall comply with
1465 the applicable regulations of the County Code.

1466
1467 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1468 Negative: 0
1469 Absent: 0

1470
1471 The Board granted this request, as it found from the evidence presented that, due to the
1472 unique circumstances of the subject property, strict application of the County Code
1473 would produce undue hardship not generally shared by other properties in the area, and
1474 authorizing this variance will neither cause a substantial detriment to adjacent property
1475 nor materially impair the purpose of the zoning regulations.

1476
1477 **A-145-2004** **LEONARD SHEPHERD** requests a variance from Sections 24-
1478 95(c)(1) and 24-9 to build an addition at 2111 Tuckaway Lane
1479 (Parcel 753-747-0153), zoned R-2A, One-family Residence District
1480 (Tuckahoe). The minimum side yard setback and public street
1481 frontage requirement are not met. The applicant has 0 feet public
1482 street frontage and 3 feet minimum side yard setback, where the
1483 Code requires 50 feet public street frontage and 9 feet minimum
1484 side yard setback. The applicant requests a variance of 50 feet
1485 public street frontage and 6 feet minimum side yard setback.

1486
1487 Mr. Wright - Does anyone else desire to speak with reference to this
1488 case? Would you raise your right hand and be sworn please?

1489
1490 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1491 truth, the whole truth, and nothing but the truth, so help you God?

1492
1493 Mr. Shepherd - I do. I'm Leonard Shepherd. I live at 2111 Tuckaway Lane,
1494 and the house was built around 1950. Tuckaway Lane has always been a private road.
1495 It was originally part of the Franklin Farms, and the Franklin brothers separated each lot
1496 for one of the Franklin children. Each one got a lot, and the each built their own houses.
1497 It was a private road, and it's still a private road. The County has never taken it up, and
1498 that's one of the problems, which I didn't realize was a problem till I went to get a
1499 building permit. What I want to do, my house is the smallest house on the lot, and it
1500 was built by one of the Franklin brothers who was a brick layer, and then he eventually
1501 built the house that's next door to me and moved out, and then rented out my house.
1502 The addition I'm proposing would bring my house up to the size of the other houses on

1503 the street. The only problem I have is the garage and outbuildings were built years ago
1504 on my property, and they don't conform to the side yard setbacks. So as you see in that
1505 picture, there's a lot of stuff in the back yard, and I want to apologize for the way it
1506 looks. I do home improvements; I'm a contractor, and my house, I'm like the
1507 shoemaker whose children don't have any shoes. I've just let my house go down, but
1508 now I've refinanced the house, and I'm going to get my guys working over there, and
1509 we're going to do it like one of the projects I do for everybody else. We'll get the whole
1510 house looking a whole lot better than it does now, but the one problem is, the side
1511 buildings, the lot that they're too close to is part of my neighbor's property, which is just
1512 a vacant lot between her and me. They don't ever plan on selling that lot; years ago
1513 they couldn't sell it because it wouldn't perk, but of course now that they're building a
1514 library across the street, for about \$10,000 or \$11,000, we could get sewer, but they
1515 don't plan on selling that lot. I've talked to my neighbors; my neighbor behind me,
1516 nobody has any problems. I think what I want to do would increase the value of my
1517 house and make the whole neighborhood look better.

1518
1519 Ms. Dwyer - These accessory structures that are along the side – will all
1520 of them remain?

1521
1522 Mr. Shepherd - The little one in the very back is just not on a permanent
1523 setting; that was just brought in there. But the rest of them will remain, but will be fixed
1524 up to look better.

1525
1526 Ms. Dwyer - Could we show the picture where these structures attach to
1527 the rear of the house.

1528
1529 Mr. Shepherd - The one you see right there attached to the house, that's the
1530 utility room, and that will be torn down, because that's part of the new addition.

1531
1532 Ms. Dwyer - So that will be torn down. What about the flat roofed one
1533 next to it? Will that be torn down as well.

1534
1535 Mr. Shepherd - No, but you won't see the door, because the whole addition
1536 will come over in front of that.

1537
1538 Ms. Dwyer - So how will the addition tie into the house and the buildings
1539 on the side?

1540
1541 Mr. Shepherd - There won't be any access to the buildings on the side,
1542 except from the outside. There won't be any access from the buildings on the side into
1543 the house, but they'll be attached to the house.

1544
1545 Ms. Dwyer - How will the roof line of the addition tie into the main house?

1546
1547 Mr. Shepherd - The addition is going to have a shed roof, and I've got a
1548 better plan, if you'd like to look at it. The addition will have a shed roof, except for

1549 there's a tower that I needed room for to have a breakfast room that's on one end, but ..
1550
1551 Ms. Dwyer - it will tie in under the dormers.
1552
1553 Mr. Shepherd - That's right.
1554
1555 Ms. Dwyer - Is that a porch on the back?
1556
1557 Mr. Shepherd - It's a small porch, that's right.
1558
1559 Ms. Dwyer - Do you have two shed roofs? Is that two angles, what looks
1560 like a line coming

1561
1562 Mr. Shepherd - the porch is at a slightly different angle than the
1563 other shed roof, because if it kept on coming down at that angle, at that pitch, you
1564 wouldn't have enough head room on the porch.
1565
1566 Ms. Dwyer - The accessory structure that's attached to the side of the
1567 house, that has the flat roof, that's going to stay?
1568
1569 Mr. Shepherd - Yes, that's more or less a carport.
1570
1571 Ms. Dwyer - The house itself meets the side yard setback, I believe. It's
1572 the accessory structure

1573
1574 Mr. Shepherd - on this side it's got 32 feet. It's an acre lot. It's just
1575 the other side that's right

1576
1577 Ms. Dwyer - but as we're looking at this picture on the left
1578 side, the brick house meets the side yard setback I believe. It's the carport.
1579
1580 Mr. Shepherd - That's right. And even if I tore down the carport and I put on
1581 the addition, then the garage would be too close. The garage is already too close to the
1582 house, from the ten feet that the County requires, and all that was built years ago.
1583 There's no way, then I'd have to tear down the garage and everything to do this, which
1584 would be

1585
1586 Ms. Dwyer - what I'm getting at is the side yard setback variance
1587 is really to cover the existing structures. So the road frontage variance is because
1588 Tuckaway is a private road and has no frontage on Three Chopt.
1589
1590 Mr. Shepherd - That's right. The new addition meets all the requirements.
1591 And I don't know why that wasn't addressed years ago because all the houses on
1592 Tuckaway are on a private road. The new addition is completely within the zoning
1593 setback and everything. The back yard is very large and in fact, with the trees and
1594 everything back there, only in the winter can I see the neighbor's house. I did go to all

1595 the adjoining neighbors and talk to them. I didn't get letters, but I talked to all the
1596 adjoining neighbors, and everybody's fine with it.

1597
1598 Mr. Wright - Any further questions of members of the Board? Is anyone
1599 here in opposition to this request? Hearing none, that concludes the case. Thank you
1600 very much for appearing.

1601
1602 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.
1603 Kirkland, the Board **granted** application **A-145-2004** for a variance to build an addition
1604 at 2111 Tuckaway Lane (Parcel 753-747-0153). The Board granted the variance
1605 subject to the following condition:

1606
1607 1. Only the improvements shown on the plan filed with the application may be
1608 constructed pursuant to this approval. Any additional improvements shall comply with
1609 the applicable regulations of the County Code.

1610
1611 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1612 Negative: 0
1613 Absent: 0

1614
1615 The Board granted this request, as it found from the evidence presented that, due to the
1616 unique circumstances of the subject property, strict application of the County Code
1617 would produce undue hardship not generally shared by other properties in the area, and
1618 authorizing this variance will neither cause a substantial detriment to adjacent property
1619 nor materially impair the purpose of the zoning regulations.

1620
1621 **A-146-2004** **DARRYL JACKSON** requests a variance from Sections 24-94 and
1622 24-9 to build a one-family dwelling at 2206 New Market Road
1623 (Parcel 812-690-3306 (part)), zoned A-1, Agricultural District
1624 (Varina. The lot width requirement and public street frontage
1625 requirement are not met. The applicant has 110 feet lot width and
1626 0 feet public street frontage, where the Code requires 150 feet lot
1627 width and 50 feet public street frontage. The applicant requests a
1628 variance of 40 feet lot width and 50 feet public street frontage.

1629
1630 Mr. Wright - Does anyone else desire to speak with reference to this
1631 case? Would you raise your right hand and be sworn please?

1632
1633 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1634 truth, the whole truth, and nothing but the truth, so help you God?

1635
1636 Mr. Jackson - Yes. My name is Darryl Jackson. I'd like permission to build
1637 a one-family dwelling at 2206 New Market Road. The land and the home I'm getting is
1638 a gift from my aunt and my mother. In my little drawing, I put it to the right. My acre is
1639 supposed to have 150 feet back yard, 50 feet front yard. I'm a few feet short of the front
1640 yard space. The whole lot itself is owned by my mother; it won't be sold any time soon.

1641 I'm the sole beneficiary. We just need a variance for that few feet of front yard space.
1642 The contractor and I, we measured it out. The house itself is 28 feet wide. I can get the
1643 50 feet in front, maybe like ten feet short of the front yard space. I plan on using the
1644 driveway coming off of her driveway and come to the left of the home.

1645
1646 Mr. Nunnally - What type home did you say?
1647

1648 Mr. Jackson - It's going to be a double-wide trailer.
1649

1650 Mr. Nunnally - How far back off of New Market Road is this house going to
1651 be?
1652

1653 Mr. Jackson - According to this map I have, my mother's fifty feet; I'm kind
1654 of like maybe 200 feet further back, 397 total feet from the road. It is visible from the
1655 road.
1656

1657 Mr. Kirkland - Have you read all the conditions for this case?
1658

1659 Mr. Jackson - I'm catching them slowly but surely; I'm doing everything as I
1660 find out about them. I was told the trailer can be built there; there are several in the
1661 area. I just had to go through the variance because I was not on the footage (frontage)
1662 and I would like to have County water and septic system. The soil scientist is in the
1663 process now of doing the brick for the type of drain fill I need for the septic filtration
1664 system, because this land holds water and did not pass a perk test, so I do have to get
1665 the filtration system. The soil scientist is in the process now of doing everything for me,
1666 and the results will show what type of system I need within the next couple of days.
1667

1668 Ms. Dwyer - The plat that you have provided us shows a 20-foot
1669 easement along the edge of the property line. I believe that's the western line, and then
1670 you've drawn in a driveway that you plan to actually use.
1671

1672 Mr. Jackson - Yes ma'am, because it's wooded, and it's kind of moist when
1673 it rains real bad; it's moist and soggy and holds a lot of water. Every pitch was taken
1674 before we cleared everything, but we knocked most of it down to try to stay much more
1675 level, and I put a gravel driveway there so far.
1676

1677 Ms. Dwyer - That makes sense, and there's a blue area there. What
1678 does that mean? Does that mean flood plain, or what does that mean, Mr. Blankinship?
1679 It looks like a pond. Does that mean it's flood plain or springs?
1680

1681 Mr. Blankinship - I can't say for sure.
1682

1683 Ms. Dwyer - It shows water?
1684

1685 Mr. Jackson - The part that we do knock down, we're prepared to fill it with
1686 dirt, and that's the reason, I'm quite sure, why we need the filtration system. The house

1687 will be a little ways to the right, and the soil scientist, he has been out there and marked
1688 the area for the system, where it needs to go. Everything is set on that part; he just
1689 needs to do his testing to see what type of system we need. He says the septic system
1690 can be put in, the land is good for a home to be built on, and we're just waiting to see
1691 what type of system we need, because he was telling me there's three different types.
1692

1693 Ms. Dwyer - If we allow this division, we have to think not only about how
1694 you're going to use the property, but who might be using the property in fifty years or
1695 one hundred years. So one of the things that's required is that you have a legal
1696 easement to this property from New Market Road, and the plat that's been given to us
1697 shows that the twenty-foot easement coming along the property line through the blue
1698 area that might be a pond, that you don't plan to use because you already know it's too
1699 moist there, so that would be my first concern, is that we need to make sure that we
1700 have a location for the permanent easement that will work in perpetuity, that will work
1701 forever for this back lot, and it doesn't look like we have that. You might have
1702 permission now to use that driveway because your mother lives there, but in fifty years
1703 neither of you may be living there. You don't know; we have to think that way. We have
1704 to plan for someone who lives in the back parcel who doesn't know the person who lives
1705 in the front parcel. We don't want to cause a lawsuit in the future over how a person is
1706 going to get to their house. So there has to be a useable driveway and legal access.
1707

1708 Mr. Jackson - Will I need to build a separate driveway to the side of that?
1709

1710 Ms. Dwyer - I'm not sure.
1711

1712 Mr. Jackson - That driveway itself is divided off to the property beside it; it's
1713 also used by the property beside it. The property beside it also uses that driveway also,
1714 because they have a circular horseshoe type of driveway also, so that person that owns
1715 that property also uses that driveway also.
1716

1717 Ms. Dwyer - That's not our concern at this point. Our concern is how can
1718 we, there needs to be a legal and permanent access to your lot from New Market Road,
1719 that doesn't go through a pond or wet area.
1720

1721 Mr. Wright - Not only that, but you have to demonstrate that when you
1722 get your building permit, or you cannot get the building permit; that's one of the
1723 conditions that Mr. Kirkland's referring to. If you'll look at those conditions, one of them
1724 requires before you can get a building permit, you have to demonstrate that you have a
1725 legal access to the property which would be something that would be dedicated and
1726 recorded for the future. You just can't say, "well, you can use my driveway." That won't
1727 cut it.
1728

1729 Mr. Jackson - Would a legal right-of-way solve the problem?
1730

1731 Mr. Wright - Now you show that on this plat; you show an access that
1732 normally would be it, but that would have to be granted, but you have to have that

1733 easement granted to you by a legal document that's recorded of record that would make
1734 it a permanent easement.
1735
1736 Mr. Jackson - So who do I send that document to?
1737
1738 Mr. Wright - That's something you'd have get a lawyer or someone to
1739 draft and get it recorded in the proper form so it would be acceptable to Mr. Blankinship
1740 when you apply for your building permit.
1741
1742 Mr. Blankinship - It would be part of conveying the property legally, when your
1743 mother or your aunt conveys it to you, that would be part of that. Ms. Dwyer's concern
1744 is just that the easement be in the same location where the driveway is. Do I
1745 understand you correctly?
1746
1747 Ms. Dwyer - I just wanted to make sure that he understood that even
1748 though he has an arrangement not to use that easement, it needs to be granted
1749 nonetheless. My other concern is that the usable easement, in light of the fact that it
1750 seems to be going through this wet area.
1751
1752 Mr. Blankinship - I'd just like to see the easement follow the driveway.
1753
1754 Ms. Dwyer - I don't have a problem if his mother lives there now and she
1755 doesn't mind him using another driveway, that's okay with me, but we need to make
1756 sure that for future use of that back parcel, there is a legal and usable easement that is
1757 dedicated.
1758
1759 Mr. Wright - Not only that, but it has to be sufficient for access for public
1760 vehicles, like a fire truck or emergency vehicle. We have to make sure that they can get
1761 to the property.
1762
1763 Mr. Jackson - It's cleared off and it's wide enough area for a big truck to
1764 get through there. The driveway is fairly wide, and it has good access to the area where
1765 the home will be.
1766
1767 Ms. Harris - Are you speaking of the driveway that you have

1768
1769 Mr. Jackson - that I have drawn, yes.
1770
1771 Ms. Harris - That's the one that you said double-wide, I know when they
1772 have double-wide constructions, if they have to bring this through the property, based
1773 on the driveway that you've constructed, not the driveway that is proposed in the plan.
1774
1775 Mr. Jackson - We already looked at that, and there's plenty of room for
1776 that. The little driveway that I drew, coming off my mother's driveway, yes they say that
1777 is good enough and ample for them.
1778

1779 Ms. Dwyer - Mr. Blankinship, is the proposed easement, not the hand-
1780 drawn driveway, is there an issue with that going through the blue area that is either a
1781 pond or a wet area?
1782

1783 Mr. Blankinship - I don't know why that is showing up in blue; it shows on the
1784 contour map as only being one more contour line, two feet below where the house is,
1785 and it appears to be wooded, in just looking at this drawing, so I'm not sure why it
1786 showed up in a different color. I don't really see any problem with that, and when we
1787 were out at the site, we were actually looking at the opposite side. We came in the
1788 other end of the driveway, because it looked like that was the natural access to the back
1789 part of the lot to us. I don't know that it's a problem, but we need to be sure when we
1790 get it recorded.
1791

1792 Mr. Kirkland - There seems to be another little round one down there in the
1793 other corner.
1794

1795 Mr. Blankinship - Yes, and you can see again that it's just part of the woods
1796 there, but it is a little bit lower.
1797

1798 Ms. Dwyer - Maybe it's a spring.
1799

1800 Ms. Jackson - I'm Gertrude Jackson, the owner of the property; I'm Darryl's
1801 mother. The land originally was farm land, and my uncle had little ponds there to feed
1802 the animals. When we had the land cleared, we had those areas filled in with soil so
1803 that would not be a problem. The section of land that Darryl is referring to, that is moist
1804 that we decided not to use that because it was moist, but it is something that we can fill
1805 in, hopefully now not, but later, because it will take a lot of dirt to fill that in, to get that
1806 cleared up.
1807

1808 Ms. Dwyer - So it was a pond at one time, you remember?
1809

1810 Ms. Jackson - Yes.
1811

1812 Ms. Dwyer - Were there springs there, feeding the pond, do you know?
1813

1814 Ms. Jackson - I honestly don't know how the water was getting there.
1815

1816 Mr. Wright - Any further questions of members of the Board? Is anyone
1817 here in opposition to this request? Hearing none, that concludes the case. Thank you
1818 very much for appearing.
1819

1820 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Ms.
1821 Harris, the Board **granted** application **A-146-2004** for a variance to build a a one-family
1822 dwelling at 2206 New Market Road (Parcel 812-690-3306 (part)). The Board granted
1823 the variance subject to the following conditions:
1824

1825 1. This variance applies only to the lot width and public street frontage
1826 requirements. All other applicable regulations of the County Code shall remain in force.

1827
1828 2. Approval of this request does not imply that a building permit will be issued.
1829 Building permit approval is contingent on Health Department requirements, including,
1830 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1831 of a well location.

1832
1833 3. At the time of building permit application the owner shall demonstrate that the
1834 parcel created by this division has been conveyed to members of the immediate family,
1835 and the subdivision ordinance has not been circumvented.

1836
1837 4. The applicant shall present proof with the building permit application that a legal
1838 access to the property has been obtained.

1839
1840 5. The owners of the property, and their heirs or assigns, shall accept responsibility
1841 for maintaining access to the property until such a time as the access is improved to
1842 County standards and accepted into the County road system for maintenance.

1843
1844 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1845 Negative: 0
1846 Absent: 0

1847
1848 The Board granted this request, as it found from the evidence presented that, due to the
1849 unique circumstances of the subject property, strict application of the County Code
1850 would produce undue hardship not generally shared by other properties in the area, and
1851 authorizing this variance will neither cause a substantial detriment to adjacent property
1852 nor materially impair the purpose of the zoning regulations.

1853
1854 **Beginning at 10:00**

1855
1856 Mr. Wright - Any deferrals or withdrawals?

1857
1858 Mr. Blankinship - No sir.

1859
1860 **A-147-2004** **STANLEY J. SCHERMERHORN** requests a variance from Section
1861 24-9 to build a one-family dwelling at 11320 Winfrey Road (Parcels
1862 779-774-3922 (part) and 779-773-0293 (part)), zoned A-1,
1863 Agricultural District (Fairfield). The public street frontage
1864 requirement is not met. The applicant has 0 feet public street
1865 frontage, where the Code requires 50 feet public street frontage.
1866 The applicant requests a variance of 50 feet public street frontage.

1867
1868 Mr. Wright - Does anyone else desire to speak with reference to this
1869 case? Would you raise your right hand and be sworn please?

1870

1871 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1872 truth, the whole truth, and nothing but the truth, so help you God?
1873
1874 Ms. Gardner - I do. My name is Doreen Gardner, representing Stan
1875 Schermerhorn. They're in Australia right now. I'm the one who's going to be
1876 purchasing the property to build the house.
1877
1878 Mr. Blankinship - Before you begin, I had called and asked them to provide a
1879 more accurate survey of the property to be conveyed. Do you know whether that was
1880 done? I haven't received anything.
1881
1882 Ms. Gardner - They're still in Australia, and they've been there for two
1883 weeks, so it was a request that was done recently.
1884
1885 Mr. Blankinship - It was about two weeks ago, so probably just before they
1886 left. I was just concerned that what they submitted was basically a tax map with a little
1887 rectangle sketched on it, and when we went out and visited the site, the location that's
1888 been cleared and prepared for this dwelling, doesn't appear to be within a couple
1889 hundred feet of the little rectangle that they drew on the tax map, and that just left me
1890 very uncertain about exactly what part of the property we were talking about. Are you
1891 prepared to address that?
1892
1893 Ms. Gardner - As to an exact location, plot-wise? No, I don't have any
1894 information on that at all.
1895
1896 Mr. Wright - You mean we don't have a survey of the property that we're
1897 concerned with?
1898
1899 Mr. Blankinship - No sir, they submitted the old tax map actually with a
1900 rectangle noted on it, and they submitted the Health Department sketch, which gives
1901 you accurate representation of where the house is with respect to the drives and the
1902 greenhouses, but there are no other overall landmarks on that, and it doesn't appear to
1903 me, and I could be mistaken, to match the two exhibits, and do not show the same
1904 location within a couple hundred feet.
1905
1906 Mr. Wright - I don't see how we can consider a case if we don't have a
1907 survey showing where the property is.
1908
1909 Mr. Blankinship - I called and requested further information, and it hasn't been
1910 received.
1911
1912 Ms. Gardner - So you're saying you need an actual survey?
1913
1914 Mr. Wright - Yes we would.
1915
1916 Ms. Gardner - I just came in from Michigan last night, so all I have is the

1917 paperwork that was left for me from the Schermerhorns.
1918
1919 Mr. Wright - My recommendation is that we continue this, defer it to the
1920 next meeting, to give you the opportunity to get the information we need to consider it.
1921
1922 Ms. Gardner - There's nothing, it's basically now just a request for a
1923 variance because of the footage.
1924
1925 Mr. Wright - Yes, we can't tell where the footage is.
1926
1927 Mr. Blankinship - There's also the question of the flood plain, what's sketched
1928 here, about half of the rectangle appears to be in the flood plain, and if it's one acre, that
1929 entire acre has be outside of the flood plain, so there are some other issues.
1930
1931 Mr. Wright - The problem is you don't have 50 feet public street frontage,
1932 and we've got to know where the property is to determine whether that's what the case
1933 is.
1934
1935 Ms. Gardner - All right. Did you speak to anyone specifically?
1936
1937 Mr. Blankinship - To Mrs. Schermerhorn, Nicole yes.
1938
1939 Ms. Gardner - Well, they'll be in tonight, so I can request that this be
1940 deferred to the next meeting? And the next meeting is?
1941
1942 Mr. Wright - December 16.
1943
1944 Ms. Gardner - That's fine, if there's nothing I can get right now without that
1945 paperwork, then there's really nothing I can do about it.
1946
1947 Upon a motion by Ms. Dwyer, seconded by Ms. Harris the Board **deferred** application
1948 **A-147-2004** for a variance to build a one-family dwelling at 11320 Winfrey Road
1949 (Parcels 779-774-3922 (part) and 779-773-0293 (part)). The case was deferred at the
1950 request of the representative, to obtain further information, from the November 18,
1951 2004, until the December 16, 2004, meeting.
1952
1953 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1954 Negative: 0
1955 Absent: 0
1956
1957 **A-148-2004** **WACHOVIA BANK** requests a variance from Section 24-
1958 104(g)(2)c. to install four signs at 11290 Nuckols Road (Parcel 746-
1959 772-8676), zoned O-2C, Office District (Conditional) (Three Chopt).
1960 The maximum number of signs is not met. The applicant proposes
1961 two attached signs and two detached signs, where the Code allows
1962 one attached or detached sign. The applicant requests a variance

1963 of three signs.
1964
1965 Mr. Wright - Anyone who needs to speak with reference to this case
1966 needs to stand and be sworn at one time? Would you raise your right hand and be
1967 sworn please?
1968
1969 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1970 truth, the whole truth, and nothing but the truth, so help you God?
1971
1972 Mr. Moore - Yes I do. My name is Horace Moore. We're on a corner not,
1973 located at Twin Hickory and Nuckols Road, and it's a conditional use that the County
1974 didn't know exactly how to deal with. We would like to reduce our request. We have a
1975 permit for one wall sign; we would like an additional wall sign and just one monument
1976 sign as an addition.
1977
1978 Mr. Wright - The wall sign's already up on the building, isn't it? I see it
1979 every day as I go by.
1980
1981 Mr. Moore - Okay, we have the permit for that one. So our variance
1982 request is for an additional wall sign and an additional monument. We are actually
1983 allowed two monuments or one wall sign, but with the berms in front of the bank, we are
1984 concealed where the bank has no exposure, and the information signs have to be
1985 monolithic, but they're not allowed a Wachovia logo or the word "Wachovia" to be
1986 exposed on the directional signs, so it conceals the identity of Wachovia Bank, so we
1987 are requesting one additional wall sign, and one additional monument sign of 24 square
1988 feet. I have branding books. I'm not sure; I did present it to the County. You should
1989 have this, but like the apothecary right across the street, it has five exposed signs, and
1990 it's in the same conditional use area. It has a monument sign, it has two exterior wall
1991 signs, and two interior wall signs that are exposed to the outside. Also adjacent, across
1992 the corner from the Wachovia Bank, is the drugstore, Walgreens, that has five, and the
1993 County, in talking to the Administration, they agree that one more additional monument
1994 of 24 square feet and one more additional wall sign would not be an excess of signs
1995 and it would not damage the area in exposure of contour.
1996
1997 Mr. Blankinship - Who agreed with that?
1998
1999 Mr. Moore - When I went to apply for the permits, on a double road
2000 frontage, you're allowed two monument signs, and in this, there is a conditional use that
2001 they couldn't decide if it was zoned a bank or an office or a corner lot, and the way the
2002 rules read, we could only have one wall sign or two monument signs, which could only
2003 be 16 square feet each, or we could have one monument sign of 24 square feet, so we
2004 were still bound by one sign and it took about a month to finally get them to well
2005 actually, I went ahead and applied for the one wall sign and requested a variance so we
2006 would have exposure on both road frontages that would be big enough to really work for
2007 the bank.
2008

2009 Ms. Dwyer - So you requested two attached and two detached signs,
2010 originally, but now you just want what you're calling two wall signs and one monument
2011 sign, two attached and one detached.
2012

2013 Mr. Moore - Yes ma'am, so the variance would be for additional wall and
2014 one monument.
2015

2016 Mr. Wright - Where would the additional wall signs be?
2017

2018 Mr. Moore - I have a brand name book here, with all of it on it. I didn't
2019 bring the County by some of these very ones. I have the entire book here; I thought
2020 they would have made copies and passed them out. I did give that to the County, and I
2021 thought they were going to make duplicates and pass them out. On the front page, you
2022 can see the Walgreens across the corner with the five exposed signs, and if you
2023 continue turning the page, it will show you where the wall sign will go on each side,
2024 facing each road frontage, and where we would like the monument sign to go at the
2025 corner.
2026

2027 Mr. Wright - You want a wall sign that you can see from Hickory.
2028

2029 Mr. Moore - Yes sir.
2030

2031 Mr. Wright - Andy you've already got one that you can see from Nuckols
2032 Road. See, the wall sign's pretty obvious.
2033

2034 Mr. Moore - Well, there is a berm on Hickory. The wall sign faces
2035 Nuckols Road, and Nuckols Road is like this, and Hickory goes like this; Nuckols is
2036 exposed this way; this is exposed to Hickory.
2037

2038 Mr. Wright - I can see the one from Nuckols Road without any problem.
2039

2040 Mr. Moore - Oh yes sir, absolutely.
2041

2042 Ms. Dwyer - This is an O-2C; were there any conditions relating to office
2043 signs?
2044

2045 Mr. Moore - The conditional use for office signs is one sign only.
2046

2047 Ms. Dwyer - I know that's what the Code says; I'm wondering if there
2048 were any proffers agreed to.
2049

2050 Mr. Blankinship - I was looking for them; for some reason I'm not seeing them.
2051

2052 Mr. Moore - We couldn't find any that specifically said we couldn't. There
2053 was no conditional use; we couldn't find it; we have all the ordinances here, but it's a
2054 little bit unclear too; that's where I found the problem in applying for the permits to start

2055 with.
2056
2057 Mr. Kirkland - There weren't any conditions in this case?
2058
2059 Ms. Dwyer - It's an O-2C zoning case, so there were conditions.
2060
2061 Mr. Kirkland - I'm sure there was a load of things out there around Twin
2062 Hickory.
2063
2064 Ms. Dwyer - Could I just ask you this question while they're looking this
2065 up? When you measure the square footage, I notice that the wall sign has the logo and
2066 then it just has the letters attached to the wall. How do you measure the square footage
2067 of the sign?
2068
2069 Mr. Moore - Squared it off, but if I'm not mistaken, it was only a set of
2070 channel letters that was posed without the little square logo on the end of it. It should
2071 be in that framing book.
2072
2073 Ms. Dwyer - I was thinking that if you just measure the square footage of
2074 the letters

2075
2076 Mr. Moore - Yes ma'am, it would be smaller.
2077
2078 Ms. Dwyer - But the County may have a requirement for squaring it off.
2079
2080 Mr. Moore - In the square footage, it was allowed two of them at 14
2081 square feet, be 28 square feet, and I think, according to the ordinance, we were allowed
2082 32 square feet, or something like that.
2083
2084 Mr. Blankinship - The total of all signs on the property could not exceed 32,
2085 and the proffered condition states that any detached signs shall be ground-mounted
2086 monolithic-type signs, but it does not limit the number of signs that I can see. It doesn't
2087 limit it any more than the Code does.
2088
2089 Mr. Wright - How can Walgreens have a wall sign on Nuckols Road and
2090 Twin Hickory:
2091
2092 Mr. Blankinship - They're in B-2C zoning, so it's a completely different set of
2093 rules. This is office zoning, and that's commercial zoning, business.
2094
2095 Mr. O'Kelly - Mr. Chairman, if I might comment on the Walgreens sign,
2096 that property will be in the future developed as a shopping center with Ukrops, and at
2097 that time, the agreement with Walgreens is that their detached sign will be removed,
2098 and they'll be identified on the tower sign for the shopping center.
2099
2100 Mr. Wright - That's the detached sign. I'm talking about the wall signs, up

2101 on the wall. They've got one up on Nuckols Road, and they've got one on Twin Hickory.
2102
2103 Mr. Kirkland - Because they're in business zoning, they can do that.
2104
2105 Mr. Wright - But I can see that; that's what I didn't understand. What is
2106 permitted here? To clear the issue, what can they have under this zoning?
2107
2108 Mr. Blankinship - They can have up to two signs, which can be either
2109 detached or attached, provided that they're 75 feet apart and no more than 32 square
2110 feet in total area, the aggregate of both signs.
2111
2112 Mr. Wright - What are they asking for?
2113
2114 Mr. Blankinship - They were asking for four signs; now he's amended that
2115 request to just three, two wall signs and one detached sign.
2116
2117 Mr. Wright - Does that put them over the square footage?
2118
2119 Mr. Blankinship - They did not ask for a variance from the square footage.
2120
2121 Mr. Wright - So they're willing to go with the square footage?
2122
2123 Mr. Moore - The one monument sign at 24 square feet; that would be
2124 maximum allowed.
2125
2126 Mr. Wright - Where is that going to be?
2127
2128 Mr. Blankinship - The aggregate total of all the signs cannot exceed 32 square
2129 feet.
2130
2131 Mr. Moore - Will that be all three?
2132
2133 Mr. Wright - You haven't asked for a variance on that.
2134
2135 Mr. Moore - The square footage on all three would be 28 square feet and
2136 24 square feet total, so that is 52 square feet offhand.
2137
2138 Mr. Wright - So you can beat the square footage requirement?
2139
2140 Mr. Blankinship - He's suggesting 52, and the Code allows 32. That was not
2141 advertised, and it's not mentioned in the application or anything else.
2142
2143 Mr. Moore - A little bit of the confusion was the conditional use of it being
2144 office park instead of zoned as a bank, but it is a bank, and there was confusion about
2145 the conditional use in an office area and a bank.
2146

2147 Mr. Blankinship - Banks are a permitted use in the office districts.
2148
2149 Ms. Dwyer - But often banks are in B zoning, which allow you a lot more
2150 leeway in terms of signage.
2151
2152 Mr. Wright - Your application did not request a variance on the square
2153 footage of the signs.
2154
2155 Mr. Simmerman - I am Barry Simmerman, Vice President with Wachovia.
2156 What I was going to suggest, and hearing the confusion on this office and retail and the
2157 other things, is if we can achieve the two building signs, which would be 14 square feet
2158 each, which would give us Twin Hickory exposure, and Nuckols exposure, within the 32
2159 square feet, I think that would satisfy the bank's needs. The 52, since we didn't apply
2160 for the additional square footage, I think it's reasonable to go within the square feet
2161 footage allowed, which at 14 and 14 would be 28 square feet within the 32.
2162
2163 Mr. Blankinship - You could do that without the variance.
2164
2165 Mr. Simmerman - The reason we asked, that's good to clarify, because at the
2166 time we did it, it said "one sign on the building or two monument signs," so that's why
2167 we only put the one sign up.
2168
2169 Mr. Wright - So you don't need the monument sign?
2170
2171 Mr. Simmerman - It is still a variance. The conditional use says we can only
2172 have one wall sign. The variance is requesting for one additional wall sign. That would
2173 make two wall signs, because we're only allowed one wall sign, or we're allowed two
2174 monument signs at 16 square feet each, or one monument sign at 24 square feet.
2175
2176 Ms. Dwyer - That's the way I read it; you still need the variance for the
2177 second wall sign.
2178
2179 Mr. Simmerman - Even though it meets the square footage, there may be a
2180 conditional piece that says

2181
2182 Mr. Wright - You've got me totally confused.
2183
2184 Ms. Dwyer - When you say "conditional use" sir, I think that's part of the
2185 confusion. I'm not sure what you mean by that.
2186
2187 Mr. Wright - We can't give you; we have to comply with the Code
2188 requirements, and if it says you can have two wall signs, I don't see why you can't. Now
2189 I don't see what that does to your

2190
2191 Mr. Simmerman - We'd love to have the monument sign, but we also like to
2192 meet your objectives, and I think with the exposure on the two building signs, I think

2193 we're good to go.
2194
2195 Mr. Wright - I can see that bank very clearly.
2196
2197 Ms. Dwyer - Another option is to re-advertise and come back next month.
2198
2199 Mr. Blankinship - The Code reads "one detached or attached sign identifying
2200 the project shall not exceed 24 square feet in area. The detached sign shall not exceed
2201 fifteen feet in height. Where there is frontage on more than one public street (which is
2202 this case), one sign for each street frontage is permitted. If the signs are at least 75 feet
2203 apart, but the aggregate total area for those signs shall not exceed 32 square feet." So
2204 the first sentence says one detached or attached; the second sentence gives you a
2205 height limit for a detached, and then the third sentence says if it's a corner lot, you can
2206 have two signs, and it doesn't specify that they have to be one detached and one
2207 attached.
2208
2209 Mr. Simmerman - We misinterpreted it, maybe.
2210
2211 Mr. Blankinship - They're here because they originally wanted four.
2212
2213 Mr. Moore - The County told me that the conditional use, now I want to
2214 make sure it's clear when we leave here, that the County said the conditional use said I
2215 could only have one wall sign. If we could have had two wall signs, I'd have never been
2216 here. I couldn't get them to give me a firm answer, and that was the whole reason of
2217 the variance.
2218
2219 Mr. Blankinship - Perhaps we should defer, and then they can withdraw, give
2220 us a chance to double check all this, make sure I'm not missing something, and then
2221 they could withdraw before next month's meeting if there is no need.
2222
2223 Mr. Wright - Appears to me you don't need a variance.
2224
2225 Mr. Simmerman - If the condition says we can only have one wall sign, and
2226 you find that they were wrong in telling me what the condition is, and the two signs are
2227 illegal or You approved the two wall signs, so I wouldn't have to come back
2228 for the variance. If it says one, I ask for the variance; if it says two, I don't have to ask
2229 for the variance. Either way, we wouldn't have to come back and spend time again, and
2230 you would be determining that decision.
2231
2232 Mr. Wright - What you want us to do is approve two wall signs, one on
2233 Twin Hickory side and one on Nuckols Road side. Looks like to me that's already
2234 allowed under the Code.
2235
2236 Mr. Simmerman - We just verified that piece, that is allowed.
2237
2238 Mr. Wright - Do you have any problem with that, Mr. Blankinship?

2239
2240 Mr. Blankinship - No sir, that would be fine with me. I'll straighten the record
2241 out, after we've had a chance to double check it.

2242
2243 Ms. Dwyer - So would someone summarize what we're doing.

2244
2245 Mr. Simmerman - The key here is that we won't go in for additional square
2246 footage.

2247
2248 Mr. Wright - And you're going to have two wall signs.

2249
2250 Mr. Wright - Any further questions of members of the Board? Is anyone
2251 here in opposition to this request? Hearing none, that concludes the case. Thank you
2252 very much for appearing.

2253
2254 After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr.
2255 Kirkland, the Board **granted** application **A-148-2004** for a variance to install two signs at
2256 11290 Nuckols Road (Parcel 746-772-8676). The Board granted the variance subject
2257 to the following conditions:

2258
2259 1. This variance applies only to the permitted number of signs. All other applicable
2260 regulations of the County Code shall remain in force.

2261
2262 2. The total area of all signs on the property shall not exceed 32 square feet.

2263
2264 3. All conditions of plan of development POD 25-04 shall remain in force.

2265
2266 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

2267 Negative: 0

2268 Absent: 0

2269
2270 The Board granted this request, as it found from the evidence presented that, due to the
2271 unique circumstances of the subject property, strict application of the County Code
2272 would produce undue hardship not generally shared by other properties in the area, and
2273 authorizing this variance will neither cause a substantial detriment to adjacent property
2274 nor materially impair the purpose of the zoning regulations.

2275
2276 **UP-27-2004 VULCAN CONSTRUCTION MATERIALS** requests a conditional
2277 use permit pursuant to Sections 24-52(d) and 24-103 to extract
2278 materials from the earth at 7000 Osborne Turnpike (Parcel 798-
2279 696-8886), zoned A-1, Agricultural District (Varina).

2280
2281 Mr. Wright - Does anyone else desire to speak with reference to this
2282 case? Would you raise your right hand and be sworn please?

2283
2284 Mr. Blankinship - Do you swear that the testimony you are about to give is the

2285 truth, the whole truth, and nothing but the truth, so help you God?
2286

2287 Mr. Brazell - I do. Good morning. My name is Tom Brazell; I'm the
2288 Senior Geologist for Vulcan Materials Company. I've been associated with this
2289 particular area for some time, and we're asking to renew our conditional use permit to
2290 allow us to remove materials from the site, but primarily to complete our reclamation.
2291 This area, as Mr. Blankinship's staff report noted, was first mined in 1984. Mining was
2292 discontinued around 1993, and this was the state of the property at that time. Around
2293 1999 or 2000, Tarmac Materials and later Vulcan Materials, undertook a reclamation
2294 program that cost somewhere in the area of a half million dollars. We had it about 90%
2295 complete, and the contractor, Bailey Hassell and Associates, went bankrupt. We have
2296 since been trying to gain funding from the bonding company to complete the
2297 reclamation. We continue to monitor E&S, and make sure that there are no public
2298 problems associated with this property. The material would be taken by river to our
2299 processing plant at Curles Neck, something that is not economically attractive, but
2300 feasible if we had to do it in an emergency situation.
2301

2302 Mr. Wright - You don't take any material over a public road?
2303

2304 Mr. Brazell - No sir. Any material that was brought in or out over public
2305 roads would be for reclamation purposes. We are not permitted for a plant on this site,
2306 so we can't sell a finished product over the road.
2307

2308 Mr. Nunnally - Have you read the conditions that were proposed and are in
2309 accordance with those?
2310

2311 Mr. Brazell - Yes sir, I have. Yes sir, I agree with those.
2312

2313 Mr. Nunnally - This says there is also a possibility that some material may
2314 be extracted for the next two years.
2315

2316 Mr. Brazell - Yes sir. This is our reserve position for Curles Neck. When
2317 this was first mined, we had operations all up and down the James River. This
2318 particular operation never had a plant on site. Materials extracted, taken to a load out at
2319 the James River, loaded onto a barge, taken to our Kingsland Facility at Willis Road,
2320 where the material was offloaded, processed, and put back on a barge. That particular
2321 facility is no longer in existence. To process that material now, we would need to put it
2322 on the same barge, or a similar barge, take it about three times further down the James
2323 River, to Plant 18 at Curles Neck.
2324

2325 Mr. Nunnally - On Condition # 9, it says, "No operations of any kind are to
2326 be conducted at the site on Sundays or national holidays." Do you need Saturdays any
2327 more, since you are almost through here? Do you need Saturday hours?
2328

2329 Mr. Brazell - If we had to produce, primarily from this deposit, to meet our
2330 production guidelines, yes, we would need Saturdays. Again, it would be unlikely that

2331 we would proceed with that, but if this was the only place we could get material, we'd
2332 need Saturdays.
2333
2334 Mr. Nunnally - So you don't think you'd be using it much on Saturdays,
2335 then, right?
2336
2337 Mr. Brazell - No sir, I don't anticipate any mining at all from this property.
2338 It is economically unsavory to do that. However, if we had to maintain a product load to
2339 our customers, this is the only place we can go except for Curles Neck.
2340
2341 Mr. Nunnally - Sort of use it as an emergency back-up.
2342
2343 Mr. Brazell - Yes sir, it's an emergency back-up.
2344
2345 Ms. Harris - What do you mine?
2346
2347 Mr. Brazell - We extract sand and gravel.
2348
2349 Ms. Harris - I noticed that in Condition # 2, you have to restore the land
2350 to a reasonably level and drainable condition. Some of that land you had previously
2351 mined, right, so when you left it, it was in that condition?
2352
2353 Mr. Brazell - When it was previously mined, the operations in this picture
2354 were suspended. Everything was frozen in time. What we did, we had overburdened
2355 piles where the hall road was dug. Actually the hall road that you see there is the top of
2356 the sand and gravel, which makes a great road. To provide access to the front fields,
2357 that was actually dug, and we had overburdened piles on the side of it. Those did not
2358 meet the reclamation guidelines. Those will be regraded to, not less than, I believe, a 1
2359 to 4 grade, and reseeded with not less than five inches of topsoil. That condition was
2360 not met, and there were similar areas of disturbance that needed addressing. The
2361 second picture shows that we have addressed those. We still have some drainage
2362 issues in terms of getting vegetation all over all the property.
2363
2364 Mr. Wright - Are they complying with the permit as issued before?
2365
2366 Mr. Blankinship - Yes sir, we haven't had any complaints or any problems.
2367
2368 Mr. Wright - Restoration is going like it should?
2369
2370 Mr. Blankinship - Yes sir.
2371
2372 Mr. Wright - Any further questions of members of the Board? Is anyone
2373 here in opposition to this request? Hearing none, that concludes the case. Thank you
2374 very much for appearing.
2375

2376 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Ms.
2377 Dwyer, the Board **granted** application **UP-27-2004** for a conditional use permit to
2378 extract materials from the earth at 7000 Osborne Turnpike (Parcel 798-696-8886). The
2379 Board granted the use permit subject to the following conditions:

2380
2381 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of
2382 the County Code.

2383
2384 2. Before beginning any work, the applicant shall provide a financial guaranty in an
2385 amount of \$2,000 per acre for each acre of land to be disturbed, for a total of \$154,000,
2386 guaranteeing that the land will be restored to a reasonably level and drainable condition.
2387 This permit does not become valid until the financial guaranty has been approved by the
2388 County Attorney. The financial guaranty may provide for termination after 90 days
2389 notice in writing to the County. In the event of termination, this permit shall be void, and
2390 work incident thereto shall cease. Within the next 90 days the applicant shall restore
2391 the land as provided for under the conditions of this use permit. Termination of such
2392 financial guaranty shall not relieve the applicant from its obligation to indemnify the
2393 County of Henrico for any breach of the conditions of this use permit. If this condition is
2394 not satisfied within 90 days of approval, the use permit shall be void.

2395
2396 3. Before beginning any work, the applicant shall submit erosion control plans to the
2397 Department of Public Works for review and approval. Throughout the life of the
2398 operation, the applicant shall continuously satisfy the Department of Public Works that
2399 erosion control procedures are properly maintained, and shall furnish plans and bonds
2400 that the department deems necessary. The applicant shall provide certification from a
2401 licensed professional engineer that dams, embankments and sediment control
2402 structures meet the approved design criteria as set forth by the State. If this condition is
2403 not satisfied within 90 days of approval, the use permit shall be void.

2404
2405 4. Before beginning any work, the applicant shall obtain a mine license from the
2406 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
2407 within 90 days of approval, the use permit shall be void.

2408
2409 5. Before beginning any work, the areas approved for mining under this permit shall
2410 be delineated on the ground by five-foot-high metal posts at least five inches in diameter
2411 and painted in alternate one foot stripes of red and white. These posts shall be so
2412 located as to clearly define the area in which the mining is permitted. They shall be
2413 located, and their location certified, by a certified land surveyor. If this condition is not
2414 satisfied within 90 days of approval, the use permit shall be void.

2415
2416 6. In the event that the Board's approval of this use permit is appealed, all
2417 conditions requiring action within 90 days will be deemed satisfied if the required actions
2418 are taken within 90 days of final action on the appeal.

2419
2420 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
2421 state and local regulations administered under such act applicable to the property, and

2422 shall furnish to the Planning Office copies of all reports required by such act or
2423 regulations.

2424
2425 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings
2426 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.

2427
2428 9. No operations of any kind are to be conducted at the site on Sundays or national
2429 holidays.

2430
2431 10. All means of access to the property shall be from the established entrance onto
2432 Osborne Turnpike.

2433
2434 11. The applicant shall erect and maintain gates at all entrances to the property.
2435 These gates shall be locked at all times, except when authorized representatives of the
2436 applicant are on the property.

2437
2438 12. The applicant shall post and maintain a sign at the entrance to the mining site
2439 stating the name of the operator, the use permit number, the mine license number, and
2440 the telephone number of the operator. The sign shall be 12 square feet in area and the
2441 letters shall be three inches high.

2442
2443 13. The applicant shall post and maintain "No Trespassing" signs every 250 feet
2444 along the perimeter of the property. The letters shall be three inches high. The
2445 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
2446 enforce the "No Trespassing" regulations, and agreeing to send a representative to
2447 testify in court as required or requested by the Division of Police.

2448
2449 14. Standard "Truck Entering Highway" signs shall be erected on Osborne Turnpike
2450 on each side of the entrances to the property. These signs will be placed by the
2451 County, at the applicant's expense.

2452
2453 15. The applicant shall post and maintain a standard stop sign at the entrance to
2454 Osborne Turnpike.

2455
2456 16. The applicant shall provide a flagman to control traffic from the site onto the
2457 public road, with the flagman yielding the right of way to the public road traffic at all
2458 times. This flagman will be required whenever the Division of Police deems necessary.

2459
2460 17. All roads used in connection with this use permit shall be effectively treated with
2461 calcium chloride or other wetting agents to eliminate any dust nuisance.

2462
2463 18. The operation shall be so scheduled that trucks will travel at regular intervals and
2464 not in groups of three or more.

2465
2466 19. Trucks shall be loaded in a way to prevent overloading or spilling of materials of
2467 any kind on any public road.

- 2468
2469 20. The applicant shall maintain the property, fences, and roads in a safe and secure
2470 condition indefinitely, or convert the property to some other safe use.
2471
- 2472 21. If, in the course of its preliminary investigation or operations, the applicant
2473 discovers evidence of cultural or historical resources, or an endangered species, or a
2474 significant habitat, it shall notify appropriate authorities and provide them with an
2475 opportunity to investigate the site. The applicant shall report the results of any such
2476 investigation to the Planning Department.
2477
- 2478 22. If water wells located on surrounding properties are adversely affected, and the
2479 extraction operations on this site are suspected as the cause, the effected property
2480 owners may present to the Board evidence that the extraction operation is a contributing
2481 factor. After a hearing by the Board, this use permit may be revoked or suspended, and
2482 the operator may be required to correct the problem.
2483
- 2484 23. Open and vertical excavations having a depth of 10 feet or more, for a period of
2485 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
2486 public safety.
2487
- 2488 24. Topsoil shall not be removed from any part of the property outside of the area in
2489 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
2490 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
2491 within the authorized mining area and provided with adequate erosion control
2492 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought
2493 to the site to provide the required five-inch layer of cover. All topsoil shall be treated
2494 with a mixture of seed, fertilizer, and lime as recommended by the County after soil
2495 tests have been provided to the County.
2496
- 2497 25. No offsite-generated materials shall be deposited on the mining site without prior
2498 written approval of the Director of Planning. To obtain such approval, the operator shall
2499 submit a request stating the origin, nature and quantity of material to be deposited, and
2500 certifying that no contaminated or hazardous material will be included. The material to
2501 be deposited on the site shall be limited to imperishable materials such as stone, bricks,
2502 tile, sand, gravel, soil, asphalt, concrete and like materials, and shall not include any
2503 hazardous materials as defined by the Virginia Hazardous Waste Management
2504 Regulations.
2505
- 2506 26. A superintendent, who shall be personally familiar with all the terms and
2507 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms
2508 and conditions of this use permit, shall be present at the beginning and conclusion of
2509 operations each work day to see that all the conditions of the Code and this use permit
2510 are observed.
2511
- 2512 27. A progress report shall be submitted to the Board on November 18, 2005. This
2513 progress report must contain information concerning how much property has been

2514 mined to date of the report, the amount of land left to be mined, how much rehabilitation
2515 has been performed, when and how the remaining amount of land will be rehabilitated,
2516 and any other pertinent information about the operation that would be helpful to the
2517 Board.

2518
2519 28. Excavation shall be discontinued by November 18, 2006, and restoration
2520 accomplished by not later than November 18, 2007, unless a new permit is granted by
2521 the Board of Zoning Appeals.

2522
2523 29. The rehabilitation of the property shall take place simultaneously with the mining
2524 process. Rehabilitation shall not be considered completed until the mined area is
2525 covered completely with permanent vegetation.

2526
2527 30. All drainage and erosion and sediment control measures shall conform to the
2528 standards and specifications of the Mineral Mining Manual Drainage Handbook. Any
2529 drainage structures in place prior to October 14, 1992 and which do not conform to the
2530 Mineral Mining Manual Drainage Handbook may remain in place until such time as any
2531 reconstruction is required at which time said structures shall be brought into
2532 conformance with the Mineral Mining Manual Drainage Handbook.

2533
2534 31. Failure to comply with any of the foregoing conditions shall automatically void this
2535 permit.

2536
2537 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2538 Negative: 0
2539 Absent: 0

2540
2541 The Board granted the request because it found the proposed use will be in substantial
2542 accordance with the general purpose and objectives of Chapter 24 of the County Code.

2543
2544
2545 On a motion by Ms. Dwyer, seconded by Mr. Kirkland, the Board **approved as**
2546 **corrected**, the Minutes of the **June 24, 2004**, Henrico County Board of Zoning
2547 Appeals meeting.

2548
2549
2550 On a motion by Ms. Dwyer, seconded by Mr. Kirkland, the Board **approved** the
2551 Minutes of the **July 22, 2004**, Henrico County Board of Zoning Appeals meeting.

2552
2553
2554 On a motion by Ms. Harris, seconded by Mr. Kirkland, the Board **approved as**
2555 **corrected**, the Minutes of the **August 26, 2004**, Henrico County Board of Zoning
2556 Appeals meeting.

2557
2558

2559 There being no further business, and on a motion by Ms. Dwyer, seconded by
2560 Mr. Kirkland, the Board adjourned until **December 16, 2004**, at 9:00 am.
2561

2562

2563 Russell A. Wright, Esq.

2564 Chairman

2565

2566

2567 Benjamin Blankinship, AICP

2568 Secretary

2569

2570