

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **HENRICO COUNTY GOVERNMENT COMPLEX ON THURSDAY, APRIL 22, 1999 AT**
4 **9:00 A.M. NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES DISPATCH**
5 **ON APRIL 1, 1999, AND APRIL 8, 1999.**
6

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

Also Present: Randall R. Silber, Secretary
Susan W. Blackburn, County Planner II
Kay S. Lam, Recording Secretary

7
8 Mr. McKinney - Good morning, ladies and gentlemen. Welcome to the April
9 meeting of the Board of Zoning Appeals. To my immediate right, the Secretary will explain
10 the procedure that we follow. Also, at the back of the room, there are conditions that may
11 pertain to your case. If you don't have them, you might want to go back and get a copy of
12 the suggested conditions by the staff.

13
14 Mr. Marles - Thank you, Mr. Chairman. Good morning, Mr. Chairman,
15 members of the Board, ladies and gentlemen. The BZA does have a set of rules that
16 they'd like to have followed when conducting business. They are as follows: The
17 Secretary, myself, will call the case. The applicant will come forward to present this case.
18 All those speaking in favor of or in opposition to the request will be sworn in at that time.
19 The applicant will present his notices to indicate that adjacent property owners have been
20 notified. The applicant will be given an opportunity to present testimony. Any one in
21 opposition will be given an opportunity to speak. The applicant is given an opportunity to
22 rebut any testimony given. Only the applicant will be given that opportunity to rebut. After
23 all questioning is finished, the Board will take the information under advisement. They will
24 render a decision at the end of the meeting. Any one wishing to stay until the end of the
25 meeting may do so, or if they wish, they may call the Planning Office at the end of the day
26 to find out the decision of the Board.

27
28 Just to repeat what the Chairman said, at the back of the room, are conditions for each
29 case that are recommended with each case for requests for variances or use permits.
30 And that concludes the rules for the Board, Mr. Chairman.

31
32 Mr. McKinney - All right, thank you, sir. Do we have any requests for deferrals
33 or withdrawals on the 9:00 o'clock agenda?

34
35 Mr. Rick Gregory - Yes sir. My name is Rick Gregory. I'm with the law firm of
36 LeClair, Ryan. I'm representing Broad Street Seafood.

37
38 Mr. McKinney - What case are you representing, UP-13-99?
39
40 Mr. Gregory - I don't have it in front of me. Yes sir.
41
42 Mr. McKinney - Your name is what, sir?
43
44 Mr. Gregory - Rick Gregory.
45
46 Mr. McKinney - Okay, Mr. Gregory. Before you proceed, you will be sworn in
47 by Mr. Marlles.
48
49 Mr. Marlles - Please raise your right hand. Do you swear that the testimony
50 that you are about to give is the truth, the whole truth, and nothing but the truth, so help
51 you God?
52
53 Mr. Gregory - I do.
54
55 Mr. McKinney - All right, Mr. Gregory.
56
57 Mr. Gregory - We would like to have this case withdrawn without prejudice.
58 We have an issue with our notices, and we would like to remedy that before we bring it to
59 the Board.
60
61 Mr. McKinney - All right, is there any one else in the audience who has any
62 concerns with UP-13-99?
63
64 Mr. Gregory - I think it has been deferred once. We would have preferred
65 that, but I think we will play by the rules.
66
67 Mr. Wright- It's not a new case?
68
69 Mr. Gregory - Thank you for raising that.
70
71 Mr. McKinney - All right. Is there a motion?
72
73 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
74 Balfour, the Board **permitted the case be withdrawn without prejudice.**
75

75		
76	Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright	5
77	Negative:	0
78	Absent:	0

79
80

UP-11-99 **Boone, Boone, Loeb and Pettit** request a temporary conditional use permit pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code to locate a sales trailer at 5800 Old Greenway Dr. (The Greens at Wyndham) (Part of Tax Parcel 5-A-1C), zoned R-5C, General Residence District (Conditional) (Three Chopt).

81
82 Mr. Marlles - The first case was deferred from the March 25, 1999 meeting.

83
84 Mr. McKinney - Is the applicant here? Is any one going to testify on behalf of
85 UP-11-99 other than the applicant, in the audience? Would you be sworn in by Mr.
86 Marlles.

87
88 Mr. Marlles - Please raise your right hand. Do you swear that the testimony
89 that you are about to give is the truth, the whole truth, and nothing but the truth, so help
90 you God?

91
92 Mr. Hammner- I will.

93
94 Mr. McKinney - Would you state your name for the record, sir?

95
96 Mr. Hammner - My name is Hal Hammner, and I am with Boone, Boone,
97 Loeb, and Pettit.

98
99 Mr. McKinney - Have all the adjacent and adjoining property owners been
100 notified, Mr. Secretary, in accordance with the County Code and turned in to the
101 Secretary?

102
103 Mr. Hammner - Yes, sir. We are a residential builder and this is a
104 condominium neighborhood we're doing inside of Wyndham. We are in the progress of
105 completing our model home. We anticipate completion of the model home by the end of
106 May. It may bleed over into the first week of June. We are requesting a temporary use for
107 permission to have this site trailer to stay intact until then. It is functioning currently as an
108 office for our site sales agent. And, he is utilizing it with a phone, and that's about it. Its
109 primary function is to be able to be there and be on hand for site traffic and be available to
110 help the buying public out on the site. Seeing them when they come in and help them out
111 onsite with questions they may have.

112
113 Our model will be up the street, around the corner, two homes. We anticipate completion
114 of very quickly. The only complications that I see as the builder would be the fact that we
115 do have a great event the Nike Dominion Open in Wyndham very shortly; mid-May. I

116 anticipate that we're going to have to move this during that tournament because its not the
117 most beautiful thing in the world and its going to be televised this year, so, I'm anticipating
118 scooting it out and scooting it back in right after the Nike tournament until the end of May.

119
120 Mr. McKinney - Have they asked you to move this, Mr. Hammner?

121
122 Mr. Hammner - I've not had a specific conversation with H. H. Hunt, the
123 Developer, but if I were in their shoes, I would expect that that they would want it moved
124 during the Nike tournament.

125
126 Mr. McKinney - Do you intend to move it then?

127
128 Mr. Hammner - I intend to comply with their request if they ask us.

129
130 Mr. McKinney - You haven't had a request?

131
132 Mr. Hammner - I personally have not. No, sir. I think its coming within the
133 day. I anticipate that they would ask us to remove it during the Nike Golf Tournament. I
134 will comply with them if they ask us to do that. We probably will comply with that even if
135 they don't ask us to do it. We want it gone permanently by the end of May.

136
137 Mr. Nunnally- When is the Nike Tournament?

138
139 Mr. Hammner - May 11th is the ProAm. Pardon me, May 12th is the ProAM.
140 Tuesday is the ProAM, Wednesday, Thursday, Friday; its that week. I don't know the
141 exact days. I know the ProAm is like on Wednesday, and then the tournament starts
142 Thursday, Friday, Saturday and Sunday.

143
144 Mr. Kirkland- Have you read all the conditions with this? Do you have any
145 problem with those?

146
147 Mr. Hammner - The suggested conditions?

148
149 Mr. Kirkland- Yes.

150
151 Mr. Hammner - There is no sewage holding tank, as it is no plumbing inside
152 the trailer.

153
154 Mr. McKinney - Mr. Hammner, we've deferred this case one time.

155
156 Mr. Hammner - Yes, sir.

157
158 Mr. McKinney - Is this the first time you're looking at the conditions?

159
160 Mr. Hammner - No, sir. I did read the conditions.

161

162 Mr. McKinney - Do you have any problem with them?
163
164 Mr. Hammner - No, sir.
165
166 Mr. Kirkland- You know, if the case is approved, the suggested conditions
167 would be involved with it and you would have to do all these things.
168
169 Mr. Hammner - When I did read them, knowing that there is no sewage in the
170 facility, there is no lighting at the facility on the exterior, I assumed that I do not have to
171 create those plans.
172
173 Mr. Wright- May I ask a question?
174
175 Mr. McKinney - All right.
176
177 Mr. Wright- Mr. Hammner, why did you wait until now to apply for this?
178 This trailer has been there for two months?
179
180 Mr. Hammner - I did apply for it.
181
182 Mr. Wright- I mean how did you put the trailer in before you get approval of
183 the Board of Zoning Appeals?
184
185 Mr. Hammner - I did not understand the process. I did not mail my notices
186 early enough, and I deferred the...
187
188 Mr. Wright- Yes, but you put it there. It's been there two months; at least
189 two months.
190
191 Mr. Hammner - Yes, sir.
192
193 Mr. Wright- I see it every day.
194
195 Mr. Hammner - Yes, sir.
196
197 Mr. Wright- It's just a very small trailer.
198
199 Mr. Hammner - Primarily, for a on-site sales agent to be in there at his desk
200 with a telephone in order to see traffic that comes into the neighborhood, and be able to
201 get out on-site with those people as they enter the neighborhood.
202
203 Mr. McKinney - Where did this trailer come from?
204
205 Mr. Hammner - It was rented from a company out in Fredericksburg.
206
207 Mr. Balfour- When do you expect to have it moved?

208
209 Mr. Hammner - End of May, if not before. I mean if not, at the Nike
210 Tournament.
211
212 Mr. Balfour- Since it has already been up two months, would you have any
213 problem if we put the approval expires September 30th?
214
215 Mr. Hammner - No, sir.
216
217 Mr. Balfour- All right.
218
219 Mr. McKinney - How many lots do you have out there?
220
221 Mr. Hammner - Forty-eight (48).
222
223 Mr. McKinney - Forty-eight (48)?
224
225 Mr. Hammner - Yes, sir.
226
227 Mr. McKinney - Where are you going to operate your sales office? Out of your
228 model?
229
230 Mr. Hammner - He'll have a desk; the dining room table in the model. It's just
231 a typical model home. We have a desk in there and telephone. The buying public would
232 come on in the model, and contracts would be written and negotiated in the model.
233
234 Mr. McKinney - Mr. Balfour do you have a month in mind for the removal date?
235
236 Mr. Balfour- I was thinking, how about June 30th? That gives you an extra
237 30 days beyond May?
238
239 Mr. Hammner - It's more than I need, sir.
240
241 Mr. McKinney - Any other questions?
242
243 Mr. Hammner - I may not even need that long. It may be gone by the Nike
244 tournament, and just may not come back.
245
246 Mr. McKinney - Have you started your model?
247
248 Mr. Hammner - Oh, yes sir. It's due to be painted tomorrow.
249
250 Mr. McKinney - When do you anticipate getting a CO on it?
251

252 Mr. Hammner - I anticipate getting a CO on it right about the end of May. Of
253 course, utilities are not complete in the neighborhood. We do have tentative acceptance
254 on utilities. These things are flexible.

255
256 Mr. McKinney - Any other questions? All right, thank you, Mr. Hammner. That
257 completes that your case, and you'll get your answer this afternoon.

258
259 Mr. Hammner - Thank you.

260
261 Mr. McKinney - Next.

262
263 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
264 Kirkland, the Board **denied** the case.

265
266 **REASON** The Board **denied** this request as it found from the evidence presented that
267 authorizing this use permit will be a detriment to adjacent properties and will materially
268 impair the purpose of the zoning regulations.

269
270 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
271 Negative: 0
272 Absent: 0

273
274 Mr. Marlles – The next case was deferred from the March 25th Meeting.

275
A-34-99

George V. Wise, Jr. request for a variance from Section 24-94 of Chapter 24 of the County Code to build a one family dwelling at 8550 Gibbs Lane (part of Tax Parcel 249-A-23A), zoned A-1, Agricultural District (Varina). The lot width is not met. The applicant has 113.8 feet lot width where the Code requires 150.0 feet. The applicant is requesting a variance of 36.20 feet lot width.

276
277 Mr. McKinney - Any one in the audience to speak in reference to A-34-99
278 other than the applicant? Would you raise your right hand now, and be sworn in by Mr.
279 Marlles?

280
281 Mr. Marlles - Do you swear that the testimony that you are about to give is
282 the truth, the whole truth, and nothing but the truth, so help you God?

283
284 Mrs. Jane Wise- I will.

285
286 Mr. McKinney - Have all the adjoining and adjacent property owners been
287 notified? All right, would you state your name for the record?

288
289 Mrs. Jane Wise - Jane Wise.

290
291 Mr. McKinney - Please present your case.

292
293 Mrs. Wise - Mr. Chairman, and members of the Board, first of all, thank
294 you for letting me come up early this time. My husband and I would like to convey the
295 section of property that we own on Gibbs Lane to our daughter and her husband for a
296 single-family dwelling. Our property, at this point, is 113.8 feet. The County requires the
297 150 feet. Therefore, we're asking for a variance of 36.2 feet to meet with the County
298 requirements.

299
300 Mr. McKinney - Anything else?

301
302 Mrs. Wise - That's it.

303
304 Mr. McKinney - Are there any questions of Mrs. Wise?

305
306 Mrs. Wise - I beg your pardon, sir?

307
308 Mr. McKinney - Any questions of Mrs. Wise by Board members? Staff? That
309 concludes your case. Thank you for coming.

310
311 Mrs. Wise - Thank you, sir.

312
313 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
314 Wright, the Board **granted** the case.

315
316 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
317 Negative: 0
318 Absent: 0

319
320 **REASON:** The Board **granted** this request as it found from the evidence presented that
321 authorizing this variance will not be of substantial detriment to adjacent property and will
322 not materially impair the purpose of the zoning regulations.

323
324 1. This approval is only for the variance of the lot width requirement for the lot included
325 in this case. The lot shall comply with all other applicable regulations of the County
326 Code.

327
328 **A-45-99** **Jeff F. Dandridge** request for a variance from Section 24-94 of
Chapter 24 of the County Code to build an addition at 8014
Nicewood Road (Mountain Ridge) (Tax Parcel 42-2-B-10), zoned
R-3, One-Family Residence District (Fairfield). The rear yard
setback is not met. The applicant has 15.0 feet rear yard setback
where the Code requires 40.0 feet rear yard setback. The
applicant requests a variance of 25.0 feet rear yard setback.

329

330 Mr. McKinney - Anyone in the audience intends on testifying on behalf of A-
331 45-99 other than the applicant? Would you raise your right hand and be sworn in by the
332 Secretary, please? Ma'am, do you intend to speak?
333
334 Woman in audience - No.
335
336 Mr. Marlles - Do you swear that the testimony that you are about to give is
337 the truth, the whole truth, and nothing but the truth, so help you God?
338
339 Mr. Dandridge - I will.
340
341 Mr. McKinney - Would you state your name for the record?
342
343 Mr. Dandridge - Jeff F. Dandridge.
344
345 Mr. McKinney - All right, Mr. Dandridge, have all adjacent and adjoining
346 property owners been notified of your request in conformance with the County Code?
347
348 Mr. Dandridge - Yes, sir.
349
350 Mr. McKinney - Turn those into the Secretary, please. All right, Mr. Dandridge,
351 would you present your case.
352
353 Mr. Dandridge - Good morning.
354
355 Mr. McKinney - Good morning.
356
357 Mr. Dandridge - We want to add onto our existing home. Why we are
358 requesting this variance, our family enlarged last year so we have three kids now. We'd
359 like to add onto the back of the home of 20 feet. We're asking for a variance of 25 feet to
360 add on a Florida Room to give us more space in the home. With the kids, they have
361 friends coming over, there's not much room in the house to get around.
362
363 We thought about moving, but we like the brick home. I've been in this neighborhood
364 since I was six, so that's 30 years. We have a lot of family ties into the community. My
365 mom lives around the corner. My sister lives across the street. So, we'd like to stay in the
366 neighborhood instead of moving.
367
368 Mr. McKinney - Your new addition, is that going to be out of the same brick as
369 your home is?
370
371 Mr. Dandridge - Sir?
372
373 Mr. McKinney - Is the addition you're going to put on going to be out of brick
374 like your home?
375

376 Mr. Dandridge - Yes, sir.
377
378 Mr. Balfour- Is it generally going to be where the wood pile is now; that
379 area?
380
381 Mr. Dandridge - Yes, sir, going back.
382
383 Mr. McKinney - What's to the right of you, next to your home?
384
385 Mr. Dandridge - To the right of me, another home.
386
387 Mr. McKinney - Another home.
388
389 Mr. Balfour- To the rear, it looks like it's a home, but it's a pretty far
390 distance. Is that right?
391
392 Mr. Dandridge - Yes, sir.
393
394 Mr. McKinney - Any other questions of Mr. Dandridge, Board members or
395 staff? That concludes your case. Thank you for coming. You'll get your answer this
396 afternoon.
397
398 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
399 McKinney, the Board **granted** this case.
400
401 Affirmative: Balfour, Kirkland, McKinney, Nunnally, 4
402 Negative: Wright 1
403 Absent: 0
404
405 **REASON:** The Board **granted** this request as it found from the evidence presented that
406 authorizing this variance will not be of substantial detriment to adjacent property and will
407 not materially impair the purpose of the zoning regulations.
408
409 1. This approval is only for the rear yard setback variance to allow construction of the
410 addition described and illustrated on documents filed with the request. All future
411 improvements to the Property shall meet all Code requirements.
412
413

A-46-99

Kenneth and Michelle Harris request for a variance from Sections 24-95(c)(1) of Chapter 24 of the County Code to build an addition at 2415 Caddie Lane (Glenwood Heights) (Tax Parcel 146-1-B-19A), zoned R-4, One-Family Residence District (Fairfield). The minimum side yard setback is not met. The applicant has 5.43 feet minimum side yard where the Code requires 7.0 feet minimum side yard. The applicant requests a variance of 1.57 feet minimum side yard setback.

414
415
416
417

Mr. McKinney - Is the applicant here for A-46-99? We'll pass that by. All right, call the next case.

A-47-99

Marie H. Bendle request for a variance from Section 24-95(d)(1) of Chapter 24 of the County Code to build a dwelling at 1167 Warwick Park Road (Tax Parcel 224-A-25), zoned R-3 One-Family Residence District (Varina). The total lot area is not met. The applicant has 0.938 acre lot area where the Code requires 1.0 acre lot area. The applicant requests a variance of 0.062-acre lot area.

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443

Mr. McKinney - Is there any one in the audience to speak to A-47-99 other than the applicant or representative? All right, Mr. Shaw you can raise your hand and be sworn in by the Secretary, please.

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

Mr. Shaw - Well?

Mr. McKinney - Were we lacking on notice?

Mr. Shaw - One notice, but they came in yesterday, because I brought the others out here yesterday and left them.

Mr. McKinney - I've got a note here, five. I see he gave you another one. All right, Mr. Shaw, have all the adjacent and adjoining property owners been notified of this request?

Mr. Shaw - Good morning, Mr. Chairman, members of the Board. My name is Warren W. Shaw. I am here today representing Mrs. Ray Bendle in the request for this variance of the lot size. We have more than the required width of 150 feet, but we have 193 width. We're asking for a variance on the acreage, which is 0.062 acreage. Mrs. Bendle has owned this lot since 1985. When she bought it, it was her intention to build on it and move sometime in the future.

444 Her brother lived in the neighborhood, just two properties west of this lot. Last year, he
445 died. So, that changed the picture of everything. Mrs. Bendle, being a widow, has no
446 intention of moving from Oakland Road where she now resides. She now wants to get this
447 lot in shape so she can put it on the market for sale.

448
449 We have had the soil work completed, and we have an updated permit for the septic tank
450 and well. There was an earlier permit back in 1983 for the septic tank and well, but it was
451 never used.

452
453 This lot is one of the very few building sites left in this plan of Richmond Heights. The lot is
454 in an R-3 zoning, which, if County and water were available, well, then we would not be
455 here today. But, we do have to meet the requirements of one acre in area and 150 feet
456 minimum road frontage.

457
458 We appreciate your interest in this matter, and hope you can see fit to grant this variance
459 to Mrs. Bendle so she can move on her plans for the lot.

460
461 Mr. Nunnally- Mr. Shaw, Mrs. Bendle bought this property in 1985. Was it
462 zoned then, an acre of land to be built on?

463
464 Mr. Shaw - I believe the zoning was an acre. I'm not certain on that.

465
466 Mr. Nunnally- You're not sure how this lot was created, with just this...

467
468 Mr. Shaw - It came off of the parcel to the west. I don't know why they
469 didn't put an acre in it. But it may be that they put it just where he wanted that line to be,
470 thinking that they could build on it.

471
472 Mr. Nunnally- When you say, "to the west," is that where her brother lived?

473
474 Mr. Shaw - Her bother lived next to it.

475
476 Mr. Nunnally- Oh. Okay.

477
478 Mr. Wright- Did she own the property to the west at the time?

479
480 Mr. Shaw - No. She did not.

481
482 Mr. McKinney - Mr. Marlles, do you remember when the 18,000 square foot lot
483 was removed and it went back to a one-acre lot, because in this area, there was a lot of
484 18,000 square foot lots under the R-3 that you could put well and septic tanks.

485
486 Mr. Marlles - Yes, sir. That County's Ordinance has been amended several
487 times, dealing with lots that are not served by water and sewer. The exact date, I do not
488 recall.

489

490 Mr. McKinney - It was in the eighties, I think in 1985, you could put a well and
491 septic tank on it an 18,000 square foot lot.

492
493 Mr. Shaw - Well, I think the acre in area was created by the Health
494 Department so that you could put a well and septic tank on it.

495
496 Mr. McKinney - But they also had it in the eighties that you could do it in R-3 if
497 you had 18,000 square feet minimum.

498
499 Mr. Shaw - That's right.

500
501 Mr. McKinney - Then it was changed and it converted back to one acre. In
502 1985 I think you could have done it with a well and septic tank. I'm not sure. Anything
503 else you have to say?

504
505 Mr. Shaw - No, sir.

506
507 Mr. McKinney - Any other questions of Mr. Shaw by Board members? Staff?
508 Thank you. Anyone else to speak to A-47-99? That concludes your case. Thank you for
509 coming. You can get your answer this afternoon.

510
511 Mr. Shaw - Thank you.

512
513 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
514 McKinney, the Board **granted** this case.

515
516 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
517 Negative: 0
518 Absent: 0

519
520 **REASON:** The Board **granted** this request as it found from the evidence presented that
521 authorizing this variance will not be of substantial detriment to adjacent property and will
522 not materially impair the purpose of the zoning regulations.

523
524 1. This approval is only for the lot area of the lot included in this case. Any future
525 improvements to the property shall comply with the applicable regulations of the
526 County Code.

527
528 Mr. McKinney - Call our next case Mr. Marlles.

529

A-48-99

Louise Chester request for a variance from Section 24-96(b)(1)c. of Chapter 24 of the County Code to build an assisted living facility at 9010 Woodman Road (Tax Parcels 51-A-98 and 99) zoned R-6C, General Residence District (Conditional) (Brookland). The parking requirements are not met. The applicant has 83 parking spaces where the Code requires 123 parking spaces. The applicant requests a variance of 40 parking spaces.

530

531 Mr. McKinney - Any one in the audience to speak in reference to A-48-99? All
532 right, would you please stand, sir. Any one who expects to speak needs to be sworn in by
533 the Secretary. Raise your right hand.

534

535 Mr. Marlles - Would you swear that the testimony that you are about to give
536 is the truth, the whole truth, and nothing but the truth, so help you God?

537

538 Mr. Strange-Boston - I do.

539

540 Mr. McKinney – Would you state your name for the record, whoever is going to
541 speak – present this case.

542

543 Mr. Strange- Boston - I'm Donald Strange-Boston, representing Mrs. Chester. I'm
544 the architect on the project. I'm going to speak to the presentation.

545

546 Mr. McKinney - All right, Mr. Strange-Boston, have all adjoining and adjacent
547 property owners been notified with respect to the County Code?

548

549 Mr. Strange- Boston - I beg your pardon, sir?

550

551 Mr. McKinney - Has the adjoining and adjacent property owners been notified
552 of this request in accordance with the County Code and turn those in to Mr. Marlles?

553

554 Mr. Strange-Boston - Right. Thank you.

555

556 Mr. Balfour- I'm going to excuse myself on this matter.

557

558 Mr. McKinney - Okay. So you are going to abstain.

559

560 Mr. Balfour- Abstain.

561

562 Mr. McKinney - All right, Mr. Strange-Boston, if you will present your case.

563

564 Mr. Strange-Boston - Thank you, sir. Gentlemen and the Board, the site is zoned R-
565 6 multi-family with conditional use limiting it to assisted living facility. We are requesting a
566 variance from the normal multi-family parking requirement of 1.5 spaces per living unit

567 because we believe a strict application of the terms of the County Code would preclude its
568 use from a conditional use now zoned.

569
570 To support this, we'd like to discuss the specialized parking needs for assisted living
571 facilities. To begin with, the average age of residents is 86. By Virginia licensing
572 regulations, they must all require the assistance of others in at least three activities of daily
573 living, such as feeding themselves, dressing themselves, taking a bath, preparing meals,
574 and things of that nature. Very few can, or do still drive.

575
576 In a 1998 study by the American Seniors Housing Association, it was found that the peak
577 load parking requirements on assisted living facilities average .22 spaces per living unit.
578 And this includes materials, deliveries, staff, changing of shift, visitors and all. In contrast,
579 the average facility provides .56 spaces per unit. Henrico County, typically, requires .75
580 per space per unit for assisted living. We had planned slightly over one space per unit.

581
582 We believe that the parking at 1.5 spaces per unit, as compared with the one space per
583 unit, that we now plan, will replace about 12,000 square feet of trees saved and green
584 area with asphalt paving and consequential storm water management structures, thereby
585 preventing the required 15 percent tree cover of the site detracting from site aesthetics,
586 and increasing stormwater runoff volume with no advantage to the County, to the
587 neighborhood, or to the applicant.

588
589 We strongly believe that this request best upholds the spirit of the County Code by
590 providing demonstrably adequate parking and best serves the public interest by allowing
591 more green space and reducing stormwater runoff quantity. Thank you.

592
593 Mr. McKinney - All right, any questions of Mr. Strange-Boston by Board
594 members?

595
596 Mr. Wright- I understanding that you saying, if you take the trees down you
597 will have sufficient area for parking.

598
599 Mr. Strange-Boston - We could do that if we took the trees down.

600
601 Mr. Wright- That's not the problem. The problem is that you don't have
602 adequate space, that is just why you do not want build it.

603
604 Mr. Strange-Boston - We have a requirement to have 15 percent lot cover of trees.
605 And these two are in conflict with each other.

606
607 Mr. Wright- So you couldn't do it?

608
609 Mr. Strange-Boston - We couldn't do it. Right.

610
611 Mr. Kirkland- How many residents are going to be at this facility?

612

613 Mr. Strange-Boston - We have 77 units and two of them are two-bedroom ones.
614 So, that we would have 79 bedrooms. We think some of those may be doubles. We
615 estimate between 83 and 85 total residents.

616
617 Mr. Kirkland- How much staff do you have during the day?
618

619 Mr. Strange-Boston - Peak staff is about 18 to 22, depending on which shift it is. If
620 you have a change in shift, you've got some cars coming in and some going out. And we
621 estimate the total peak parking for staff, two shifts coming in and going out at some place
622 around 30 to 32.

623
624 Mr. Wright- You stated that survey you had where you had .22 average
625 parking spaces per resident; does this include visitors?
626

627 Mr. Strange-Boston - And deliveries and staff and all of it. And I have an extra copy
628 of this study if you would like to have that for reference. It was done in 1998.
629

630 Mr. McKinney - Mr. Strange-Boston, its not going to do us very much good
631 now if you didn't give it to us prior to this. We don't have time to read that now.
632

633 Mr. Strange-Boston - I understand.
634

635 Mr. McKinney - Any other questions of Mr. Strange-Boston by Board
636 members? We have someone else to speak and you can come back. Would you identify
637 your name for the record, sir?
638

639 Mr. Jay Lustig - I am the Director of Development for Patients First. We have
640 a medical facility right next to the proposed development; a primary and urgent medical
641 care right on the corner of Woodman and Parham Roads.
642

643 We are concerned about the request. That center is one of the busiest in our network.
644 We see in excess of 100 patients per day, 365 days a year. And at any given time, we'll
645 have 12 to 15 personnel at the center. So, we need every bit of the 32 parking spaces that
646 we have on our lot. I've also spoken with Doctor Prior, who is a major tenant in one of the
647 medical office buildings next door. He has the same concerns. He's also reaching
648 capacity when it comes to parking. When we received this notice, it appeared to us that
649 the request for reduction was very significant, asking not for a few spaces of reduction but
650 would like to slice it by one third. We are concerned about what might happen if the
651 number of spaces turns out not to be sufficient and people will start parking in our lot or
652 Doctor Pryor's lot. Like I said, we need every bit the spaces that we have. It might have a
653 negative effect on our business if people can park near our facility.
654

655 There is no opportunity for overflow parking. There's no shopping center behind it.
656 There's no street parking. It's bounded by a four-lane road. So, the parking that's
657 available right next to the building is it.
658

659 Perhaps, I don't fully understand Mr. Strange-Boston through a lot of numbers a minute
660 ago. He said there's only three-quarter space requirement and they're planning for one
661 space; yet the zoning requirements require 123 spaces; and they're asking for 83. Maybe
662 I'm not comparing "apples to apples," but I don't understand that difference there,
663 because, with the numbers that Mr. Strange-Boston used, it appears that they are meeting
664 the requirement.

665
666 At any rate, we recommend; I can't recommend. We ask that you consider declining this
667 request. Perhaps we would consider a smaller reduction in the requirement. But the
668 significant reduction that's being requested concerns us and could hurt our business.

669
670 Mr. McKinney - All right, any questions of Mr. Lustig by Board members? So,
671 you think there's a possibility of an overload of this facility coming on to your facility? All
672 right, thank you sir.

673
674 Mr. Lustig - Thank you.

675
676 Mr. McKinney - All right, Mr. Strange-Boston.

677
678 Mr. Strange-Boston - Thank you. I'd like to point out that the parking requirement is
679 for apartments where people drive. Very few, if any of these people drive in assisted
680 living. That's the reason for the 1.5 spaces for the R-6 part of the zoning. But we have no
681 option of ever building apartments on there, because it's absolutely set up conditionally for
682 assisted living only. None of these people can drive. All we have is staff.

683
684 The National statistics and the studies indicate we're offering four times as much parking
685 space as is needed. The County would require, in a normal assisted living facility, would
686 require three times as much as normally needed. We think that's reasonable. We're
687 actually providing four times as much. We think we're going to have an empty; as a matter
688 of fact, all indications are, and if you look at any of the existing assisted living facilities, all
689 indications are, we're going to have a sea of black asphalt out there unused and replacing
690 all of the green space.

691
692 There is no direct drive contact to either the Patient First or to the facility of Doctor Pryor or
693 to the rehabilitation center behind. You have to go back out on Woodman Road. And
694 there is no direct contact between the two.

695
696 We feel like one space per living unit, with the number of people that we've got, and the
697 staff we've got, is extremely generous. And there's no way that this is going to be
698 overwhelmed or overcome by anything.

699
700 Mr. Nunnally- How about the visitors and all, who come to see the..

701
702 Mr. Strange-Boston - Including the visitors. The indications are that, basically, one-
703 quarter space will do it for everything. We've actually offered one space per individual
704 living in the facility, which is far more. And, if you look at any of the facilities in the

705 Richmond area, you'll find a large open parking lot that is unused, and this includes
706 visitors.
707

708 Mr. McKinney - How did you arrive at 79 bedrooms, because this was the
709 maximum you could get out of this piece of property?
710

711 Mr. Strange-Boston - This was the required maximum. We'd actually tried to plan
712 for 85, and it was too much for the land, and the required maximum density places us at
713 77 units.
714

715 Mr. McKinney - Well, had you ever thought of reducing the size of the facility?
716

717 Mr. Strange-Boston - We have thought about doing that, but there's adequate
718 parking and adequate facilities for it. We have an unused parking lot.
719

720 Mr. McKinney - You say its adequate parking, but the County says its not.
721

722 Mr. Strange-Boston - Well, but the County's requirement is based upon normal
723 apartments. This is not a normal apartment; can never be.
724

725 Mr. McKinney - Is that what the zoning condition is; that it cannot be
726 apartments?
727

728 Mr. Strange-Boston - Yes, sir.
729

730 Mr. McKinney - You've read the conditions on the zoning case?
731

732 Mr. Strange-Boston - I don't have the proffers with me.
733

734 Mr. McKinney - Have you read the conditions on this zoning case? Have you
735 read the conditions on this zoning case?
736

737 Mr. Marlles - Yes, I have, sir.
738

739 Mr. McKinney - What are the conditions on it?
740

741 Mr. Marlles - It is limited to an assisted living facility.
742

743 Mr. McKinney - It was zoned when?
744

745 Mr. Marlles - Within the past year. I don't have the exact date.
746

747 Mr. McKinney - So, it was zoned for this purpose?
748

749 Mr. Marlles - Right.
750

751 Mr. McKinney - Okay. All right, any other questions of Mr. Strange-Boston?
752 Anyone else to speak in reference to A-49-99?

753
754 Mr. Peter Runkle - Good morning. I'm Peter Runkle and I'm the attorney for the
755 applicant. I would just like to add that we have arranged with a management company to
756 take care of the management of this facility. And, at their request, I visited one of their
757 units near Atlanta and talked to the manager and everyone else about this. The thing he
758 stressed to me was that he had a 48-unit building, and he was required there to have 45
759 parking spaces. He said there were only three cars owned by residents, and the manager
760 said he had never seen more than 12 in the place at any one time. I'd also call the
761 attention of the Board to the fact that a similar request was granted to the HealthSouth
762 assisted living facility, Phase 1 and Phase 2. Thank you.

763
764 Mr. McKinney - Any questions of Mr. Runkle by Board members? All right,
765 thank you, sir. Any one else to speak in reference to A-48-99? That concludes your
766 case. You'll get your answer this afternoon. Thank you for coming. Next.

767
768 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
769 McKinney, the Board **deferred** this case to the May 27, 1999 meeting so the applicant
770 could discuss and possibly resolve the concerns of the objecting adjacent property
771 owners.

772
773 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
774 Negative: 0
775 Abstained: Balfour 1

776
A-49-99 **Colonial Court Apartments, Inc.** request for a variance from
Sections 24-94 and 24-95(r)(3) of Chapter 24 of the County Code
to build a dwelling at 8224 Kingsdown Court (Westham Manor),
(Tax Parcel 113-21-A-28), zoned R-3C, One-Family Residence
District (Conditional) (Tuckahoe). The front yard setback is not met.
The applicant has 21.0 feet front yard setback where the Code
requires 40.0 feet front yard setback. The applicant requests a
variance of 19.0 feet front yard setback.

777
778 Mr. McKinney - Is any one other than the applicant to speak to A-49-99? All
779 right, Mr. Mistr, would you raise your right hand and be sworn in by Mr. Marlles.

780
781 Mr. Marlles - Do you swear that the testimony that you are about to give is
782 the truth, the whole truth, and nothing but the truth, so help you God?

783
784 Mr. Spud Mistr - I do.

785
786 Mr. McKinney - Will you state your name for the record, sir?

787

788 Mr. Balfour - You're not required to take your glasses off when you swear if
789 you don't want to?
790
791 Mr. Mistr- I can't see with them on. I'm Spud Mistr with Foster & Miller,
792 representing the applicant.
793
794 Mr. McKinney - All right. Did you swear him in?
795
796 Mr. Nunnally - Yes.
797
798 Mr. McKinney - All right, Mr. Mistr, if you would present your case, sir. Have
799 all the adjacent and adjoining property owners been notified of this request in accordance
800 with the County Code and you turned those in?
801
802 Mr. Mistr - They were notified. One was not at the address. They sent it
803 back to us, but notice was sent – Greystone Condominium Associates.
804
805 Mr. McKinney - All right. Thank you, sir.
806
807 Mr. Mistr - All right, this is a flag lot. The builder applied for a building
808 permit and it was approved. When they came to us to stake the house, we noticed that
809 there was a problem with the front yard setback. By the way, the County defines a front
810 yard on a flag lot. And what this did, the builder wants to situate the house so that the front
811 of the house faces the cul-de-sac and is relatively in line with the two adjacent houses to it.
812 In order to meet the strict letter of the Code, we have to rotate the house so that the front
813 of this house faces directly into the side of the house on Lot 27. And if you'd like, I've
814 sketched on here in yellow the way we would like to see it. That is the way the house
815 would be situated in accordance with the code.
816
817 The house adjacent to it on the right side has been constructed and is occupied. The lot
818 immediately to the left of this is still vacant. But, as you can see, we are trying to situate
819 the house so that it would make the best presentation and fit in, in what we feel like is the
820 most appealing manner to that cul-de-sac. This house, the price is \$360,000. And, we
821 feel like we would be doing a disservice to the community and to the buyer of this house to
822 situate it so that its facing directly into the side of the house next to it and possibly into the
823 back yard.
824
825 Mr. McKinney - All right. Anything else?
826
827 Mr. Mistr - No sir.
828
829 Mr. McKinney - Any questions of Mr. Mistr by Board members or staff? That
830 concludes the case. Thank you for coming. You'll get an answer this afternoon, sir.
831
832 Mr. Mistr - Thank you.
833

834 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
835 McKinney, the Board **granted** this case.

836

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

838 Negative: 0

839 Absent: 0

840

841 **REASON:** The Board **granted** this request as it found from the evidence presented that
842 authorizing this variance will not be of substantial detriment to adjacent property and will
843 not materially impair the purpose of the zoning regulations.

844

845 1. Only the structure shown on the plan filed with the case may be constructed pursuant
846 to this approval.

847

848

UP-17-99

Leslie and Catherine Foldesi request for a conditional use permit pursuant to Section 24-12(e) of Chapter 24 of the County Code to have a private kennel at 5704 Cutshaw Avenue (Monument Place) (Tax Parcel 103-7-C-12), zoned R-3, One-Family Residence District (Three Chopt).

849

850 Mr. McKinney - Is there any one in the audience, other than the applicant
851 that's going to speak in reference to UP-17-99? All right, you intend to speak. Would you
852 raise your right hand and be sworn in by the Secretary, please?

853

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

856

857 Mr. and Mrs. Foldesi - I do.

858

859 Mr. McKinney - Would you state your name for the record?

860

861 Mr. Leslie Foldesi - Leslie Foldesi.

862

863 Mr. McKinney - All right, Mr. Foldesi, has all the adjoining and adjacent
864 property owners been notified of this request according to the County Code?

865

866 Mr. Foldesi - Yes sir.

867

868 Mr. McKinney - Have you turned those in to the Secretary?

869

870 Mr. Foldesi - Yes.

871

872 Mr. McKinney - All right, if you'll present your case, sir.

873

874 Mr. Foldesi - Thank you. Good morning, gentlemen. My name is Leslie
875 Foldesi and we're here to ask for a conditional use permit for four or more dogs. We
876 intend to move to 5704 Cutshaw. We like to live on the ground floor. Our housing is
877 rather limited because Cathy is legally blind and cannot drive. So, she would like to be
878 independent and be able to walk to shopping places. So, Willow Lawn is convenient to
879 walk.

880
881 Our dogs are important to us. They are a hobby we can share. Cathy is a great trainer
882 and is a nationally recognized competitor in agility. They're great companion dogs and a
883 lot of fun to have. Most are now retired and they're our pets. Their ages are 12, 10, 9 and
884 3.

885
886 In addition to sending letters to our new neighbors, we personally visited the neighbors –
887 nine neighbors. We provided them a copy of the cover letter that was sent to the
888 application. And, actually, we got five of them, representing six properties to sign a
889 statement that they didn't object to the application.

890
891 There were two neighbors that did have concerns and we addressed those. One neighbor
892 was concerned about getting a good night's sleep. And, our dogs are in with us at night.
893 The other neighbor had a bad experience with another dog owner who allowed her dog to
894 be exercised in front of her yard. And after she asked her dog owner to clean up, the dog
895 owner intentionally exercised their dog there every day.

896
897 We assured her that our dogs are exercised in our back yard. We rarely walk them on a
898 leash in the neighborhood. Maybe a couple times, but we do pick up after our dogs.

899
900 Okay, so during the day, they're out for short periods of time, especially in the summer.
901 They're long-haired dogs. So, they're intolerant to the heat. We also fear that they could
902 be stolen, so they're pretty much inside dogs.

903
904 We do intend to put up a 6-foot privacy fence. The term "kennel" is rather intimidating.
905 We do not intend to operate a business kennel. You won't see a dog run in our yard or
906 dog house, and dogs tied out in our yard. Our dogs have been neutered except for one
907 that's been shown in competition. All our dogs have been obedience trained and passed
908 the various temperament tests. We try to contribute to the community. We take our dogs
909 to nursing homes. Cathy and I both teach dog obedience at the Dog Obedience Club.
910 And we looked at the staff's suggestions, and we find them to be acceptable. Specifically,
911 no boarding or breeding of the dogs and limit our pets to six, including dogs and cats.

912
913 Mr. McKinney - How many dogs do you have now?

914
915 Mr. Foldesi - We have four.

916
917 Mr. McKinney - Four? Do you want to increase what you have?

918
919 Mr. Foldesi - There's a possibility we would like to have one more dog.

920
921 Mr. McKinney - How did we get Condition #2 on here, Mr. Marlles? I mean
922 we've got an applicant that's not in compliance and asking for a variance and had four
923 animals, whichever they may be. We've got a condition here that's going to give him two
924 more than what he already has.
925
926 Mr. Foldesi - I'd like to clarify.
927
928 Mr. McKinney - Wait a minute.
929
930 Mr. Marlles - I'm not aware of any complaints that were filed on the animals.
931 We were, basically, trying to accommodate the request and to put a cap on the number of
932 animals.
933
934 Mr. Wright- In my opinion, four is enough.
935
936 Mr. McKinney - All right, you had a question, Mr. Foldesi.
937
938 Mr. Foldesi - Okay. I just wanted to clarify – I didn't want to leave you with
939 the impression that we're living now at 5704. We intend to move from the City of
940 Richmond, where currently there was no limit. We thought there was a limit of five, but,
941 apparently, there's no limit on pet ownership in the City.
942
943 Mr. McKinney - You purchased this home?
944
945 Mr. Foldesi - We have a contract for the home. Yes.
946
947 Mr. Wright- Well, you have four right now?
948
949 Mr. Foldesi - Yes sir. Four dogs and a cat.
950
951 Mr. Wright- You have a cat?
952
953 Mr. Foldesi - Yes, sir.
954
955 Mr. McKinney - So, you have five.
956
957 Mr. Foldesi - So that would be fine.
958
959 Mr. McKinney - All right, do you have anything else to add?
960
961 Mr. Wright- Would you have any objection, if we approve this, this
962 condition saying four dogs and a cat?
963
964 Mrs. Kathy Foldesi - That would be fine.
965

966 Mr. Foldesi - That would be acceptable. Yes.

967

968 Mr. McKinney - Any other questions? Any one else to speak in reference to
969 UP-17-99? That concludes your case. Thank you for coming. You'll get your answer this
970 afternoon.

971

972 Mr. and Mrs. Foldesi - Thank you.

973

974 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
975 Kirkland, the Board **granted** this case.

976

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

978 Negative: 0

979 Absent: 0

980

981 **REASON:** The Board **granted** this request as it found from the evidence presented that
982 authorizing this use permit will not be of substantial detriment to adjacent property and
983 will not materially impair the purpose of the zoning regulations.

984

985 1. This approval is only for dogs owned by the resident property owner. This approval is
986 not for the boarding or breeding of dogs at any time.

987 2. No more than a total of 5 animals (dogs & cats) will be permitted. No new or
988 replacement animals may be added so that the number of animals will be reduced by
989 natural means to the 3 animal limit allowed in a residential district.

990

991 Mr. McKinney - That concludes our 9:00 o'clock agenda and we'll reconvene
992 at 10:00 o'clock.

993

994 **AT THIS TIME THE BOARD CONVENE UNTIL 10:00 A.M.**

995

996 Mr. McKinney - All right, the Board of Zoning Appeals will reconvene. Do we
997 have any calls for deferrals or withdrawals on the 10:00 o'clock agenda?

998

A-48-99 **Louise Chester** request for a variance from Section 24-
96(b)(1)c. of Chapter 24 of the County Code to build an assisted
living facility at 9010 Woodman Road (Tax Parcels 51-A-98 and
99) zoned R-6C, General Residence District (Conditional)
(Brookland). The parking requirements are not met. The applicant
has 83 parking spaces where the Code requires 123 parking
spaces. The applicant requests a variance of 40 parking spaces.

999

1000 Mr. Strange-Boston - Gentlemen, we'd like to defer A-48-99 in order to give us time
1001 to discuss the objections and concerns of Patient First and Doctor Pryor, the adjacent
1002 properties. We were unaware of these until this morning and we'd like a chance to work it
1003 out with them.

1004

1005 Mr. McKinney - Mr. Strange-Boston, have you talked with Mr. Lustig?
1006
1007 Mr. Strange-Boston - No, sir, I have not.
1008
1009 Mr. McKinney - I don't see where there'd be a problem with this, but you had
1010 opposition here. And, if you want to get together with that opposition...
1011
1012 Mr. Strange-Boston - That's what we'd like to do.
1013
1014 Mr. McKinney - But, he was here and I don't see him now.
1015
1016 Mr. Strange-Boston - No. I looked for him, and I didn't spot him.
1017
1018 Mr. McKinney - And we stated the case was concluded. I think it would be
1019 advisable for you to see if you can get in touch with him, and then come back to us at
1020 11:00 o'clock.
1021
1022 Mr. Strange-Boston - All right, sir. We'll do that.
1023
1024 Mr. McKinney - I mean, I don't want him to think that something is being pulled
1025 over on him or something when he thinks its done.
1026
1027 Mr. Strange-Boston - Right.
1028
1029 Mr. McKinney - And if he has no problem with it, you can come back. You're
1030 under oath, and you can...
1031
1032 Mr. Strange-Boston - We can do that. Thank you.
1033
1034 Mr. McKinney - Any other requests for deferrals or withdrawals on the 10:00
1035 o'clock agenda? All right, Mr. Marlles, would you call the next case, sir?
1036

A-50-99

Joseph and Karen McCann request for a variance from Section 24-94 of Chapter 24 of the County Code to build addition and screened porch at 10900 Rickey Court (Lexington) (Tax Parcel 38-11-B-20) zoned R-3AC, One-Family Residence District (Conditional) (Three Chopt). The rear yard requirements are not met. The applicant has 23.0 feet rear yard setback where the Code requires 35.0 feet rear yard setback. The applicant requests a variance of 12.0 feet rear yard setback.

1037
1038 Mr. McKinney - Is any one else, other than the applicant, going to speak in
1039 reference to A-50-99? Any opposition, opponents, other than the applicant? Would you
1040 raise your hand, ma'am, and be sworn in by our Secretary.
1041

1042 Mr. Marlles - Would you swear that the testimony that you are about to give
1043 is the truth, the whole truth, and nothing but the truth, so help you God?
1044
1045 Ms. Karen McCann - I do.
1046
1047 Mr. McKinney - Would you state your name for the record, ma'am?
1048
1049 Ms. Karen McCann - Karen McCann.
1050
1051 Mr. McKinney - Ms. McCann, has all the adjoining and adjacent property
1052 owners been notified of this request, according to the County Code?
1053
1054 Ms. McCann - Yes. I have these.
1055
1056 Mr. McKinney - Hand those into the Secretary, please. All right, you can
1057 present your case.
1058
1059 Ms. McCann - Currently, our house is pushed back on the lot, so we have a
1060 very large front yard, but our backyard is at the 35-foot code as it is allowed. Currently, our
1061 deck is about 25 feet by 12 feet. But what we want to do is put the addition on, which
1062 would just go two feet further past that deck to do a 25 x 14 addition, with a screened-in
1063 room off to the side that's not closest to Ft. McHenry Parkway, but next to our neighbor's
1064 house. And the reason the house is pushed back is, when we were building the house, we
1065 had to have a corner lot for that house, and its on a steep hill in the front. And we have a
1066 small child and we just felt it was a little too dangerous to be that high on the hill on the
1067 corner. So, we pushed the house back, which needed it to go back as far as it could go.
1068 But, we'd like a little bit more room without moving. We've only been there 18 months.
1069 We just need a little bit more room. We get a lot of visitors and we like the area and the
1070 neighborhood, and really don't want to move. So, we'd just like to add onto the house at
1071 this point.
1072
1073 And, we've talked to most of the neighbors and they don't seem to have a problem with it.
1074 It is pretty open on the side of Ft. McHenry Parkway, so, probably within the next year we
1075 want to get a full row of trees. That will give some blockage for the neighbors and from the
1076 road, to give it some coverage so its not right out in the view of everybody. But we need to
1077 wait until the construction would be finished before we could do that.
1078
1079 Mr. McKinney - You've read the conditions, Mrs. McCann?
1080
1081 Mrs. McCann - Yes.
1082
1083 Mr. McKinney - The landscape screen on Condition No. 2 on Ft. McHenry,
1084 what type of landscape screen is it?
1085

1086 Mrs. McCann - We'd like to put some trees; probably staggering either some
1087 Leland Cypress or some other large type of tree that are large to begin with or grow very
1088 quickly so we can get the coverage as fast as we can.
1089
1090 Mr. McKinney - Mr. Marlles, in your Condition #2, have you suggested any
1091 type of screening to Mrs. McCann?
1092
1093 Mr. Marlles - Staff usually does recommend Leland Cypress. So, that
1094 would be acceptable to the staff.
1095
1096 Mr. McKinney - Do you want to put in the conditions that will be done on
1097 Condition 2, rather than just leave it open?
1098
1099 Mr. McCann - That would be acceptable.
1100
1101 Mr. Marlles - I would recommend that. Yes.
1102
1103 Mr. McCann - That would be acceptable. Yes.
1104
1105 Mr. McKinney - Okay. Anything else, Mrs. McCann?
1106
1107 Mrs. McCann - No sir.
1108
1109 Mr. McKinney - Let me ask, are there any questions of Mrs. McCann by Board
1110 members?
1111
1112 Mr. Wright- Where does your house face? What street does it face on?
1113
1114 Mrs. McCann - It faces on Ricky Court, and the side of the house is on Ft.
1115 McHenry Parkway.
1116
1117 Mr. Wright- So, it faces Ricky Court?
1118
1119 Mrs. McCann - Yes, sir.
1120
1121 Mr. Wright- The house that's to the side where the construction would be
1122 then faces on Ft. McHenry Parkway? Is that right?
1123
1124 Mrs. McCann - The houses that are across the street from me actually face
1125 onto their cul-de-sac, which is Killiam Court. So, it's the back of their house.
1126
1127 Mr. Wright- So, you're looking at the back of their house?
1128
1129 Mrs. McCann - Right.
1130

1131 Mr. Wright- I was thinking the house to your left facing Ft. McHenry
1132 Parkway or would be to the rear of your house?
1133
1134 Mrs. McCann - To the rear of my house, they face Brunsin Way.
1135
1136 Mr. Wright- The rear of your house faces the side of their house, is that
1137 correct?
1138
1139 Mrs. McCann - No. The rear of our house faces the rear of their house that
1140 behind us.
1141
1142 Mr. Wright- They face on Brunsin Way.
1143
1144 Mrs. McCann - Yes.
1145
1146 Mr. Wright- Oh. I see it.
1147
1148 Mrs. McCann - None of us are really facing each other, being on the corner.
1149 It's all the backs of the houses.
1150
1151 Mr. Wright- Is your house about the same elevation as their house that
1152 behind you?
1153
1154 Mrs. McCann - It's exactly the same, the house behind us.
1155
1156 Mr. Wright- The house is on the same level?
1157
1158 Mrs. McCann - We just have a bigger garage.
1159
1160 Mr. Wright- How far would you say that house is from your rear to the line?
1161
1162 Mrs. McCann - They have over the 35-foot. So they probably have, like what
1163 our front yard is, probably sixty or seventy feet. They're pretty close to the front of their
1164 road, where our house would have been, if we wouldn't have pushed it back.
1165
1166 Mr. Wright- Thank you.
1167
1168 Mr. McKinney - Any other questions by Board members. Comments from
1169 staff? Any one else to speak in reference to A-59-99? That concludes your case. Thank
1170 you for coming Mrs. McCann. You can get your answer this afternoon.
1171
1172 Mrs. McCann - Thank you.
1173
1174 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1175 Balfour, the Board **granted** this case.
1176

1177 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1178 Negative: 0
1179 Absent: 0

1180
1181 **REASON:** The Board **granted** this request as it found from the evidence presented that
1182 authorizing this variance will not be of substantial detriment to adjacent property and will
1183 not materially impair the purpose of the zoning regulations.

- 1184
1185 1. This approval is only for variance of the rear yard requirement in order to allow the
1186 addition that is the subject of this case to project into the rear yard. Any future
1187 improvements of the property shall fully comply with all regulations of the County
1188 Code.
1189 2. A landscaped screen of Leyland Cypress shall be provided along the Fort McHenry
1190 Parkway property line to lessen the view from the neighboring properties fronting on
1191 said street.

1192
1193

A-51-99 **Linda C. Evans** request for a variance from Section 24-9 of Chapter 24 of the County Code to build a dwelling at 8000 Upper Western Run Lane (Tax Parcel 243-A-10DA), zoned A-1, Agricultural District (Varina). The public street frontage is not met. The applicant has 0.0 feet public street frontage where the Code requires 50.0 feet public street frontage. The applicant requests a variance of 50.0 feet public street frontage.

1194
1195 Mr. McKinney - Any one in the audience to speak, other than the applicant, in
1196 reference to A-51-99? Does any one intend to testify? All right, ma'am, if you'd raise your
1197 hand and be sworn in by the Secretary.

1198
1199 Mr. Marlles - Would you swear that the testimony that you are about to give
1200 is the truth, the whole truth, and nothing but the truth, so help you God?

1201
1202 Ms. Linda C. Evans - I do.

1203
1204 Mr. McKinney - Would you state your name for the record, ma'am?

1205
1206 Ms. Evans - I'm Linda C. Evans.

1207
1208 Mr. McKinney - Ms. Evans, have all the adjacent and adjoining property
1209 owners been notified of this request, according to the County Code?

1210
1211 Ms. Evans - Yes. There's only one, my dad.

1212
1213 Mr. McKinney - If you'd turn that into Mr. Marlles. There's only one adjacent
1214 property owner?

1215

1216 Ms. Evans - Yes sir. It's in the middle of a pasture, and he just chunked
1217 out the acre for me to build a house on.
1218
1219 Mr. Wright- You're right in the middle of his property?
1220
1221 Ms. Evans - It's a line of trees right there and there's a creek right there,
1222 and it's a knoll that's up on top of a hill, but it's just right there.
1223
1224 Mr. McKinney - Who owns the property across from upper Western Run
1225 Lane?
1226
1227 Ms. Evans - My dad owns it all, except for my brother. He gave my brother
1228 an acre at the top and my other brother an acre up at the top, but it doesn't adjoin me. All
1229 the property around me, like I say, belongs to my dad. We had a variance at one time and
1230 it expired, and I'm back, reapplying.
1231
1232 Mr. McKinney - All right, Ms. Evans, if you'd present your case, ma'am.
1233
1234 Ms. Evans - I'm reapplying for the variance that expired is actually what I'm
1235 doing. I forget what year it was; 1984, maybe, so I can build this house.
1236
1237 Mr. McKinney - So, you're ready to build it now?
1238
1239 Ms. Evans - Yes, sir.
1240
1241 Mr. McKinney - All right, any questions of Ms. Evans by Board members?
1242
1243 Mr. Wright- Yes. Ms. Evans, you have read the conditions, have you?
1244
1245 Ms. Evans - Yes, sir.
1246
1247 Mr. Wright - Why don't we have the other conditions that we used to put on
1248 this thing?
1249
1250 Mr. McKinney - Because it has been streamlined, Mr. Wright.
1251
1252 Mr. Wright - We're not going to put that on there any more?
1253
1254 Mr. McKinney - "...and all other requirements of the Code shall be met," which
1255 covers it all. Is that correct, Mr. Marlles?
1256
1257 Mr. Marlles - Yes sir.
1258
1259 Mr. Wright - That doesn't help the applicant, though. They don't know what
1260 they are. They're not spelled out.
1261

1262 Mr. McKinney - Well, when they go and apply for their permit, whether they
1263 have a variance or not, everyone still has to meet all of the requirements.
1264
1265 Mr. Wright - I still like...
1266
1267 Mr. McKinney - I'm sure they can be put back on for you, Mr. Wright.
1268
1269 Mr. Wright - I mean, I like to see some wording in there that the County is
1270 not responsible for the road. They're supposed to maintain that road. Is that in the
1271 requirements of the Code? I mean...
1272
1273 Mr. McKinney - Yes, sir.
1274
1275 Ms. Evans - We have the 50-foot. It's there already.
1276
1277 Mr. Wright - I understand.
1278
1279 Ms. Evans - We did it to begin with, but it just expired. And we do maintain
1280 that road.
1281
1282 Mr. McKinney - If it expired, you don't have it anymore.
1283
1284 Ms. Evans - Pardon me?
1285
1286 Mr. McKinney - If it expired, you don't have it anymore.
1287
1288 Ms. Evans - Its still there and it is maintained. It's the proper width and
1289 everything.
1290
1291 Mr. Wright - If you all are comfortable with that, I think we're going the
1292 wrong way.
1293
1294 Mr. McKinney - We can take a look at it, Mr. Wright.
1295
1296 Mr. Wright - Well, everything you can do to help people, is helpful.
1297
1298 Mr. McKinney - I understand. Any other questions of Ms. Evans by Board
1299 members? Staff have any comments?
1300
1301 Mr. Marlles - No, sir.
1302
1303 Mr. McKinney - Anyone else to speak to A-51-99? That concludes the case,
1304 Ms. Evans. Thank you for coming. You will get your answer this afternoon. Next.
1305
1306 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1307 Balfour, the Board **granted** this case.
1308

1308
 1309 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
 1310 Negative: 0
 1311 Absent: 0

1312
 1313 **REASON:** The Board **granted** this request as it found from the evidence presented that
 1314 authorizing this variance will not be of substantial detriment to adjacent property and will
 1315 not materially impair the purpose of the zoning regulations.

- 1316
 1317 1. A well and septic system approval by the Health Department must be obtained.
 1318 2. The owners of the property, their heirs or assigns, must accept responsibility for
 1319 maintaining access to the property until such a time as the access is improved to
 1320 County standards and accepted County road system for maintenance.
 1321 3. The applicant must present proof with the building permit application that a legal
 1322 access to the property has been obtained.
 1323 4. The applicant must submit the necessary information to the Department of Public
 1324 Works to ensure compliance with the requirements of the Chesapeake Bay
 1325 Preservation Act and the code requirements for water quality standards.
 1326

A-52-99 **Robert and V. A. Peranski** request for a variance from Section
 24-95(q)(5) of Chapter 24 of the County Code to build an attached
 garage at 10403 Falconbridge Drive (Gayton Forest) (Tax Parcel
 78-8-G-3), zoned R-2CD, One-Family Residence District
 (Controlled Density) (Tuckahoe). The minimum and total side yard
 setbacks are not met. The applicant has 5.45 feet minimum side
 yard and 21.09 feet total side yard where the Code requires 10
 feet minimum side yard and 24.0 feet total side yard. The applicant
 requests a variance of 4.55 feet minimum side yard and 2.91 feet
 total side yard.

1327
 1328 Mr. McKinney - Is there any one in the audience to speak in reference to A-52-
 1329 99 other than the applicant, intend to testify? Sir, would you raise your hand and be sworn
 1330 in by the Secretary.

1331
 1332 Mr. Marles - Would you swear that the testimony that you are about to give
 1333 is the truth, the whole truth, and nothing but the truth, so help you God?

1334
 1335 Mr. Robert Peranski - I do.

1336
 1337 Mr. McKinney - Would you state your name for the record, sir?

1338
 1339 Mr. Peranski Robert Peranski.

1340
 1341 Mr. McKinney - Mr. Peranski, has all of the adjacent and adjoining property
 1342 owners been notified of this request according to the County Code?

1343
1344 Mr. Peranski - Yes. They have.
1345
1346 Mr. McKinney - Have you turned your notices in to Mr. Marlles?
1347
1348 Mr. Marlles - Thank You, sir.
1349
1350 Mr. McKinney - If you would present your case, sir.
1351
1352 Mr. Peranski - We're asking the Board to approve a variance to our property.
1353 We had planned to build a two-car attached garage, and we found that the requirements
1354 for a two-car garage is 24 feet, which encroaches on the side yard requirements for the
1355 County, and we needed an additional 4.55 feet in order to accomplish the building of the
1356 garage. One of the primary reasons we would like to build this garage is because I do
1357 some travel out of town and it will provide some additional safety and security for my wife
1358 who lives alone while I am gone. And that is pretty much our case.
1359
1360 Mr. McKinney - All right, any questions of Mr. Peranski by Board Members?
1361
1362 Mr. Wright- What is that in that picture where you have your two vehicles
1363 parked? Is that where the garage will be?
1364
1365 Mr. Peranski- Yes, it will. It will use the existing driveway.
1366
1367 Mr. Wright- What is that addition just to the right of the automobile under
1368 the cover?
1369
1370 Mr. Peranski- That is really not an addition, that is part of the original
1371 structure, It houses a portion of the kitchen in the back and the utility room.
1372
1373 Mr. Wright- Will the garage be attached to that?
1374
1375 Mr. Peranski_ Yes, it will. The roof line work will be pretty intensive.
1376
1377 Mr. Wright- I can see that. So the garage will extend above that little
1378 addition.
1379
1380 Mr. Peranski- According to the preliminary discussions with the architect, he
1381 thinks that the roof will tie at about the top of the shed roof.
1382
1383 Mr. Wright- So you are going to extend it over top of that area.
1384
1385 Mr. Peranski- Right, I think they call it a hip roof.
1386
1387 Mr. Wright- Is there any screening between your property, the proposed
1388 garage, and the house adjacent on that side?

1389
1390 Mr. Peranski- No, there is not.
1391
1392 Mr. McKinney Any other questions of Mr. Peranski by the Board members?
1393 Staff have any comments? Any one else to speak in reference to A-52-99? That
1394 concludes your case, you can get your answer this afternoon.

1395
1396 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1397 Nunnally, the Board **granted** this case.

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

1402
1403 **REASON:** The Board **granted** this request as it found from the evidence presented that
1404 authorizing this variance will not be of substantial detriment to adjacent property and will
1405 not materially impair the purpose of the zoning regulations.

1406
1407 1. This approval is only for relief of total and minimum side yard requirements of Section
1408 24-95(q)(5) To build an attached garage in accordance with the documents submitted
1409 with and the subject of this case. All future improvements on the property shall be in
1410 accordance with the County Code.

1411
A-53-99 **Paul B. and Kim D. Tran** request for a variance from Section 24-
94 of Chapter 24 of the County Code to build a dwelling at 3009
Church Road (Tax Parcel 57-A-42), zoned A-1, Agricultural District
(Three Chopt). The lot width and total side yard setbacks are not
met. The applicant has 106.45 feet lot width and 44.0 feet total side
yard where the Code requires 150.0 feet lot width and 50.0 feet
total side yard. The applicant requests variances of 43.55 feet lot
width and 6.0 feet total side yard.

1412
1413 Mr. McKinney - Is anyone in the audience going to speak in reference to A-53-
1414 99 other than the applicant? All right, you can raise your hand and be sworn in by the
1415 Secretary.

1416
1417 Mr. Marles - Do you swear that the testimony that you're about to give is
1418 the truth, the whole truth, and nothing but the truth, so help me God?

1419
1420 Mr. Tran- I do.

1421
1422 Mr. McKinney - Would you state your name for the record, sir?

1423
1424 Mr. Tran- Paul B Tran and Kim D. Tran
1425

1426 Mr. McKinney - Mr. Tran, has all the adjacent and adjoining property owners
1427 been notified of this request, according to the County Code?
1428
1429 Mr. Tran- We do.
1430
1431 Mr. McKinney - Will your turn those into Mr. Marlles, please. All right, if you'd
1432 present your case, sir.
1433
1434 Mr. Tran - We plan to build a house on the lot that has the width of
1435 106.45 feet width and 44 feet total side yard. We ask a request of variance of 45.55 feet
1436 for the width and 6 feet total side yard.
1437
1438 Mr. McKinney - Anything else?
1439
1440 Mr. Tran - That's it.
1441
1442 Mr. McKinney - Mr., Marlles, proposed Cox Road comes through the back of
1443 his lot, correct?
1444
1445 Mr. Marlles - Yes sir
1446
1447 Mr. McKinney - Before we go any further, have you already purchased this
1448 lot?
1449
1450 Mr. Tran - Yes, we own the lot
1451
1452 Mr. Wright - Purchased it in 1997, it says here. When you bought this lot,
1453 you bought it just like it is?
1454
1455 Mr. Tran - Yes, sir.
1456
1457 Mr. McKinney - When you purchased the lot, was the proposed Cox Road to
1458 go through it then?
1459
1460 Ms. Tran - Yes.
1461
1462 Mr. Wright - What about Church Road, is that going to take part of it?
1463 Church Road is going to take off some of the other end.
1464
1465 Mr. McKinney - Mr. Marlles, how is that being handled as far as the dedication
1466 of this property for these road improvements?
1467
1468 Mr. Marlles - Sir, right now there are road plans showing the future Church
1469 Road and Cox Road improvements. I believe the applicants are aware of those plans.
1470
1471 Mr. Wright - Mr. Tran, where do you live?

1472
1473 Mr. Tran - I live next door, adjacent to that lot on the 3003 North Church
1474 Road.
1475
1476 Mr. Wright - How many acres do you have? .
1477
1478 Mr. Tran - I have 3.5 acres.
1479
1480 Mr. Wright - You have 3.5 acres?
1481
1482 Mr. Tran - Altogether.
1483
1484 Mr. Wright - What do you propose to do with this house that you construct
1485 on here if this is approved?
1486
1487 Mr. Tran - We want to move to that house.
1488
1489 Mr. Wright - Are you going to move into the new house and sell the old
1490 house?
1491
1492 Mr. Tran - We may rent it out. We don't know, we have not decided.
1493
1494 Mr. McKinney - Ms. Blackburn, do we have someone from Public Works?
1495
1496 Ms. Blackburn - Yes, they were called to come down to the Board Room. They
1497 will be able to provide expert information on this issue.
1498
1499 Mr. McKinney - Are they on their way down here?
1500
1501 Ms. Blackburn - As far as I know, yes.
1502
1503 Mr. Kirkland - Mr. Marlles, on the proposed Cox Road, the dotted line is that
1504 total road including all right of way?
1505
1506 Mr. Marlles - Yes sir, I believe that's what the map indicates.
1507
1508 Mr. Kirkland - How wide is that, 80 feet?
1509
1510 Mr. Marlles - I am not sure, sir.
1511
1512 Mr. Wright - Mr. Tran, where would this house face? Would it face Church
1513 Road?
1514
1515 Mr. Tran - Yes, sir.
1516
1517 Mr. Wright - And you would access the property from Church Road?

1518
1519 Mr. Tran - Yes, sir.
1520
1521 Mr. McKinney - I have some problems with these proposed roads, without
1522 talking with Public Works, and I think the County Attorney. I don't know how the rest of the
1523 Board Members feel about this. It has been the normal procedure, whether it is a
1524 homeowner, or developer that comes in to develop a piece a property, and this is
1525 proposed; it is normal to dedicate this for this purpose to do the development. I don't know
1526 if Mr. and Mrs. Tran are aware of that and should be made aware of that. And I think it
1527 clouds the issue here a little bit. Mr. Tran when do you anticipate building your home?
1528
1529 Mr. Tran - We will build it probably in a few months.
1530
1531 Mr. McKinney - Do you have any problem with your case being deferred for 30
1532 days? I don't want anyone taking advantage of you or anything like that. I think you need
1533 to have all your t's crossed and i's dotted before the Board can make a decision on it, I
1534 mean so we are not clouded on the issue.
1535
1536 Mr. Tran - You want to delay this for 30 days or something?
1537
1538 Mr. McKinney - Until the next meeting, yes sir.
1539
1540 Mr. Tran - Yes, no problem.
1541
1542 Mr. McKinney - Is that all right with you, Ms. Tran?
1543
1544 Ms. Tran - Yes, sir.
1545
1546 Mr. Balfour - The idea is to find out how this proposed Cox Road might
1547 effect the lot and how much land he will have left or whether or not it's been dedicated?
1548
1549 Mr. McKinney - Well, that and I think there is a lot of issues when you have
1550 two roads, and how it will impact them with the design criteria. I think they need to know
1551 the design criteria.
1552
1553 Mr. Balfour - I agree, we had better find some answers.
1554
1555 Mr. McKinney - Lets take a motion to defer for 30 days.
1556
1557 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1558 McKinney, the Board **deferred** this case.
1559
1560 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1561 Negative: 0
1562 Absent: 0
1563

1564 **REASON:** This request was **deferred** from the April 22, 1999 meeting to the May 27, 1999
1565 meeting because the Board needed additional time to research several issues of the case.
1566

A-54-99 **Ciro M. and M. T. Robustelli** request for a variance from Section 24-41(e) of Chapter 24 of the County Code to build a Florida room at 10506 Red Maple Lane (Gayton Forest Townhouses) (Tax Parcel 78-14-CC-9), zoned RTH (Residential Townhouse District) (Tuckahoe). The rear yard setback is not met. The applicant has 18.0 feet rear yard setback where the Code requires 30.0 feet rear yard setback. The applicant requests a variance of 12.0 feet rear yard setback.

1567
1568 Mr. Marlles - Do you swear that the testimony that you're about to give is
1569 the truth, the whole truth, and nothing but the truth, so help me God?
1570

1571 Mr. Robustelli - I do.

1572
1573 Mr. McKinney - Would you state your name for the record, sir?
1574

1575 Mr. Robustelli - **Ciro M. Robestella.**

1576
1577 Mr. McKinney - Mr. Robestella, have all the adjacent and adjoining property
1578 owners been notified of this request, according to the County Code?
1579

1580 Mr. Robustelli - Yes, sir.

1581
1582 Mr. McKinney - Will your turn those into Mr. Marlles, please. All right, if you'd
1583 present your case, sir.
1584

1585 Mr. Robustelli - Yes, we're asking a variance of 12 feet, which extends two
1586 feet beyond the current open deck to build a Florida room. We live in a townhouse and
1587 the association has been notified and showed a picture of what we intended to do. They
1588 have approved it. Our immediate neighbors have also had an opportunity to look at the
1589 sketches and there were no objections.

1590
1591 The reason we'd liked to do it is to allow us enjoy year round use of what is currently a
1592 deck. And I also am retired and paint as a hobby and have no convenient place to set up
1593 an easel. I currently do it in the kitchen and have to take it down and up all the time. I
1594 would like to be able to use that nice well-lighted room to pursue that hobby. And,
1595 essentially, the back of our property faces woods which is zoned C-1. And there is, I think,
1596 several hundred feet between our house and the closest house to the rear.

1597
1598 Mr. McKinney - All right, do you have anything else, Mr. Robestella?
1599

1600 Mr. Robustelli - No. Not really.

1601
1602 Mr. McKinney - Any questions of Mr. Robestella by Board members? Does
1603 the staff have any comments?

1604
1605 Mr. Marlles - No, sir.

1606
1607 Mr. McKinney - Any one else in the audience to speak? I'll ask again on A-54-
1608 99? Thank you. That concludes your case. Thank you for coming, sir. You'll get your
1609 answer this afternoon.

1610
1611 Mr. Robustelli - Thank you.

1612
1613 Mr. McKinney - Next.

1614
1615 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1616 Wright, the Board **granted** this case.

1617
1618 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1619 Negative: 0

1620 Absent: 0

1621
1622 **REASON:** The Board **granted** this request as it found from the evidence presented that
1623 authorizing this variance will not be of substantial detriment to adjacent property and will
1624 not materially impair the purpose of the zoning regulations.

1625
1626 1. This approval is only for the rear yard setback for the Florida room described on
1627 documents and drawings submitted with the application and the subject of this case.
1628 Any future improvements on the property shall comply with all applicable regulations of
1629 the County Code.

1630
A-55-99 **J. D. and J. M. T. Collins** request for a variance from Section 24-
41(e) of Chapter 24 of the County Code to build a sunroom at
10500 Red Maple Lane, (Gayton Forest Townhouses) (Tax Parcel
78-14-DD-12), zoned RTH, Residential Townhouse District
(Tuckahoe). The rear yard setback is not met. The applicant has
12.0 feet rear yard setback where the Code requires 30.0 feet rear
yard setback. The applicant requests a variance of 18.0 feet rear
yard setback.

1631
1632 Mr. McKinney - Any one in the audience to speak in reference to A-55-99,
1633 other than the applicant?

1634
1635 Mr. Teefey - For the record, I think the representative's name is spelled
1636 wrong.

1637

1638 Mr. McKinney - You're talking about Mr. Teefey. Would you raise your hand
1639 and be sworn in by our Secretary.
1640
1641 Mr. Marlles - Sir, do you swear that the testimony that you're about to give
1642 is the truth, the whole truth, and nothing but the truth, so help me God?
1643
1644 Mr. Teefey - I do.
1645
1646 Mr. McKinney - All right, would you state your name for the record.
1647
1648 Mr. Teefey - Joseph M. Teefey. The name is wrong on there.
1649
1650 Mr. McKinney - That happens sometimes.
1651
1652 Mr. Teefey - My wife owns the house and we got married a couple years
1653 ago. And then the house is in both of our names and its supposed to be Joseph M.
1654 Teefey and J. B. Collins. But I'm representing both my wife and I today. I live in the same
1655 neighborhood that Ciro lives in. I'm on the Board of the Association.
1656
1657 Mr. McKinney - Well, before you go any further, has all the adjoining and
1658 adjacent property owners been notified of this case according to County requirements?
1659
1660 Mr. Teefey - Yes, sir.
1661
1662 Mr. McKinney - Would you turn those in to Mr. Marlles. All right now, you can
1663 present your case, sir.
1664
1665 Mr. Teefey - I'm on the Board of the Association and we went to great
1666 lengths discussing the idea of allowing people to put sunrooms or Florida rooms on the
1667 houses. And I live right around the corner from Ciro.
1668
1669 The Board after many, many meetings and discussions approved the idea of allowing
1670 sunrooms. We back up to a 100-year flood plain back up to woods and nothing can be
1671 built behind us. We want to do the same as Ciro. Our deck is 10 feet wide. We'd like to
1672 make a sunroom 12 feet, and across the length of the house which is about 25 feet. We're
1673 on a 30-foot lot line. And we have to secure a variance to get the 12 feet to build the
1674 sunroom.
1675
1676 Mr. McKinney - All right, anything else, sir?
1677
1678 Mr. Teefey - That's it.
1679
1680 Mr. McKinney - Any questions of Mr. Teefey by Board members? Does the
1681 staff have any comments?
1682
1683 Mr. Marlles - No, sir.

1684
1685 Mr. McKinney - All right, Mr. Teefey. That concludes your case. Thank you
1686 for coming. You'll get your answer this afternoon.

1687
1688 Mr. Teefey - Thank you.

1689
1690 Mr. McKinney - Mr. Marlles, I can understand why this is printed out J. B. and
1691 J. M. T. Collins because of the application here. It's kind of hard to read. As a suggestion,
1692 I think in the future, when you make these up, you may need to get the owner's signature
1693 and print it below, because its hard for the girls to make out some of these things and how
1694 it is. Thank you. Next.

1695
1696 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1697 Wright, the Board **granted** this case.

1698
1699
1700 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1701 Negative: 0
1702 Absent: 0

1703
1704 **REASON:** The Board **granted** this request as it found from the evidence presented that
1705 authorizing this variance will not be of substantial detriment to adjacent property and will not
1706 materially impair the purpose of the zoning regulations.

1707
1708 1. This approval is only for the rear yard setback for the sunroom described on drawings
1709 and other documentation submitted with the application and the subject of this case.
1710 Any future improvements on the property shall be required to comply with all applicable
1711 regulations of the County Code.

1712
A-56-99 **Dawn R. Sealy** request for a variance from Section 24-30.1(a) of
Chapter 24 of the County Code to build an attached garage at
12401 Oakhampton Terrace (Edenberry) (Tax Parcel 66-20-C-39),
zoned R-5C, One-Family Residence District (Conditional)
(Tuckahoe). The rear yard setback is not met. The applicant has
19.0 feet rear yard setback where the Code requires 35 feet rear
yard setback. The applicant requests a variance of 16.0 feet rear
yard setback.

1713
1714 Mr. McKinney - All right. Any one else to speak in reference to A-56-99 other
1715 than the applicant? Any one may think they may testify. All right, sir, if you'll raise your
1716 right hand and be sworn in by the Secretary.

1717
1718 Mr. Marlles - Sir, do you swear that the testimony that you're about to give
1719 is the truth, the whole truth, and nothing but the truth, so help me God?

1720
1721 Mr. Keith Newman - I do.

1722

1723 Mr. McKinney - Would you state your name for the record?
1724
1725 Mr. Newman - Keith Newman.
1726
1727 Mr. McKinney - Keith Newman. N-e-w-m-a-n?
1728
1729 Mr. Newman - Yes.
1730
1731 Mr. McKinney - All right, Mr. Newman, have all the adjacent and adjoining
1732 property owners been notified of this request, according to the County Code?
1733
1734 Mr. Newman - Yes, sir.
1735
1736 Mr. McKinney - Who are you with, Mr. Newman?
1737
1738 Mr. Newman - I'm with Nash Construction. I'm just representing Dawn Sealy.
1739 She has enough setback all around the side and the front and everything, but to put the
1740 two-car garage so she can get her car in undercover, she, more or less, needs that extra
1741 variance. So, she's notified everybody.
1742
1743 Mr. Wright - Mr. Newman, describe your lots that's involved here?
1744
1745 Mr. Newman - I've got a sketch of it. It's kind of a rectangular shape. Let's
1746 see, I've got the plat right here.
1747
1748 Mr. Wright - It really isn't rectangular. Rectangular would be parallel on
1749 each side. It's like a pie-shaped lot.
1750
1751 Mr. Newman - Yes. I've got the plat.
1752
1753 Mr. Wright - That's what causes your problem, because of the pie-shape of
1754 the lot.
1755
1756 Mr. Newman - Her driveway comes in on the left side of her house right there
1757 (referring to slide). So, I've got the rough measurements here.
1758
1759 Mr. Wright - You say, left side. Facing what?
1760
1761 Mr. Newman - Facing the house to the left side.
1762
1763 Mr. Wright - So, facing the house?
1764
1765 Mr. Newman - Yes.
1766
1767 Mr. Wright - Facing it.
1768

1769 Mr. Newman - The front corner of the garage, I'm going to roughly have eight
1770 feet to the corner. That's enough. And then the backside at the corner, I'm going to have
1771 19 feet on the left side. And then I've got 70 feet to the front. At the back is where I'm
1772 running into – I need more variance.
1773
1774 Mr. Wright - What type of construction do you propose for the garage?
1775
1776 Mr. Newman - I'm going to have it framed, and then I'm going with like a
1777 concrete siding to match the house.
1778
1779 Mr. Wright - So, it will fit in with the décor of the house?
1780
1781 Mr. Newman - Yes. Same color, everything.
1782
1783 Mr. Wright - Is it a one-story garage?
1784
1785 Mr. Newman - Yes.
1786
1787 Mr. McKinney - Any other questions of Mr. Newman by Board members?
1788 Does the staff have any comments?
1789
1790 Mr. Marlles - Sir, just as pointed out in the staff report, it would appear from
1791 the plot plan that the garage could be put on the opposite side of the structure, and meet
1792 the setback requirements—side yard requirements.
1793
1794 Mr. Newman - The only thing is, she'd like to stay with the driveway where
1795 she is where she could pull right in, was the main reason she wanted to stay on that side.
1796
1797 Mr. McKinney - Mr. Newman, on the right hand side of the house, I don't have
1798 a floor plan, is the bedrooms on the right hand side?
1799
1800 Mr. Newman - Yes, sir.
1801
1802 Mr. McKinney - And what's on the left hand side where the driveway is?
1803
1804 Mr. Newman - I believe it's the living room, but I'm not positive on that. It's
1805 either like a living or a dining room, maybe.
1806
1807 Mr. McKinney - If the garage was on the other side of the house, how would
1808 you access the garage?
1809
1810 Mr. Newman - She'd have to go through the hallway around, because her
1811 back door is on this side of the deck more or less. She'd have to cut another driveway to
1812 the other side of the house and everything.
1813
1814 Mr. McKinney - All right.

1815
1816 Mr. Wright - Is there any door out the other side of the house; exit?
1817
1818 Mr. Newman - It's just the back left corner.
1819
1820 Mr. Wright - The back door goes out on the deck which is adjacent to the
1821 garage?
1822
1823 Mr. Newman - Yes. I don't know if you can see in the picture. See that set of
1824 steps coming off.
1825
1826 Mr. McKinney - Right.
1827
1828 Mr. Newman - It's pretty much just the other side of that. And that's where
1829 she was going—we'd going to put like a door coming from the garage to that deck and
1830 then around.
1831
1832 Mr. Wright - Is the driveway that's adjacent to the drive to her house the
1833 driveway to the house that's on the left?
1834
1835 Mr. Newman - Yes, sir.
1836
1837 Mr. Wright - Do they have a garage?
1838
1839 Mr. Newman - No.
1840
1841 Mr. Wright - So, they just have a driveway that goes in and opens in the
1842 back?
1843
1844 Mr. Newman - Yes sir.
1845
1846 Mr. McKinney - Any other questions? Any one else to speak in reference to A-
1847 56-99? That concludes the case, Mr. Newman. You'll get your answer this afternoon.
1848 Thank you for coming.
1849
1850 Mr. Newman - Yes sir.
1851
1852 Mr. McKinney - Next.
1853
1854 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1855 Wright, the Board **granted** this case.
1856
1857 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1858 Negative: 0
1859 Absent: 0
1860

1861 **REASON:** The Board **granted** this request as it found from the evidence presented that
1862 authorizing this variance will not be of substantial detriment to adjacent property and will
1863 not materially impair the purpose of the zoning regulations.
1864

- 1865 1. This approval is only for the requested rear yard setback variance of 16.0 feet to
1866 enable an attached garage to be constructed on the left side of the dwelling as
1867 shown on documents submitted with the application. All other improvements on the
1868 property shall meet requirements of the Code.
1869

A-57-99

Martin and Lynn Zinder request for a variance from Section 24.30.1(a) of Chapter 24 of the County Code to build a deck at 3605 Milshire Court (Milhaven) (Parcel 45-9-A-17). zoned R-5, One-Family Residence District (Three Chopt). The rear yard setback is not met. The applicant has 19.0 feet rear yard setback where the Code requires 25.0 feet rear yard setback. The applicant requests a variance of 6.0 feet rear yard setback.

1870
1871 Mr. McKinney - Is there any one in the audience to speak in reference, other
1872 than the applicant, on A-57-99? Any one else to speak in reference to this case other than
1873 the applicant? Sir, would you raise your hand and be sworn in by our Secretary?
1874

1875 Mr. Zinder - Yes, sir.
1876

1877 Mr. Marlles - Sir, do you swear that the testimony that you're about to give
1878 is the truth, the whole truth, and nothing but the truth, so help me God?
1879

1880 Mr. Zinder - Yes.
1881

1882 Mr. McKinney - Would you identify yourself for the record, sir?
1883

1884 Mr. Zinder - I'm Martin Zinder.
1885

1886 Mr. McKinney - Mr. Zinder, have all the adjoining and adjacent property
1887 owners been notified of this request according to the County Code?
1888

1889 Mr. Zinder - Yes.
1890

1891 Mr. McKinney - If you'll turn those in, and present your case, sir.
1892

1893 Mr. Zinder - Back in August, you all granted a variance for us to add a
1894 sunroom. It's there. It's almost finished. At that time, I knew we had to put some kind of
1895 deck or patio, you know, just for resale value down the road. So, we decided to put a deck
1896 on. My builder came to amend his permit, and low and behold, we didn't have a variance
1897 to put a deck on, so I'm back here again before you to get another variance. It's going to
1898 go right where those steps are. It will come out 12 feet from the sunroom. It won't come
1899 out any further. It will come out even with the sunroom from the house.

1900
1901 Mr. Wright - What will that be facing as you look out from that deck?
1902
1903 Mr. Zinder - It will be facing the house behind me.
1904
1905 Mr. Wright - What is located to the rear, I guess you'd say, north, east,
1906 south, and west, it would be to the south of this house?
1907
1908 Mr. Zinder - If you were walking down those steps, what...
1909
1910 Mr. Wright - Keep straight.
1911
1912 Mr. Zinder - That's my neighbor's backyard, eventually, you'd hit that. You
1913 go through my backyard, I guess, probably 60 to 70 feet, and then you'll hit his backyard.
1914
1915 Mr. Wright - What's behind that?
1916
1917 Mr. Zinder - Woods.
1918
1919 Mr. Wright - It looks like a big wooded area that's zoned C-1 Conservation
1920 area.
1921
1922 Mr. Zinder - Right.
1923
1924 Mr. Wright - You wouldn't have any building in that area?
1925
1926 Mr. Zinder - No. It's all swamp and stuff back there; wetlands.
1927
1928 Mr. Wright - Basically, you sort of would be looking out over that area.
1929
1930 Mr. Zinder - It's beautiful.
1931
1932 Mr. Wright - Mr. Chairman, I thought we could have a deck out into the
1933 back yard without having to have a variance? We have in the past.
1934
1935 Mr. McKinney - Mr. Marlles, what's the criteria on a deck?
1936
1937 Mr. Marlles - Decks could be built without variances into the backyard.
1938
1939 Mr. Marlles - I'm going to ask Mrs. Susan Blackburn to answer that
1940 question. I do not know the answer to that.
1941
1942 Mr. Zinder - I talked to her and that's why I'm here.
1943
1944 Mr. Wright - In the past we've always said a deck could be there without a
1945 variance.

1946
1947 Mrs. Susan Blackburn - The Code states a deck can project into a required yard a
1948 maximum of 10 feet; in the R-5 zoning the required rear yard is 35 feet, therefore, a deck
1949 can come as close as 25 feet to the rear property line. In this case, the applicant is
1950 proposing to place the deck 19 feet from the rear property line.

1951
1952 Mr. McKinney - Okay. Thank you. Any other questions of Mr. Zinder by Board
1953 members?

1954
1955 Mr. Zinder - I don't have any.

1956
1957 Mr. McKinney - Any other questions? Any one else to speak in reference to A-
1958 57-99? Thank you. That concludes your case. Thank you for coming, sir. You'll get your
1959 answer this afternoon. You know what the procedure is.

1960
1961 Mr. Zinder - Thank you.

1962
1963 Mr. McKinney - Next.

1964
1965 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1966 Kirkland, the Board **granted** this case.

1967
1968 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1969 Negative: 0
1970 Absent: 0

1971
1972 **REASON:** The Board **granted** this request as it found from the evidence presented that
1973 authorizing this variance will not be of substantial detriment to adjacent property and will
1974 not materially impair the purpose of the zoning regulations.

1975
1976 1. This approval is only for the requested 6 feet rear yard setback variance to allow
1977 construction of a deck in accordance with the documents filed with the application. In
1978 no event may the deck project into the minimum required rear yard setback a greater
1979 distance than the sunroom addition constructed pursuant to approval of variance A-
1980 74-98.

A-58-99 **Carlos and Patricia Rios** request for a variance from Section 24-
94 of Chapter 24 of the County Code to build a dwelling at 10201
Purcell Road (Glen Allen Park) (Part of Tax Parcel 41-2-D-30A),
zoned R-3, One-Family Residence District (Brookland). The lot
width is not met. The applicant has 75.22 feet lot width where the
Code requires 80.0 feet lot width. The applicant requests a
variance of 4.78 feet lot width.

1981
1982 Mr. McKinney - Any one in the audience to speak in reference to A-58-99? All
1983 right, if you'll please stand and be sworn in the same time as the applicant. We'll save
1984 some time. You don't have to come up. You can stand right back there, sir. Any one who

1985 is expected on behalf of A-58-99, you raise your right hands and be sworn in by the
1986 Secretary.
1987
1988 Mr. Marlles - Do you swear that the testimony that you're about to give is
1989 the truth, the whole truth, and nothing but the truth, so help me God?
1990
1991 Mr. Carlos Rios - I do.
1992
1993 Mr. McKinney - Would you state your name for the record, sir?
1994
1995 Mr. Carlos F. Rios - Carlos F. Rios.
1996
1997 Mr. McKinney - All right, Mr. Rios, have all the adjacent and adjoining property
1998 owners been notified of this request according to the County Code?
1999
2000 Mr. Rios - Yes, sir. They have.
2001
2002 Mr. McKinney - Will you turn your notices in?
2003
2004 Mr. Marlles - Thank you.
2005
2006 Mr. McKinney - All right, if you'll present your case, sir.
2007
2008 Mr. Rios - A little over a year ago, I purchased this property from Mr.
2009 Andy Hamilton. It sits in between two subdivisions; Sheppards Run and Maurice Walk. It
2010 has an extension of about 2.3 acres. It's a very nice beautiful piece of property with an
2011 existing home on the right hand side of the property, about 100 feet off of the road. I
2012 intend to split the property and build another house, as per the drawing here. I do want to
2013 put an 1,800 to 2,000 square feet cape or rancher with an attached garage, something that
2014 will be in compliance with the neighborhood.
2015
2016 I would like to state the fact that I have done this before. I have a track record of improving
2017 the property on my existing home on Mountain Road. This was done about two years ago.
2018 I have family coming in from South America who need additional living quarters.
2019 Presently, I own one of the homes on Mountain Road. I have a father, brother coming up.
2020 We figure they need an additional residence.
2021
2022 The lot width is what we are requesting. As you see, we only have 155.22 feet; and the
2023 Code requires 80 feet per lot. So, we are requesting a variance of 4.78 feet in order to
2024 build the residence. That's pretty much it.
2025
2026 Mr. McKinney - All right. Any questions of Mr. Rios by Board members?
2027
2028 Mr. Balfour - I guess I'm not clear on it. The picture we're looking at, he
2029 wants to put the house behind this present house?
2030

2031 Mr. Rios - It will be behind, but to the left of it about fifty to sixty feet.
2032
2033 Mr. Balfour - The driveway that you see then, beyond the house in the
2034 picture, 50 to 60 feet back.
2035
2036 Mr. Rios - The driveway that you see in the picture will be on the property
2037 that is existing now.
2038
2039 Mr. Kirkland - Where would the new driveway go?
2040
2041 Mr. Rios - Right now, its right to that red tree (referring to slide).
2042
2043 Mr. McKinney - Red maple?
2044
2045 Mr. Rios - On the left hand side.
2046
2047 Mr. Kirkland - What size home did you say this was going to be?
2048
2049 Mr. Rios - Two thousand (2,000) square feet.
2050
2051 Mr. McKinney - Any other questions?
2052
2053 Mr. Wright - What is the size of the other lot?
2054
2055 Mr. Rios - It's about 18,000 square feet. It only requires 11,000 square
2056 feet—R-3 requirement.
2057
2058 Mr. McKinney - All right, Mr. Rios, you may sit down and you can address the
2059 concerns of the two other speakers that wish to speak on this. All right, would you come
2060 down, sir.
2061
2062 Mr. Mina - Good morning.
2063
2064 Mr. McKinney - Would you state your name for the record, sir?
2065
2066 Mr. Mina - Arnesto Mina.
2067
2068 Mr. McKinney - Arnesto Mina? All right, Mr. Arnesto Mina.
2069
2070 Mr. Mina - Our only concern is, my house is actually located behind, you
2071 see this house over here (referring to slide). I just wanted to know whether its going to
2072 affect my lot? That's all. I'm located on 10128 Molly Lane. So, its just going to be on the
2073 right side of the picture. Right there (referring to slide). Yes.
2074
2075 Mr. McKinney - That's where you're located?
2076

2077 Mr. Mina - Yes.
2078
2079 Mr. Wright - Where is Molly Lane?
2080
2081 Mr. McKinney - Look at your screen (referring to computer), that little hand on
2082 the right hand side. That little hand is on top of his house.
2083
2084 Mr. Wright - Oh.
2085
2086 Mr. McKinney - That's wiggling around.
2087
2088 Mr. Mina - It seems to me like they're building a house where, you have
2089 that broken line over there where the arrow is pointing (referring to slide).
2090
2091 Mr. Wright - Put the arrow on the house that is to be constructed. Is that
2092 where the house is to be constructed? What's the hatched little area down there? I'm
2093 confused.
2094
2095 Mr. McKinney - That's the existing house.
2096
2097 Mr. Mina - Oh. This is the existing house?
2098
2099 Mr. McKinney - That's the existing house right there where the hand is.
2100
2101 Mr. Mina - Where will be the new house?
2102
2103 Mr. McKinney - The new house will be behind it, right there. That's the new
2104 house (referring to slide).
2105
2106 Mr. Mina - Well, my property is over here then.
2107
2108 Mr. McKinney - And you're way back over there.
2109
2110 Mr. Mina - Okay.
2111
2112 Mr. McKinney - Okay?
2113
2114 Mr. Mina - Thank you very much.
2115
2116 Mr. McKinney - All right, sir. Would you state your name for the record, sir?
2117
2118 Mr. Gray - Jerry Lin Gray. I live at 2716 Maurice Walk Court. My
2119 concern is property resale value. When we purchased our house at 2716 the only other
2120 subdivision was directly behind us, and they said, you know, nobody would build back
2121 there because it wasn't big enough.
2122

2123 Mr. McKinney What's your address, Mr. Gray?
2124
2125 Mr. Gray - 2716.
2126
2127 Mr. McKinney - What?
2128
2129 Mr. Gray - Maurice Walk Court.
2130
2131 Mr. McKinney - Let's see, what side are you on?
2132
2133 Mr. Gray - We're probably about six houses down. We're along in there
2134 (referring to slide),
2135
2136 Mr. McKinney - So, that's your house right there.
2137
2138 Mr. Gray - I think so. Yes sir. Another concern is, we have a drainage
2139 ditch that was put in, I guess, by the developer, McGurn. I have a low section in mine. We
2140 have a tendency to have wet spells. I called Henrico County. They said that would be the
2141 responsibility of the homeowners. The lady next door has a higher lot.
2142
2143 I'm also wondering when they grade that particular lot, you know, where they're going to
2144 get the drainage from. Plus, like I say, the ability to resell my property if I have to with the
2145 privacy.
2146
2147 Mr. McKinney - Does your lot fall to the rear or to the front?
2148
2149 Mr. Gray - It should be about middle way, because the long section of the
2150 lot; my house is about the center of the lot, but it's probably to the rear of where they're
2151 going to put that house.
2152
2153 Mr. McKinney - So, your lot falls to the rear?
2154
2155 Mr. Gray - My lot is right behind. Yes.
2156
2157 Mr. McKinney - The back of your lot is lower than where your house is?
2158
2159 Mr. Gray - The back of my lot is lower. Yes. See, then the drainage just
2160 comes, and my property goes on the other side of the drainage ditch may be 10 feet or so;
2161 the whole drainage system coming through for the subdivision.
2162
2163 Mr. McKinney - Well, are you familiar with the property where this house is
2164 proposed to be built?
2165
2166 Mr. Gray - I've looked at it.
2167
2168 Mr. McKinney - Does that lot also fall in that way?

2169
2170 Mr. Gray - I imagine it will, because it's pretty flat. In order to drain
2171 they're going to probably have to drain to either the side of the subdivision where at
2172 Reesewalk Court which is Glens Crossing, or the one behind.
2173
2174 Mr. McKinney - Or they could drain it out toward Purcell.
2175
2176 Mr. Gray - Purcell Road. Purcell Road is going to be a long stretch.
2177
2178 Mr. McKinney - They're going to have a driveway.
2179
2180 Mr. Gray - That's two of my concerns. Like I said, the main thing is the
2181 privacy issue of being able to sell, without; we've kind of got a buffer zone between the
2182 two. Like I said, when we bought the property, they said the lot was not big enough for
2183 anybody else to build on.
2184
2185 Mr. McKinney - Okay. Any questions of Mr. Gray by Board members? All
2186 right, thank you, Mr. Gray.
2187
2188 Mr. Gray - Thank you, sir.
2189
2190 Mr. McKinney - All right, Mr. Rios.
2191
2192 Mr. Rios - I am very much aware of the situation that we are
2193 encountering here. Our purpose is to put this one house on this big lot; an additional
2194 house, without definitely interfering with anybody's privacy. There are quite a few trees,
2195 but there's a lot of overgrowth as well. It is my intention to clear the land. And on the
2196 sides of the house to put this privacy fence all way along, just to divide it up from the
2197 neighbors that are back into the property.
2198
2199 Again, I would like for the Board members to consider what I have done on Mountain
2200 Road, as well, on my present residence to improve the property. And this is much what I
2201 intend to do. I have a hard working family.
2202
2203 Mr. McKinney - We know nothing about that. That's totally irrelevant to this.
2204
2205 Mr. Rios - Yes, sir. Again, this is something that we have thought about
2206 doing. And there is plenty of land to construct another property there in the back. We
2207 would like to request a variance of this property.
2208
2209 Mr. Balfour - What kind of buffer did you say you were going to put up, a
2210 fence?
2211
2212 Mr. Rios - A six-foot fence, yes – privacy fence.
2213

2214 Mr. Balfour - That's going to run along between your place and the houses
2215 that face Maurice Walk Court?

2216
2217 Mr. Rios - Maurice Walk, as well as Sheppards Run, on both sides.

2218
2219 Mr. Balfour - All right.

2220
2221 Mr. McKinney - You don't mind that being a condition?

2222
2223 Mr. Rios - I don't mind at all. There's plenty of trees on both sides to
2224 cover anyway. As it is right now, I don't intend to cut anything that isn't necessary in order
2225 to construct the property.

2226
2227 Mr. Balfour - What he's telling you is, if you agree, make it a requirement
2228 that you put those six foot fences along the property line?

2229
2230 Mr. Rios - I agree.

2231
2232 Mr. McKinney Okay. Anything else?

2233
2234 Mr. Rios - That's all.

2235
2236 Mr. McKinney - Any other questions of Mr. Rios by Board members? Anyone
2237 else to speak on A-58-99? That concludes your case. Thank you for coming, sir. Next.

2238
2239 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
2240 Kirkland, the Board **granted** this case.

2241
2242 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2243 Negative: 0
2244 Absent: 0

2245
2246 **REASON:** The Board **granted** this request as it found from the evidence presented that
2247 authorizing this variance will not be of substantial detriment to adjacent property and will
2248 not materially impair the purpose of the zoning regulations.

- 2249
2250 1. This approval of a variance of 4.78 feet is only for relief of the lot width requirement of
2251 Chapter 24 of the County Code in order to divide the subject Property lengthwise to
2252 create a new building lot which shall meet all Code requirements. All future
2253 development on the Property shall meet all Code requirements.
2254 2. The rear yard of the newly created lot (north of the lot which is subject of this variance)
2255 shall be enclosed by a 6 foot tall privacy fence made of material other than plastic.
2256

A-59-99

Gary and Elizabeth Mercer request for a variance from Section 24-94 of Chapter 24 of the County Code to build an attached carport at 9605 Mesquite Road (Hearthside Ridge) (Tax Parcel 29-7-J-3), zoned R-3A, One-Family Residence District (Three Chopt). The minimum and total side yard setbacks are not met. The applicant has 1.0 feet minimum side yard and 19.86 feet total side yard where the Code requires 10.0 feet minimum side yard and 25.0 feet total side yard. The applicant requests variances of 9.0 feet minimum side yard and 5.14 feet total side yard.

2257
2258 Mr. McKinney - Any one in the audience to speak, other than the applicant, in
2259 reference to A-59-99? For or against? All of you raise your hand if you intend to speak, to
2260 be sworn in by our Secretary.
2261
2262 Mr. Marlles - Do you swear that the testimony that you're about to give is
2263 the truth, the whole truth, and nothing but the truth, so help me God?
2264
2265 Mr. McKinney - Would you state your name for the record, please?
2266
2267 Mr. Gary Mercer - Gary Mercer, Elizabeth Mercer.
2268
2269 Mr. McKinney - All right, Mr. Mercer, have all the adjoining and adjacent
2270 property owners been notified of this request according to the County Code?
2271
2272 Mr. Mercer - Yes, sir.
2273
2274 Mr. McKinney - Would you turn those in to Mr. Marlles.
2275
2276 Mr. Marlles - Thank you.
2277
2278 Mr. McKinney - Would you present your case, please.
2279
2280 Mr. Mercer - First of all, I'd like to apologize. When I applied for the
2281 variance, I attempted to turn in a drawing of the proposed structure, and the person who
2282 took my application said that would not be necessary. So I have two of them here, if you'd
2283 like to see those. They sent a letter saying that I had neglected to do that, and you didn't
2284 have any idea what I was doing. I didn't want it to look like...
2285
2286 Mr. McKinney - We have pictures of it, sir.
2287
2288 Mr. Mercer - Okay. Yes. I sent one in after I got the letter. I just didn't know
2289 if you'd gotten that.
2290
2291 Mr. McKinney - All right.
2292

2293 Mr. Mercer - If you look at the plat of my lot, I have sort of a pie-shaped lot
2294 with a transformer in the back yard, plus a 15-foot Virginia Power easement down the back
2295 and down one side. It makes it virtually impossible to put a garage in the back of my yard
2296 to have access to it and also keep it away from my neighbor's deck. You can barely see it
2297 in the picture there. It would be about 13 or 14 feet off of his deck and also block his view.
2298 I really don't want to do that. But, I would like some additional covered storage for a car
2299 and for my children to play on the driveway that's already there, out of the sun in the
2300 summer.

2301
2302 I like my neighborhood. I like my neighbors. I talked to all my neighbors before I ever
2303 pursued this, and they have no problem with it. My neighbor's yard to the right there has
2304 no windows on that side. I just feel it would be less of an impact having the carport than
2305 putting a structure in my back yard.

2306
2307 Mrs. Mercer - Which would be right off their deck. So, if they were on their
2308 deck, they would be looking at a garage. So, this would be less intrusive to them. Even its
2309 closer to them, it's out of their view.

2310
2311 Mr. Mercer - I don't intend to enclose it. I'll keep it as low as possible and
2312 as open as possible, not to block any views or make the construction similar to the house,
2313 paint it to match the house.

2314
2315 Mr. Wright - Mr. Chairman, I don't have any picture or anything about this
2316 discussion.

2317
2318 Mr. McKinney - You don't have that?

2319
2320 Mr. Wright - But that doesn't show the...

2321
2322 Mr. McKinney - Oh no. It doesn't show the...

2323
2324 Mr. Mercer - Did Planning not send these down to you?

2325
2326 Mr. Wright - I don't have it.

2327
2328 Mr. Mercer - I have another one also.

2329
2330 Mr. Balfour - Mr. Mercer, you better keep one, because if you give one to
2331 us, we can't give them back.

2332
2333 Mr. McKinney - We can't give them back. Once we take it, we have to keep it
2334 for 30 days.

2335
2336 Mr. Wright - Now, this carport will be open on all sides?

2337
2338 Mr. Mercer - Correct.

2339
2340 Mr. Wright - It will have a roof over it?
2341
2342 Mr. Mercer - Yes. A gable room similar to the house, and I'll put siding on
2343 the gable end and a little vent, similar to the house.
2344
2345 Mr. Wright - You realize this is only going to be a foot from your property
2346 line.
2347
2348 Mr. Mercer - I realize that. My driveway is already right on the property line.
2349
2350 Mr. Wright - So to access your rear yard, you'd have to go through the
2351 carport without trespassing on your neighbor's yard then?
2352
2353 Mr. Mercer - Well, I have a foot down the edge of the driveway or through
2354 the carport. Correct.
2355
2356 Mr. Wright - You can't get much in a foot. I mean you can't even get a
2357 lawnmower through there.
2358
2359 Mr. Mercer - I have to go through it. Yes, sir. The foot is just at the back
2360 corner also. It widens up as it comes towards the front.
2361
2362 Mr. Wright - How wide is this proposed carport?
2363
2364 Mr. Mercer - Ten (10) feet.
2365
2366 Mr. Wright - That's about the minimum to get a car in there.
2367
2368 Mr. Wright - All right. Do you presently pull your car up adjacent to your
2369 house?
2370
2371 Mr. Mercer - Yes. I do. You can see in the photograph, that's where it's
2372 normally parked.
2373
2374 Mr. Wright - So, the car would be in the same location. You're just putting a
2375 roof over it?
2376
2377 Mr. Mercer - Correct. The carport, if you look to the end of my house,
2378 there's a service door there, or an entrance door. The carport will be right behind that
2379 service door and then it extends just to the back of the house.
2380
2381 What we're trying to do is, we just acquired a boat and we don't want it parked outside.
2382 We want to put it in a garage so its not an eyesore for the neighbors so its all under cover
2383 and then have cover for another car, because there's another car right now that goes into

2384 the garage. Instead of having a boat sitting out there, we thought we'd get that inside out
2385 of view so they're not looking at that.
2386
2387 Mr. Wright - You're going to put the boat in the garage?
2388
2389 Mrs. Mercer - Yes.
2390
2391 Mr. Wright - And that's just a single car garage?
2392
2393 Mr. Mercer - Yes, sir.
2394
2395 Mr. Wright - Because that would have presented a problem if you had a
2396 two car garage.
2397
2398 Mr. Mercer - I'd love to have a two-car garage.
2399
2400 Mrs. Mercer - We wish we had done that in the beginning.
2401
2402 Mr. Wright - You just don't have room for it, unless you move the house.
2403
2404 Mrs. Mercer - The house could have been moved.
2405
2406 Mr. Mercer - We did not have the money when I built the house.
2407
2408 Mrs. Mercer - We love the neighborhood. We love our neighbors. Not
2409 wanting to move.
2410
2411 Mr. Wright - You could have moved that house over another nine feet. Is
2412 that right, Mr. Marlles
2413
2414 Mrs. Mercer - Hindsight and money
2415
2416 Mr. Mercer - That might have been a part of that VEPCO easement that
2417 runs down that side.
2418
2419 Mr. Wright - That is a VEPCO easement all the way down?
2420
2421 Mr. Mercer - That's a 15-foot easement down that side and a 15-foot
2422 easement down the back.
2423
2424 Mr. Wright - That constrains you. You couldn't build...
2425
2426 Mr. Mercer - It kills me in the back yard. And that transformer is there too,
2427 and they wanted \$3,500 to \$5,000 to move that. I just didn't see that as an option.
2428

2429 Mr. McKinney - All right, any other questions by Board members of Mr. and
2430 Mrs. Mercer? Any one else to speak in reference to A-59-99? That concludes your case.
2431 Thank you for coming. You'll get your answer this afternoon.

2432
2433 Mr. Mercer - Thank you.

2434
2435 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
2436 Kirkland, the Board **granted** this case.

2437
2438 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2439 Negative: 0
2440 Absent: 0

2441
2442 **REASON:** The Board **granted** this request as it found from the evidence presented that
2443 authorizing this variance will not be of substantial detriment to adjacent property and will
2444 not materially impair the purpose of the zoning regulations

- 2445
2446 1. Only an attached carport located as shown on papers filed with this application may
2447 be constructed pursuant to this approval. All other future improvements on the
2448 property shall comply with the Code.
2449 2. The approved carport shall remain open-sided. It shall not be enclosed without
2450 approval of the Board of Zoning Appeals.

2451
2452 Mr. McKinney - Are there any requests for deferrals or withdrawals on the
2453 11:00 o'clock agenda? Identify yourself, sir.

2454
2455 Mr. Peter Runkle - I'm Peter Runkle, the attorney for Louise Chester, Case A-48-
2456 99 for the 9:00 o'clock agenda.

2457
2458 Mr. McKinney - Yes.

2459
2460 Mr. Runkle - If I could inform the Board, I have discussed this matter by
2461 telephone with Mr. Jay Lustig, who is the person who made the opposition to our
2462 application, and he now has told me, he didn't think he could get up and do rebuttal. And
2463 he had changed his mind after hearing what Mr. Strange-Boston had said. He authorized
2464 me to withdraw his objection. I'm informing the Board of that as a member of the Virginia
2465 State Bar and under oath. And under those circumstances, if the Board would go ahead
2466 and consider our case.

2467
2468 Mr. McKinney - You have some other opposition besides him, sir.

2469
2470 Mr. Runkle - Who is that, sir?

2471
2472 Mr. McKinney - You have Doctor Pryor.

2473

2474 Mr. Runkle - Well, he was the only one that represented Doctor Pryor and
2475 made the...
2476
2477 Mr. McKinney - We have a letter from an attorney.
2478
2479 Mr. Runkle - I didn't know that.
2480
2481 Mr. Wright - I think they should have been given a copy of that.
2482
2483 Mr. Runkle - We weren't informed of any of this.
2484
2485 Mr. McKinney - Yes. From Mr. Purcell.
2486
2487 Mr. Runkel - News to us.
2488
2489 Mr. Wright - He, at least, should be able to address...
2490
2491 Mr. McKinney - He should have got a letter or a copy of it.
2492
2493 Mr. Wright - I thought he did.
2494
2495 Mr. Runkle - In that case we would move for deferral, which he also had no
2496 objection to the next month's meeting so we can look into these matters. We didn't have
2497 that information.
2498
2499 Mr. Wright - You haven't seen this?
2500
2501 Mr. Runkle - I haven't seen any of...
2502
2503 Mr. McKinney - That was not copied to you or Mr. Strange-Boston.
2504
2505 Mr. Wright - You can have that.
2506
2507 Mr. McKinney - Well, what's your pleasure, sir?
2508
2509 Mr. Runkle - Well, sir, unless the case will be considered without objection
2510 by anyone, which it sounds like it won't be, then we would ask that the matter be deferred.
2511 Otherwise, we would proceed with the ruling of the Board. But if you want further
2512 information from Doctor Pryor, here, then we'd ask for a deferral to next month's meeting.
2513
2514 Mr. McKinney - Mr. Runkle, that's all the information we've got.
2515
2516 Mr. Wright - That will give you an opportunity to deal with that objection.
2517
2518 Mr. Runkle - Right. I can't do it now.
2519

2520 Mr. Wright - That's what I'm saying.
 2521
 2522 Mr. Runkle - So, we'd move for deferral to next month's meeting.
 2523
 2524 Mr. McKinney - Okay. Is there a motion?
 2525
 2526 Mr. Kirkland - I make a motion we defer A-48-99.
 2527
 2528 Mr. McKinney - That's May 27. Is there a second?
 2529
 2530 Mr. Nunnally - Second.
 2531
 2532 Mr. McKinney - All those in favor say aye—all those opposed by saying nay.
 2533 All right, Mr. Runkle.
 2534
 2535 Mr. Runkle - Thank you.
 2536
 2537 Mr. McKinney - Thank you, sir. All right, next case.
 2538

A-60-99

Bernhard and Petra Bargmann request for a variance from Section 24-95(i)(2) of Chapter 24 of the County Code to build a detached garage in the front yard at 9024 Battlefield Park Road (Tax Parcel 257-A- 49 and part of 50A), zoned A-1, Agricultural District (Varina). The accessory structure location is not met. The applicant wishes to locate accessory structure in the front yard where the Code requires accessory structures to be located in the rear yard. The applicant requests a variance allowing accessory structure to be placed in the front yard.

2539
 2540 Mr. Wright - Mr. Chairman, before we go, we passed over a case A-46-99.
 2541
 2542 Mr. McKinney - A-46-99. That applicant, I don't think, is here.
 2543
 2544 Mr. Wright - That was on the 9:00 o'clock agenda. Did you call it up again?
 2545
 2546 Mr. McKinney - No. I did not call it up. I figured the applicant came in and saw
 2547 the agenda. Is there anyone here for A-46-99? We'll pass to the end of the agenda.
 2548
 2549 Mr. Wright - All right.
 2550
 2551 Mr. McKinney - Is there any one to speak in reference to A-60-99 other than
 2552 the applicant? If you'd raise your hand and be sworn in by the Secretary.
 2553
 2554 Mr. Marles - Do you swear that the testimony that you're about to give is
 2555 the truth, the whole truth, and nothing but the truth, so help me God?

2556
2557 Mr. Bargmann - I do.
2558
2559 Mr. McKinney - Would you state your name for the record, sir?
2560
2561 Mr. Bargmann - Ben Bargmann.
2562
2563 Mr. McKinney - Has all the adjoining and adjacent property owners been
2564 notified of this request according to the County Code?
2565
2566 Mr. Bargmann - Yes.
2567
2568 Mr. McKinney - Turn those in to Mr. Marles. Would you present your case?
2569
2570 Mr. Bargmann - We're intending to build a garage in the front yard. And I
2571 understand no utility buildings are allowed to be in the front yard. And I understand the
2572 intent of this rule is that from the roadside, you do not have all those utility buildings.
2573
2574 In my case we are about 270 feet away from the front yard, because we are kind of like a
2575 pipe stem property. So, basically, where I want to put my garage would be the extension
2576 of the back yard of my front neighbor. It's not visible from the street. I have a photograph
2577 here from the street, and its, basically, it's a little bit small.
2578
2579 Mr. McKinney - Sir, you need to get to the microphone because we're
2580 recording this.
2581
2582 Mr. Bargmann - On the left hand side is the entrance. You can see there on
2583 the picture, basically, only the house of my neighbor and in front of my front yard. And the
2584 area where I want to put the house is a wooded area, so it will be pretty much covered.
2585 The reason that I don't want to go into the back yard is twofold: On the right hand side,
2586 first of all right to my house, if you see the picture, I have my well. From the right hand
2587 side, I have a natural flow of water going towards the Civil War trench which is going
2588 diagonal through my property. So, I can't really put it on the right hand side in the back
2589 yard. I would put it on the left hand side, I would have to take the complete Civil War
2590 trench down, and we bought this house in 1994, we tried everything to keep like that.
2591
2592 As a matter of fact, the Park very much appreciated that. This property is located within
2593 the Battlefield Park in Varina. So, we really do not want to tear this Civil War trench down.
2594
2595 And we have here, indicated the Civil War trench. To the left hand side of it...
2596
2597 Mr. McKinney - Mr. Bargmann, you need to talk into the microphone.
2598
2599 Mr. Bargmann - I'm sorry.
2600

2601 Mr. McKinney - Anything you give this body, we've got to keep it for 30 days if
2602 you want it back.

2603
2604 Mr. Bargmann - That's fine. On the left hand side the Civil War trench is about
2605 sixty to seventy feet wide. So, it actually extends a little bit over my property to what's the
2606 left hand side of my property. So, I would have to take that all that down. As a matter of
2607 fact, that was the original building. We built it in the front for the tourists, but that's the
2608 original building.

2609
2610 Mr. McKinney - All right, anything else, sir?

2611
2612 Mr. Bargmann - No. That's it. Oh. Maybe one thing. The garage, itself, will
2613 look exactly like the house. So, we will have a brick structure, same roof, everything, so,
2614 basically, it will complement the house and the property where we are planning to put it
2615 and may be can give you an...

2616
2617 Mr. Wright What's the size of the proposed garage?

2618
2619 Mr. Bargmann - It will be 26 feet by 36 feet. And I have made up a picture
2620 here. How it would approximately look like. It's a fake. So, it's not built yet, so. Just use it
2621 for the graph of an existing garage, which will look pretty much like the one I'm going to
2622 build.

2623
2624 Mr. Wright It will be a single-story garage?

2625
2626 Mr. Bargmann - Yes. Yes. Elevation, roofline will look like the main dwelling;
2627 windows, everything.

2628
2629 Mr. McKinney - All right, any other questions of Mr. Bargmann by Board
2630 members? Any one else to speak in reference to A-60-99? That concludes your case.
2631 Thank you for coming sir. You'll get your answer this afternoon. Next.

2632
2633 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2634 Wright, the Board **granted** this case.

2635
2636 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2637 Negative: 0
2638 Absent: 0

2639
2640 **REASON:** The Board **granted** this request as it found from the evidence presented that
2641 authorizing this variance will not be of substantial detriment to adjacent property and will
2642 not materially impair the purpose of the zoning regulations

2643
2644 1. This approval is only for variance of the requirement for location of a accessory
2645 structure in order to allow a detached garage to be constructed in the front yard

2646 provided it will not interfere with either the septic system serving this property or any
2647 Civil War trench or fortification. All other Code requirements shall be met.
2648 2. The garage shall observe setbacks of no less than 50 feet from the front (south)
2649 property line and no less than 30 feet from the side (east) property line.
2650

A-61-99

Jerry L. and R. S. Wilmouth request for a variance from Section 24-95(k) of Chapter 24 of the County Code to build an addition at 1511 Davis Avenue (Glen Allen) (Tax Parcel 42-8-J-31), zoned R-4, One-Family Residence District (Fairfield). The minimum side yard is not met. The applicant has 23.0 feet minimum side yards where the Code requires 25.0 feet minimum side yard. The applicant requests a variance of 2.0 feet minimum side yard.

2651
2652 Mr. McKinney - All right, is there any one in the audience who expects to
2653 testify on behalf of A-61-99, other than the applicant? Sir, if you'd raise your right hand
2654 and be sworn in by our Secretary.
2655

2656 Mr. Marles - Do you swear that the testimony that you're about to give is
2657 the truth, the whole truth, and nothing but the truth, so help me God?
2658

2659 Mr. Jerry L. Wilmouth - I do.
2660

2661 Mr. McKinney - Would you state your name?
2662

2663 Mr. Wilmouth - Good morning. My name is Jerry Wilmouth.
2664

2664 Mr. McKinney - All right, Mr. Wilmouth, has all the adjoining and adjacent
2665 property owners been notified of this request according to County Code?
2666

2667 Mr. Wilmouth - Yes, sir.
2668

2669 Mr. McKinney - If you'd turn those in. Present your case.
2670

2671 Mr. Wilmouth - We requested a two-foot variance to build an addition onto the
2672 home. Without this variance, if you could look at the pictures up there, we're going to go
2673 towards these two trees. The tree nearest to the house will be taken out.
2674

2675 We want to build a master bedroom with a master bath. And in order to end up with like a
2676 full 12-foot room, we need this two feet. If we stayed within the 25-foot minimum now,
2677 we'd end up with like a 10.6 room, which is really not practical. A 10-foot room is starting
2678 to get kind of narrow.
2679

2680 We have spoken to all adjacent property owners before we started this. Everyone's
2681 agreed. They have no problem with it whatsoever. Once it's done, the whole house will
2682 be done completely in vinyl siding. You have copy of the drawings that come with that.
2683 It's actually going to be like a 12 foot by 34 foot complete addition.
2684

2685 There were several different floor plans and drawings given with it. It's going to include a
2686 master bedroom and bath and also with an eat-in kitchen. That's it. I appreciate it very
2687 much if you'd consider and go ahead with it. We like the neighborhood. We like the
2688 neighbors. We have a really large lot which is hard to find now, and we'd just as soon stay
2689 there.

2690
2691 Mr. McKinney - All right, any questions by Mr. Wilmouth by Board members?

2692
2693 Mr. Wright Your house faces on Davis Avenue?

2694
2695 Mr. Wilmouth - Yes, sir. This is Virginia Road that runs down through there as
2696 a side street.

2697
2698 Mr. McKinney - Any other questions? Is your head cold, Mr. Wilmouth?

2699
2700 Mr. Wilmouth - Sir?

2701
2702 Mr. McKinney - Is your head cold?

2703
2704 Mr. Wilmouth - No, sir.

2705
2706 Mr. McKinney - You had your hat on. I just wondered.

2707
2708 Mr. Wilmouth - I always wear a hat. I feel naked without it.

2709
2710 Mr. McKinney - Sound like some of those western guys. Anyone else to
2711 speak in reference to A-61-99? That concludes your case. Thank you for coming. You'll
2712 get your answer this afternoon.

2713
2714 Mr. Wilmouth - Thank you, sir.

2715
2716 Mr. McKinney - Next.

2717
2718 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2719 Wright, the Board **granted** this case.

2720
2721 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2722 Negative: 0

2723 Absent: 0

2724
2725 **REASON:** The Board **granted** this request as it found from the evidence presented that
2726 authorizing this variance will not be of substantial detriment to adjacent property and will
2727 not materially impair the purpose of the zoning regulations

2728

2729 1. This approval is only for the requested side yard variance in order to construct the
2730 addition described in the documents submitted with the application. All future
2731 improvements to the Property shall meet all applicable Code requirements.
2732

A-62-99

Diana L. Monroe request for a variance from Section 24-95(c)(4) of Chapter 24 of the County Code to build a front porch at 913 Pine Ridge Road (Pine Ridge) (Tax Parcel 102-16-B-8), zoned R-3, One-Family Residence District (Three Chopt). The front yard setback is not met. The applicant has 29.0 feet front yard setback where the Code requires 35.0 feet front yard setback. The applicant requests a variance of 6.0 feet front yard setback.

2733 Mr. McKinney - Is any one in the audience to speak, other than the applicant,
2734 in reference to A-62-99? Ma'am, if you'd raise your hand and be sworn in by our
2735 Secretary.
2736

2737 Mr. Marlles - Do you swear that the testimony that you're about to give is
2738 the truth, the whole truth, and nothing but the truth, so help me God?
2739

2740 Ms. Diana L. Monroe - Yes. I do.
2741

2742 Mr. McKinney - Would you state your name for the record, ma'am?
2743

2744 Ms. Monroe - Diana Monroe.
2745

2746 Mr. McKinney - All right, Ms. Monroe, have all the adjoining and adjacent
2747 property owners been notified of this request, according to County Code?
2748

2749 Ms. Monroe - Yes. They have.
2750

2751 Mr. McKinney - Turn those in to Mr. Marlles, our Secretary. Present your
2752 case, please.
2753

2754 Ms. Monroe - I might point out that I contacted not only a previous owner of
2755 the adjacent property behind me, but also the current owners. I don't know which one
2756 applies, but I thought that would be best.
2757

2758 Good morning. I appreciate the opportunity to present my request for a variance to you.
2759 The subject variance is my own front porch at my house, 913 Pineridge Road, which is in
2760 the Pine Ridge Subdivision, located between Patterson and Monument Avenues, which is
2761 halfway between Libbie Avenue and Three Chopt Road.
2762

2763 I purchased the house in November of 1990 and I've lived there ever since. The steps,
2764 when I moved in, were already looked like they'd been patched several times and needed
2765 further repair, but I have been reluctant over the years to do that, because I knew they
2766 needed complete rebuilding.

2767
2768 In the course of applying for this variance, I also found out that the porch, itself, is one foot
2769 larger on either side than, I think its called, an exception already in place, for the area for
2770 front porches. And I think that was because of previous settling someone in the past who
2771 already put that perimeter around it to disguise the fact that it was falling apart, and also to
2772 make it look better. If you'll note, those columns on either side of the porch are 2.75
2773 inches square; rather small.

2774
2775 The house has had 6 owners I believe. There's been settling and runoff of rainwater from
2776 the street. I am on the east side of the road, so I am downgrade from it. When I first
2777 moved in there was considerable runoff when it rained heading straight down the south
2778 side of the property straight across the sidewalk and then under the house, I presume.
2779 But, with landscaping and filling in I've done around the foundation, it's much improved.
2780 So, now that it's improved, I'd like to replace the front porch. When it rains there's ponding
2781 all over the concrete with set in slate. My doormat becomes literally soaking wet and I
2782 step over it rather than use it to get into my house, which I've come to realize is not only
2783 awkward to do, but, depending on my arm load, it can be very dangerous.

2784
2785 My request is for a variance to the Henrico County Code Section 24-95(4), Chapter 24 by
2786 six feet into the required 35-foot setback into the front yard. This is, in fact, one foot more
2787 than the existing porch already is. My proposed porch would be 11 feet wide against the
2788 back of the house. It would be semi-circular and extend at the center of the new steps 5.6
2789 feet into the front yard setback.

2790
2791 There would be arched steps with 8-inch columns on either side. We will use copper
2792 flashing and slate roof as is the rest of the house. And, rebar will be used with the
2793 concrete reinforcement. And it will be concrete aggregate inset with the brick perimeter
2794 around the porch itself.

2795
2796 Pineridge Road is a really attractive block. People stop by all the time to say what a lovely
2797 block it is. In fact, my neighbors to the right bought their house because they always loved
2798 the block. When they came up for sale, they took it. I think its fair to say that my porch is
2799 in the poorest condition of the ones on this street and will add to the aesthetic value of the
2800 neighborhood. And, in fact, my neighbors are asking me daily when my project is going to
2801 begin. So, I'd appreciate it if you would consider the request.

2802
2803 I did not ask my builder to be here, but I hope I can answer any questions you may have.
2804 Thank you.

2805
2806 Mr. McKinney - All right, any questions of Ms. Monroe?

2807
2808 Mr. Wright - Ms. Monroe, usually, you think of a porch as something you sit
2809 on with a chair or something like that. This is, basically, just to cover your entranceway to
2810 your house.

2811
2812 Ms. Monroe - It's like a stoop.

2813

2814 Mr. Wright - A stoop. Yes.

2815

2816 Ms. Monroe - But only one person at a time can get in there.

2817

2818 Mr. Wright - Yes. Right.

2819

2820 Mr. McKinney - It's a non-conforming stoop now.

2821

2822 Mr. Wright - Non-conforming stoop. Okay.

2823

2824 Mr. McKinney - She's going to make it conform, hopefully. Anything else?

2825 Any other questions of Ms. Monroe? Anyone else to speak in reference to A-62-99? That

2826 concludes the case. Thank you for coming, Ms. Monroe. If you want to hang around, a

2827 little, we're probably not going to be too much longer, and you'll get an answer.

2828

2829 Ms. Monroe - Thank you. I'd like to appreciate the help of both Mrs. Lam

2830 and Mrs. Blackburn during this entire process.

2831

2832 Mr. McKinney - I didn't hear that. What?

2833

2834 Ms. Monroe - I wanted to thank both Mrs. Lam and Mrs. Blackburn for their

2835 help with this process.

2836

2837 Mr. McKinney - Thank you, ma'am. Next.

2838

2839 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.

2840 Kirkland, the Board **granted** this case.

2841

2842 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2843 Negative: 0

2844 Absent: 0

2845

2846 **REASON:** The Board **granted** this request as it found from the evidence presented that

2847 authorizing this variance will not be of substantial detriment to adjacent property and will

2848 not materially impair the purpose of the zoning regulations

2849

2850 1. Only the addition/alteration as shown on the plan and information filed with the case

2851 may be constructed pursuant to this approval.

2852

UP-18-99

H. H. Hunt Corporation request for a temporary conditional use permit from Section 24-116(c)(1) of Chapter 24 of the County Code to install and operate a mobile cellular tower at 6043 Corwin Drive (Dominion View Estates) (Tax Parcel 4-26-A-16), zoned R-4C, One-Family Residence District (Three Chopt).

2853 Mr. McKinney - All right, is any one to speak in reference to UP-18-99 other
2854 than the applicant that may testify. Please stand and raise your right hand and be sworn
2855 in by our Secretary.

2856
2857 Mr. Marlles - Do you swear that the testimony that you're about to give is
2858 the truth, the whole truth, and nothing but the truth, so help me God?

2859
2860 Ms. Ashley Harwell - I do.

2861
2862 Mr. McKinney - Would you state your name for the record?

2863
2864 Ms. Harwell - My name is Ashley Harwell. I'm an attorney here on behalf of
2865 the applicant.

2866
2867 Mr. McKinney - Ms. Harwell, have all the adjoining and adjacent property
2868 owners been notified of this request in accordance with County Code.

2869
2870 Ms. Harwell - They have.

2871
2872 Mr. McKinney - And you turned your notices in?

2873
2874 Ms. Harwell - Mr. Chairman, members of the Board, my name is Ashley
2875 Harwell, and I am an attorney here representing the applicant. Triton PCS is a wireless
2876 communications provider, and H. H. Hunt, the owner of the property, we've submitted an
2877 application for a temporary conditional use permit to allow Triton to install and maintain a
2878 mobile cellular tower at Wyndham during May 1999.

2879
2880 This temporary tower will provide wireless coverage for Triton's network at the Dominion
2881 Club at Wyndham during this year's Nike Dominion Open Professional Golf Tournament.
2882 Triton is a major sponsor of this year's tournament which is scheduled to take place the
2883 week of May 10th through 16th and Triton is providing the phones for all the PGA
2884 volunteers who will be staffing the tournament.

2885
2886 This temporary facility is the key element in meeting those communication needs for the
2887 tournament. And by granting the permit for the entire month of May, Triton will have
2888 adequate time to install those facilities, take the facilities down, and accommodate any rain
2889 dates that might be necessitated by weather.

2890
2891 A mobile cellular tower is also called a "COW," for the communications on wheels. It
2892 consists of a steel custom designed trailer which is moved by means of a semi-truck. The

2893 trailer is mounted within an aluminum equipment shelter, generators, and an 84 foot tall
2894 self-supporting lattice-style tower on which the antennas for Triton service are mounted.

2895
2896 The telecommunications industry frequently uses COW at special events such as this golf
2897 tournament, or to provide coverage at a disaster site. The proposed tower is designed to
2898 withstand winds of 80 miles per hour.

2899
2900 In the alternative, due to the limited availability of COW in this area, Triton requests that
2901 the permit also allow for the possible installation of a wooden pole approximately 80 feet
2902 tall on which antennas would be mounted, and the placement of a portable equipment
2903 shelter on the ground within the fenced compound at the site.

2904
2905 This alternative would have an appearance similar to a traditional wire based telephone
2906 pole with the antennas on top. It might even be less noticeable to nearby residents, but
2907 would offer the same coverage and service capabilities that the COW would offer.

2908
2909 If the permit is granted, Triton would deliver the COW to the site with a semi-truck, secure
2910 the trailer and the tower and other facilities at the site, and for additional security, provide a
2911 chain link fence around the compound to prevent unauthorized access to the tower.

2912
2913 Aside from the installation and removal, daily operation of the tower doesn't require any
2914 human operation. Electric and telephone service are available near the site. The facility
2915 includes a generator that could be used to supply auxiliary power for such events.

2916
2917 As you can see by a copy of the recorded subdivision plat, the location that Triton selected
2918 is really an ideal site for this. It's Lot 10 on Coldwind Drive. There's Wyndham Lake right
2919 here (referring to slide). Across the lake up here would be the Dominion Club. These lots
2920 most close to Lot 16 have not been built yet. And across Wyndham Lake Drive, which
2921 runs behind Lot 16, is open space that's still owned by the County and nothing's been
2922 developed there.

2923
2924 Lot 16, itself, as you can see by this picture, is largely cleared. There's been some grass
2925 planted on the site, but there would need to be very little additional work done to the site to
2926 install these facilities there.

2927
2928 Lot 15, which is adjacent to the site, is also vacant at this time, but its got fairly good tree
2929 coverage that would block any view that the homes located behind Lot 15 and Lot 14
2930 might have of this tower.

2931
2932 The homes located nearest the site are in the Brentmoore portion of Wyndham. At the
2933 closest point, they're at least 75 feet from the nearest developed lot in that Brentmoore
2934 Section to Lot 16 here.

2935
2936 Triton plans to put the tower as close to the north side of Lot 16 as possible which would
2937 increase the actual distance between the tower and the nearest home without encroaching
2938 on the sanitary easement that currently runs on Lot 16.

2939
2940 Given the tower's height, it would be approximately 84 feet above ground level. That
2941 spacing certainly meets the spirit of the requirements typically imposed on permanent
2942 communications towers in Henrico County, which require that the permanent towers be set
2943 back from the property lines of adjacent residential districts 110 percent of the tower's
2944 height. This mobile tower would be located more than 200 percent of its height from the
2945 nearest residential buildings. And since the Code's 110 percent requirement is meant to
2946 provide a safety fall zone in case the tower is damaged, I think that would be well
2947 accommodated here. It would be more than adequate if the wooden pole was used. The
2948 lattice-type tower that would be found on the COW unit is designed to fall onto itself, rather
2949 than collapse to either side. So, that would certainly be adequate distance spacing
2950 between the nearest home.

2951
2952 The location of the tower and the addition of the fence for added security make this site
2953 save and an unobtrusive addition to the neighborhood for the month of May.
2954

2955 The applicant submits that the foregoing reasons meets the jurisdictional requirements for
2956 this temporary use permit to be granted, and we respectfully request that you allow
2957 installation and operation of this mobile cellular tower at 6043 Coldwind Drive during May,
2958 1999. We accept the conditions recommended in the staff report. And Larry Horton with
2959 Triton PCS is here with me and he can answer any questions as well.

2960
2961 Mr. Wright - Do you have a picture of what this thing looks like?

2962
2963 Ms. Harwell - I've got a picture of what a COW would look like. I've got here
2964 a brochure that shows what it would look like. It's the full sized COW on the green page.
2965 We've also got some additional pictures of one taken that's out at the fairgrounds.
2966

2967 Mr. Larry Horton, Triton PCS. - My name is Larry Horton from Triton PCS. And the
2968 pictures that I just provided are some that I took of an existing one that you approved for
2969 GTE out at RIR Raceway. So, that's the exact same size. That's exactly what it would
2970 look like, the exact installation that's out at the Fairgrounds.

2971
2972 Mr. McKinney - Does Triton only handle GTE?

2973
2974 Mr. Horton - No sir. This is a GTE one, the picture I gave you. But it's
2975 manufactured by Ft. Worth Tower. It's the same tower.
2976

2977 Mr. McKinney - That's not what I'm saying. This COW that goes for the Nike
2978 Tournament, is it only for GTE?

2979
2980 Mr. Horton - No. It's only for Triton PCS. It's not for GTE. It's just for our
2981 use only.

2982
2983 Mr. McKinney - And it's for portable telephone?
2984

2985 Mr. Horton - Yes sir. Because the volunteers at the golf tournament need
2986 to communicate when the tournament is going on. And, since we're a sponsor and we're
2987 in the process of building our AT&T network, not on the air, we do not have a permanent
2988 structure in the vicinity yet. So, this is why we are requesting this temporary tower, so the
2989 folks can communicate during the Nike Golf Tournament. Any other questions? Thank
2990 you.

2991

2992 Ms. Harwell - We've also got a letter here from the tournament director
2993 expressing support of this as a very necessary item for the volunteers that I'll pass up
2994 (presented letter to Board).

2995

2996 Mr. McKinney - All right, any questions of Ms. Harwell by Board members?

2997

2998 Mr. Wright - Would there be any noise in the operation of this thing?

2999

3000 Ms. Harwell - There shouldn't be any additional noise from the daily
3001 operation.

3002

3003 Mr. Wright - How about interference with T.V.'s of anybody's equipment
3004 around it?

3005

3006 Ms. Harwell - I don't believe that's a concern with these towers.

3007

3008 Mr. McKinney - How about the generator?

3009

3010 Ms. Harwell - The generator, I believe, would only be operated if electric and
3011 telephone at the site fails.

3012

3013 Mr. Wright - I'd like to have something on that, please, about the generator.

3014

3015 Ms. Harwell - The generator?

3016

3017 Mr. Horton - This thing the way its designed is typically for disasters and
3018 things like that. It does come with a temporary generator. But, the reason I selected this
3019 lot is right at the corner of 15 and 16 is power and telephone, so we don't plan on using the
3020 generator. It just comes with it.

3021

3022 Mr. McKinney - Just a back up.

3023

3024 Mr. Horton - Yes sir. It's just a back up.

3025

3026 Mr. Wright - You would not use the generator?

3027

3028 Mr. Horton - No sir.

3029

3030 Mr. Horton - Because power and telephone are 10 feet away from the site,
3031 something like that. But it just comes with the generator, because sometimes if they use
3032 these things out in a disaster out in the middle of nowhere, they wouldn't be able to have
3033 access to electricity like we do at this site.

3034
3035 Mr. McKinney - All right. Mr. Marlles, Condition No. 1, "...commence May 1st,
3036 1999 ending May 31st, 1999, how long can the equipment sit there? The permit is good for
3037 that period, but how long can the equipment stay?

3038
3039 Mr. Wright - We'd want it removed as soon as they finish with it.

3040
3041 Mr. Marlles - Exactly.

3042
3043 Mr. McKinney - It doesn't say that in the condition.

3044
3045 Mr. Marlles - Sir, we could add a sentence to Condition No. 1 which
3046 stipulates that the equipment would have to be removed by a specific date at the pleasure
3047 of the Board.

3048
3049 Mr. Wright - How long will it take to remove it after you're finished with it?

3050
3051 Mr. Horton - We're talking about a matter of a day or two, because that's
3052 the beauty of this thing. It's portable. Whenever the tournament was over...

3053
3054 Mr. Wright - When is the tournament going to be over?

3055
3056 Mr. Horton - The tournament is right in the middle of May. It's a three or
3057 four day tournament, but the reason I wanted to go from the temporary use permit for the
3058 month of May is, in case they have bad weather and they have a rain date. And then also,
3059 give us time to get it up and be able to test it for a day or two to make sure its aligned
3060 properly at the golf tournament, and then a day or two afterwards in case it rains or
3061 something to take it down.

3062
3063 But its something that we just want to get it up to test it, make sure it works. Use it during
3064 the tournament. As soon as the tournament is over, it will be removed immediately.

3065
3066 Mr. Wright - Certainly, the tournament is not going to run past May 31st?

3067
3068 Mr. Horton - No, sir.

3069
3070 Mr. Wright - If we say, "It's got to be removed by May 31st, is that
3071 acceptable?

3072
3073 Mr. Horton - Yes, sir. My intent was, when I said for the temporary permit
3074 for the month of May, was that...

3075

3076 Mr. Wright - You intended to remove it by then?
3077
3078 Mr. Horton - Yes sir. I just wanted the temporary permit to be good for 30
3079 days. That will cover rain dates and then it would be removed after that.
3080
3081 Mr. Wright - You'd remove it.
3082
3083 Mr. Horton - Yes sir.
3084
3085 Mr. McKinney - Any other questions of Ms. Harwell?
3086
3087 Mr. Marlles - Mr. Chairman, I do have one question.
3088
3089 Mr. McKinney - All right, Mr. Marlles.
3090
3091 Mr. Marlles - Will this tower be lighted in any way?
3092
3093 Mr. Horton - No.
3094
3095 Mr. McKinney - All right, any one else to speak in reference to UP-18-99? All
3096 right, that concludes your case, Ms. Harwell. You'll get your answer very shortly.
3097
3098 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
3099 Kirkland, the Board **granted** this case.
3100
3101 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
3102 Negative: 0
3103 Absent: 0
3104
3105 **REASON:** The Board **granted** this request as it found from the evidence presented that
3106 authorizing this variance will not be of substantial detriment to adjacent property and will
3107 not materially impair the purpose of the zoning regulations
3108
3109 1. This permit shall only be valid during the period commencing May 1, 1999 and
3110 ending May 31, 1999.
3111 2. The facility shall be placed on the lot shown on the plan filed with the case and no
3112 changes in location may be made without the approval of the Board of Zoning
3113 Appeals.
3114 3. The transmission equipment will be removed from the site on or before May 31,
3115 1999.
3116
3117 Mr. McKinney - Next. And we've got the applicant here for A-46-99. We'll
3118 take that up right after the next case.
3119

UP-19-99

Richmond Airport Hilton Hotel request for a temporary conditional use permit from Section 24-116(c)(1) of Chapter 24 of the County Code to provide overnight parking for recreational vehicles for special events at 5501 Eubank Road (Hilton Hotel) (Sandston) (Tax Parcel 173-2-A-1), zoned M-1, Light Industrial District (Varina).

3120
3121 Mr. McKinney - All right. Is there any one to speak in reference to UP-19-99?
3122
3123 Mr. Buckley Yes.
3124
3125 Mr. McKinney - All right, raise your hand sir, and be sworn in by our Secretary,
3126 Mr. Marlles.
3127
3128 Mr. Marlles - Do you swear that the testimony that you are about to give is
3129 the truth, the whole truth, and nothing but the truth, so help me God?
3130
3131 Mr. Dennis Buckley - I do.
3132
3133 Mr. McKinney - Please state your name for the record, sir?
3134
3135 Mr. Buckley - My name is Dennis Buckley.
3136
3137 Mr. McKinney - All right, Mr. Buckley, have all the adjoining and adjacent
3138 property owners been notified of this request according to the County Code?
3139
3140 Mr. Buckley - Yes. sir.
3141
3142 Mr. McKinney - Would you turn those in?
3143
3144 Mr. Marlles - You don't have them with you?
3145
3146 Mr. Buckley - No. I have the registered receipts back. I neglected to bring
3147 them with me, today.
3148
3149 Mr. McKinney - Do you have your receipts with you?
3150
3151 Mr. Buckley - I do not. No, sir.
3152
3153 Mr. McKinney - We can't hear your case until they're turned in.
3154
3155 Mr. Buckley - Okay.
3156
3157 Mr. McKinney - Would you like to defer this for 30 days?
3158

3159 Mr. Buckley - Yes, sir.
 3160
 3161 Mr. McKinney - All right, entertain a motion.
 3162
 3163 Mr. Nunnally I move we defer it for 30 days.
 3164
 3165 Mr. Wright Second.
 3166
 3167 Mr. McKinney - Motion to defer for 30 days, and seconded. All those in favor
 3168 say aye—all those opposed by saying nay. All right we have a case we passed by on the
 3169 9:00 o'clock agenda, A-46-99. All right, is there any one in the audience going to testify on
 3170 behalf of A-46-99 other than the applicant? All right, ma'am, if you'd raise your hand and
 3171 be sworn in by our Secretary.
 3172

A-46-99 **Kenneth and Michelle Harris** request for a variance from Sections 24-95(c)(1) of Chapter 24 of the County Code to build an addition at 2415 Caddie Lane (Glenwood Heights) (Tax Parcel 146-1-B-19A), zoned R-4, One-Family Residence District (Fairfield). The minimum side yard setback is not met. The applicant has 5.43 feet minimum side yard where the Code requires 7.0 feet minimum side yard. The applicant requests a variance of 1.57 feet minimum side yard setback.

3173
 3174 Mr. Marlles - Do you swear that the testimony that you are about to give is
 3175 the truth, the whole truth, and nothing but the truth, so help me God?
 3176
 3177 Ms. Harris - Yes.
 3178
 3179 Mr. McKinney - Would you state your name for the record, ma'am.
 3180
 3181 Ms. Harris - Ms. Michelle Harris.
 3182
 3183 Mr. McKinney - All right, Ms. Harris, have all the adjoining and adjacent
 3184 property owners been notified of this request according to the County Code?
 3185
 3186 Ms. Harris - Yes.
 3187
 3188 Mr. McKinney - Would you turn those in to Mr. Marlles, our Secretary. All
 3189 right, if you'd present your case, ma'am.
 3190
 3191 Ms. Harris - First, let me apologize for being unprepared. I had a 6:00
 3192 o'clock time. When I tried to confirm it at Nine Mile Road, I must have asked for Planning
 3193 and they gave me the Planning Commission time. I was only calling to get directions to
 3194 make sure we made it here today, and that's when I found out you were...
 3195
 3196 Mr. McKinney - You got here okay.

3197
3198 Ms. Harris - I left word; ran out the office. What we are doing, we are
3199 adding onto our current home. And the architect, Michelle McNair, has explained that the
3200 family room that we want to put on the side of the home is going to be fairly small,
3201 considering the thickness of the wall. What we're trying to get is an extra foot and a half to
3202 go out onto the side of that to the property. And, we're not in compliance with the setback,
3203 I believe it is, that the County requires.
3204
3205 Mr. Nunnally - Side yard.
3206
3207 Ms. Harris - My husband did a very rough draft here, because the architect
3208 hasn't finalized something since we're waiting on the actual square of what it's going to be.
3209 But this will be just a breakfast nook here. This is the family room. We're going to have a
3210 bedroom back here with a utility room onto the side of that.
3211
3212 Mr. McKinney - All right. Is that going to be built out of brick like your home?
3213
3214 Ms. Harris - We're going to have a brick front exterior on this side. The
3215 back is going to be siding.
3216
3217 Mr. McKinney - Okay. All right, any other questions of Ms. Harris by Board
3218 members?
3219
3220 Mr. Wright - Wait just a second. There may be a question on the notices.
3221
3222 Mr. Marles - Can I borrow the file?
3223
3224 Mr. McKinney - I didn't know there was a problem. Excuse me, just a minute,
3225 Mrs. Harris. He's checking the notices of the adjoining and adjacent property owners.
3226
3227 Ms. Harris - Okay. The lady that lives to the right, the person who owns
3228 the home doesn't live there. The son lives there with his wife. So, we had to mail it to a
3229 separate address for her.
3230
3231 Mr. McKinney - Did you notify the people across the street?
3232
3233 Ms. Harris - Yes.
3234
3235 Mr. McKinney - On Caddy Lane?
3236
3237 Ms. Harris - Yes. We call him, "Abe." His name is Abraham McClain.
3238
3239 Mr. McKinney - Okay. And we noticed you notified the two people on both
3240 sides?
3241
3242 Ms. Harris - To the right.

3243
3244 Mr. Wright - There are only two receipts there.
3245
3246 Mr. McKinney - How about to the left?
3247
3248 Ms. Harris - I didn't know we needed to notify them.
3249
3250 Mr. McKinney - You have to notify all the adjoining and adjacent property
3251 owners.
3252
3253 Mr. Wright - Only two receipts.
3254
3255 Ms. Harris - Yes. I thought it was to the right, the people to the right
3256 adjoining us and then across the street.
3257
3258 Mr. McKinney - Ms. Harris, if we don't have these notices, they haven't been
3259 notified, you're going to have to defer this and make sure they're notified.
3260
3261 Ms. Harris - Okay.
3262
3263 Mr. Wright - To the rear, to the sides and across the street.
3264
3265 Ms. Harris - Adjacent or adjoining.
3266
3267 Mr. McKinney - Adjacent and adjoining property owners.
3268
3269 Mr. Wright - That's all around.
3270
3271 Mr. McKinney - That's everywhere.
3272
3273 Ms. Harris - So, we need the left, as well?
3274
3275 Mr. McKinney - How about the rear?
3276
3277 Mr. Kirkland - Do you have anybody behind you?
3278
3279 Ms. Harris - Oh. There's nobody behind us.
3280
3281 Mr. McKinney - There's a property owner back there. Somebody owns that
3282 property. Whether it's improved or not, they have to be notified.
3283
3284 Mr. Marlles - Mr. Chairman, all the notices have not been received.
3285
3286 Mr. McKinney - Okay. All right, Ms. Harris, the thing to do, you've had a time
3287 with this. There's nothing we can do about it. If you will call, Mr. Marlles, he will give you
3288 his card.. I guess we're going to have to defer it. You need to re-notify – I don't know if we

3289 need to re-notify this again once they've been notified. Is there anyone here in reference
3290 to this case? The case is not going to change if they didn't respond to the first notification.
3291 But the ones who have not been notified will have to be notified. But you can handle that
3292 with the Planning Office with Mrs. Blackburn or Mr. Marlles.

3293
3294 Ms. Harris - Okay. Just talk to Ms. Blackburn or Mr. Marlles.

3295
3296 Mr. McKinney - This afternoon. All right, I'll entertain a motion to defer A-46-
3297 99.

3298
3299 Ms. Harris - Okay.

3300
3301 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
3302 Kirkland, the Board **deferred** this request from the April 22, 1999 meeting to the May 27,
3303 1999 meeting because the applicant failed to satisfy the requirement of notifying the
3304 adjacent property owners.

3305
3306 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
3307 Negative: 0
3308 Absent: 0

3309
3310 On a motion by Mr. Balfour, seconded by Mr. Nunnally, the January 28, 1999 minutes were
3311 approved as corrected.

3312
3313 There being no further business and on a motion by Mr. Nunnally, seconded by Mr.
3314 Kirkland, the Board adjourned until May 27, 1999.

3315
3316

3317 -----
3318 _____ Gene W. McKinney, C. P. C., C. B. Z. A.

3319
3320
3321 -----
3322 Randall R. Silber, Secretary
3323

3324
3325
3326
3327
3328 approval of minutes January 28, 1999

3329
3330 Mr. Balfour
3331 Mr. Nunnally second
3332
3333