

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, AUGUST 23, 2001,**
4 **AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
5 **DISPATCH ON AUGUST 2 AND 9, 2001.**
6

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

Members Absent: James W. Nunnally
R. A. Wright

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

7
8
9 Mr. Kirkland -Welcome, ladies and gentlemen, to the August meeting of the Board of
10 Zoning Appeals. Before we get started, I'll have the Secretary read the rules. We
11 apologize for the delay. Modern technology sometimes doesn't work so good. So if you
12 would, Mr. Blankinship.

13
14 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
15 and gentlemen. The rules for this meeting are as follows. The Secretary, myself, will
16 call each case. Then the applicant will come to the podium to present the case. At that
17 time I'll ask all those who intend to speak, in favor or opposition, to stand, and they will
18 be sworn in. The applicants will then present their testimony. When the applicant is
19 finished, anyone else will be given an opportunity to speak. After everyone has spoken,
20 the applicant, and only the applicant, will be allowed time for opportunity for rebuttal.
21 After hearing the case, and asking questions, the Board will take the matter under
22 advisement. They will render all of their decisions at the end of the meeting. If you wish
23 to know the decision on a case, you may stay until the end of the meeting, or you may
24 call the Planning Office toward the end of the day. This meeting is being tape recorded,
25 so we will ask everyone who speaks, to speak directly into the microphone on the
26 podium, and to state your name for the record. Out in the foyer, there are 2 binders,
27 which include the staff reports for each case, including the conditions suggested by the
28 staff. Mr. Chairman?

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

32
33 Mr. Blankinship - I have two question marks. I have one that we expect to
34 have a withdrawal, because it was deferred once; it was deferred last month. This is A-
35 104-2001 Hezekiah Wilkerson. The case was deferred last month, so it can't be

36 deferred again. We spoke to the applicant and to the applicant's representative,
37 requesting some additional information. That information has never been presented, so
38 the staff is somewhat unsure how the Board wants to handle that. The other is that I've
39 been told that UP-25-2001 has been withdrawn, but I don't believe we have that in
40 writing. We just got it over the telephone.

41
42 Mr. Kirkland - We can handle that one at the end of the docket. On the A-
43 104-2001, is anyone here for this case? Go ahead the call it.

44
45
46 **A -104-2001 HEZEKIAH WILKERSON** requests a variance from Section 24-94
47 of Chapter 24 of the County Code to build a sunroom at 4740 Glen
48 Finnian Drive (Yahley Mill East) (Tax Parcel 229-5-A-4), zoned A-1,
49 Agricultural District (Varina). The rear yard setback is not met. The
50 applicant has 39 feet rear yard setback, where the Code requires
51 50 feet rear yard setback. The applicant requests a variance of 11
52 feet rear yard setback.

53
54 Mr. Kirkland - Since there's no one here, and this has been deferred once,
55 we'll pass it at this time. Another item, Mr. Blankinship, would you explain where, since
56 we're 2 members short, what has to happen.

57
58 Mr. Blankinship - We are 2 members short; the Board is 5 members. Three is
59 a quorum, so we can hold the meeting, and any decisions that we make are official
60 decisions. However, the Code of Virginia requires that in order to grant a variance you
61 have to have a vote of 3 members of the Board, so if there is a 2 to 1 vote in favor of
62 granting the variance, that will carry as a denial, because there have to be 3 affirmative
63 votes in order to grant a variance. On a use permit, I believe, and I'll get legal counsel if
64 we need it, I believe that rule does not apply to use permits, that a 2 to 1 vote on a use
65 permit today would be an approval, but a 2 to 1 vote on a variance would be a denial. If
66 anyone, for whatever reason, does not want to be heard by a 3-member Board, would
67 rather wait a month to be heard by a 5-member Board, you may request a deferral until
68 the September meeting.

69
70 Mr. Kirkland - Do we have any takers on that?

71
72 Mr. Balfour - Do they have to reapply? Does it have to be unanimous?

73
74 Mr. Kirkland - Call the first one. Everything has to be unanimous to have it
75 approved. Anything less is a denial.

76
77 Mr. Balfour - If one of the Board members has a question and doesn't vote
78 in favor, it's the same thing as a denial.

79
80

81 **A -103-2001** **BECKY AND BRAXTON GLASGOW** request a variance from
82 Sections 24-95(i)(2) and 24-95(q)(5) of Chapter 24 of the County
83 Code to build a carport and screened porch at 9913 Carrington
84 Place (Riverlake Colony) (Tax Parcel 98-7-E-28), zoned R-1, One-
85 family Residence District (Tuckahoe). The accessory structure
86 location and minimum side yard setback are not met. The
87 applicants have 9.5 feet minimum side yard setback and a
88 swimming pool in the side yard, where the Code requires 12 feet
89 minimum side yard setback, and allows accessory structures in the
90 rear yard. The applicants request variances of 2.5 feet minimum
91 side yard setback and an accessory structure in the side yard.
92

93 Mr. Kirkland - Anyone else here to speak on this case besides the
94 applicant? Okay, if you would, raise your right hand and be sworn in by the Secretary.
95

96 Mr. Blankinship - Do you swear that the testimony you are about to give is the
97 truth, the whole truth, and nothing but the truth, so help you God?
98

99 Mr. Kirkland - Ma'am, would you state your name for the record. You can
100 pull that mike a little closer to you. Have all your notices been turned in according to the
101 County Code? We got them. State your case.
102

103 Ms. Glasgow - Becky Glasgow. We have a request here for a variance from
104 2 sections to build a carport and screened porch. We are just requesting now the
105 screened porch variance. I had a question, I tried to reach somebody yesterday to find
106 out, if we do come to some sort of an agreement with our architectural review
107 committee, and still need that second variance, would we have to reapply all over and
108 write that check again?
109

110 Mr. Blankinship - I'm afraid so, unless you wanted to, you're already on a
111 deferral, so you can't even defer. Yes.
112

113 Ms. Glasgow - So we're just requesting the variance from one section to
114 allow us to do the screened porch.
115

116 Mr. Kirkland - Are there any questions by Board members?
117

118 Mr. McKinney - What'd you say, Ms. Glasgow, you're only asking for one part
119 of this, the screened porch?
120

121 Mr. Glasgow - Yes.
122

123 Mr. Blankinship - The Homeowners Association, the architectural review, had
124 objected to the carport.
125

126 Mr. McKinney - Is this the first time you've been heard? So if she comes
127 back, Mr. Secretary, they would have to pay another fee, correct?
128
129 Mr. Kirkland - Anything else, Mr. McKinney?
130
131 Mr. McKinney - Nothing I can think of.
132
133 Mr. Kirkland - Okay, if you would, you can rebut any opposition. Anyone
134 else in favor of the case? In favor of it or opposed? Okay, if no other "in favors," we'll
135 listen to the opposition.
136
137 Mr. Goode - My name is William Goode, Declarant – Riverlake Colony,
138 and I'm the final architectural control authority. We are opposed to the carport. As far
139 as the back porch, we would support that if Ms. Glasgow would submit to us an
140 application for the back porch. I would recommend that you go ahead and approve the
141 back porch, based on the condition that she submits the approval to the Architectural
142 Review Committee. Are there any questions?
143
144 Mr. McKinney - Mr. Goode, she's already said that she's not going for the
145 carport now. She just wants the screened porch.
146
147 Mr. Goode - That's correct, yes sir.
148
149 Mr. Balfour - How are we going to approve, if we approve it?
150
151 Mr. Goode - I'm saying that I'm against the carport, and I understand she's
152 withdrawn that. As far as the porch is going, we will support it if the condition is she will
153 submit it for approval to the Architectural Review Committee.
154
155 Mr. McKinney - It has not been submitted to the Architectural Review
156 Committee?
157
158 Mr. Goode - No sir, not yet.
159
160 Mr. Balfour - Have you seen it though? Do you know anything about it?
161
162 Mr. Goode - No sir. The only thing I've got is what's sketched out on your
163 plan.
164
165 Mr. Balfour - Do you have the authority to speak for the Architectural
166 Review Committee?
167
168 Mr. Goode - I'm a declarant of the subdivision, and I've submitted the
169 documents where I have the sole architectural authority.
170

171 Mr. Balfour - Why don't you go outside for 10 minutes and talk to the lady
172 and look at it right now and come back.
173

174 Mr. Goode - Okay.
175

176 Mr. Kirkland - Do you have them?
177

178 Mr. Blankinship - She looks like she's ready to speak on that.
179

180 Mr. Kirkland - Come up forward please.
181

182 Ms. Glasgow - We were advised by our contractor to get the approval from
183 you, as a matter of efficiency, and we're laymen, novices. We thought, okay we'll go
184 ahead and do that, and then if the County says it's okay, we'd go to our Architectural
185 Review Committee. Mr. Goode has advised me that that was out of order. We had no
186 idea that was out of order. Of course we would submit plans in our neighborhood
187 before we would have something built. We didn't pay the money to have the plans
188 drawn because we were waiting to see if we could get the variance. If you said "no,"
189 then why pay money to have the plans. That was just our line of thought, and we've
190 been informed that's not right.
191

192 Mr. Balfour - Mr. Goode, if we approve it, I suspect you've got your legal
193 rights through your architectural committee in any case.
194

195 Mr. Goode - Yes sir.
196

197 Mr. McKinney - Would you like a minute with her out in the hall to look at it?
198

199 Mr. Goode - She has not prepared a drawing yet. We'd have another
200 crack at it from the Architectural Review Committee, and no one has expressed any
201 concern about that. It's behind the house; it has good screening behind her house, and
202 I believe I'm correct, am I not, Grayson? So it's good screening from the rear, so I don't
203 think that would be a problem.
204

205 Mr. Kirkland - Ms. Glasgow, do you have anything to add? Is there any
206 more opposition?
207

208 Ms. Glasgow - I would just like it on record that we will not do anything
209 unless it's approved.
210

211 Mr. Kirkland - Thank you ma'am. Anyone else wish to speak on this case?
212 That concludes the case.
213

214 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
215 McKinney, the Board **granted** application **A-103-2001**, in part, for a variance to build a

216 carport and screened porch at 9913 Carrington Place (Riverlake Colony) (Tax Parcel
217 98-7-E-28). The Board granted the variance subject to the following condition:
218

219 1. Only the screened porch shown on the plan filed with the application may be
220 constructed pursuant to this approval. No substantial changes or additions to the layout
221 may be made without the approval of the Board of Zoning Appeals. Any additional
222 improvements shall comply with the applicable regulations of the County Code.
223

224 The applicants were allowed to **withdraw without prejudice**, the part of the above
225 variance regarding building a carport.
226

227 Affirmative:	Balfour, Kirkland, McKinney	3
228 Negative:		0
229 Absent:	Nunnally, Wright	2

230

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

237 Mr. Kirkland - Okay, call A-104-2001.
238

239
240 **A -104-2001** **HEZEKIAH WILKERSON** requests a variance from Section 24-94
241 of Chapter 24 of the County Code to build a sunroom at 4740 Glen
242 Finnian Drive (Yahley Mill East) (Tax Parcel 229-5-A-4), zoned A-1,
243 Agricultural District (Varina). The rear yard setback is not met. The
244 applicant has 39 feet rear yard setback, where the Code requires
245 50 feet rear yard setback. The applicant requests a variance of 11
246 feet rear yard setback.
247

248 Mr. Kirkland - Is the applicant here for this case? We'll pass it again? Next
249 case.
250

251 Mr. Blankinship - This is a re-hearing.
252

253
254 **A - 83-2001** **LOIS MCGUIRE DURRETTE** requests a variance from Section 24-
255 95(i)(2) of Chapter 24 of the County Code to build a detached
256 garage at 1050 Kukymuth Road (Tax Parcel 191-A-20), zoned A-1,
257 Agricultural District (Varina). The accessory structure location
258 requirement is not met. The applicant proposes a detached garage
259 in the front yard, where the Code allows accessory structures in the
260 rear yard.
261

262 Mr. Kirkland - Is the applicant here for this case? If you'd come forward.
263 Does anyone else wish to speak on this case? If you would sir, ma'am, raise your right
264 hand and be sworn in.

265
266 Mr. Blankinship - Do you swear that the testimony you are about to give is the
267 truth, the whole truth, and nothing but the truth, so help you God?
268

269 Mr. Kirkland - Would you state your name for the record please. You need
270 to get a little closer to the mike.

271
272 Ms. Durette - I do. Lois McGuire Durette.
273

274 Mr. Hood - I do. Joe E. Hood.
275

276 Mr. Kirkland - Have all your notices been turned in according to the County
277 Code? We have them in the file. Okay, if you would, state your case.
278

279 Mr. Hood - Yes sir. Well first of all, we'd like to thank the Board for
280 allowing us to come and re-present our case. During the hearing, time before last, we
281 met with the opposition in the hallway, and she was satisfied from getting a better
282 understanding of where the garage was to be built. Of course, if you will remember, we
283 came in and wanted to readdress the Board, which of course was against policy, but I'd
284 like to get that out front, is the fact that the opposition is not in opposition. I failed to
285 dwell upon the importance of drainage at this prior meeting. In fact, as I've looked at
286 the situation even closer since then, and the drainage is a tremendous problem. The
287 house, to get an understanding of the house, what we term as the front of the house, is
288 actually located back from halfway of that acre lot. So that means the area to what we
289 consider the rear of the house, is less than the front, and it doesn't afford very much
290 room to put the structure. Now I failed to present it to the Board that the drainage starts
291 in the property beyond us. You're looking at it from Kukymuth Road, it slopes from left
292 to right, and you have this drainage coming from your neighboring property onto her
293 property, on down into what we call the front yard. During real heavy rains, it pools up,
294 and you have a little river down there. To what you consider the rear of the house, the
295 distance between the boundary and her house is large enough to put this structure, but
296 that's where we have the greatest slope on her property, and this is actually a river
297 during these heavy rains. If we put the structure there, we're dealing now with a 30 by
298 42 foot building, so you see there's going to be a lot of water coming off of this building
299 to go somewhere. Along with the water that normally drains there, this water either has
300 to go on to the adjoining property, or to the house. We set it up, and the distance from
301 the house to where the building would begin, was approximately 10 feet or so, not very
302 much. So we're forcing this large amount of water towards the house. She has a
303 basement, so that's not desirable. During the month of June, the basement flooded
304 twice. I failed to tell you about that. I would like to tell you though, that Mr. Donati, our
305 Supervisor, on his own time, Saturday morning, came out and looked at the situation,
306 and I had the chance to show him and I wish you gentlemen had the time that you could
307 come as well. I showed him the situation and the dilemma that we have, and I

308 understand that he talked with Mr. Marlles, and the County Manager, but Mr. Marlles
309 and Mr. Donati were in favor of it. Mr. Marlles came out and looked at the property as
310 well, and I understand that both were in favor of it. Mr. Blankinship, I think, can verify
311 this probably. On this little one-acre lot, there's only one logical place to put this garage,
312 and that where we have proposed it at the end of the driveway. I'll be glad to answer
313 any questions that you might have.

314
315 Mr. McKinney - The way this garage is set, where would you enter it, from the
316 side that faces the house?

317
318 Mr. Hood - Yes, there would be 2 doors at the head of the driveway, and
319 then there will be a door from the side of the house.

320
321 Mr. McKinney - Are you going to build the garage out of brick to match the
322 house?

323
324 Mr. Hood - No sir, this will be frame. The upper part of the house is
325 frame.

326
327 Mr. McKinney - How about the foundation of the garage?

328
329 Mr. Hood - No sir.

330
331 Mr. McKinney - What's that going to be, block?

332
333 Mr. Hood - Yes sir.

334
335 Mr. McKinney - Painted?

336
337 Mr. Hood - Well the whole structure will be painted white, except for trim
338 work of course.

339
340 Mr. Blankinship - In this photo, Mr. McKinney, the garage will be about where
341 that backhoe is, and you're looking with Kukymuth Road off to the left and the house off
342 to the right, and they would just come straight up the driveway into the garage.

343
344 Mr. Hood - And you can probably see from the picture here how it does
345 slope from that end forward, or towards the house?

346
347 Mr. McKinney - What's going to be in the rear of the garage? I mean, this
348 garage is 42 feet long?

349
350 Mr. Hood - We are allowing 10 feet clearance, or right of way, from the
351 power line.

352
353 Mr. Blankinship - He means inside the building. In the building.

354
355 Mr. McKinney - You've got it 42 feet long, and you're going to enter, you're
356 going to have 2 overhead doors on the 30-foot side, is what I understand? The normal
357 garage is 24 by 24, a 2-car garage.

358
359 Mr. Hood - Well, for one thing, I do a little stained glass work, and I do a
360 little carpentry.

361
362 Mr. McKinney - So you'll have a little shop in the back of it?

363
364 Mr. Hood - Yes sir, that's my intention.

365
366 Mr. Kirkland - Any other questions by Board members? Anyone else wish
367 to speak in favor of this case? Anyone else wish to speak at all? If not, that concludes
368 the case. Thank you sir.

369
370 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
371 Balfour, the Board **granted** application **A-83-2001** for a variance build a detached
372 garage at 1050 Kukymuth Road (Tax Parcel 191-A-20). The Board granted the
373 variance subject to the following condition:

- 374
375 1. Only the improvements shown on the plan filed with the application may be
376 constructed pursuant to this approval. No substantial changes or additions
377 to the layout may be made without the approval of the Board of Zoning
378 Appeals. Any additional improvements shall comply with the applicable
379 regulations of the County Code.

380
381 Affirmative: Balfour, Kirkland, McKinney, 3
382 Negative: 0
383 Absent: Nunnally, Wright 2

384
385 The Board granted this request, as it found from the evidence presented that, due to the
386 unique circumstances of the subject property, strict application of the County Code
387 would produce undue hardship not generally shared by other properties in the area, and
388 authorizing this variance will neither cause a substantial detriment to adjacent property
389 nor materially impair the purpose of the zoning regulations.

390
391 Mr. Kirkland - Next case, sir.

392
393
394 **A -111-2001** **RUSSELL L. RICE** requests a variance from Section 24-95(c)1 of
395 Chapter 24 of the County Code to build an addition at 324 Seven
396 Pines Avenue (Woodlawn Terrace) (Tax Parcel 164-9-D-13), zoned
397 R-4, One-family Residence District (Varina). The minimum side
398 yard setback and total side yard setback are not met. The
399 applicant has 4.5 feet minimum side yard setback and 10 feet total

400 side yard setback, where the Code requires 7 feet minimum side
401 yard setback and 15 feet total side yard setback. The applicant
402 requests variances of 2.5 feet minimum side yard setback and 5
403 feet total side yard setback.
404

405 Mr. Kirkland - Anyone else wish to speak on this case? If you would, sir,
406 raise your right hand and be sworn in.
407

408 Mr. Blankinship - Do you swear that the testimony you are about to give is the
409 truth, the whole truth, and nothing but the truth, so help you God?
410

411 Mr. Kirkland - Would you state your name for the record. Have all your
412 notices been turned in according to the County Code? We've got them in the file.
413

414 Mr. Hope - I do. Kent Hope. Yes, as far as I know. My company name
415 is Sterling Unlimited, and if the variance is met, I'll be doing the work for Mr. and Mrs.
416 Rice.
417

418 Mr. Kirkland - Mr. Blankinship, I don't see them in here.
419

420 Mr. Blankinship - I'm sure they were sent, Mr. Chairman.
421

422 Mr. Hope - Are you talking about this?
423

424 Mr. Blankinship - No, the notice to the adjoining property owners.
425

426 Mr. Kirkland - The little mail slips, or the letters that you had signed?
427

428 Mr. Hope - Well the list, the lady at the County said that they had
429 changed all that, that they were supposed to send me all this stuff, and now they're
430 starting to do all of that.
431

432 Mr. Blankinship - That's right. This is the first month we did it ourselves.
433

434 Mr. Kirkland - Oh you did it yourself? I need to ask you every month now,
435 Mr. Blankinship?
436

437 Mr. Balfour - They have been sent?
438

439 Mr. Hope - Did they send you anything in the mail (speaking to someone
440 in the audience)?
441

442 Mr. Blankinship - The adjoinders are here, and they are in receipt.
443

444 Mr. Kirkland - We have it. State your case.
445

446 Mr. Hope - Mr. and Mrs. Rice, they're going to be inheriting a grandchild
447 in the fall, and basically, they just want to put an addition on for the child. The two
448 rooms in the house at this time, are occupied, so they kind of want to have a separate
449 room. As you can see in the photo, Mr. Rice had a variance for that, in the early '60's
450 he said, to have that put on. What they want to do is enclose that and add on, if you
451 can see where the steps are. I believe it was about 8 by 12. So what they would be
452 doing, they wouldn't be coming out any further, they would just match up with what is
453 there.

454
455 Mr. Kirkland - You're squaring it up in other words?
456

457 Mr. Hope - Exactly. That would actually be one room, once everything is
458 finished. Of course, we didn't meet the setback codes, so I think it was a variance of
459

460
461 Mr. Blankinship - 1968. Are you going to rebuild the roof over this porch?
462

463 Mr. Hope - Yes. Actually I was going to leave the existing roof there, and
464 then we would come up a little bit higher and come off the side to match the other one.
465

466 Mr. Blankinship - You won't have 2 gables?
467

468 Mr. Hope - No. What I'll be doing is going up to the actual peak, as high
469 as I can go, but you can't see it in this photo, but there's a window just on the other side,
470 and we would be coming right up underneath of that. Of course everything would match
471 the house existing, which would probably be white vinyl siding, double five, and have a
472 couple of insulated windows put in.
473

474 Mr. Kirkland - Any other questions by Board members?
475

476 Mr. Hope - I don't know if Mr. and Mrs. Rice would like to add anything to
477 it? She said she was just going to have a seat today.
478

479 Mr. Kirkland - Anyone else wish to speak on this case? If not, that
480 concludes the case sir.
481

482 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
483 McKinney, the Board **granted** application **A-111-2001** for a variance to build an addition
484 at 324 Seven Pines Avenue (Woodlawn Terrace) (Tax Parcel 164-9-D-13). The Board
485 granted the variance subject to the following condition:
486

- 487 1. The property shall be developed in substantial conformance with the plan
488 filed with the application. No substantial changes or additions to the layout
489 may be made without the approval of the Board of Zoning Appeals.
490

491 Affirmative: Balfour, Kirkland, McKinney,

3

492 Negative: 0
493 Absent: Nunnally, Wright 2
494

495 The Board granted this request, as it found from the evidence presented that, due to the
496 unique circumstances of the subject property, strict application of the County Code
497 would produce undue hardship not generally shared by other properties in the area, and
498 authorizing this variance will neither cause a substantial detriment to adjacent property
499 nor materially impair the purpose of the zoning regulations.
500

501 Mr. Kirkland - Next one sir.
502
503

504 **A -112-2001** **DAVE DUONG** requests a variance from Section 24-94 of Chapter
505 24 of the County Code to build a sunroom over existing deck at
506 4400 Hungary Glen Terrace (Hungary Glen) (Tax Parcel 50-22-A-
507 1), zoned R-3AC, One-family Residence District (Conditional)
508 (Brookland). The rear yard setback is not met. The applicant has
509 22.5 feet rear yard setback, where the Code requires 35 feet rear
510 yard setback. The applicant requests a variance of 12.5 feet rear
511 yard setback.
512

513 Mr. Kirkland - Is the applicant here for this case?
514

515 *(From the audience)* - Excuse me, is this a Melani Brothers case?
516

517 Mr. Kirkland - I can't hear you; you'll have to come down here to speak. Sir
518 you've got to get to the mike. State your name sir. Have you been sworn in. Raise
519 your right hand.
520

521 Mr. Reardon - Darcy Reardon, from Melani Brothers Inc. I'll raise my left;
522 it's the best I can do for you.
523

524 Mr. Blankinship - Do you swear that the testimony you are about to give is the
525 truth, the whole truth, and nothing but the truth, so help you God?
526

527 Mr. Reardon - Yes.
528

529 Mr. Kirkland - We have the notices. Proceed.
530

531 Mr. Reardon - David Duong requests a variance, as you said, from Section
532 24-94 of Chapter 24 of the County Code to build a sunroom over an existing deck. It's
533 4400 Hungary Glen Terrace. The rear yard setback is not met. The applicant has 22.5
534 feet in the rear yard, and the Code requires 35 feet for the rear in the setback. The
535 applicant requests a variance of 12.5 feet in the rear yard setback.
536

537 Mr. Kirkland - So you're just enclosing the existing deck.?

538
539 Mr. Reardon - Yes sir.
540
541 Mr. McKinney - Mr. Reardon, are you with Melani Brothers?
542
543 Mr. Reardon - Yes sir.
544
545 Mr. McKinney - What'd they do, just drop this on you last night?
546
547 Mr. Reardon - Yes sir. There are 2 others that I think I was a little late for; I
548 went to the wrong courthouse.
549
550 Mr. Kirkland - Any other questions by Board members? Anyone else wish
551 to speak on this case? If not, that concludes the case sir.
552
553 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
554 Balfour, the Board **granted** application **A-112-2001** for a variance to a sunroom over
555 existing deck at 4400 Hungary Glen Terrace (Hungary Glen) (Tax Parcel 50-22-A-1).
556 The Board granted the variance subject to the following condition:
557
558 1. The property shall be developed in substantial conformance with the plan filed
559 with the application. No substantial changes or additions to the layout may be made
560 without the approval of the Board of Zoning Appeals.
561
562 Affirmative: Balfour, Kirkland, McKinney, 3
563 Negative: 0
564 Absent: Nunnally, Wright 2
565
566 The Board granted this request, as it found from the evidence presented that, due to the
567 unique circumstances of the subject property, strict application of the County Code
568 would produce undue hardship not generally shared by other properties in the area, and
569 authorizing this variance will neither cause a substantial detriment to adjacent property
570 nor materially impair the purpose of the zoning regulations.
571
572 Mr. Reardon - Just wait for the other 2 to be called, because I think you
573 already called them?
574
575 Mr. Kirkland - Are you the Hezekiah Wilkerson case?
576
577 Mr. Reardon - Yes. Braxton and Wilkerson.
578
579 Mr. Kirkland - Well, while you're standing there, let's do Ms. Wilkerson. Call
580 that case again.
581
582 Mr. Blankinship - Braxton's already been dealt with (A-103-2001).
583

584
585 **A -104-2001** **HEZEKIAH WILKERSON** requests a variance from Section 24-94
586 of Chapter 24 of the County Code to build a sunroom at 4740 Glen
587 Finnian Drive (Yahley Mill East) (Tax Parcel 229-5-A-4), zoned A-1,
588 Agricultural District (Varina). The rear yard setback is not met. The
589 applicant has 39 feet rear yard setback, where the Code requires
590 50 feet rear yard setback. The applicant requests a variance of 11
591 feet rear yard setback.
592

593 Mr. Blankinship - You're still under oath. Is there anyone else who would like
594 to speak to this case?
595

596 Mr. Kirkland - And we have the notices for this case in the file, so if you
597 would, state your case on this item too.
598

599 Mr. Reardon - And this is the Wilkerson case? A-104-2001, requesting a
600 variance from Section 24-94 of Chapter 24 of the County Code to build a sunroom. The
601 address is 4740 Glen Finnian Drive. Tax Parcel is 229-5-A-4. It is zoned A-1,
602 Agricultural District is Varina. The rear setback is not met. The applicant has 39 feet
603 rear yard setback. The Code requires a 50-foot rear yard setback. The applicant
604 requests a variance of 11 feet rear yard.
605

606 Mr. Blankinship - If I may, Mr. Chairman, the question on this one, Mr.
607 Reardon, is where the rear property line is located. Unless you have some new
608 information for us on that, what we received with the application was either incorrect or
609 was terribly confusing. It showed the property line running through the middle of their
610 garage.
611

612 Mr. Reardon - Okay, you're absolutely correct. This is the one that we
613 would like to withdraw.
614

615 Mr. Blankinship - Withdraw? Good news.
616

617 Mr. Kirkland - Okay, so I have a motion that we withdraw this case?
618

619 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
620 Balfour, the Board allowed **withdrawal** of application **A-104-2001** for a variance build a
621 sunroom at 4740 Glen Finnian Drive (Yahley Mill East) (Tax Parcel 229-5-A-4). The
622 Board granted withdrawal without prejudice at the request of the applicant.
623

624 Affirmative: Balfour, Kirkland, McKinney, 3

625 Negative: 0

626 Absent: Nunnally, Wright 2

627

628 Mr. Kirkland - And the Braxton case; we've already heard that; that was the
629 first case? We've already heard that one, so you missed out. So have a seat. All right,
630 let's hear the next one.

631
632
633 **A -113-2001** **BARRETT AND SONJA HUBBARD** request a variance from
634 Section 24-95(k) of Chapter 24 of the County Code to build a pool
635 at 2652 Laclede Avenue (Pine Run) (Tax Parcel 56-5-J-40), zoned
636 R-2A, One-family Residence District (Tuckahoe). The side yard
637 setback for an accessory structure is not met. The applicants have
638 36 feet side yard setback, where the Code requires 65 feet side
639 yard setback. The applicants request a variance of 29 feet side
640 yard setback.

641
642 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,
643 sir, raise your right hand and be sworn in.

644
645 Mr. Blankinship - Do you swear that the testimony you are about to give is the
646 truth, the whole truth, and nothing but the truth, so help you God?

647
648 Mr. Kirkland - State your name for the record. And we have all your
649 notices, so proceed.

650
651 Mr. Hubbard - I do. Barrett Hubbard. We're just requesting a setback, sort
652 of as it reads, request a variance from Section 24-95(k) of Chapter 24 of the County
653 Code to build a pool at the address located there, zoned R-2A. The side yard setback
654 for the accessory structure is not met, a 36-yard (foot) setback, where the Code
655 requires 65 feet. Applicants request a variance of 29 feet. We have an unusual lot, and
656 this is going to be fenced, by the way, which I think was in some of the notes, and with a
657 6-foot fence. If we do the 65 feet from the nearest point, which I believe is what we
658 were told is the zone, it shoves it extremely to the far-left side of the house. What we
659 want to do is center it on that deck and sunroom that's already existing on the structure.
660 It actually will be more convenient, quite frankly, for all the neighbors. When you get to
661 the photo of the screening, you can see the swing set, but there's a rhododendron bush
662 right in the middle, and that's kind of where it will be, right there, and that's where it will
663 sit. There will be a 6-foot fence that runs off the garage all the way around the lot, that
664 we've got ready to go, but we didn't want to do anything until we had your approval.

665
666 Mr. Kirkland - A 6-foot fence?

667
668 Mr. Hubbard - Yes. Do I need a bigger fence?

669
670 Mr. Blankinship - The front yard here is going to be Poplar Forest.

671
672 Mr. Kirkland - I don't think you can run a 6-foot fence along the front.

673

674 Mr. Hubbard - No, we're not on the front. That street right there that's on the
675 left side, the curb you can see, is Laclede Avenue. It'll run off the corner of the garage,
676 which is on the left. If you go to the tree on the far left of the lot, yes, right there is the
677 corner of the garage, to the left a little more. It'll run off that diagonally, a little more to
678 the left, the other left, it'll run back along the lot and up to the edge and then fence in the
679 whole back yard structure. It might even be more help to go back to the plat, quite
680 frankly, and get a better sense of this. If you run right off that corner, that's the
681 driveway, and you can almost follow the lot line, that's exactly what the fence will do, cut
682 back there, and straight up to the back. There'll be no fence on the front half of the
683 house.

684
685 Mr. McKinney - You can put your fence up whether you have the pool or not?
686

687 Mr. Hubbard - Correct, but the real issue for us, quite frankly, is we have a
688 lot of trees, and we're not going to cut all those trees down, unless we're going to get
689 the pool approved. We may put the fence up, but we want to do the trees first, then the
690 fence, and we have a 10-foot gate, and they can build the pool. We're trying to use a
691 moderate degree of logic in the sense of, if we have a fence up and they're trying to
692 take trees down, that could be potentially perilous to that fence. We'd rather have that
693 done first, then the fence, then the pool.

694
695 Mr. Kirkland - Will you have any screening around the pool itself?
696

697 Mr. Hubbard - When you say around the pool, which way are you
698 suggesting, a specific fence around that?
699

700 Mr. Kirkland - No, not a fence, shrubs, bushes, anything?
701

702 Mr. Hubbard - We will probably landscape in some nice fashion. It's a nice
703 neighborhood, and we'll landscape in some form or fashion around that fence on that
704 back edge, just to keep things pleasant. I think all our neighbors, I've talked to every
705 one of them; I don't think they have any objections, again, it's a pretty nice
706 neighborhood, and I would expect us to do that.

707
708 Mr. Kirkland - Any other questions by Board members? Anyone else wish
709 to speak on this case? That concludes the case, sir.
710

711 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
712 McKinney, the Board **granted** application **A-113-2001** for a variance to a pool at 2652
713 Laclede Avenue (Pine Run) (Tax Parcel 56-5-J-40). The Board granted the variance
714 subject to the following condition:
715

716 1. Only the improvements shown on the plan filed with the application may be
717 constructed pursuant to this approval. Any additional improvements shall comply with
718 the applicable regulations of the County Code.
719

720	Affirmative:	Balfour, Kirkland, McKinney,	3
721	Negative:		0
722	Absent:	Nunnally, Wright	2

723
724 The Board granted this request, as it found from the evidence presented that, due to the
725 unique circumstances of the subject property, strict application of the County Code
726 would produce undue hardship not generally shared by other properties in the area, and
727 authorizing this variance will neither cause a substantial detriment to adjacent property
728 nor materially impair the purpose of the zoning regulations.

729
730 Mr. Kirkland - All right, Mr. Blankinship.

731
732
733 **A -114-2001 WILLIAM B. AND JOYCE MAY** request a variance from Sections
734 24-95(c)(1) and 24-94 of Chapter 24 of the County Code to build an
735 attached garage at 211 Wexleigh Drive (Dorset Woods) (Tax Parcel
736 111-11-D-9), zoned R-1, One-family Residence District (Tuckahoe).
737 The minimum side yard setback and rear yard setback are not met.
738 The applicants have 13 feet minimum side yard setback and 12 feet
739 rear yard setback, where the Code requires 14.3 feet minimum side
740 yard setback and 50 feet rear yard setback. The applicants request
741 a variance of 1.3 feet minimum side yard setback and 38 feet rear
742 yard setback.

743
744 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,
745 ma'am, raise your right hand and be sworn in.

746
747 Mr. Blankinship - Do you swear that the testimony you are about to give is the
748 truth, the whole truth, and nothing but the truth, so help you God?

749
750 Mr. Kirkland - State your name for the record. Have all your notices been
751 turned in? We have them in the file. Okay, proceed with your case.

752
753 Ms. May - Yes I do. Joyce May. My husband and I are requesting the
754 variances that we don't meet on the back and the side for a 2-car attached garage. Our
755 options were very limited. We could not put the garage behind the house. We and the
756 architect came up with this kind of angled design, so we wouldn't impede on our
757 neighbors as much, and we thought it would look better. We have a slight mechanical
758 problem in the house also; when you walk into the back door, you walk into the furnace
759 basically, and we wanted to extend our utility area so we could move our mechanical
760 systems away from our living space. That's why we chose an attached garage.

761
762 Mr. Blankinship - So you're going to move your mechanical system into this
763 new structure and just have duct work

764

765 Ms. May - Right. It's an oil furnace, and it's sort of dirty. It's literally
766 almost in the house with us. It's right beside our breakfast room.

767
768 Mr. Blankinship - If this were a detached garage, you wouldn't need the
769 variance, but that wouldn't work.

770
771 Ms. May - Right. But the mechanical proves to be a nuisance

772
773 Mr. Kirkland - Is this garage going to be brick?

774
775 Ms. May - The face of it's going to be brick. The sides will be vinyl to
776 match the gables. Around the back of the garage will be in vinyl because it will sort of
777 impede on our back window area of the house, and we didn't want to be looking at a big
778 brick wall. The architect suggested that the white vinyl in the rear would be visually
779 more aesthetic, and with the shrubs and everything that we plan on doing the
780 landscaping. But the face of the garage will be brick, hopefully to match the old brick.

781
782 Mr. Kirkland - All right, Mr. McKinney, did I ask your question?

783
784 Mr. McKinney - I didn't have anything.

785
786 Ms. May - So I didn't have opposition from the neighbors? I didn't
787 expect it. I talk to most of my neighbors, and with the improvements that we're making
788 to the property, they didn't seem to have a problem.

789
790 Mr. Kirkland - Anyone else wish to speak on this case? If not, ma'am, that
791 concludes the case.

792
793 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
794 McKinney, the Board **granted** application **A-114-2001** for a variance to build an
795 attached garage at 211 Wexleigh Drive (Dorset Woods) (Tax Parcel 111-11-D-9). The
796 Board granted the variance subject to the following condition:

797
798 1. Only the improvements shown on the plan filed with the application may be
799 constructed pursuant to this approval. Any additional improvements shall comply with
800 the applicable regulations of the County Code.

801
802 Affirmative: Balfour, Kirkland, McKinney, 3

803 Negative: 0

804 Absent: Nunnally, Wright 2

805
806 The Board granted this request, as it found from the evidence presented that, due to the
807 unique circumstances of the subject property, strict application of the County Code
808 would produce undue hardship not generally shared by other properties in the area, and
809 authorizing this variance will neither cause a substantial detriment to adjacent property
810 nor materially impair the purpose of the zoning regulations.

811
812 Mr. Kirkland - Next case, Mr. Blankinship.
813
814
815 **UP- 22-2001** **NEXTEL** requests a temporary conditional use permit pursuant to
816 Section 24-116(c)(1) of Chapter 24 of the County Code to operate a
817 "Cell on Wheels" at 609 East Laburnum Avenue (Tax Parcel 106-
818 11-F-10), zoned B-3C, Business District (Conditional) (Fairfield).
819
820 Mr. Kirkland - If you would, sir, raise your right hand and be sworn in.
821
822 Mr. Blankinship - Do you swear that the testimony you are about to give is the
823 truth, the whole truth, and nothing but the truth, so help you God?
824
825 Mr. Kirkland - State your name for the record. We have all your notices, so
826 proceed.
827
828 Mr. Rothenberg - I do. Mr. Chairman, members of the Board, my name is
829 Chuck Rothenberg. I'm an attorney here today on behalf of NEXTEL. This request is
830 for a temporary conditional use permit that would allow a temporary wireless
831 communication facility at the fairgrounds power wash during race week to improve
832 NEXTEL's coverage and capacity during a very intensive period of time for wireless
833 customers. The use is consistent, I believe, with the commercial use in the area. As I
834 mentioned, it would be a temporary use, only during a couple of weeks, about 15 days,
835 during the race period. We don't anticipate any negative effect on adjacent property,
836 traffic or County infrastructures. We have provided a separate notice to the adjacent
837 property owners. I'm not aware of any opposition. We respectfully request that you
838 approve this request, and I'd be happy to answer any questions.
839
840 Mr. McKinney - Chuck, we've had one in here before for Verizon; they called
841 theirs a COW. Yours is a "Cell on Wheels."
842
843 Mr. Rothenberg - It's a COW. It sounds better, Mr. McKinney, a COW by any
844 other name is still a COW.
845
846 Mr. Kirkland - Is this the same location we had on the last one?
847
848 Mr. Blankinship - No, it's on the same strip, but it's farther down.
849
850 Mr. Kirkland - Any other questions by Board members? Anyone else wish
851 to speak on this case?
852
853 Mr. Blankinship - Do we know how tall this is going to be?
854
855 Mr. Rothenberg - I believe that the maximum height of the facility could extend
856 up to 100 feet.

857
 858 Mr. Blankinship - But we don't know how tall it's actually going to be extended?
 859
 860 Mr. Rothenberg - Probably over 60, maybe 60 to 80 feet.
 861
 862 Mr. McKinney - Is that one of those crank up deals?
 863
 864 Mr. Rothenberg - It's a telescopic pole, correct.
 865
 866 Mr. McKinney - So it's going to be there 2 weeks?
 867
 868 Mr. Rothenberg - Correct.
 869
 870 Mr. Kirkland - Anyone else wish to speak? That concludes the case.
 871

872 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
 873 Balfour, the Board **granted** application **UP-22-2001** for a temporary conditional use
 874 permit pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code to operate a
 875 "Cell on Wheels" at 609 East Laburnum Avenue (Tax Parcel 106-11-F-10). The Board
 876 granted the use permit subject to the following conditions:
 877

878 1. The property shall be used in substantial conformance with the plan filed with the
 879 application. No substantial changes or additions to the layout may be made without the
 880 approval of the Board of Zoning Appeals.
 881

882 2. The Cell on Wheels shall not be erected before September 1, 2001. It shall be
 883 removed on or before September 15, 2001, at which time this permit shall expire.
 884

885 Affirmative:	Balfour, Kirkland, McKinney,	3
886 Negative:		0
887 Absent:	Nunnally, Wright	2

888
 889 The Board granted the request because it found the proposed use will be in substantial
 890 accordance with the general purpose and objectives of Chapter 24 of the County Code.
 891

892 Mr. Kirkland -Next case.
 893
 894

895 **A -115-2001** **RHONDA TYLER** requests a variance from Sections 24-94 and 24-
 896 9 of Chapter 24 of the County Code to build a single family dwelling
 897 at 1110 Oakland Road (Tax Parcel 180-A-90), zoned R-3, One-
 898 family Residence District (Varina). The lot width requirement and
 899 public street frontage requirement are not met. The applicant has
 900 30 feet lot width and 30 feet public road frontage, where the Code
 901 requires 80 feet lot width and 50 feet public road frontage. The

902 applicant requests variances of 50 feet lot width and 20 feet public
903 road frontage.

904
905 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,
906 sir, ma'am, raise your right hand and be sworn in.

907
908 Mr. Blankinship - Do you swear that the testimony you are about to give is the
909 truth, the whole truth, and nothing but the truth, so help you God?

910
911 Mr. Kirkland - State your name for the record. Have all your notices been
912 turned in? We have them in the file. Proceed with your case.

913
914 Ms. Holley - I do. I'm Charlotte Holley, with Holley Realty, representative
915 with Thomas Hodge for Ms. Tyler regarding this variance.

916
917 Mr. Hodge - Yes I do. I'm Thomas Hodge, representing Ms. Tyler.

918
919 Ms. Holley - Rhonda Tyler requests a variance from Sections 24-94 and
920 24-9 of Chapter 24 of the County Code to build a single family dwelling on Oakland
921 Road. The applicant has 30 feet of lot width and 30 feet of road frontage, where the
922 Code requires 80 feet of lot width and 50 feet of public road frontage, so she requests a
923 variance of 50 feet lot width and 20 feet public road frontage. Actually, the 30 feet of
924 public road frontage that she's got, as you see up there, that 30 feet back has not been
925 in your tax base for the last 20 years.

926
927 When Mr. Nelson passed away, he left it to an aunt, and she passed away, and it kind
928 of just dropped from the records. So we went and looked up some heirs to the property
929 of Mr. Nelson and found that Sally Nelson passed away, and that's where the title
930 stopped. We couldn't find anything else, who owned the property, the 30-foot road, so I
931 called some of the heirs of Mr. Nelson and found out that there was a lady who was
932 living in a nursing home in Richmond who actually owned the property. She was not
933 able to communicate, so we had to find her Power of Attorney, which we did. Actually
934 the owners of the property, the Madison's estate, have purchased this 30-foot road to
935 add to the 3.24 acres for Ms. Tyler to give her 30-foot estate road frontage, and when
936 he sold the left parcel, which you see the 20-foot right-of-way road, he reserved that 20
937 feet for the property going back. It was understood by Mr. Madison and Mr. Nelson,
938 when the property was sold to one another, between the 2 parcels, top and bottom
939 parcels, there's a little 30-foot road as well, right there. That was actually an ingress-
940 egress road; they were given the right to use that road, perpetual easement to that road,
941 and it should have been also to the 30-foot road as well, but they failed to do it.
942 Whatever attorney did it, they just overlooked it. So we're trying to, number 1, add this
943 30-foot road back to the tax base, and give the Tyler's 30-foot estate road frontage. It
944 has no parcel ID number now. We've called to see if we owe back taxes, and they said,
945 "no, if we get it back into the base, then it'll be paid taxes on."

946

947 It has been perked, the property's been perked; it perked fine. We do not have an
948 actual perk test to show you because Mr. Stringer said that they were just going to wait,
949 because at the time we had the corners marked, the survey hadn't been done, and he
950 wanted to make sure he was in the right perimeter. Since then he has been back out.
951 He did look at it; it was within the perimeter where he perked it out, but they didn't have
952 time to issue the permit. I have had faxed to me today, up at your Planning Office, the
953 survey that shows everything I've showed you. It's better than this one. But he only
954 finished it this morning if you'd like for me to give it to you to review.

955
956 Mr. Blankinship - Yes, if you have a copy. This is essentially the same
957 drawing.

958
959 Ms. Holley - Well, it's essentially the same, but that's the survey that will
960 be recorded, not the one there.

961
962 Mr. Hodge - Also that 20 feet is deeded, so they actually have 50 feet
963 back to all their property.

964
965 Ms. Holley - Yes, it's a 50-foot state road and 20-foot right-of-way.

966
967 Mr. Hodge - When they sold that other parcel, 20 feet was deeded off to
968 go with the 30.

969
970 Mr. Kirkland - Have you read all the conditions to this case sir, ma'am?

971
972 Ms. Holley - I read them while I was sitting over there, and I don't think
973 other than the compliance with the Chesapeake Bay Preservation Act and the approval
974 of the health permit, and the legal access to the property has been obtained, we
975 showed that, and maintaining the road. Actually, do you see the pond on the right-hand
976 side. You probably want to know this, because it will be an impact on the future; that's
977 actually, one tax ID number is for that particular part right there, the 180-A-89, but when
978 the title work was done it was really 2 parcels. When this is done and over with, the
979 Madison estate plans on using that 20-foot right-of-way and Mr. Tyler will deed a 30-foot
980 easement and ask for another variance on that parcel there.

981
982 Mr. McKinney - That's a different case, Ms. Holley.

983
984 Ms. Holley - Well, you needed to know that, because it would make a
985 difference I think.

986
987 Mr. McKinney - These conditions are standard conditions that you're going to
988 have to abide by before you get all your building permits and certificates of occupancy
989 and so forth.

990
991 Mr. Hodge - We've already done the perk and all, so we know that's okay.
992

993 Mr. Kirkland - Any other questions by Board members? Anyone else wish
994 to speak on this case? That concludes the case sir, ma'am.

995
996 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
997 Balfour, the Board **granted** application **A-115-2001** for a variance to build a single
998 family dwelling at 1110 Oakland Road (Tax Parcel 180-A-90). The Board granted the
999 variance subject to the following conditions:

1000
1001 1. At the time of building permit application, the applicant shall submit the
1002 necessary information to the Department of Public Works to ensure compliance with the
1003 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1004 water quality standards.

1005
1006 2. Approval of this request does not imply that a building permit will be issued.
1007 Building permit approval is contingent on Health Department requirements, including,
1008 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1009 of a well location.

1010
1011 3. The applicant shall present proof with the building permit application that a legal
1012 access to the property has been obtained.

1013
1014 4. The owners of the property, and their heirs or assigns, shall accept responsibility
1015 for maintaining access to the property until such a time as the access is improved to
1016 County standards and accepted into the County road system for maintenance.

1017
1018 Affirmative: Balfour, Kirkland, McKinney, 3
1019 Negative: 0
1020 Absent: Nunnally, Wright 2

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

1027
1028 Mr. Kirkland - Okay, next case.

1029
1030
1031 **A -116-2001** **LAWRENCE AND YOLI BROGLIO** request a variance from
1032 Section 24-95(l)(7) of Chapter 24 of the County Code to build a
1033 privacy fence above retaining wall at 1919 Moonwind Place
1034 (Raintree) (Tax Parcel 67-3-U-23), zoned R-2A, One-family
1035 Residence District (Tuckahoe). The maximum fence height is not
1036 met. The applicants have a fence up to 10 feet above the natural
1037 grade, where the Code allows a fence up to 7 feet above grade.
1038 The applicants request a variance of 3 feet fence height.

1039
1040 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,
1041 sir, raise your right hand and be sworn in.
1042
1043 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1044 truth, the whole truth, and nothing but the truth, so help you God?
1045
1046 Mr. Broglio - Yes I do.
1047
1048 Mr. Kirkland - State your name for the record. Have all adjacent
1049 landowners been contacted? We have the notices in the file. Proceed with your case.
1050
1051 Mr. Broglio - Lawrence Broglio. The principal issue for us is safety, both to
1052 keep the pool in the yard, because of the slope of the land, and to have a 4-foot fence
1053 so that people don't fall off the retaining wall, where it is 6 feet, and to keep children and
1054 other people who might wander in, out of the pool. We have some pictures of what
1055 exists now. There are a couple of items in the advertisement to the zoning appeals
1056 case report that I'd like to bring to your attention if you'd like to see the documentation
1057 and the pictures.
1058
1059 Mr. Kirkland - Pass them to the Secretary. We will keep them for 30 days.
1060
1061 Mr. Broglio - So the advertisement right now says that the applicants have
1062 a fence up to 10 feet above the grade, and that is not the case, as you can see from the
1063 pictures that I'm passing around, that I took this morning. The fence is a 6-foot privacy
1064 fence around most of the retaining wall, and then I have inset about 4 ½ or 5 feet from
1065 the retaining wall, a picket fence, just for temporary safety, that is 4 feet high. The first
1066 picture that you have there is from the back yard looking forward, and I would draw your
1067 attention, if I could, to point number 3 on my letter. Do you have copies of my letter?
1068 The evaluation states, "The retaining wall and associated fill were put in place to raise
1069 the level of the rear yard so the pool deck would be near the same elevation as the main
1070 floor of the house." That is an error, as you can tell from the pictures. Picture # 1,
1071 numbered on front and back right-hand corner, because it's hard to read on the front in
1072 the dark, the pool deck is about 5 ½ feet below the main floor of the house at natural
1073 grade, and the pool deck is also about a foot and a half below the floor of the crawl
1074 space, so we didn't raise it to match any floor in the house. We raised the back end, the
1075 east end, of the 40-foot section of land abutting the pool to make it level, so the 2 sides
1076 would be level, and put up a retaining wall to hold in the earth. Initially we thought we
1077 were going to get away without a retaining wall because the Pool Man, Inc. said we
1078 don't need one, and then as he was nearing completion, he said, "no, you need a
1079 retaining wall or you risk slide." So we put in a retaining wall, and the retaining wall guy
1080 said "you want to go level across the back, cutting into the grade," so in some parts
1081 there's no retaining wall, and in other parts, it goes to 6 feet. The part that is actually
1082 under question on the first attachment to the letter, on the east side, you can see there's
1083 16 feet of fence that would be above the 7-foot allowable rear fence height, some of it at
1084 8 feet, some of it at 9, some of it at 10. On the third page, you can see that the

1085 proposed wall is about 33 feet, 24 feet where we want a variance for the 8-foot part, the
1086 9-foot part, the 9-foot 6 (inch) part, and the 10-foot part. Is that clear to everybody?
1087 You can see the 16-foot part on picture # 3, and the 24-foot part on picture # 6. The
1088 corner itself is on picture # 5. Am I making sense?

1089
1090 Mr. Kirkland - Keep going. So far, so good.

1091
1092 Mr. Broglio - The other suggestions that have been proposed to us are, to
1093 just continue the privacy fence all the way around the retaining wall because one
1094 neighbor has objected to the aesthetics of the retaining wall, one family. The thought is,
1095 if we run the privacy fence all the way around, then we've got the 6 or 7-foot, where
1096 we're allowed, privacy fence, covering up the whole wall. Then we still have the need to
1097 have the 4-foot protective fence. I don't think little kids are going to climb a 4, 5, or 6-
1098 foot wall, but the County says to have a 4-foot fence around the pool, so even if we run
1099 the privacy fence around for aesthetics, which we're prepared to do, we still need a 4-
1100 foot fence between the wall and the pool, for those 16 and 24 feet.

1101
1102 Mr. Balfour - Are you saying you're planning to run the privacy fence or
1103 not?

1104
1105 Mr. Broglio - It's really up to the decision. Somebody said, okay one of the
1106 County people who inspects fences says you can run your privacy fence all the way
1107 around a retaining wall.

1108
1109 Mr. Balfour - That's up to you, if you want to, because that's not what
1110 you're asking us about. You're only asking us about increasing the height on the side
1111 where the retaining wall is, because that would exceed 7 feet, if I understand it correctly.

1112
1113 Mr. Broglio - Right, what I'm suggesting is, whichever way the neighbor in
1114 question would want it, is fine with us. We're going to landscape around it anyway, but
1115 we'd still need the 4-foot fence, whether it was atop the retaining wall or right adjacent
1116 to the extended privacy fence.

1117
1118 Mr. Balfour - The retaining wall is what creates your problem, I gather.

1119
1120 Mr. McKinney - The retaining wall, was a permit gotten on that, or

1121
1122 Mr. Broglio - No it wasn't. We're in the process of getting the permit now.
1123 The guy who put it up said he'd been doing it for 20 years, J & S Landscaping, and he
1124 never had to get a permit, so now we have an engineer who has come, who has drawn
1125 up a report that we can take then to the County to get the permit for it.

1126
1127 Mr. McKinney - The reason I'm asking, is what's holding that retaining wall in
1128 place?

1129
1130 Mr. Broglio - Deadmen.

1131
1132 Mr. McKinney - How far back?
1133
1134 Mr. Broglio - He's got deadmen all the way along, except for the top row.
1135
1136 Mr. McKinney - You wouldn't need it on the top row.
1137
1138 Mr. Broglio - No, that's what he told me, and the deadmen have T's on
1139 them.
1140
1141 Mr. McKinney - And they go into the ground?
1142
1143 Mr. Broglio - Well the T's are crossed; they run parallel to the ground, but
1144 they're under the ground, so the deadmen go in it, various levels, 6 feet, 3 feet, 4 feet,
1145 whatever they are, and then there's T's across them so they bear the load of the earth
1146 pushing down on the deadmen, and they're rebarred to the deadmen.
1147
1148 Mr. Balfour - Looked like I saw a little pink flamingo in one of those
1149 pictures, too.
1150
1151 Mr. Broglio - There is a green alligator; I don't know if we've got a pink
1152 flamingo. We haven't had a pink flamingo since we moved in, in 1992, and the
1153 departmental secretary at VCU came and planted 3 on our lawn. We went to the
1154 neighbors we'd met across the street and asked them if they'd put the pink flamingos on
1155 our lawn, you know, it was like a midnight raid, and Patricia hollered upstairs, "Mom, the
1156 flamingos aren't theirs." And there was a great sigh of relief from upstairs, and we took
1157 the flamingos back to the theater department at VCU, where maybe they're used in a
1158 play occasionally.
1159
1160 Mr. Kirkland - Any other questions by Board members?
1161
1162 Mr. Balfour - You don't have any objection, I guess, if we have a restriction
1163 that you get your permit you're supposed to get for the retaining wall?
1164
1165 Mr. Broglio - No, none. I think we've got to do it anyway, so we're planning
1166 on that. We are planning on landscaping, whichever way it goes, privacy or retaining
1167 wall.
1168
1169 Mr. Balfour - You want one of these sets back; I think you gave us 2.
1170
1171 Mr. Broglio - No, I got a set for myself; I thought you might need them for
1172 the record.
1173
1174 Mr. Kirkland - We've got one set in there; we'll do something with them.
1175 Anyone else wish to speak on this case? Are you opposed or for it? Come on down.

1176 Did you get sworn in? Come on down and be sworn. If you would, raise your right
1177 hand.

1178
1179 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1180 truth, the whole truth, and nothing but the truth, so help you God?

1181
1182 Mr. Zera - Yes I do.

1183
1184 Mr. Kirkland - State your name please. What do you want to say?

1185
1186 Mr. Zera - Frank Zera. Basically I think if you left that retaining wall up
1187 with nothing on top, it would be kind of an eyesore. I think you need to put something
1188 up there for safety and aesthetics sake. The only question I have, too, is the fence has
1189 stopped, the 6-foot fence, and probably it would be better to go to the end of the
1190 retaining wall, as one of the neighbors said. That way you wouldn't see the retaining
1191 wall, and I think even if the 4-foot fence was behind it, on top, it would bar the view of
1192 the pool, which I think would give him privacy and I think it would also satisfy the people
1193 behind. I wouldn't see the pool that much from that, because it's the lower corner of my
1194 lot, but I agree that he needs something there, and I think if it was further around the
1195 retaining wall, rather in back of the pool, it would look a whole lot better. I do agree with
1196 what he's doing.

1197
1198 Mr. Kirkland - Any questions? Thank you sir. Anything else you wish to
1199 add?

1200
1201 Mr. Broglio - Yes, I'm happy to put up to make a stipulation that we
1202 continue the privacy fence, so that the neighbors don't see the wall at all. If you rule
1203 that we can have it, then put it in the judgment.

1204
1205 Mr. Kirkland - Okay, no other people want to speak? That concludes the
1206 case.

1207
1208 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1209 McKinney, the Board **granted** application **A-116-2001** for a variance to build a privacy
1210 fence above retaining wall at 1919 Moonwind Place (Raintree) (Tax Parcel 67-3-U-23).
1211 The Board granted the variance subject to the following conditions:

- 1212
1213 1. This variance applies only to the maximum fence height requirement. All other
1214 applicable regulations of the County Code shall remain in force.
1215
1216 2. A privacy fence shall be extended around the retaining wall to screen it from view.
1217
1218 3. The owners shall secure the necessary building permits for the retaining wall and satisfy
1219 all requirements of the building code.

1220
1221 Affirmative: Balfour, Kirkland, McKinney, 3
1222 Negative: 0

1223 Absent: Nunnally, Wright 2

1224
1225 The Board granted this request, as it found from the evidence presented that, due to the unique
1226 circumstances of the subject property, strict application of the County Code would produce
1227 undue hardship not generally shared by other properties in the area, and authorizing this
1228 variance will neither cause a substantial detriment to adjacent property nor materially impair the
1229 purpose of the zoning regulations.

1230
1231 Mr. Kirkland - All right, Mr. Blankinship.

1232
1233
1234 **A -117-2001** **EMBASSY SUITES HOTEL** requests a variance from Section 24-
1235 96(b) of Chapter 24 of the County Code to build an additional
1236 meeting room at 2925 Emerywood Parkway (Commerce Center)
1237 (Tax Parcel 81-8-B-6), zoned M-1, Light Industrial District (Three
1238 Chopt). The parking requirement is not met. The applicant has
1239 353 off-street parking spaces, where the Code requires 371 off-
1240 street parking spaces. The applicant requests a variance of 18 off-
1241 street parking spaces.

1242
1243 Mr. Kirkland - Does anyone else wish to speak on this case? Okay, sirs,
1244 would you raise your right hands and be sworn in.

1245
1246 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1247 truth, the whole truth, and nothing but the truth, so help you God?

1248
1249 Mr. Kirkland - And we have your notices in the file. Proceed with your case.

1250
1251 Mr. Custis - Yes. My name is Glenn Custis; I'm with Draper Aden
1252 Associates. The hotel, what they want to do is add an 1800 square foot addition, it
1253 would be the front left corner. This is Emerywood Parkway out here.

1254
1255 Mr. Kirkland - We'll put it under the camera. That way you can use the
1256 mike, and we can all see it.

1257
1258 Mr. Custis - Emerywood Parkway runs along the left side of the picture
1259 there, and the addition is going to go onto the front left corner, fill in that space there.
1260 When we looked into this, the requirements, we were told by the Planning Department,
1261 is that you have one space per room, plus one space per 100 square feet of meeting
1262 space. This was done in the early '80's. We went back, tried to go through the POD
1263 files to figure out how it was calculated to come up with the required number of spaces.
1264 We weren't able to do that, so we went back and tried to do our own evaluation to justify
1265 the spaces that were required, and basically, we've gone through and worked with the
1266 Planning Department. I guess what they're looking at is the meeting spaces, but they're
1267 also including the restaurant, and they included the kitchen, trying to justify the 353
1268 spaces, and I guess they're also including the atrium area, which it does have seats in
1269 there. The restaurant and the atrium and all are basically associated with the hotel; it's

1270 not a specialty restaurant where people would come in just to eat. It's generally for the
1271 use of the patrons of the hotel. So we're going to add this addition on, and currently
1272 they rarely use all the spaces they have now. The only space really left on the site to
1273 add 18 additional spaces, is right up along the front on Emerywood Parkway there. It's
1274 a landscaped area; that's basically the only space left. It was shown on the original
1275 plan. If they needed them, that's where they would go, but since the hotel rarely uses
1276 the parking lot in the back, I guess the feeling is that it's a shame to have to tear down a
1277 natural landscaped area to build spaces that they really currently don't have a need for
1278 now. Basically, that's our request, is not to have to add the additional 18 spaces
1279 associated with the 1800 square foot addition. Mr. Breeden here, he's with the hotel,
1280 will want to talk about the use.

1281
1282 Mr. Breeden - My name is Jim Breeden; I'm the General Manager, and I've
1283 been the General Manager since 1994, and I can attest to, since I'm under oath, that
1284 the back parking lot of the hotel is very rarely ever used at all. As a matter of fact, right
1285 now, Covington Tours uses the back lot as a drop-off place for people who are going on
1286 tours, just to leave their cars. I think it's important to talk about why we're adding this
1287 addition to the hotel. In the onslaught of all the new competition, we feel that to be
1288 successful in the future, we need to change the way we do business a little bit, so the
1289 idea here is to change the mix of the business of the hotel. We're looking to get into
1290 more group business, small meetings and very high-tech meetings. The idea here was
1291 to take the existing ballroom, which has air walls, and we do weddings, a lot of local
1292 social functions, and reconstruct the ballroom into hard walls for high-tech meetings and
1293 get out of the social business. I think this has impact on the future parking needs of the
1294 hotel. I guess the point here is that we're not using the space that we have right now,
1295 and with the strategy for the hotel in the future is, the demands are actually going to be
1296 smaller, because the purpose of the meetings is to sell more overnight rooms on
1297 shoulder nights, like on Sundays and on Thursdays. Another thing is, in that area there
1298 is so much asphalt with white stripes in our lot, plus behind TGI Fridays and Piccadilly's
1299 , and it would just be a shame to take that area, which we just had landscaped this year
1300 and just put more asphalt and white stripes up there on Emerywood Parkway, when it
1301 really, really isn't needed.

1302
1303 Mr. McKinney - Mr. Breeden, Mr. Custis said that the atrium is not used for
1304 anything. Is that true?

1305
1306 Mr. Breeden - Embassy Suites, the brand, offers a full cooked-to-order
1307 breakfast for all the guests in the hotel. The atrium, first of all, I would say 50% of the
1308 atrium is all floral and trees and that sort of thing; it's a signature of Embassy Suites.
1309 You may or may not have been in the hotel. The other area is the area that's used to
1310 serve the complimentary breakfast to our hotel guests, and also the Manager's
1311 Reception at nighttime; that's the main purpose of the area.

1312
1313 Mr. McKinney - Do you still have the private clubs that come over there and
1314 have their cocktail parties and so forth?

1315

1316 Mr. Breeden - It's happening now, but as I said, the plan is – right now we
1317 do weddings.
1318
1319 Mr. McKinney - I'm not talking about weddings. At one time there was a
1320 group that used to go over there, it may have been on Thursdays or Fridays, for cocktail
1321 hour, and they met in that atrium. Now I've been there, and I've never had any problem
1322 parking there.
1323
1324 Mr. Breeden - We did have, and still do have, a small leads group that
1325 meets for breakfast. It's like 10 or 12 people, and they usually use our restaurant
1326 because it's not open in the morning, because we're using our atrium for the breakfast
1327 service. But the group that you're talking about, I'm not familiar with.
1328
1329 Mr. McKinney - And you've been there since '94?
1330
1331 Mr. Breeden - Yes, since 1994.
1332
1333 Mr. McKinney - It may have been before 1994; I don't know.
1334
1335 Mr. Kirkland - Can I ask you a question. Is this building going to be
1336 constructed out of the same materials as the rest of the hotel?
1337
1338 Mr. Breeden - Yes, brick. Also, if you need to look at the board, I've got the
1339 calculations to go with. That's how we looked at the evaluation of the square footage of
1340 the hotel. I'll leave the board and the calculations here.
1341
1342 Mr. Kirkland - Any other questions by Board members? Anyone else wish
1343 to speak? That concludes the case sir. We're going to take about a 10-minute break
1344 here. If you will bear with us, we'll be right back.
1345
1346 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1347 Balfour, the Board **granted** application **A-117-2001** for a variance to build an additional
1348 meeting room at 2925 Emerywood Parkway (Commerce Center) (Tax Parcel 81-8-B-6).
1349 The Board granted the variance subject to the following conditions:
1350
1351 1. This variance applies only to the parking requirement. All other applicable
1352 regulations of the County Code shall remain in force.
1353
1354 2. The property shall be developed in substantial conformance with the plan filed
1355 with the application. No substantial changes or additions to the layout may be made
1356 without the approval of the Board of Zoning Appeals.
1357
1358 Affirmative: Balfour, Kirkland, McKinney, 3
1359 Negative: 0
1360 Absent: Nunnally, Wright 2
1361

1362 The Board granted this request, as it found from the evidence presented that, due to the
1363 unique circumstances of the subject property, strict application of the County Code
1364 would produce undue hardship not generally shared by other properties in the area, and
1365 authorizing this variance will neither cause a substantial detriment to adjacent property
1366 nor materially impair the purpose of the zoning regulations.

1367
1368 Mr. Kirkland - Back in session.

1369
1370 Mr. Blankinship - Mr. Chairman, would you like me to call the next 2 cases
1371 together; I think we're going to have the same presentation.

1372
1373
1374 **UP- 23-2001 VULCAN CONSTRUCTION MATERIALS, INC** requests a
1375 conditional use permit pursuant to Sections 24-52(d) and 24-103 of
1376 Chapter 24 of the County Code to extract materials from the earth
1377 at 5090 New Market Road (Tax Parcel 270-A-1), zoned A-1,
1378 Agricultural District (Varina).

1379
1380
1381 **UP- 24-2001 VULCAN CONSTRUCTION MATERIALS, INC.** requests a
1382 conditional use permit pursuant to Sections 24-52(d) and 24-103 of
1383 Chapter 24 of the County Code to extract materials from the earth
1384 at 4731 Curles Neck Rd (Tax Parcel 270-A-1), zoned A-1,
1385 Agricultural District (Varina).

1386
1387 Mr. Kirkland - Anyone else wish to speak on this case? Would you raise
1388 your right hand and be sworn in.

1389
1390 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1391 truth, the whole truth, and nothing but the truth, so help you God?

1392
1393 Mr. Kirkland - State your name for the record please.

1394
1395 Mr. Lewis - I do. My name is Monte Lewis; I'm with Lewis and
1396 Associates, here representing Vulcan Materials.

1397
1398 Mr. Brazell - I do. My name is Tom Brazell; I'm a geologist with Vulcan
1399 Materials.

1400
1401 Mr. Kirkland - Your notices have been turned in, and we have them in the
1402 file. We have a new procedure, and the reason I haven't asked you to hand them up, is
1403 the County is now handling the notice process, which I guess you guys are really happy
1404 about. I still have to ask that so it can go in the record. If you would, proceed with your
1405 case.

1406

1407 Mr. Lewis - These 2 areas are present mining areas that just need
1408 renewal. They're still working these areas. The conditions we don't have any problem
1409 with. Two through 5 really aren't applicable, but we don't have any problem with them
1410 leaving them in, since this is an active operation, and the permits have already been
1411 obtained. With that, if you have any questions on the operations, Mr. Brazell can
1412 answer that or the timing of how long these will remain active. You may recall, I think
1413 it's a couple of months ago, we had an additional area on F that was added to the top
1414 section of it. Because of the timing, we weren't able to do all of them at one time.

1415
1416 Mr. McKinney - Any complaints, Mr. Blankinship?

1417
1418 Mr. Blankinship - No sir, and Mr. Hackett informs me there are no outstanding
1419 issues for Public Works either.

1420
1421 Mr. McKinney - Still got all that money on deposit? Get any extra?

1422
1423 Mr. Blankinship - Absolutely. I don't know when was the last time we upped
1424 these.

1425
1426 Mr. McKinney - They do a good job.

1427
1428 Mr. Kirkland - They sure do. Any other questions by Board members?
1429 Anyone else wish to speak on this case? That concludes the cases sir.

1430
1431 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1432 McKinney, the Board **granted** application **UP-23-2001** for a conditional use permit to
1433 extract materials from the earth at 5090 New Market Road (Tax Parcel 270-A-1. The
1434 Board granted the use permit subject to the following conditions:

1435
1436 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of
1437 the County Code.

1438
1439 2. Before beginning any work, the applicant shall provide a financial guaranty in an
1440 amount of \$2,000.00 per acre for each acre of land to be disturbed, for a total of
1441 \$308,000.00 guaranteeing that the land will be restored to a reasonably level and
1442 drainable condition. This permit does not become valid until the financial guaranty has
1443 been approved by the County Attorney. The financial guaranty may provide for
1444 termination after 90 days notice in writing to the County. In the event of termination, this
1445 permit shall be void, and work incident thereto shall cease. Within the next 90 days the
1446 applicant shall restore the land as provided for under the conditions of this use permit.
1447 Termination of such financial guaranty shall not relieve the applicant from its obligation
1448 to indemnify the County of Henrico for any breach of the conditions of this use permit. If
1449 this condition is not satisfied within 90 days of approval, the use permit shall be void.

1450
1451 3. 3. Before beginning any work, the applicant shall submit erosion control
1452 plans to the Department of Public Works for review and approval. Throughout the life of

1453 the operation, the applicant shall continuously satisfy the Department of Public Works
1454 that erosion control procedures are properly maintained, and shall furnish plans and
1455 bonds that the department deems necessary. The applicant shall provide certification
1456 from a licensed professional engineer that dams, embankments and sediment control
1457 structures meet the approved design criteria as set forth by the State. If this condition is
1458 not satisfied within 90 days of approval, the use permit shall be void.
1459

1460 4. Before beginning any work, the applicant shall obtain a mine license from the
1461 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
1462 within 90 days of approval, the use permit shall be void.
1463

1464 5. Before beginning any work, the areas approved for mining under this permit shall
1465 be delineated on the ground by five-foot-high metal posts at least five inches in diameter
1466 and painted in alternate one foot stripes of red and white. These posts shall be so
1467 located as to clearly define the area in which the mining is permitted. They shall be
1468 located, and their location certified, by a certified land surveyor. If this condition is not
1469 satisfied within 90 days of approval, the use permit shall be void.
1470

1471 6. In the event that the Board's approval of this use permit is appealed, all
1472 conditions requiring action within 90 days will be deemed satisfied if the required actions
1473 are taken within 90 days of final action on the appeal.
1474

1475 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
1476 state and local regulations administered under such act applicable to the property, and
1477 shall furnish to the Planning Office copies of all reports required by such act or
1478 regulations.
1479

1480 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings
1481 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.
1482

1483 9. No operations of any kind are to be conducted at the site on Sundays, or national
1484 holidays.
1485

1486 10. Routes of ingress and egress shall be over the applicant's rights of ways to the
1487 loading area at the James River as outlined on the map filed with the application.
1488

1489 11. The applicant shall post and maintain a sign at the entrance to the mining site
1490 stating the name of the operator, the use permit number, the mine license number, and
1491 the telephone number of the operator. The sign shall be 12 square feet in area and the
1492 letters shall be three inches high.
1493

1494 12. The applicant shall post and maintain "No Trespassing" signs every 250 feet
1495 along the perimeter of the property. The letters shall be three inches high. The
1496 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
1497 enforce the "No Trespassing" regulations, and agreeing to send a representative to
1498 testify in court as required or requested by the Division of Police.

- 1499
1500 13. The applicant shall provide a flagman to control traffic from the site onto the
1501 public road, with the flagman yielding the right of way to the public road traffic at all
1502 times. This flagman will be required whenever the Division of Police deems necessary.
1503
- 1504 14. All roads used in connection with this use permit shall be effectively treated with
1505 calcium chloride or other wetting agents to eliminate any dust nuisance.
1506
- 1507 15. The applicant shall maintain the property, fences, and roads in a safe and secure
1508 condition indefinitely, or convert the property to some other safe use.
1509
- 1510 16. If, in the course of its preliminary investigation or operations, the applicant
1511 discovers evidence of cultural or historical resources, or an endangered species, or a
1512 significant habitat, it shall notify appropriate authorities and provide them with an
1513 opportunity to investigate the site. The applicant shall report the results of any such
1514 investigation to the Planning Office.
1515
- 1516 17. If water wells located on surrounding properties are adversely affected, and the
1517 extraction operations on this site are suspected as the cause, the effected property
1518 owners may present to the Board evidence that the extraction operation is a contributing
1519 factor. After a hearing by the Board, this use permit may be revoked or suspended, and
1520 the operator may be required to correct the problem.
1521
- 1522 18. Open and vertical excavations having a depth of 10 feet or more, for a period of
1523 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
1524 public safety.
1525
- 1526 19. Topsoil shall not be removed from any part of the property outside of the area in
1527 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
1528 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
1529 within the authorized mining area and provided with adequate erosion control
1530 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought
1531 to the site to provide the required five-inch layer of cover. All topsoil shall be treated
1532 with a mixture of seed, fertilizer, and lime as recommended by the County after soil
1533 tests have been provided to the County.
1534
- 1535 20. No offsite-generated materials shall be deposited on the mining site without prior
1536 written approval of the Director of Planning. To obtain such approval, the operator shall
1537 submit a request stating the origin, nature and quantity of material to be deposited, and
1538 certifying that no contaminated or hazardous material will be included. The material to
1539 be deposited on the site shall be limited to imperishable materials such as stone, bricks,
1540 tile, sand, gravel, soil, asphalt, concrete and like materials, and shall not include any
1541 hazardous materials as defined by the Virginia Hazardous Waste Management
1542 Regulations.
1543

- 1590 2. Before beginning any work, the applicant shall provide a financial guaranty in an
1591 amount of \$2,000.00 per acre for each acre of land to be disturbed, for a total of
1592 \$409,500.00 guaranteeing that the land will be restored to a reasonably level and
1593 drainable condition. This permit does not become valid until the financial guaranty has
1594 been approved by the County Attorney. The financial guaranty may provide for
1595 termination after 90 days notice in writing to the County. In the event of termination, this
1596 permit shall be void, and work incident thereto shall cease. Within the next 90 days the
1597 applicant shall restore the land as provided for under the conditions of this use permit.
1598 Termination of such financial guaranty shall not relieve the applicant from its obligation
1599 to indemnify the County of Henrico for any breach of the conditions of this use permit. If
1600 this condition is not satisfied within 90 days of approval, the use permit shall be void.
1601
- 1602 3. Before beginning any work, the applicant shall submit erosion control plans to the
1603 Department of Public Works for review and approval. Throughout the life of the
1604 operation, the applicant shall continuously satisfy the Department of Public Works that
1605 erosion control procedures are properly maintained, and shall furnish plans and bonds
1606 that the department deems necessary. The applicant shall provide certification from a
1607 licensed professional engineer that dams, embankments and sediment control
1608 structures meet the approved design criteria as set forth by the State. If this condition is
1609 not satisfied within 90 days of approval, the use permit shall be void.
1610
- 1611 4. Before beginning any work, the applicant shall obtain a mine license from the
1612 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
1613 within 90 days of approval, the use permit shall be void.
1614
- 1615 5. Before beginning any work, the areas approved for mining under this permit shall
1616 be delineated on the ground by five-foot-high metal posts at least five inches in diameter
1617 and painted in alternate one foot stripes of red and white. These posts shall be so
1618 located as to clearly define the area in which the mining is permitted. They shall be
1619 located, and their location certified, by a certified land surveyor. If this condition is not
1620 satisfied within 90 days of approval, the use permit shall be void.
1621
- 1622 6. In the event that the Board's approval of this use permit is appealed, all
1623 conditions requiring action within 90 days will be deemed satisfied if the required actions
1624 are taken within 90 days of final action on the appeal.
1625
- 1626 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
1627 state and local regulations administered under such act applicable to the property, and
1628 shall furnish to the Planning Office copies of all reports required by such act or
1629 regulations.
1630
- 1631 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings
1632 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.
1633
- 1634 9. No operations of any kind are to be conducted at the site on Sundays, or
1635 national holidays.

- 1636
1637 10. Routes of ingress and egress shall be over the applicant's rights of ways to the
1638 loading area at the James River as outlined on the map filed with the application.
1639
- 1640 11. The applicant shall post and maintain a sign at the entrance to the mining site
1641 stating the name of the operator, the use permit number, the mine license number, and
1642 the telephone number of the operator. The sign shall be 12 square feet in area and the
1643 letters shall be three inches high.
1644
- 1645 12. The applicant shall post and maintain "No Trespassing" signs every 250 feet
1646 along the perimeter of the property. The letters shall be three inches high. The
1647 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
1648 enforce the "No Trespassing" regulations, and agreeing to send a representative to
1649 testify in court as required or requested by the Division of Police.
1650
- 1651 13. The applicant shall provide a flagman to control traffic from the site onto the
1652 public road, with the flagman yielding the right of way to the public road traffic at all
1653 times. This flagman will be required whenever the Division of Police deems necessary.
1654
- 1655 14. All roads used in connection with this use permit shall be effectively treated with
1656 calcium chloride or other wetting agents to eliminate any dust nuisance.
1657
- 1658 15. The applicant shall maintain the property, fences, and roads in a safe and secure
1659 condition indefinitely, or convert the property to some other safe use.
1660
- 1661 16. If, in the course of its preliminary investigation or operations, the applicant
1662 discovers evidence of cultural or historical resources, or an endangered species, or a
1663 significant habitat, it shall notify appropriate authorities and provide them with an
1664 opportunity to investigate the site. The applicant shall report the results of any such
1665 investigation to the Planning Office.
1666
- 1667 17. If water wells located on surrounding properties are adversely affected, and the
1668 extraction operations on this site are suspected as the cause, the effected property
1669 owners may present to the Board evidence that the extraction operation is a contributing
1670 factor. After a hearing by the Board, this use permit may be revoked or suspended, and
1671 the operator may be required to correct the problem.
1672
- 1673 18. Open and vertical excavations having a depth of 10 feet or more, for a period of
1674 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
1675 public safety.
1676
- 1677 19. Topsoil shall not be removed from any part of the property outside of the area in
1678 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
1679 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
1680 within the authorized mining area and provided with adequate erosion control
1681 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought

1728 Absent: Nunnally, Wright 2
1729
1730 The Board granted the request because it found the proposed use will be in substantial
1731 accordance with the general purpose and objectives of Chapter 24 of the County Code.
1732
1733 Mr. Kirkland - Okay, A-25-2002.
1734
1735
1736 **UP- 25-2001 TIDEWATER RETRIEVER CLUB** requests a conditional use permit
1737 pursuant to Section 24-12(b) of Chapter 24 of the County Code to
1738 conduct dog training, tests and field trials and at 8558 Strath Road
1739 (Tax Parcel 248-A-24), zoned A-1, Agricultural District (Varina).
1740
1741 Mr. Kirkland - Is the applicant here for this case?
1742
1743 Mr. Blankinship - This is the one I mentioned at the beginning of the meeting,
1744 Mr. Chairman, that I have been told was going to be withdrawn, but we have not yet
1745 received that in writing.
1746
1747 Mr. McKinney - Who told you?
1748
1749 Mr. Blankinship - Either Susan or Pris. Mrs. Parker received a call from the
1750 applicant.
1751
1752 Mr. Kirkland - Do I hear a motion to defer this to the next meeting? Since
1753 there's no one here.
1754
1755 Mr. Balfour - Do we need to defer it?
1756
1757 Mr. Kirkland - Well, we'll have the full Board.
1758
1759 Mr. McKinney - Well, you've got some people here who want to speak on it.
1760
1761 Mr. Kirkland - I can't hear the case without the applicant. We either defer it
1762 or have it withdrawn without prejudice, and I would like it to be deferred. I know these
1763 people came out today to speak, but we can't hear it without the applicant. He has to
1764 be here. I apologize ma'am, gentlemen, but we have to have the applicant here to get it
1765 started. If you have a question, come forward and state your name, so we can get it on
1766 the record.
1767
1768 Ms. Wilberger - My name is Wanda E. Wilberger; I live at 8471 Recreation
1769 Road. Our property backs up to West Sand and Gravel, where this proposed Retriever
1770 Hunting Club wants to have it. My question is, how much notice do they need to give if
1771 they're not going to be here. We've taken time off from work to be here.
1772

1773 Mr. Blankinship - The Planning Office will know at least 14 days before the next
1774 meeting whether we're going to send notices or not. That would be the meeting of
1775 September 20, so by September 6, we will know for certain if they've withdrawn, so if
1776 you want to call the Planning Office on or after the 6th, we'll know whether or not it will
1777 be reheard. The withdrawal may come on the fax machine this afternoon, and if it does,
1778 then it won't be heard.

1779
1780 Mr. Kirkland - Then you could call the Planning Office and ask.

1781
1782 Mr. Balfour - It can't be deferred any more after this.

1783
1784 Mr. Blankinship - It can't be deferred a second time.

1785
1786 Mr. Wilberger - Hello. My name is James Wilberger; I live at the same
1787 address. That was my wife. I have one question I'd like to ask about the notice that
1788 was sent out. I just learned since I've come in this building that they plan to use live
1789 ammunition in their trials.

1790
1791 Mr. Kirkland - That's part of the case, and we can't hear it.

1792
1793 Mr. Wilberger - I just wondered if that would be part of the notice that goes
1794 out, because the notice that we received didn't say anything about that.

1795
1796 Mr. Blankinship - That wouldn't be stated separately.

1797
1798 Mr. Wilberger - Thank you; I'll let my neighbors know.

1799
1800 Upon a motion by Mr. Balfour, seconded by Mr. McKinney, the Board of Zoning Appeals
1801 **deferred UP-25-2001** application for a conditional use permit to conduct dog training,
1802 tests and field trials and at 8558 Strath Road (Tax Parcel 248-A-24). The case was
1803 deferred for 30 days, from the August 23, 2001, until the September 20, 2001, meeting.
1804 The Board deferred the request because there was no representation to present the
1805 case at the meeting.

1806
1807 Affirmative: Balfour, Kirkland, McKinney, 3
1808 Negative: 0
1809 Absent: Nunnally, Wright 2

1810
1811 Mr. Kirkland - Any other business here.

1812
1813
1814 **Election of Officers, 2001-2002**

1815
1816 Mr. Blankinship - You need to elect your officers. I will open the floor for
1817 nominations for the office of Chairman.

1818

1819 Mr. McKinney - Mr. Secretary, I move that we nominate Mr. Dan Balfour for
1820 Chairman.
1821
1822 Mr. Kirkland - I'll second that.
1823
1824 Mr. McKinney - Move the nominations be closed.
1825
1826 Mr. Kirkland - Nominations are closed. All in favor of electing Mr. Balfour as
1827 Chairman, say aye.
1828
1829 On a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board elected Mr. Daniel
1830 T. Balfour as Chairman of the Board of Zoning Appeals.
1831
1832 Affirmative: Balfour, Kirkland, McKinney, 3
1833 Negative: 0
1834 Absent: Nunnally, Wright 2
1835
1836 Mr. Blankinship - I'll open the floor for nominations for the office of Vice
1837 Chairman.
1838
1839 Mr. McKinney - I'll nominate Mr. Al Wright.
1840
1841 Mr. Balfour - I'll second.
1842
1843 Mr. McKinney - I move the nominations be closed.
1844
1845 Mr. Blankinship - All in favor, say aye.
1846
1847 On a motion by Mr. McKinney, seconded by Mr. Balfour, the Board elected Mr. R. A.
1848 Wright as Chairman of the Board of Zoning Appeals.
1849
1850 Affirmative: Balfour, Kirkland, McKinney, 3
1851 Negative: 0
1852 Absent: Nunnally, Wright 2
1853
1854 There being no further business, and on a motion by Mr. Balfour, seconded by Mr.
1855 McKinney, the Board adjourned at 10:41 am, until September 20, 2001, at 9:00 am.
1856
1857
1858
1859
1860 Richard Kirkland,
1861 Chairman

1862

1863

Benjamin Blankinship, AICP

1864

Secretary

1865