

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, FEBRUARY 26,**
4 **2004, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**
5 **TIMES-DISPATCH ON FEBRUARY 5 AND 12, 2004.**
6

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

Members Absent: R. A. Wright, Chairman

Also Present: John R. Marlles, Director of Planning
Benjamin Blankinship, Secretary
Lee J. Tyson, County Planner
Priscilla M. Parker, Recording Secretary

7
8 Mr. Nunnally - I call the February meeting of the County of Henrico Board of
9 Zoning Appeals to order. Would you stand and join us for the **Pledge of Allegiance to**
10 **the Flag**. Mr. Secretary, would you read the rules and procedures of our Board to the
11 9:00 o'clock agenda.
12

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

31 Mr. Chairman, we have two requests for deferrals on the 9:00 o'clock agenda, -- A-144-
32 2003, which we've been carrying since December. They did finally submit some new
33 house plans, but they are going to require more of a variance than what was advertised,

34 so we had to re-advertise to cover that. Also, UP-4-2004, the Country Club of Virginia –
35 both the applicant and one of the adjoining landowners wrote us letters requesting a
36 deferral to the March meeting.

37

38 ***Beginning at 9:00***

39

40 **Deferred from Previous Meeting**

41

42 Mr. Blankinship - UP-27-2003 and A-7-2004 are companion cases, so I'll call
43 those together.

44

45 **UP- 27-2003** **HOLIDAY BARN KENNEL** requests a conditional use permit
46 pursuant to Section 24-52(c) of Chapter 24 of the County Code to
47 expand the existing kennel at 3800 Mountain Road (Parcel 765-
48 771-4745), zoned A-1, Agricultural District (Brookland).

49

50 **A - 7-2004** **HOLIDAY BARN KENNEL** requests a variance from Section 24-
51 10(a) of Chapter 24 of the County Code to build kennel additions at
52 3800 Mountain Road (Parcel 765-771-4745), zoned A-1,
53 Agricultural District (Brookland). The distance requirement for
54 kennels is not met. The applicant proposes kennel structures 60
55 feet from adjoining property, where the Code requires them to be
56 200 feet from adjoining property. The applicant requests a variance
57 of 140 feet distance from adjoining property.

58

59 Mr. Nunnally - Does anyone else here desire to speak on this case? Would
60 you please stand and raise your right hand and be sworn?

61

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

64

65 Mr. Hughes - I do. My name is Emerson Hughes. We're requesting
66 permission to construct new kennel buildings within 60 feet of the existing property line.
67 The old setback was 200 feet, and for 32 years, we were operating under the belief that
68 that 200-foot setback only applied to one side of the property. Then recently we
69 realized that the setback applied to the whole property, which eliminated almost any
70 construction on the property at all. We're requesting to add additional kennel buildings
71 to increase the capacity. Between the time that I quickly prepared the plan that you
72 have here now, we have re-thought that plan, and I would like to submit a change to
73 that plan, of which I have copies here for you today. It doesn't really alter the setback
74 requirement, but it does change the physical layout on the property.

75

76 Mr. Blankinship - What is the larger one here?

77

78 Mr. Hughes - Same thing. The change is more for efficiency in operation
79 than anything else. All these independent buildings are great for housing dogs,

80 because we can maintain good air flow, and we have sunlight in all these buildings, but
81 it's very difficult staffing. So I have changed it to indicate that these buildings would be
82 in a cluster, a U-shape, with a courtyard in between, and that gives us a flow for the
83 staff from one building right on around into the other building. I might add, most folks
84 would not realize this, in the month of January, Holiday Barn sent out 107 W-2's.
85 Holiday Barn is a major employer in Henrico County and metro-Richmond. Holiday
86 Barn is the largest employer of people working directly with pets in the Richmond
87 metropolitan area. Most of those jobs are for young people; it's their first-time job, and
88 there are high numbers of them and high turnover. But it's a great place for young
89 people to work. We have been here since 1972, operated in good conscience within
90 the County with no complaints, which is probably a little unusual for a boarding kennel,
91 and we want to continue operating that way in the future. The layout, as I've put on this
92 revised plan, provides that the rear of a building is toward the property line to the
93 adjoining property owner's, and that means that there are no doors, no openings on the
94 rear of those buildings. It gives us more opportunity for sound proofing and sound
95 control.

96
97 Mr. Nunnally - How about your operation? Is your operation about the
98 same, or have you changed any type of operation?
99

100 Mr. Hughes - No, no change at all. This adds capacity. In 1972 we used
101 to talk about cages, how many cages we had in this facility. We don't talk that way any
102 more. Now we talk about how many rooms we have. This will give us additional rooms;
103 this will be, as far as I can foresee, the final plan for this facility on this property. Again,
104 we've been here 32 years, and over these years, the business has grown, and we have
105 learned many things as we have progressed. I joke about this – our bi-weekly payroll
106 today is in excess of what I predicted this business would gross in a year back in 1972.
107 Much has changed over those years, but with this plan, this gives us number of rooms,
108 capacity that I can see that would be the end of any development of this particular piece
109 of property. Should we find that this business could grow more, the next appropriate
110 step is to establish another location someplace else.

111
112 Mr. Nunnally - How many rooms will you have now?
113

114 Mr. Hughes - We will have 275 rooms.
115

116 Mr. Nunnally - Two hundred seventy-five rooms, and how many dogs do
117 you have to a room?
118

119 Mr. Hughes - You only put one family's pet in each room. Never, ever
120 cross dogs and cats. It's conceivable that if every family owned two pets, the capacity
121 would double. That does not work out that way. Most of the time, it's about 20% have
122 the second pet. They're not all dogs of course. We board about 35 cats, and part of
123 this addition will be for cat suites also, so it will not all be dogs.
124

125 Mr. Nunnally - One cat per room too?

126
127 Mr. Hughes - One cat per room – are you kidding?
128
129 Mr. Kirkland - Mr. Hughes, how many days of the year are you at 100%
130 capacity? Always?
131
132 Mr. Hughes - Fifty days a year.
133
134 Mr. Kirkland - Summer time, most likely.
135
136 Mr. Hughes - The weekends in the summer, Thanksgiving, Christmas, and
137 sometimes at spring break. Our occupancy varies significantly during the week and
138 during the season. This is interesting, if you don't mind thirty seconds to think about
139 this. In the summer, folks, for instance, rent homes at Nags Head. They rent from 4:00
140 o'clock on Saturday afternoon, stay a week, and then they have to be out at 10:00
141 o'clock on Saturday of the next week. That gives the place at Nags Head an
142 opportunity to clean, so they have a five- or six-hour window of opportunity. The people
143 who are going down for the 4:00 o'clock arrival leave early Saturday morning. We get
144 the dog. We're already at 100 percent capacity, we try to be, but the folks who are
145 coming back don't get back until Saturday afternoon late, or Sunday afternoon. So we
146 have a crossover period in there. If we don't compensate for that crossover, we end up
147 being full one week and empty the next week. So the crossover takes us to the ultimate
148 capacity. That ultimate capacity would last one day and sometimes two days. So the
149 numbers always drop back down. When it comes to seasonality of this business, all the
150 numbers are higher, for instance, during the summer. They would rise up to 250, let's
151 say, on the weekends, and during the week drop back to 100. That goes on all summer
152 long.
153
154 Thanksgiving is the most compressed holiday of the year. Those of you who travel on
155 Thanksgiving know what chaos is involved in travel on Thanksgiving. We go to 100 per
156 cent capacity on the Wednesday prior to Thanksgiving, from 10 per cent capacity the
157 Tuesday prior, and then we go from 100 per cent capacity on Sunday, to 10 per cent on
158 Monday. While the ultimate capacity sounds like, and it is, a lot of animals, and it
159 requires a lot of care, it doesn't stay there. I assure you, if it had, all these 32 years,
160 stayed at 100 per cent capacity, I would have been retired a long time ago, but it just
161 doesn't work like that.
162
163 We also offer grooming. That involves about twenty dogs a day of outside customers.
164 That involves customer traffic that's not associated with the boarding. We do day care;
165 that involves customer traffic. Those dogs come and go every day. We do dog training.
166 We have classes at night, usually about eight or ten folks in a class at night. Again, we
167 board dogs and cats. We also, you wouldn't know this, and this is kind of interesting,
168 we care for the pets of the traveling public. So we are a part of the travel industry.
169 Everyone thinks of us as part of pet care; that's true, that's what we do, but we're really
170 serving the public who are traveling. We're also involved in pet care for folks who are
171 dealing with death, folks who are dealing with Hurricane Isabel. We had lots of pets

172 resulting from the damage of Hurricane Isabel.

173

174 We also take care of governmental animals. We take care of this County's dogs, the
175 Canine Dogs, Attack, Drug and Bomb Dogs. Interesting note – your Canine Division of
176 your Police Department has keys to Holiday Barn and has their own alarm codes, and
177 your officers come and go in that building, 24/7. If an officer has to go to a conference,
178 the dog's got to go someplace. The dog will be at Holiday Barn, and they get an
179 emergency call; the officer's got to be able to get the dog. This kind of activity goes on,
180 but it's all very quiet. You have to think of us as a human hotel, where every guest
181 arrives by taxi. We don't have to store cars for the public; our parking lots are empty
182 while the public is away, so we don't require square footage and parking requirements
183 like that. Our parking lot works like a 7-11 parking lot.

184

185 Mr. Balfour - Is your parking lot going to hold traffic okay on peak times
186 with this expansion?

187

188 Mr. Hughes - Yes it is. We have fourteen places for staff and fourteen
189 places for the public. There's never a time that it's all full.

190

191 Mr. Nunnally - Before we ask for the opposition, have you had any
192 complaints about barking dogs or noise or anything like that?

193

194 Mr. Hughes - I did in 1973. We have not.

195

196 Mr. Kirkland - Mr. Blankinship, have we had any?

197

198 Mr. Blankinship - No sir.

199

200 Mr. Hughes - We work very hard at maintaining control, and it's the
201 attitude of the owner that's in control of this. I say that very purposefully. It has been
202 my fear for 32 years that I would have a problem. To alleviate that fear, we utilize the
203 best techniques possible for acoustical control, and we control the staff with what
204 they're doing with these dogs. It's important for you to know I'm not going to sell this
205 business. I'm 60 years old, so my time with Holiday Barn will come to the end before
206 very long. My son, Michael Hughes, is here. Michael, as of Monday, will become Chief
207 Operating Officer of Holiday Barn, so our family will still own and operate this business,
208 we hope for the next 32 years.

209

210 Mr. Nunnally - Any other questions of Mr. Hughes by the Board? Staff?
211 Thank you Mr. Hughes. Now we'll hear from the opposition. Sir, do you want to speak?

212

213 Mr. Snyder - Good morning. I feel very intimidated being here, but I hope
214 you folks will bear with me. My name is Logan Snyder. I'm the closest neighbor to Mr.
215 Hughes, and we've been neighbors for 26 years, and I've seen Mr. Hughes grow, and
216 I've always admired his operation. I'm here today only because I feel that I need your
217 help in protecting my property values. Where he is still operating a kennel, and the

218 operation is the same, to me, and very unknowledgeably so, I feel like the operation is
219 beginning to be saturated over and above the intent of what the property should be
220 carrying. That is my opinion. I just leave it to you gentlemen, to consider what I'm
221 asking you for and why. One of the main things that I am concerned about is the
222 elimination of the 200 feet. It doesn't change that there is a kennel in my back yard at
223 all, but it certainly does make it an impelling situation if my property ever goes up for
224 sale, that I'm certainly sure, with words from Mr. Hughes' own mouth, when we were
225 together one time, that he told me that the word "kennel" to people is like poison. I've
226 never forgotten that, and his previous expansions, I have never opposed them. I have
227 always been very happy to see him being successful and growing, which reflected that
228 he is a good businessman. But at the same time, I feel very intimidated that this is
229 going to impact my property values greatly, and even though he has plenty of land there
230 to expand on, I just don't know what the County's feeling is about how much operation
231 they want in this location or this kind. When it comes to the variance, I feel like it's
232 unnecessary, because he has a great number of other options to go to, without coming
233 towards me. Whether that would help me and my property value or not, I don't know.

234
235 Mr. Balfour - Mr. Snyder, are you at 3786 Mountain Road – is that your
236 home?

237
238 Mr. Snyder - No sir, I'm at 11061 Mill Road. I'm right to his immediate line
239 where the expansion is going.

240
241 Mr. Kirkland - Mr. Snyder, do you have any idea how far the back of your
242 house is to his property line?

243
244 Mr. Snyder - I would say it's approximately 200 feet. Now I do have a
245 garage there, that's within the distance that the County allows me to build, I think was
246 fifteen feet.

247
248 Mr. McKinney - Looks like about 400 feet.

249
250 Mr. Snyder - Four hundred feet – okay.

251
252 Mr. Blankinship - Four hundred feet to what?

253
254 Mr. McKinney - To where the addition is going, from the back of his house.

255
256 Mr. Blankinship - A little less than 200 feet to the property line.

257
258 Mr. McKinney - Mr. Snyder, do you hear any of the animals barking, or
259 making any noise?

260
261 Mr. Snyder - No sir. What you may term a nuisance, I have never
262 experienced any, and I have never made any complaints, and I'm not real particular
263 about things. The dog kennel to me is absolutely no problem. It just isn't any problem

264 at all, and Mr. Hughes is an excellent operator. But that's not my complaint and not my
265 concern. It's just the fact that when I put that property on the market, and this intense
266 amount of construction there, that has developed into all of his operation, is certainly
267 going to be a strong consideration for whoever the purchaser may be.
268

269 Mr. McKinney - How long have you lived on Mill Road?
270

271 Mr. Snyder - I built the property in 1975, moved in 1976, and have been
272 there every since.
273

274 Mr. McKinney - Was the Holiday Barn there then?
275

276 Mr. Snyder - Yes sir, it was; one building was there at the time, and I think
277 now this will be nine.
278

279 Mr. McKinney - I think you had a concern about the word "kennel." Maybe
280 Mr. Hughes would consider changing the name of it to the "animal hotel" or something.
281

282 Mr. Snyder - Maybe so. It didn't bother me, and Mr. Hughes, when we
283 were building a house and doing things that we could do to save costs on the property,
284 he came over and introduced himself and informed me, he said, "do you realize what
285 kind of operation I have here?" I said, "well, yes, I know that you operate a dog hotel," a
286 kennel, or whatever term was used, and he was concerned that maybe I wasn't going to
287 be too happy with the operation. It's never bothered me, and I hate to be here opposing
288 it, but I feel like I have to look out for my own best interests.
289

290 Mr. Nunnally - We thank you for coming, Mr. Snyder. Are there any other
291 questions of the Board or staff? Mr. Hughes, would you like to rebut please? If you
292 don't mind, just a short rebuttal, we've got a full slate.
293

294 Mr. Hughes - I would never rebut Mr. Snyder. Mr. Snyder is one of the
295 great guys. 3786 is my property. I thought I would mention that.
296

297 Mr. McKinney - We realize that.
298

299 Mr. Nunnally - How many more dogs, animals, will you have with this
300 addition, at your max, on the weekends.
301

302 Mr. Hughes - Max? Rooms. I cannot answer you with max animals,
303 because I never know whether a customer is going to bring two. We'll have 245 or 250
304 rooms.
305

306 Mr. Blankinship - How many do you have now?
307

308 Mr. Hughes - One hundred fifty.
309

310 Mr. Balfour - So you've got another third, roughly, you're adding to it in
311 capacity?

312
313 Mr. Hughes - That's right, and a portion of those would be cats.

314
315 Mr. Balfour - Have you given any consideration to going ahead and
316 making your move now and not doing that? You said if it gets any bigger, you're going
317 to have to get another spot.

318
319 Mr. Hughes - Yes, we've given that some consideration. Boarding kennels
320 are terribly expensive to build, unusually expensive. It is not practical. Here's another
321 issue. Management of these facilities is very difficult; 365 days a year we have to have
322 staff there.

323
324 Mr. Balfour - You're supposed to show us your hardship, and your
325 hardship just happens to be that you don't want to move somewhere else right now.

326
327 Mr. Hughes - No, the hardship is, we need a lobby for the public, and we
328 need a dog drying room, to handle the existing operation. All those activities fall within
329 the 200 feet, and we didn't know that.

330
331 Mr. McKinney - What do you do for a lobby and a drying room now?

332
333 Mr. Hughes - They're too small. It's literally chaotic.

334
335 Mr. McKinney - They meet your needs today. When you expand, they're
336 going to be too small.

337
338 Mr. Hughes - No, they don't meet the needs today. I started this permit
339 process, just for the bathing room and the lobby, because we needed more room for
340 public activity. The lobby's gotten too small. In fact, we use the courtyard in front of the
341 building during peak times, to take people their pets, because the lobby is so small.
342 The lobby was originally designed for a facility that maxxed at about 90 animals.

343
344 Mr. McKinney - How long have you been operating like you're operating,
345 with the number of rooms that you've got, and so forth?

346
347 Mr. Hughes - For about two years.

348
349 Mr. Nunnally - Any other questions from Board or staff? If not, that
350 concludes the case. Thank you for coming.

351
352 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
353 McKinney, the Board **granted** application **UP-27-2003** for a conditional use permit to
354 expand the existing kennel at 3800 Mountain Road (Parcel 765-771-4745). The Board
355 granted the use permit subject to the following conditions:

356
357 1. The property shall be developed in substantial conformance with the plan filed
358 with the application. No substantial changes or additions to the layout may be made
359 without the approval of the Board of Zoning Appeals.

360
361 2. This approval is subject to all conditions that may be placed on the proposed
362 development during review of the construction plans.

363
364 3. A detailed landscaping and lighting plan shall be submitted to the Planning Office
365 with the building permit for review and approval.

366
367 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
368 Negative: 0
369 Absent: Wright 1

370
371 The Board granted the request because it found the proposed use will be in substantial
372 accordance with the general purpose and objectives of Chapter 24 of the County Code.

373
374 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
375 McKinney, the Board **granted** application **A-7-2004** for a variance to build kennel
376 additions at 3800 Mountain Road (Parcel 765-771-4745). The Board granted the use
377 permit subject to the following condition:

378
379 1. This variance applies only to the agricultural distance requirement. All other
380 applicable regulations of the County Code shall remain in force.

381
382 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
383 Negative: 0
384 Absent: Wright 1

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

391
392 **A -144-2003** **RCI BUILDERS** requests a variance from Sections 24-95(k) and (2)
393 of Chapter 24 of the County Code to build a one-family dwelling at
394 1800 Terrace Avenue (Hermitage Club Terrace) (Parcel 782-750-
395 2829), zoned R-2, One-family Residence District (Fairfield). The
396 minimum side yard setback and rear yard setback are not met. The
397 applicant has 17 feet rear yard setback, and 23 feet side yard
398 setback, where the Code requires 25 feet rear yard setback and 25
399 feet side yard setback. The applicant requests a variance of 8 feet
400 rear yard setback and 2 feet side yard setback.
401

402 Upon a motion by Mr. Kirkland, seconded by Mr. McKinney, the Board **deferred**
403 application **A-144-2003** for a variance to build a one-family dwelling at 1800 Terrace
404 Avenue (Hermitage Club Terrace) (Parcel 782-750-2829). The case was deferred from
405 the February 26, 2004, until the March 25, 2004, meeting to allow time to re-advertise
406 with a different variance requested.

407
408 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
409 Negative: 0
410 Absent: Wright 1

411
412 **A - 4-2004** **ABID KRAK** appeals a decision of the Director of Planning
413 pursuant to Section 24-116(a) of Chapter 24 of the County Code
414 regarding the property at 5401 Dickens Road (Parcel 773-744-
415 3103), zoned R-2, One-family Residence District (Brookland).

416
417 Mr. Nunnally - Is there anyone else here for this case? Did we have to
418 have any more testimony today, Mr. Blankinship?

419
420 Mr. Blankinship - The County has performed an inspection, and the Director of
421 Planning, I think, needs to report on that inspection to you. Whether you need to hear
422 from Mr. Krak or whether you have questions for him, is up to you.

423
424 Mr. McKinney - Mr. Krak has already presented his side.

425
426 Mr. Nunnally - Well, we'll be sworn in again.

427
428 Mr. Blankinship - Raise your right hand. Do you swear that the testimony you
429 are about to give is the truth, the whole truth, and nothing but the truth, so help you
430 God?

431
432 Mr. Krak - Yes sir.

433
434 Mr. McKinney - Mr. Krak, we don't need to hear from you now. We've
435 already heard your testimony; we need to hear from the staff.

436
437 Mr. Kirkland - We need to hear what happened at the inspection that took
438 place.

439
440 Mr. McKinney - If we need you, we'll call you.

441
442 Mr. Krak - Do I speak behind this desk or not?

443
444 Mr. Nunnally - We'll decide that after we hear the report.

445
446 Mr. Kirkland - We said at the last meeting that we had heard all the
447 testimony, and we were going to wait.

448
449 Mr. Krak - I would like to, please, if I can get a chance.
450
451 Mr. Kirkland - I've heard everything right now that I need to hear about
452 what's going on. I need to know whether or not the inspection was made, and what
453 they found, and then if you'd like to have a minute or two to rebut or say a few words, I'll
454 allow that.
455
456 Mr. Krak - Please give me a chance.
457
458 Mr. Kirkland - Let me hear what they said at the inspection first.
459
460 Mr. Krak - I'm going to speak something different, but regarding my
461 case.
462
463 Mr. Kirkland - Well let me hear from Mr. Marlles right now.
464
465 Mr. Nunnally - We don't know whether we want to hear anything different or
466 not until we hear from Mr. Marlles.
467
468 Mr. Krak - Everything I want to say is including my case, please, and
469 give me a chance.
470
471 Mr. Nunnally - Well you have a seat right now, and we'll hear from Mr.
472 Marlles, and if we need you, we'll call you.
473
474 Mr. Marlles - Good morning, Mr. Chairman, members of the Board; my
475 name is John Marlles, and I'm Director of Planning for Henrico County. At your last
476 meeting on January 22, you did defer Mr. Krak's appeal on my decision as Director of
477 Planning, in order to give staff an opportunity to inspect his property at 5401 Dickens
478 Road. A joint inspection of that property was conducted on February 19, by staff from
479 the Planning Office, and the Department of Building Construction and Inspection. Staff
480 did determine that Mr. Krak has removed the stoves from the guesthouse and the
481 basement of the dwelling, which does bring the property into compliance with the
482 Zoning Ordinance. No other zoning violations were observed during that inspection. I
483 would note for the record, though, that the inspection did discover a fairly extensive list
484 of building code violations, both in the guesthouse and in the main dwelling. Those, of
485 course, are under the jurisdiction of the Building Commissioner, not the Board of Zoning
486 Appeals. For the time being, this does resolve the matter from the standpoint of the
487 Planning Office. We will continue to monitor the property to insure that the owner does
488 remain in compliance with the ordinance. I would note that Mr. Krak's original appeal
489 was challenging the statement of fact from our original inspection that was conducted
490 on November 18, 2003. He was challenging the inspection report that there were three
491 kitchens on the property, two in the main dwelling, and one in the guesthouse. We
492 would maintain that that inspection report was correct. In talking with Mr. Krak, he
493 agrees that there was one kitchen in the guesthouse and one in the main dwelling. He

494 disputed whether there were two in the main dwelling. In either event, it's still a violation
495 of the zoning ordinance. I'll be glad to answer any questions that the Board has.

496
497 Mr. McKinney - Everything's been satisfied now.

498
499 Mr. Marlles - Staff is satisfied.

500
501 Mr. Blankinship - Planning Office concerns.

502
503 Mr. McKinney - Correct. So now if he has other problems, he's got to bring
504 them up with the Building Commissioner.

505
506 Mr. Marlles - Right, and I believe the Building Commissioner is pursuing
507 those violations.

508
509 Mr. Kirkland - So therefore the notices that were given on November 18,
510 were true and were factual, and there were really kitchens there at that time.

511
512 Mr. Marlles - That is staff's position, yes sir.

513
514 Mr. Nunnally - Is there any need for the appeal to go further then?

515
516 Mr. Blankinship - Do you want to give Mr. Krak a minute or two?

517
518 Mr. McKinney - It's over and done with; it's done.

519
520 Mr. Blankinship - On his behalf, there was a statement made at last month's
521 hearing that is on the official record, that he believes was false and misleading, and he
522 would like to set straight. Whether the Board wants to hear it, is at your discretion. It
523 doesn't make any difference to the case.

524
525 Mr. Nunnally - Thank you Mr. Marlles. Mr. Krak, I'm going to let you speak,
526 but I'm going to put a limit on you – five minutes at the most. You don't need that long,
527 really – two minutes.

528
529 Mr. Krak - Good morning Mr. Chairman; good morning members of the
530 Board; good morning ladies and gentlemen. I am Abid Krak. I please you all to pay a
531 little more attention to my case at this time. We all realize some striking details that we
532 can't believe it. As more as I tried to be honest and do the right things for myself, my
533 family, my neighborhood, and the community, I get more in trouble. But on the other
534 side, some people are complaining and complaining, and you believe it. Some people
535 even come behind this desk and swear to tell the truth, nothing but the truth, but after
536 all, they tell a perfect lie. This is not a right place to lie. Let's go back a few years.

537
538 Mr. Blankinship - You just need to get to the point that you believe was false.

539

540 Mr. Krak - All right, all right. I'm going to get to the point right now. I'm
541 sorry. Testimony from my neighbor, Mr. Wenk.
542

543 Mr. McKinney - You've got testimony from your neighbor – is your neighbor
544 here?
545

546 Mr. Krak - No, he's not here.
547

548 Mr. Blankinship - He's looking at last month's minutes.
549

550 Mr. McKinney - Well, it's heresay.
551

552 Mr. Blankinship - He's looking at last month's minutes.
553

554 Mr. Krak - Last month's draft – that's his words, not mine.
555

556 Mr. Nunnally - Well he chose to speak what he said, and you don't need to
557 read them to us. You're liable to be subject to be sued for slander if you don't watch
558 out, so let's move along.
559

560 Mr. Krak - He testified some, let me say directly, he lied a couple of
561 times, not once.
562

563 Mr. Blankinship - Just tell us what the truth is, please.
564

565 Mr. Krak - The truth is, regarding my, I did some work after the stop
566 work order was issued, that I poured a slab on that foundation, and I got pictures and
567 paperwork here to prove

568

569 Mr. McKinney - That's not our concern; that's the Building Commissioner.
570

571 Mr. Blankinship - Mr. Chairman, if I may, Mr. Krak and I discussed this in the
572 office a couple of days ago; he showed me information that established – if you
573 remember last month, there was testimony that the building official revoked his permit
574 and then he went ahead and poured the slab in the storage building. Mr. Krak showed
575 very good evidence that that was not the case, that what happened is, he had the
576 inspection, he poured the slab, and the next day the permit was revoked. He just
577 wanted to get that fact into the record, and I respected that.
578

579 Mr. Nunnally Okay, we'll accept that then as a stipulation, can we not?
580 What Mr. Secretary just said. I think we've heard all we need to know.
581

582 Mr. Kirkland - I've heard all I need to know, Mr. Krak.
583

584 Mr. Nunnally - Thank you for coming down. That concludes the case.
585

586 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
587 McKinney, the Board **denied** the **A-4-2004** appeal of a decision of the Director of
588 Planning regarding the property at 5401 Dickens Road (Parcel 773-744-3103), thus
589 upholding the notice of violation issued by the Director of Planning.

590
591 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
592 Negative: 0
593 Absent: Wright 1

594
595 The Board denied your request as it found from the evidence presented that there were
596 at least two, and possibly three, kitchens on the property when the notice was issued.

597
598 The Board heard testimony that the property is now in compliance with the zoning
599 ordinance. Although there may still be violations of the Uniform Statewide Building Code
600 on the property, those violations would not come under the purview of the Board of
601 Zoning Appeals.

602
603 **UP- 2-2004** **W. C. ENGLISH INC.** requests a conditional use permit pursuant to
604 Sections 24-103 and 24-52(d) of Chapter 24 of the County Code to
605 extract materials from the earth at 6919 Monahan Road (Parcel
606 823-698-3046), zoned A-1, Agricultural District (Varina).

607
608 Mr. Nunnally - Is there anyone else here interested in this case? Would
609 you raise your right hand and be sworn please?

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

613
614 Mr. Higginbotham, - I do. My name is James Higginbotham; I'm with W. C.
615 English Inc., and this is a renewal of an existing permit. The reason we're asking for
616 this renewal is due to the economic downturn that put the airport connector on hold, and
617 since this area was approved originally for a borrow pit, we're asking that it be renewed.
618 We've gotten all the erosion control plans and yet we've never opened this area up, due
619 to the road not maturing and the airport connector not being built. We're asking that all
620 the conditions that were previously approved remain the same, that the pit be renewed.
621 If you have any questions, I'd be glad to try to answer them.

622
623 Mr. Blankinship - Mr. Chairman, I made a couple of clerical errors in the
624 conditions. The date of the renewal will be from July 31 to July 31. He's applying
625 ahead of time, and I attempted to punish him for that.

626
627 Mr. Nunnally - Do we have any opposition to this? There are some people
628 who rose to speak. Why did we defer this?

629
630 Mr. Blankinship - We advertised the wrong parcel.
631

632 Mr. Higginbotham - We were actually on the wrong side of 895; it was just a
633 clerical error.
634

635 Mr. Blankinship - 895 cuts through the original parcel.
636

637 Mr. Higginbotham - And we called it the Spanos pit because it was Spanos
638 property. Spanos still owns property on both sides of 895, so we inadvertently
639 advertised to people on the wrong side of 895.
640

641 Mr. Nunnally - You just said you're in favor of the suggestions that we have
642 on this, right?
643

644 Mr. Higginbotham - Yes sir. Nothing has changed from the approval two years
645 ago.
646

647 Mr. Nunnally - Do any of you gentlemen want to speak?
648

649 **(Voice from audience)** - Not in opposition, no.
650

651 Mr. Higginbotham - We've got good neighbors.
652

653 Mr. Nunnally - Anyone else?
654

655 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
656 Kirkland, the Board **granted** application **UP-2-2004** for a conditional use permit to
657 extract materials from the earth at 6919 Monahan Road (Parcel 823-698-3046). The
658 Board granted the variance subject to the following conditions:
659

- 660 1. This permit is subject to all requirements of Section 24-103 of Chapter 24 of the
661 County Code.
662
- 663 2. Monday through Friday hours of operation shall be from 7:00 a.m. to 7:00 p.m.
664 when Daylight Savings Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other
665 times. Saturday hours of operation shall be from 7:00 a.m. to 3:00 p.m.
666
- 667 3. No operations of any kind are to be conducted at the site on Sundays or on
668 national holidays.
669
- 670 4. Open and vertical excavations having a depth of 10 feet or more for a period of
671 more than 30 days, shall be effectively sloped to a 2 to 1 slope or flatter to protect the
672 public safety.
673
- 674 5. All means of access to the property shall be from the public right of way of I-895
675 or Monahan Road.
676

677 6. A superintendent who shall be personally familiar with all the terms and
678 conditions of Section 24-103 of Chapter 24 of the County Code as well as the terms and
679 conditions of UP-2-2004, and shall be present at the beginning and conclusion of
680 operations each work day to see that all conditions of the County Code and the use
681 permit are carefully observed.

682
683 7. Topsoil shall not be removed from any part of the property outside of the area in
684 which extraction is authorized. Sufficient topsoil shall be stockpiled on the property for
685 respreading in a layer with five (5) inches of minimum depth. If the site does not yield
686 sufficient topsoil, additional topsoil shall be brought to the site to provide the required
687 five-inch layer of cover. All topsoil shall be treated with a mixture of seed, fertilizer, and
688 lime as recommended by the County of Henrico after the results of soil tests have been
689 submitted to the County of Henrico. All topsoil shall be stockpiled within the authorized
690 borrow area and provided with adequate erosion control protection. This condition shall
691 not prevent the applicant from constructing a screening berm as requested by the owner
692 of the adjoining property.

693
694 8. The rehabilitation of the property shall take place simultaneously with the
695 extraction process. Rehabilitation shall not be considered completed until the extraction
696 area is covered completely with permanent vegetation.

697
698 9. Responsibility for maintaining the property, fences, and roads in a safe and
699 secure condition indefinitely, or for converting the property to some other safe use, shall
700 rest with the applicant.

701
702 10. Entrance gates shall be erected and maintained at all entrances to the property.
703 These gates shall be locked at all times, except when authorized representatives of the
704 applicant are on the property.

705
706 11. Erosion Control Plans shall be submitted to the Department of Public Works for
707 review and approval at time of application for the use permit. Throughout the life of this
708 extraction operation, the applicant shall continuously satisfy the Department of Public
709 Works that erosion control procedures are properly handled and furnish plans and
710 bonds that the department deems necessary. The applicant shall provide certification
711 from a licensed professional engineer that dams, embankments and sediment control
712 structures meet standard and approved design criteria as set forth by the State.

713
714 12. The areas approved for extraction under this permit shall be delineated on the
715 ground by the erection of five (5) foot high metal posts at least five (5) inches in
716 diameter and painted in alternate one (1) foot stripes of red and white. These posts
717 shall be so located as to clearly define the area in which the extraction is permitted.
718 They shall be located, and the location certified by a certified surveyor, within ninety
719 (90) days of the date of approval of this use permit by the Board of Zoning Appeals, or
720 this use permit is void.

721

722 13. "No Trespassing" signs shall be posted and maintained on the property to warn
723 against use of the property by unauthorized persons. The minimum letter height shall
724 be three inches and signs are to be posted every 250 feet along the perimeter of the
725 property. The applicant shall furnish the Chief of Police a letter authorizing enforcement
726 by the County Police Officers of the "No Trespassing" regulations, and agreeing to send
727 a representative to court for purposes of testimony whenever required or requested by
728 the Division of Police.
729

730 14. Excavation operations shall be discontinued on said site by July 31, 2006,
731 restoration accomplished not later than July 31, 2007 unless a new use permit is
732 applied for by not later than 60 days before the expiration of the permit, and is
733 subsequently granted by the Board of Zoning Appeals.
734

735 15. A financial guaranty satisfactory to the County Attorney shall be posted with the
736 Secretary of the Board of Zoning Appeals for extracting materials from 23.24 acres, in
737 an amount of \$2,000.00 per acre for each disturbed acre of land included, for a total of
738 \$46,480.00 guaranteeing that the land will be restored to a reasonably level and
739 drainable condition with a minimum slope on the restored property being five to one or
740 flatter. The guaranty may provide for the termination of the obligations after 30 days
741 notice in writing. Such notice shall be served upon the principal and upon the obligee
742 as provided by law for the service of notices. At the termination of the aforesaid 30 day
743 notice to the principal, all authority of the principal under this use permit to extract
744 materials, and work incident thereto, shall cease provided the applicant has not
745 furnished another guaranty suitable to the County within said 30 days. The principal
746 shall then proceed within the next ensuing 30 days following the termination of its
747 authority under this use permit, to accomplish the complete restoration of the land as
748 provided for under the terms of this permit. A notice of termination by such surety shall
749 in no event relieve the surety from its obligation to indemnify the County of Henrico for a
750 breach of the conditions of this use permit.
751

752 16. The applicant shall furnish a certification each year, verifying that the guaranty is
753 in effect, premiums have been paid, and the bonding company reaffirms its
754 responsibility under the use permit conditions. This certification shall be submitted to
755 the Board on July 31st of each year.
756

757 17. This permit does not become valid until the guaranty, required in condition No.
758 15, has been posted with the County, and necessary approval received. This must be
759 accomplished within 30 days of the Board's action or the action becomes invalid.
760

761 18. A progress report shall be submitted to the Board on July 31st of each year
762 during the life of this permit. This progress report must contain information concerning
763 how much property has been disturbed to date of the report, the amount of land left to
764 be disturbed, and how much rehabilitation has been performed, and when and how the
765 remaining amount of land will be rehabilitated, and any and all pertinent information
766 about the operation that would be helpful to the Board.
767

768 19. If, in the course of its preliminary investigation or operations, applicant discovers
769 evidence of the existence of cultural or historical material or the presence on the site of
770 significant habitat or an endangered species, it will notify appropriate professional or
771 governmental authorities and provide them with an opportunity to investigate the site
772 and applicant will report the results of such investigation to the Planning Office.
773

774 20. The applicant shall comply with the Chesapeake Bay Preservation Act and all
775 state and local regulations administered under such act applicable to the property and
776 shall furnish to the Planning Office copies of all reports required by such act or
777 regulations.
778

779 21. In the event that an appeal of the Board's approval action is filed, all conditions
780 requiring action on the part of the applicant within 90 days are considered satisfied if the
781 required actions take place within 90 days of final action on the appeal process by the
782 courts.
783

784 22. If the Virginia Department of Mines, Minerals and Energy determines that the use
785 of this property constitutes a mine, the applicant shall obtain a mine license from the
786 Division of Mineral Mining, Virginia Department of Mines, Minerals and Energy, within
787 90 days of such determination, or the use permit is void.
788

789 23. No offsite-generated materials shall be deposited on the site unless the materials
790 and the plans for their placement have been approved by the Planning Office.
791

792 24. If the Virginia Department of Mines, Minerals and Energy determines that the use
793 of this property constitutes a mine, a sign shall be posted at the entrance to the mining
794 site stating the name of the operator, the Henrico use permit number, the Division of
795 Mineral Mining mine license number, and the phone number of the operator. The sign
796 shall be 12 square feet in area and shall be properly maintained.
797

798 25. If the Virginia Department of Mines, Minerals and Energy determines that the use
799 of this property constitutes a mine, all drainage and erosion and sediment control
800 measures shall conform to the standards and specifications of the Mineral Mining
801 Manual Drainage Handbook.
802

803 26. If water wells located on surrounding properties are adversely affected, and the
804 extraction operations on this site are suspected as the cause, the effected property
805 owners may present to the Board evidence that the extraction operation is a contributing
806 factor. After a hearing by the Board, this use permit may be revoked or suspended, and
807 the operator may be required to correct the problem. The applicant shall post a
808 financial guarantee in the amount of \$25,000, satisfactory to the County Attorney,
809 guaranteeing compliance with this condition.
810

811 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
812 Negative: 0

813 Absent: Wright

1

814

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

817

818 **New Applications**

819

820 **A - 6-2004**

821 **CHESTER G. WADE** requests a variance from Sections 24-94 and
822 24-95(i)1 of Chapter 24 of the County Code to build a front porch at
823 5557 Holman Drive (Wyndham Forest) (Parcel 745-777-6963),
824 zoned R-3C, One-family Residence District (Conditional) (Three
825 Chopt). The front yard setback and projection into required yard
826 are not met. The applicant proposes 38 feet front yard setback,
827 where the Code requires 40 feet front yard setback. The applicant
828 requests a variance of 2 feet front yard setback. An outside storm
829 enclosure not more than 6 feet in width may encroach not more
830 than 4 feet into a required yard. An 8-foot wide porch exists and is
831 proposed. A variance of 2 feet of encroachment into the required
832 yard is proposed.

832

833 Mr. Blankinship - Does anyone else intend to speak on this application.
834 Would you raise your right hand. Do you swear that the testimony you are about to give
835 is the truth, the whole truth, and nothing but the truth, so help you God?

836

837 Mrs. Wade - I do. Good morning. My name is Mary Wade, and I am here
838 to request permission to add a roof to an existing stoop that we have on our house. We
839 found after we hired a contractor and he came to the County to apply for all the permits,
840 that we did not have the proper setback. We are short by about two feet. We won't
841 enlarge it; we will use exactly what's there. We just want to put a roof over it.

842

843 Mr. Nunnally - It looks like your neighbor already has one.

844

845 Mrs. Wade - Yes, most of the neighbors do.

846

847 Mr. Blankinship - Do you want to mention the homeowners association?

848

849 Mrs. Wade - We have a homeowners association, which we have to apply
850 to on any changes that we do to our property, and my husband made the application,
851 and they have already approved the changes for it, so we were looking to have the
852 approval from the County to go ahead with this.

853

854 Mr. Kirkland - Mrs. Wade, I see part of your problem is that your house had
855 to be pushed forward on the lot because you are in the back of a Chesapeake Bay area;
856 therefore that pushed you closer to the road.

857

858 Mrs. Wade - Yes it does. We have a protected area behind us. And we

859 bought the house; we did not have it built. It was already finished when we bought it, so
860 we were not aware, we knew about the protected area behind, but we were not aware
861 of the problem in the front.

862
863 Mr. Nunnally - Any other questions from the Board or staff? We do not
864 have any opposition, right?

865
866 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
867 Balfour, the Board **granted** application **A-6-2004** for a variance to build a front porch at
868 5557 Holman Drive (Wyndham Forest) (Parcel 745-777-6963). The Board granted the
869 variance subject to the following conditions:

870
871 1. Only the improvements shown on the plan filed with the application may be
872 constructed pursuant to this approval. No substantial changes or additions to the layout
873 may be made without the approval of the Board of Zoning Appeals. Any additional
874 improvements shall comply with the applicable regulations of the County Code.

875
876 2. The new construction shall match the existing dwelling as nearly as practical.

877
878 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
879 Negative: 0
880 Absent: Wright 1

881
882 The Board granted this request, as it found from the evidence presented that, due to the
883 unique circumstances of the subject property, strict application of the County Code
884 would produce undue hardship not generally shared by other properties in the area, and
885 authorizing this variance will neither cause a substantial detriment to adjacent property
886 nor materially impair the purpose of the zoning regulations.

887
888 **A - 8-2004** **MARK SANDY** requests a variance from Section 24-94 of Chapter
889 24 of the County Code to build a screened porch at 2016 Wade
890 Court (Fort King) (Parcel 750-751-4860), zoned R-2A, One-family
891 Residence District (Tuckahoe). The rear yard setback is not met.
892 The applicant proposes 35 feet rear yard setback, where the Code
893 requires 45 feet rear yard setback. The applicant requests a
894 variance of 10 feet rear yard setback.

895
896 Mr. Nunnally - Is there anyone else in the audience interested in this case?
897 Would you raise your right hand and be sworn please?

898
899 Mr. Blankinship - Do you swear that the testimony you are about to give is the
900 truth, the whole truth, and nothing but the truth, so help you God?

901
902 Mr. Sandy - I do. My name is Mary Sandy. I'm requesting a screened
903 porch be built. I have a deck next to it. The screened porch wouldn't protrude any
904 further toward the back of the property than the deck already does. It says I need a ten-

905 foot variance, but there's a little error in the drawing. We double checked that, and
906 really, it's about three feet. I don't know if that makes a huge difference to the Board.
907 It's really about two and a half feet on the closest part to the back of my property. I did
908 ask all of my neighbors, and there's some information in there about that. No one
909 seemed to have a problem with it.

910
911 Mr. Nunnally - We have letters in the file from your neighbors, saying it's
912 okay with them. Any other questions from the Board or staff?

913
914 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
915 Kirkland, the Board **granted** application **A-8-2004** for a variance to build a screened
916 porch at 2016 Wade Court (Fort King) (Parcel 750-751-4860). The Board granted the
917 variance subject to the following conditions:

918
919 1. Only the improvements shown on the plan filed with the application may be
920 constructed pursuant to this approval. No substantial changes or additions to the layout
921 may be made without the approval of the Board of Zoning Appeals. Any additional
922 improvements shall comply with the applicable regulations of the County Code.

923
924 2. The new construction shall match the existing dwelling as nearly as practical.

925
926 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
927 Negative: 0
928 Absent: Wright 1

929
930 The Board granted this request, as it found from the evidence presented that, due to the
931 unique circumstances of the subject property, strict application of the County Code
932 would produce undue hardship not generally shared by other properties in the area, and
933 authorizing this variance will neither cause a substantial detriment to adjacent property
934 nor materially impair the purpose of the zoning regulations.

935
936 **A - 9-2004** **MAERONIA B. ARRINGTON** requests a variance from Sections
937 24-95(c)(1) and (a) of Chapter 24 of the County Code to build an
938 addition at 1902 Bloom Lane (Central Gardens) (Parcel 800-728-
939 5614), zoned R-4, One-family Residence District (Fairfield). The
940 minimum side yard setback and total side yard setback are not met.
941 The applicant proposes less than 1 foot minimum side yard setback
942 and 2.5 feet total side yard setback, where the Code requires 7 feet
943 minimum side yard setback and 19.5 feet total side yard setback.
944 The applicant requests a variance of 7 feet minimum side yard
945 setback and 17 feet total side yard setback.

946
947 Mr. Nunnally - Is there anyone here in opposition to this request? Would
948 you raise your right hand and be sworn please?

949
950 Mr. Blankinship - Do you swear that the testimony you are about to give is the

951 truth, the whole truth, and nothing but the truth, so help you God?
952
953 Ms. Arrington - Yes. Maerona B. Arrington. We are requesting to add a
954 family room on the end of our home, twelve feet by 32 feet. I have signatures from the
955 neighbors that no one disagrees.
956
957 Mr. Nunnally - Have you got a copy of those that you want to turn in?
958
959 Ms. Arrington - Yes. If you look at the fence on that side of the home, the
960 fence has been up since 1950-something, and it's sixteen feet from the house. We are
961 asking to go twelve feet out. Is it my understanding that something that's been erected
962 years ago is, will not be moved?
963
964 Mr. Nunnally - Grandfathered in.
965
966 Ms. Arrington - Grandfathered in, thank you. As you can see, our home sits
967 in a curve. When you look at it, it's narrower to the front than the back.
968
969 Mr. Nunnally - Did you say what size that was going to be, Ms. Arrington?
970
971 Ms. Arrington - Twelve feet by 32 feet.
972
973 Mr. Kirkland - What type of materials will this be? Will it be brick like your
974 home, or will it be siding, or what?
975
976 Ms. Arrington - It will be brick.
977
978 Mr. Nunnally - Any other question from the Board or the staff?
979
980 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
981 Balfour, the Board **granted** application **A-9-2004** for a variance to build an addition at
982 1902 Bloom Lane (Central Gardens) (Parcel 800-728-5614). The Board granted the
983 variance subject to the following conditions:
984
985 1. Only the improvements shown on the plan filed with the application may be
986 constructed pursuant to this approval. No substantial changes or additions to the layout
987 may be made without the approval of the Board of Zoning Appeals. Any additional
988 improvements shall comply with the applicable regulations of the County Code.
989
990 2. The new construction shall match the existing dwelling as nearly as practical.
991
992 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
993 Negative: 0
994 Absent: Wright 1
995

996 The Board granted this request, as it found from the evidence presented that, due to the
997 unique circumstances of the subject property, strict application of the County Code
998 would produce undue hardship not generally shared by other properties in the area, and
999 authorizing this variance will neither cause a substantial detriment to adjacent property
1000 nor materially impair the purpose of the zoning regulations.

1001
1002 **A - 10-2004** **LIFELINE FOR JESUS COMMUNITY CHURCH** requests a
1003 variance from Section 24-94 of Chapter 24 of the County Code to
1004 build front and rear additions at 3705 Meadowbridge Road
1005 (Highland Gardens) (Parcel 795-737-0236), zoned B-1, Business
1006 District (Fairfield). The front yard setback and rear yard setback
1007 are not met. The applicant proposes 17 feet front yard setback and
1008 8 feet rear yard setback, where the Code requires 25 feet front yard
1009 setback and 40 feet rear yard setback. The applicant requests a
1010 variance of 8 feet front yard setback and 32 feet rear setback.

1011
1012 Mr. Nunnally - Is there anyone else here interested in this case? Would
1013 you raise your right hand and be sworn please?

1014
1015 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1016 truth, the whole truth, and nothing but the truth, so help you God?

1017
1018 Mr. Peterson - I do. Good morning, gentlemen. I am Canova Peterson,
1019 representing Lifeline for Jesus Community Church. We're looking for exceptions to the
1020 front and rear yard setbacks. The Community Church is sitting there in a neighborhood
1021 on the edge, providing a needed service. The restrictions on the site, it's a tight site.
1022 The only place to be able to accomplish the two things that are needed to enhance and
1023 allow this ministry to continue to take place in this area, is to provide the vestibule to the
1024 existing church. One of the things I believe the staff pointed out that it is being used as
1025 a church now; it can continue to be; however on a 22-degree morning in the middle of
1026 January, when somebody opens that door, it's not a very effective church. We've got
1027 about 80 to 100 people who are coming in there. At the same time, right now, it's a very
1028 small building; the community they're having an average of 80 to 100 people in
1029 attendance. They cannot have any socials with anything more than cold cuts, because
1030 they have no way to warm it up. They're looking for a small warming kitchen in the rear.
1031 By putting this in the back, there is a small corner of the building that has not been built
1032 at this point in time, to the rear. Adding this warming kitchen would not encroach any
1033 further on the back than is already the case, with the building in place that they bought,
1034 so there would be no additional encroachment than what is already there. It's just
1035 extending that corner of the building and filling it in. The front portion is an eight-foot
1036 variance in order to allow for a vestibule so that they can basically stop the cold chill
1037 when doors are opened when they're having services and different activities within the
1038 building. As far as the neighbors are concerned, it would not harm anything in the
1039 neighborhood; in fact would enhance the situation. You've seen the front of the
1040 building. They want to add to this, make it a more attractive building, and give them a
1041 stronger presence in the community.

1042
1043 Mr. McKinney - What type of material are you going to use, just match the
1044 existing structure?
1045
1046 Mr. Peterson - That is one of the conditions that the staff has placed;
1047 actually the church would like to improve on that, rather than try and match it. We
1048 would prefer to go to possibly brick, and some siding. Right now you've got some
1049 painted brick and concrete block, just basic store front. We would like to have a
1050 stronger, more aesthetically pleasing appearance, so we'd really like not to be restricted
1051 to making it look like what's already there.
1052
1053 Mr. McKinney - Do you plan on remodeling the entire front of the building,
1054 the church, or
1055
1056 Mr. Peterson - The plan shows basically just enough to come out to the
1057 front with a size enough to be a vestibule, but that would probably be raised to a higher
1058 point to give it more of an identification of a Christian church. The little piece to the side
1059 is nothing more than an area to be able to put a raised platform for the person who is
1060 handling the audio and visuals within the church room.
1061
1062 Mr. Nunnally - Any more questions from the Board or staff?
1063
1064 Mr. Kirkland - Mr. Blankinship, let me ask you a question. Does the city
1065 line run right through this building?
1066
1067 Mr. Blankinship - Yes, and they have been notified of the application. The
1068 church is aware that they need to coordinate.
1069
1070 Mr. Peterson - Pastor Lorenzo Nicholson is the other gentleman with me
1071 today, if there's any questions that you may have of him as well.
1072
1073 Mr. Nunnally - Looks like you're going to have to move your handicapped
1074 parking spot over. Any other questions? Is there any opposition to this case?
1075
1076 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1077 Kirkland, the Board **granted** application **A-10-2004** for a variance to build front and rear
1078 additions at 3705 Meadowbridge Road (Highland Gardens) (Parcel 795-737-0236).
1079 The Board granted the variance subject to the following conditions:
1080
1081 1. Only the improvements shown on the plan filed with the application may be
1082 constructed pursuant to this approval. No substantial changes or additions to the layout
1083 may be made without the approval of the Board of Zoning Appeals. Any additional
1084 improvements shall comply with the applicable regulations of the County Code.
1085
1086 2. The new construction shall match the existing dwelling as nearly as practical.
1087

1088 3. This variance applies only to the portion of the property located within Henrico
1089 County, and no representation is made as to the approvals needed from the City of
1090 Richmond.

1091
1092 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
1093 Negative: 0
1094 Absent: Wright 1
1095

1096 The Board granted this request, as it found from the evidence presented that, due to the
1097 unique circumstances of the subject property, strict application of the County Code
1098 would produce undue hardship not generally shared by other properties in the area, and
1099 authorizing this variance will neither cause a substantial detriment to adjacent property
1100 nor materially impair the purpose of the zoning regulations.

1101
1102 **A - 11-2004** **SUSAN C. COOGAN** requests a variance from Sections 24-95(k)
1103 and (1) of Chapter 24 of the County Code to build an addition at 11
1104 Westham Parkway (Westham) (Parcel 758-734-4531), zoned R-1,
1105 One-family Residence District (Tuckahoe). The minimum side yard
1106 setback and total side yard setback are not met. The applicant has
1107 21 feet minimum side yard setback and 41 feet total side yard
1108 setback, where the Code requires 25 feet minimum side yard
1109 setback and 44 feet total side yard setback. The applicant requests
1110 a variance of 4 feet minimum side yard setback and 3 feet total side
1111 yard setback.

1112
1113 Mr. Nunnally - Is anyone here interested in this case? Would you raise
1114 your right hand and be sworn please?
1115

1116 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1117 truth, the whole truth, and nothing but the truth, so help you God?
1118

1119 Ms. Coogan - I do. I'm Susan Coogan. We are requesting a variance of
1120 four feet from the minimum side yard setback, and three feet from the total side yard
1121 setback. I'd like to point out that this addition will be a further setback, will improve the
1122 side yard setback from the existing structure. The existing structure is not within Code.
1123 What we are proposing is to replace an attached garage that exists with an addition of
1124 two bedrooms and two bathrooms. Once again I note that we will be within the existing
1125 footprint of the structure that we purchased. Actually, I was not aware until I got the
1126 materials for this meeting that the garage had been added by the owners from whom we
1127 purchased the property. We thought it was part of the original house that was built in
1128 the 1950's, and I don't know what went on in 1979 to allow the structure. I don't know
1129 whether it was within Code when they did it or not.

1130
1131 Mr. Nunnally - This is going to be facing next to Glen Parkway, not next to
1132 your neighbor, is that right?
1133

1134 Ms. Coogan - That's correct, and I have spoken with the neighbors, and I
1135 didn't put anything in writing, but they have all said that it's no problem for them.
1136
1137 Mr. Nunnally - Any other questions from the Board or staff?
1138
1139 Mr. McKinney - Do you agree with the conditions?
1140
1141 Ms. Coogan - I'm not sure I'm aware of the conditions.
1142
1143 Mr. McKinney - The suggested conditions on page 3 of 3.
1144
1145 Mr. Nunnally - The section has to match the rest of the house, and you
1146 have to meet all the rest of the requirements.
1147
1148 Ms. Coogan - You're saying the addition needs to be brick? There's not
1149 matching brick available.
1150
1151 Mr. Nunnally - As close as practical is what it says.
1152
1153 Ms. Coogan - Okay, because it is our intention to keep the foundation
1154 brick, but the elevations that we submitted were for siding in order to tie the addition in
1155 to, there's another structure on the property, and it was to allow the addition from a
1156 material standpoint, to tie together with the other structure, to bring that together so that
1157 it all looked more united, uniform on the property.
1158
1159 Mr. Nunnally - Any more question? Are you in opposition to this sir?
1160
1161 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1162 Kirkland, the Board **granted** application **A-11-2004** for a variance to build an addition at
1163 11 Westham Parkway (Westham) (Parcel 758-734-4531). The Board granted the
1164 variance subject to the following conditions:
1165
1166 1. Only the improvements shown on the plan filed with the application may be
1167 constructed pursuant to this approval. No substantial changes or additions to the layout
1168 may be made without the approval of the Board of Zoning Appeals. Any additional
1169 improvements shall comply with the applicable regulations of the County Code.
1170
1171 2. The new construction shall match the existing dwelling as nearly as practical.
1172
1173
1174 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
1175 Negative: 0
1176 Absent: Wright 1
1177
1178 The Board granted this request, as it found from the evidence presented that, due to the
1179 unique circumstances of the subject property, strict application of the County Code

1180 would produce undue hardship not generally shared by other properties in the area, and
1181 authorizing this variance will neither cause a substantial detriment to adjacent property
1182 nor materially impair the purpose of the zoning regulations.
1183

1184 **UP- 4-2004** **COUNTRY CLUB OF VIRGINIA** requests a conditional use permit
1185 pursuant to Section 24-12(b) of Chapter 24 of the County Code to
1186 add a maintenance building and parking area at 710 S Gaskins
1187 Road (Parcel 735-733-6834), zoned R-0, One-family Residence
1188 District (Tuckahoe).
1189

1190 Upon a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **deferred**
1191 application **UP-4-2004** for a conditional use permit to add a maintenance building and
1192 parking area at 710 S Gaskins Road (Parcel 735-733-6834).
1193

1194 Affirmative:	Balfour, Kirkland, McKinney, Nunnally	4
1195 Negative:		0
1196 Absent:	Wright	1

1197
1198 The case was deferred from the February 26, 2004, until the March 25, 2004, meeting
1199 at the request of both the applicant and one of the adjoining landowners.
1200

1201 Mr. Nunnally - Let's take a five-minute break.
1202

1203 ***Beginning at 10:00***
1204

1205 Mr. Blankinship - Mr. Chairman, we've had a request to take one case out of
1206 order, which we just discussed at the break.
1207

1208 **New Applications**
1209

1210 **A - 16-2004** **TIM FINNERTY** requests a variance from Section 24-94 of Chapter
1211 24 of the County Code to allow a front porch to remain at 6616
1212 Hines Road (Parcel 856-693-2077), zoned A-1, Agricultural District
1213 (Varina). The front yard setback is not met. The applicant has 38
1214 feet front yard setback, where the Code requires 50 feet front yard
1215 setback. The applicant requests a variance of 12 feet front yard
1216 setback.
1217

1218 Mr. Balfour - Is anyone else interested in this case? Would you raise your
1219 right hand and be sworn please?
1220

1221 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1222 truth, the whole truth, and nothing but the truth, so help you God?
1223

1224 Ms. Finnerty - I do. My name's Jean Finnerty. I'm requesting that the
1225 porch that we put on this property remain. It was storm damage, and we re-did the

1226 porch, and at the time we wanted to put a roof over the top of it. My husband went to
1227 the County, and they told him that we had to file for a variance to do that. He had
1228 already went ahead. For the storm damage, they told him he didn't need to get a
1229 permit, so he went ahead and started restructuring the porch. We put a wooden porch
1230 on the front because during the storm a tree fell. It was a cement stoop It knocked the
1231 stoop down into the ground and pulled it from the house. To replace the stoop itself
1232 was very costly. So it was less expensive for us to put the wood porch on the front. In
1233 doing that, he had put the uprights up, and then the gentleman at the County east end
1234 office told him that we had to apply for a variance. So at the time, we just kind of left it
1235 go. Then we received this building permit in the mail, and it says "disaster damage and
1236 other," so we assumed that since we had applied to put the porch on, that it was okay to
1237 do that. So we did. Then I was left the notice from the lady who comes out and
1238 inspects, that we didn't have the permit to do that. Just in the confusion, "other" didn't
1239 specify we could or could not put the roof on, and we just assumed that's what we had
1240 applied for, we would put that on. We were not told by the people at the east end office,
1241 had we have stayed right over the top of the stoop, that we wouldn't have needed a
1242 permit for anything, that we could have put the roof on, and there wouldn't have been
1243 any repercussions because of this. It's saying on the instructions here that I'm applying
1244 for twelve feet, but from what I'm seeing, it looks to me like I'm applying for nine. I may
1245 be wrong, I don't know, because it's showing on this one print that I have that it's 41 feet
1246 from the road.

1247
1248 Mr. Blankinship - But you're asking to keep what is there.

1249
1250 Ms. Finnerty - Yes, I'm asking to keep what is there, because it did add a
1251 lot of appearance to the home. We've had a lot of compliments, how nice the home
1252 looks now. It's just a small home, where my daughter lives, but it made it more of a
1253 homey atmosphere, more than just a barn, a builder home that's been sitting there.

1254
1255 Mr. Nunnally - Any questions from the Board or staff?

1256
1257 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1258 Kirkland, the Board **granted** application **A-16-2004** for a variance to to allow a front
1259 porch to remain at 6616 Hines Road (Parcel 856-693-2077). The Board granted the
1260 variance subject to the following conditions:

1261
1262 1. Only the improvements shown on the plan filed with the application may be
1263 constructed pursuant to this approval. No substantial changes or additions to the layout
1264 may be made without the approval of the Board of Zoning Appeals. Any additional
1265 improvements shall comply with the applicable regulations of the County Code.

1266
1267 2. The new construction shall match the existing dwelling as nearly as practical.

1268
1269 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4

1270 Negative: 0

1271 Absent: Wright

1

1272

1273 The Board granted this request, as it found from the evidence presented that, due to the
1274 unique circumstances of the subject property, strict application of the County Code
1275 would produce undue hardship not generally shared by other properties in the area, and
1276 authorizing this variance will neither cause a substantial detriment to adjacent property
1277 nor materially impair the purpose of the zoning regulations.

1278

1279 **A - 12-2004** **J. R. UNLIMITED** requests a variance from Section 24-94 of
1280 Chapter 24 of the County Code to allow the one-family dwelling to
1281 remain at 5315 Lucas Road (Parcel 768-756-7342), zoned R-3,
1282 One-family Residence District (Brookland). The front yard setback
1283 is not met. The applicant has 39 feet front yard setback, where the
1284 Code requires 40 feet front yard setback. The applicant requests a
1285 variance of 1 foot front yard setback.

1286

1287 Mr. Nunnally - Is anyone else here interested in this case? Would you raise
1288 your right hand and be sworn please?

1289

1290 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1291 truth, the whole truth, and nothing but the truth, so help you God?

1292

1293 Mr. Lennon - I do. Jesse Lennon, representing J. R. Unlimited, LLC. We
1294 are requesting this one-foot variance from the front yard setback. If you have some
1295 questions other than what's in the application, I'd be glad to answer.

1296

1297 Mr. Kirkland - Mr. Blankinship, can I ask you a question about this
1298 background information that was on this case? It says here it was in violation, and then
1299 it turns around and says the original owner requested a front yard variance, etc., etc.,
1300 but the request was withdrawn. How does this stand right now?

1301

1302 Mr. Blankinship - As of now, it's a violation. It was built in violation; they
1303 applied for a variance, and they didn't show up for either of the two hearings, so it was
1304 withdrawn.

1305

1306 Mr. Lennon - I checked with the County, and it seems like they said the
1307 only recommendation to correct this was to go through a variance. There wasn't any
1308 other type of remedy that they knew of.

1309

1310 Mr. Nunnally - Any questions from the Board or staff?

1311

1312 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1313 Balfour, the Board **granted** application **A-12-2004** for a variance to allow the one-family
1314 dwelling to remain at 5315 Lucas Road (Parcel 768-756-7342). The Board granted the
1315 variance subject to the following conditions:

1316

1317 1. This variance applies only to the existing one family dwelling. Any
1318 additional construction must meet the requirements of the Henrico County Code.

1319
1320 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
1321 Negative: 0
1322 Absent: Wright 1

1323
1324 The Board granted this request, as it found from the evidence presented that, due to the
1325 unique circumstances of the subject property, strict application of the County Code
1326 would produce undue hardship not generally shared by other properties in the area, and
1327 authorizing this variance will neither cause a substantial detriment to adjacent property
1328 nor materially impair the purpose of the zoning regulations.

1329
1330 **A - 13-2004 BILLY JOE OVERMAN, JR. AND KAREN OVERMAN** request a
1331 variance from Section 24-9 of Chapter 24 of the County Code to
1332 build a one-family dwelling at 4830 Charles City Road (Parcel 838-
1333 700-4818 (part)), zoned A-1, Agricultural District (Varina). The
1334 public street frontage requirement is not met. The applicants have
1335 0 feet public street frontage, where the Code requires 50 feet public
1336 street frontage.

1337
1338 Mr. Nunnally - Is there anyone else interested in this case? Please stand
1339 and raise your right hand to be sworn please?

1340
1341 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1342 truth, the whole truth, and nothing but the truth, so help you God?

1343
1344 Mr. Overman - I do. Billy Joe Overman, Jr. From what I understand, they're
1345 telling me I have to get a variance to use my father's driveway to build. My father's
1346 given me an acre of land behind his house, and I have to use his driveway to get to my
1347 house, and from what I understand, I have to get a variance for it.

1348
1349 Mr. Kirkland - Have you read the staff recommended conditions that are in
1350 the case?

1351
1352 Ms. Overman - I did.

1353
1354 Mr. Kirkland - Did you have any problem with that?

1355
1356 Ms. Overman - As far as I understand that language.

1357
1358 Mr. Kirkland - Number five is usually the big item.

1359
1360 Mr. Overman - There's no problem. My dad's already said he'd write me an
1361 easement.

1362

1363 Mr. Nunnally - You say your father owns this land now, and you're going to
1364 build a home for you and your wife there on this property?

1365
1366 Mr. Overman - Yes sir.

1367
1368 Mr. Nunnally - Any other questions from Board or staff? Do you want to
1369 speak ma'am.

1370
1371 Mr. Overman - That's my mother.

1372
1373 Mr. Nunnally - Thank you for coming.

1374
1375 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1376 Balfour, the Board **granted** application **A-13-2004** for a variance to build a one-family
1377 dwelling at 4830 Charles City Road (Parcel 838-700-4818 (part)). The Board granted
1378 the variance subject to the following conditions:

1379
1380 1. This variance applies only to the public street frontage requirement. All other
1381 applicable regulations of the County Code shall remain in force.

1382
1383 2. At the time of building permit application the owner shall demonstrate that the
1384 parcel created by this division has been conveyed to members of the immediate family,
1385 and the subdivision ordinance has not been circumvented.

1386
1387 3. Approval of this request does not imply that a building permit will be issued.
1388 Building permit approval is contingent on Health Department requirements, including,
1389 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1390 of a well location.

1391
1392 4. The owners of the property, and their heirs or assigns, shall accept responsibility
1393 for maintaining access to the property.

1394
1395 5. The applicant shall present proof with the building permit application that a legal
1396 access to the property has been obtained.

1397
1398 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4

1399 Negative: 0

1400 Absent: Wright 1

1401
1402 The Board granted this request, as it found from the evidence presented that, due to the
1403 unique circumstances of the subject property, strict application of the County Code
1404 would produce undue hardship not generally shared by other properties in the area, and
1405 authorizing this variance will neither cause a substantial detriment to adjacent property
1406 nor materially impair the purpose of the zoning regulations.

1407
1408 **UP- 5-2004 NYW ENTERPRISES** requests a temporary conditional use permit

1455 Mr. Hue - That trailer cannot be for the residential or sleeping quarters.
1456
1457 Mr. McKinney - What are the hours of operation of this company? Is it 24-
1458 hours operation?
1459
1460 Mr. Hue - You mean, what do we do?
1461
1462 Mr. McKinney - No, the hours of operation, 24 hours a day, seven days a
1463 week?
1464
1465 Mr. Hue - Yes, three shifts.
1466
1467 Mr. Kirkland - What do you do? What do you sell? What do you do?
1468
1469 Mr. Hue - Basically the grocery, produce, canned foods.
1470
1471 Mr. Kirkland - Mr. Blankinship, there were some other issues involving this
1472 company. Can you tell me what the status on those are?
1473
1474 Mr. Blankinship - There were two houses on Raleigh Road that are also
1475 owned by the corporation. We had received complaints that they were being used
1476 essentially as dormitories for workers at this location.
1477
1478 Mr. Hue - Yes, we're working on that and looking for apartments
1479 around and try to square those things away. We took action immediately since we got
1480 this information.
1481
1482 Mr. Kirkland - Did you give them a notice of violation?
1483
1484 Mr. Blankinship - I'm not sure whether they're under notice or just that we
1485 have communicated to them that there is a violation that needs to be corrected.
1486
1487 Mr. McKinney - You say there're two houses that they're using for
1488 dormitories?
1489
1490 Mr. Blankinship - Yes, they're about two blocks away from this, and they've
1491 moved employees into the houses, as part of their employment agreement, not as a
1492 single-family use. We're addressing that separately.
1493
1494 Mr. Nunnally - I'll say this one more time – you can't move them into this
1495 trailer.
1496
1497 Mr. Hue - Yes.
1498
1499 Mr. Kirkland - Only one trailer.
1500

1501 Mr. Nunnally - Any other questions from Board or staff?
1502
1503 Mr. McKinney - This expires on February 28, 2006.
1504
1505 Mr. Blankinship - The applicant had put four years on the application form, but
1506 he didn't realize that the Board is limited to approving it for two years.
1507
1508 Mr. McKinney - What happens on February 28, 2006? Are they going to
1509 build a facility there? What are they going to do?
1510
1511 Mr. Hue - It will depend on the business. If the business can support,
1512 we're going to apply, come to the County and get a permit.
1513
1514 Mr. Nunnally - Any other questions?
1515
1516 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1517 Balfour, the Board **granted** application **UP-5-2004** for a temporary conditional use
1518 permit to to locate a temporary office trailer at 4731 Eubank Road (Parcel 815-711-
1519 9946). The Board granted the use permit subject to the following conditions:
1520
1521 1. The trailer shall be removed from the property on or before February 28, 2006, at
1522 which time this permit shall expire. This permit shall not be renewed.
1523
1524 2. The trailer shall not be used for residential occupancy or sleeping quarters.
1525
1526 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
1527 Negative: 0
1528 Absent: Wright 1
1529
1530 The Board granted the request because it found the proposed use will be in substantial
1531 accordance with the general purpose and objectives of Chapter 24 of the County Code.
1532
1533 **A - 14-2004 STEVEN AND PAMELA STREETER** request a variance from
1534 Section 24-94 of Chapter 24 of the County Code to build a
1535 screened porch over an existing deck at 12208 Collinstone Place
1536 (Collinstone at Wyndham) (Parcel 737-780-0432), zoned R-4C,
1537 One-family Residence District (Conditional) (Three Chopt). The
1538 rear yard setback is not met. The applicants have 30 feet rear yard
1539 setback, where the Code requires 35 feet rear yard setback. The
1540 applicants request a variance of 5 feet rear yard setback.
1541
1542 Mr. Nunnally - Is anyone else here interested in this case? Would you
1543 please stand and raise your right hand and be sworn please?
1544
1545 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1546 truth, the whole truth, and nothing but the truth, so help you God?

1547
1548 Mr. Streeter - I do. We are looking to, over the existing deck, and within
1549 the same dimensions, install an add-on screened porch.

1550
1551 Mr. Nunnally - It will be a twelve by twelve porch?

1552
1553 Mr. Kirkland - I see on the drawing, sir, that they have bricked in the piers,
1554 is that what's happening on the sketch I got?

1555
1556 Mr. Streeter - Yes sir, the intention is to use those front brick piers because
1557 of the weight of the roof. Presently with the deck, you do not have that kind of stress on
1558 the outside end of it. We may even end up, and I believe due to County requirements,
1559 there may even be as many as three brick piers.

1560
1561 Mr. Blankinship - The proffered conditions on that section require that if they're
1562 going to build livable space there, it has to be on a brick foundation. A deck can be on
1563 wooden piers.

1564
1565 Mr. Nunnally - Any other questions?

1566
1567 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1568 Kirkland, the Board **granted** application **A-14-2004** for a variance to build a screened
1569 porch over an existing deck at 12208 Collinstone Place (Collinstone at Wyndham)
1570 (Parcel 737-780-0432). The Board granted the variance subject to the following
1571 conditions:

1572
1573 1. Only the improvements shown on the plan filed with the application may be
1574 constructed pursuant to this approval. No substantial changes or additions to the layout
1575 may be made without the approval of the Board of Zoning Appeals. Any additional
1576 improvements shall comply with the applicable regulations of the County Code.

1577
1578 2. The new construction shall match the existing dwelling as nearly as practical.

1579
1580 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
1581 Negative: 0
1582 Absent: Wright 1

1583
1584 The Board granted this request, as it found from the evidence presented that, due to the
1585 unique circumstances of the subject property, strict application of the County Code
1586 would produce undue hardship not generally shared by other properties in the area, and
1587 authorizing this variance will neither cause a substantial detriment to adjacent property
1588 nor materially impair the purpose of the zoning regulations.

1589
1590 **A - 15-2004** **DONALD F. AND M. DIANE BENTZ** request a variance from
1591 Section 24-94 of Chapter 24 of the County Code to build a garden
1592 room at 494 Clauson Road (Northfield) (Parcel 792-758-7888),

1593 zoned R-2, One-family Residence District (Fairfield). The minimum
1594 side yard setback and total side yard setback are not met. The
1595 applicants have 13 feet minimum side yard setback and 29 feet
1596 total side yard setback, where the Code requires 15 feet minimum
1597 side yard setback and 35 feet total side yard setback. The
1598 applicants request a variance of 2 feet minimum side yard setback
1599 and 6 feet total side yard setback.
1600

1601 Mr. Nunnally - Is anyone else here interested in this case? Would you
1602 please stand and raise your right hand and be sworn please?
1603

1604 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1605 truth, the whole truth, and nothing but the truth, so help you God?
1606

1607 Mr. Bentz - I do. My name is Donald Bentz. We're requesting a
1608 variance to build a garden room on the east end of our house. We're two feet shy,
1609 actually about 16 inches shy of the side yard setback, and I didn't realize until I got the
1610 report back on this that there was a total yard setback, and we're six feet shy of the total
1611 side yard setback. We submitted our request, and you got a copy of the letter from our
1612 neighbor, whose house adjoins the property, giving his permission. In looking at your
1613 evaluation, on number 2, you said there's ample room in the rear to build an addition.
1614 The property would accommodate an addition twelve feet wide without a variance. If we
1615 would try to put the addition behind the house, there is a row of pine trees that extends
1616 across the width of the yard. The addition, if we were to put it there, would sit over the
1617 roots of the pine trees. They would have to be cut for the foundation. It would weaken
1618 the trees; I'm sure they would have to be removed, and the yard does slope down and
1619 would give a possible run-off problem. On the recommendations, you have, if it's
1620 approved, we would be constructed according to the variance request here, and we
1621 requested 18 by 20, not 18 by 18, as it states.
1622

1623 Mr. Blankinship - It's still the same width, right, 18; it's just 20 deep?
1624

1625 Mr. Bentz - It's 20 deep, and the difference would be the 18, right. The
1626 drawing does show 18 by 20.
1627

1628 Mr. Nunnally - Are there any other questions of Mr. Bentz? Are you in
1629 opposition sir?
1630

1631 **(Voice from audience)** No, supporting it sir.
1632

1633 Mr. Nunnally - Anyone here in opposition?
1634

1635 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1636 Balfour, the Board **granted** application **A-15-2004** for a variance to build a garden room
1637 at 494 Clauson Road (Northfield) (Parcel 792-758-7888). The Board granted the
1638 variance subject to the following conditions:

1639
1640 1. Only the improvements shown on the plan filed with the application may be
1641 constructed pursuant to this approval. No substantial changes or additions to the layout
1642 may be made without the approval of the Board of Zoning Appeals. Any additional
1643 improvements shall comply with the applicable regulations of the County Code.

1644
1645 2. The new construction shall match the existing dwelling as nearly as practical.

1646
1647 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
1648 Negative: 0
1649 Absent: Wright 1

1650
1651 The Board granted this request, as it found from the evidence presented that, due to the
1652 unique circumstances of the subject property, strict application of the County Code
1653 would produce undue hardship not generally shared by other properties in the area, and
1654 authorizing this variance will neither cause a substantial detriment to adjacent property
1655 nor materially impair the purpose of the zoning regulations.

1656
1657 **A - 17-2004** **C B RICHARD ELLIS** requests a variance from Section 24-
1658 104(g)(2)d.2. of Chapter 24 of the County Code to install three
1659 directional signs at 8100 Three Chopt Road (Parcel 758-743-3586),
1660 zoned O-2, Office District (Three Chopt). The maximum number of
1661 signs is not met. The applicant proposes 3 directional signs, where
1662 the Code allows 2 directional signs. The applicant requests a
1663 variance of 1 additional directional sign.

1664
1665 Mr. Nunnally - Is anyone else here interested in this case? Would you
1666 please stand and raise your right hand and be sworn please?

1667
1668 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1669 truth, the whole truth, and nothing but the truth, so help you God?

1670
1671 Mr. Foley - I do. James Foley. **(distributes handout)** Some of you
1672 may recognize me; I was here about two months ago. You approved a variance for the
1673 directional signage, which what I'm passing out is Item 5. If you look at the chart, Item
1674 1, there's also a map that coincides with this. Item 1 is an existing ID sign there on the
1675 property. Item 2 is a permanent sign that the County just issued a permit on. That will
1676 go in spot 2. The sign in question for the variance is spot 3, or location 3, looks identical
1677 and is basically fabricated the same way as Item 2. Item 4 also we just, about last
1678 October, the County approved 18 permits; each Item 4 is down in front of every building
1679 there on property. The idea, or intent is to place this third sign by the Santa Rosa
1680 entrance. We did move it down a little bit. There's a setback, I guess it basically says
1681 the signs have to be 1,000 feet apart, so what we did is, we went off the existing sign
1682 that's located up on that corner of Forest and Three Chopt, moved it a thousand feet
1683 down, and put it as close to that entrance as possible. For those who are familiar with
1684 the office park, there are actually three main entrances into the park, but in reality, there

1685 are actually ten different streets that you can get on into this park. It's mainly, C B
1686 Richard Ellis came to us, I represent the sign company, they wanted to clear a way to
1687 route traffic through the property. That's why each building got an ID sign; that's why
1688 we went for the variance, to allow the directional signs, to route the tenants' clients to
1689 their property. As far as what we're allowed, fifty square feet, the sign that we want the
1690 variance for is 43 ½. Height-wise, we're just under ten feet; Code allows fifteen on the
1691 ID signs.

1692
1693 Mr. Nunnally - Is that so you can see it from both directions before you get
1694 to the entrance?

1695
1696 Mr. Foley - Yes sir, it would be a double-faced sign.

1697
1698 Mr. Nunnally - Facing west, this would direct you into Santa Rosa before
1699 you get to it.

1700
1701 Mr. Foley - Yes sir. I think the idea is, if you're on Three Chopt, heading
1702 towards the city, you'll see this sign, and you'll take that left onto Santa Rosa instead of
1703 going all the way down to light, and then seeing the existing sign. Once you get on the
1704 property, that's where we came up with all the various signs to route them though, then
1705 each building having its own ID.

1706
1707 Mr. Nunnally - Any questions from Board or staff for Mr. Foley? Lady, do
1708 you want to speak against it.

1709
1710 **(Voice from audience)** No, I'm for it.

1711
1712 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1713 McKinney, the Board **granted** application **A-17-2004** for a variance to Code to install a
1714 third project identification sign at 8100 Three Chopt Road (Parcel 758-743-3586). The
1715 Board granted the variance subject to the following condition:

1716
1717 1. This variance applies only to the project identification sign regulations. All other
1718 applicable regulations of the County Code shall remain in force.

1719
1720 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
1721 Negative: 0
1722 Absent: Wright 1

1723
1724 The Board granted this request, as it found from the evidence presented that, due to the
1725 unique circumstances of the subject property, strict application of the County Code
1726 would produce undue hardship not generally shared by other properties in the area, and
1727 authorizing this variance will neither cause a substantial detriment to adjacent property
1728 nor materially impair the purpose of the zoning regulations.

1729
1730 **A - 18-2004** **EDGAR BOHANNON** requests a variance from Sections 24-94,

1731 24-95(k) and 24-95(b) of Chapter 24 of the County Code to build
1732 garage and kitchen additions at 3900 Francistown Road
1733 (Huntington) (Parcel 757-759-8908), zoned R-3, One-family
1734 Residence District (Brookland). The minimum side yard setback,
1735 rear yard setback, street side yard setback, and total side yard
1736 setback are not met. The applicant has 15 feet minimum side yard
1737 setback, 24 feet total side yard setback, and 34 feet rear yard
1738 setback, where the Code requires 25 feet minimum side yard
1739 setback, 36 feet total side yard setback, and 40 feet rear yard
1740 setback. The applicant requests a variance of 10 feet minimum
1741 side yard setback, 12 feet total side yard setback, and 6 feet rear
1742 yard setback.
1743

1744 Mr. Nunnally - Is anyone else here interested in this case? Would you
1745 please stand and raise your right hand and be sworn please?
1746

1747 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1748 truth, the whole truth, and nothing but the truth, so help you God?
1749

1750 Mr. Stanley - I do. I'm Bernie Stanley; I'm the contractor. This is Mr.
1751 Bohannon; he's the homeowner. I'm interested in building a garage for Mr. Bohannon,
1752 and the garage would infringe on the setback somewhat, and this is a corner lot, which
1753 makes it kind of – apparently there are two different rules that are in place. When the
1754 house was built there was one rule, and now there's a different rule. There's an
1755 average setback between the left and the right that's not being met, and in order to build
1756 the garage so that they can enter from the side of the property, if you're driving straight
1757 in, it has to be built with that direction. He has two vehicles he'd like to park inside of
1758 that garage to keep them off the road. On the other end of the house there's a little
1759 boxed in area; that's where the kitchen is going to be expanded. That's something that
1760 will probably be done about a year in the future. That's not something that we're going
1761 to do right now, but because of the setback requirements, we wanted to approach both
1762 of those issues at the same time.
1763

1764 Mr. Kirkland - Mr. Stanley, where is the existing kitchen now?
1765

1766 Mr. Stanley - If you look on that drawing there, there are some steps that
1767 look like they're going from the right to the left; it would be right there. It's a very narrow
1768 kitchen; it's barely enough room for a table to fit inside the kitchen; if you put a chair on
1769 the side of it, you wouldn't be able to walk around it. It's just something we wanted to
1770 expand out. The end of the house would be squared off; it would have the same roof as
1771 the rest of the house. That particular end of the house there, it looks like it has an
1772 addition on it. In fact, when we're finished with it, it would look like it is part of the
1773 original house. As far as your suggestions, you suggested that the new construction
1774 match, and what we're proposing to do on the garage and on the kitchen, if you look at
1775 the bricks in the picture, you see that they're kind of odd-colored, randomly painted
1776 white. They're very difficult to match, but what we wanted to do was, instead of having

1777 to paint the entire garage one brick at a time to match the existing brick, we would go
1778 ahead and build it with brick and get the brick that would match as best as possible, and
1779 then hand-paint whichever bricks were necessary

1780
1781 Mr. McKinney - Mr. Stanley, can I interrupt you? Riverside Brick Company,
1782 these are called new used brick, and they still make them.

1783
1784 Mr. Stanley - They still make them? Well that's good to know. That would
1785 definitely save some trouble. I wasn't looking forward to hand-painting some bricks.

1786
1787 Mr. McKinney - Riverside Brick used to be Southern Brick, used to be
1788 Redford Brick Co.

1789
1790 Mr. Kirkland - After the foundation, what's going on the side of the garage?

1791
1792 Mr. Stanley - That's going to be Hardi-Plank siding, cement fiber siding,
1793 and it would be painted and would match the cornice work on the house.

1794
1795 Mr. McKinney - Do you want to write this number down? 232-6786, ask for
1796 Roger Dickerson.

1797
1798 Mr. Stanley - You're talking about Riverside Brick? I've purchased brick
1799 from them before, so I know where they are.

1800
1801 Mr. Nunnally - Any other questions of Mr. Stanley? Or Mr. Bohannon? Mr.
1802 Bohannon, you want to say anything? Do we have somebody in opposition? Are you
1803 for? That concludes the case.

1804
1805 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1806 Balfour, the Board **granted** application **A-18-2004** for a variance to build garage and
1807 kitchen additions at 3900 Francistown Road (Huntington) (Parcel 757-759-8908). The
1808 Board granted the variance subject to the following conditions:

1809
1810 1. The property shall be developed in substantial conformance with the plan filed
1811 with the application. No substantial changes or additions to the layout may be made
1812 without the approval of the Board of Zoning Appeals.

1813
1814 2. The new construction shall match the existing dwelling as nearly as practical.

1815
1816 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
1817 Negative: 0
1818 Absent: Wright 1

1819
1820 The Board granted this request, as it found from the evidence presented that, due to the
1821 unique circumstances of the subject property, strict application of the County Code
1822 would produce undue hardship not generally shared by other properties in the area, and

1823 authorizing this variance will neither cause a substantial detriment to adjacent property
1824 nor materially impair the purpose of the zoning regulations.

1825
1826 **A - 19-2004** **WANDA J. HARRIS** requests a variance from Section 24-9 of
1827 Chapter 24 of the County Code to build a one-family dwelling at
1828 2559 Yarnell Road (Parcel 814-695-9604), zoned A-1, Agricultural
1829 District (Varina). The public street frontage requirement is not met.
1830 The applicant has 0 feet public street frontage, where the Code
1831 requires 50 feet public street frontage.

1832
1833 Mr. Nunnally - Is anyone else here interested in this case? Would you
1834 please stand and raise your right hand and be sworn please?

1835
1836 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1837 truth, the whole truth, and nothing but the truth, so help you God?

1838
1839 Mr. Powell - I do sir. I'm Jonathan Powell. My understanding is that it
1840 has a 30-foot deeded access to the property, just no public road frontage. I'm buying
1841 the property to build a house; apparently she had already gotten a variance last year
1842 that had expired. I'm just trying to renew it, the exact same thing.

1843
1844 Mr. Nunnally - Wanda J. Harris is the daughter of James W. Harris, Jr.?

1845
1846 Mr. Powell - I believe they're married; I've never met them actually.

1847
1848 Mr. Nunnally - I'm trying to find out who's going to live in this house that
1849 you're going to build.

1850
1851 Mr. Powell - Actually, I was looking to buy the land to build a house for
1852 myself.

1853
1854 Mr. Nunnally - Are you a builder?

1855
1856 Mr. Powell - No sir. I'm just a customer who wants to buy the land.

1857
1858 Mr. Nunnally - So you're going to live there yourself? And you've read the
1859 conditions?

1860
1861 Mr. Powell - Yes sir, I have.

1862
1863 Mr. Nunnally - And they're agreeable with you?

1864
1865 Mr. Powell - Yes sir, they are.

1866
1867 Mr. Nunnally - Any questions from Board or staff?

1868

1869 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1870 Kirkland, the Board **granted** application **A-19-2004** for a variance to build a one-family
1871 dwelling at 2559 Yarnell Road (Parcel 814-695-9604). The Board granted the variance
1872 subject to the following conditions:

1873
1874 1. This variance applies only to the public street frontage requirement. All other
1875 applicable regulations of the County Code shall remain in force.

1876
1877 2. Approval of this request does not imply that a building permit will be issued.
1878 Building permit approval is contingent on Health Department requirements, including,
1879 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1880 of a well location.

1881
1882 3. The applicant shall present proof with the building permit application that a legal
1883 access to the property has been obtained.

1884
1885 4. The owners of the property, and their heirs or assigns, shall accept responsibility
1886 for maintaining access to the property until such a time as the access is improved to
1887 County standards and accepted into the County road system for maintenance.

1888
1889 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4
1890 Negative: 0
1891 Absent: Wright 1

1892
1893 The Board granted this request, as it found from the evidence presented that, due to the
1894 unique circumstances of the subject property, strict application of the County Code
1895 would produce undue hardship not generally shared by other properties in the area, and
1896 authorizing this variance will neither cause a substantial detriment to adjacent property
1897 nor materially impair the purpose of the zoning regulations.

1898
1899 **A - 20-2004** **CONVENIENCE RETAILERS** requests a variance from Section 24-
1900 94 of Chapter 24 of the County Code to build a 4-bay car wash at
1901 400 West Nine Mile Road (Highland Springs) (Parcel 822-725-
1902 1143), zoned B-3C, Business District (Conditional) (Varina). The
1903 rear yard setback is not met. The applicant has 25 feet rear yard
1904 setback, where the Code requires 40 feet rear yard setback. The
1905 applicant requests a variance of 15 feet rear yard setback.

1906
1907 Mr. Nunnally - Is there anyone else here interested in this case? Please
1908 raise your hand and be sworn in.

1909
1910 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1911 truth, the whole truth, and nothing but the truth, so help you God?

1912
1913 Ms. Isaac - I do. My name is Laraine Isaac, and I'm with Engineering
1914 Design. This is a unique site. It lies within the Enterprise Zone, where new

1915 development and re-development are being encouraged through grants and tax relief.
1916 The site is also within the Nine Mile Corridor, which has been studied. The study took
1917 place several years ago, looking at ways to help people re-develop their property. The
1918 plan that we submitted has been submitted to the Planning Office for review by the
1919 Community Action Team, which looks at problem sites and can waive requirements.
1920 The one thing that the team cannot do is waive requirements of the Zoning Ordinance.
1921 That's why we're here today. Mr. Perrotti owns the convenience store; he owns this
1922 property, and this addition is a logical addition to the convenience store. The car wash
1923 cannot be moved forward, as stacking area is required by the Traffic Engineer. I don't
1924 believe that noise is going to be as big a problem as the staff does, especially the radio
1925 noise, as most people keep their windows up when they wash their car. I think that the
1926 condition for a brick addition is excessive. Mr. Perrotti is going to put a new exterior on
1927 two sides of the convenience store, and that would be brick, and he's willing to put brick
1928 across the front of the car wash. Also, the condition for a brick wall is in conflict with the
1929 proffers. I'll answer any questions.

1930
1931 Mr. McKinney - Ms. Isaac, what are the hours of operation?
1932

1933 Ms. Isaac - They would be the same hours as the convenience store,
1934 6:00 to 10:00 during the week, and 9:00 to 9:00 on Sunday.
1935

1936 Mr. McKinney - So this car wash would close down at 10:00, so it wouldn't
1937 be open in the middle of the night to affect the adjacent property owners? Is that a
1938 condition you have, Mr. Blankinship?
1939

1940 Mr. Blankinship - We have not proposed that condition. We can certainly add
1941 it.
1942

1943 Mr. Kirkland - Is there a condition in the rezoning case for this property that
1944 has the hours of operation on it?
1945

1946 Ms. Isaac - No.
1947

1948 Mr. Kirkland - I just see where it refers back to a case, so I was wondering.
1949

1950 Mr. McKinney - You said they were what, Ms. Isaac, on Monday through ...
1951

1952 Ms. Isaac - Monday through Saturday, 6:00 to 10:00; Sunday, 9:00 to
1953 9:00.
1954

1955 Mr. Nunnally - This will be kind of hard, in that you've got three manual auto
1956 washes in there, and you say it's going to close at 10:00 o'clock? How are you going to
1957 keep them out of there unless you're going to have a guard there watching them?
1958

1959 Mr. McKinney - Turn the current off.
1960

1961 Mr. Blankinship - Turn the water off.
1962
1963 Ms. Isaac - Yes. This is Mr. Perrotti.
1964
1965 Mr. Perrotti - I'm Luke Perrotti. That's what I do with the store hours'
1966 operation; I just cut the power off.
1967
1968 Mr. Nunnally - How are you going to get in and out of there? I know how
1969 you're going to get in there from Nine Mile Road, but you're going to have four car
1970 washes there, three manual and one automatic, right? How are they going to get in and
1971 out of that place?
1972
1973 Ms. Isaac - The cars will exit towards the rear of the property, and then
1974 there's an "exit only" driveway out to Daisy.
1975
1976 Mr. Nunnally - How are they going to get through that building where Dave
1977 Zale used to have a real estate office?
1978
1979 Ms. Isaac - That's going to be torn down.
1980
1981 Mr. McKinney - So when you come out of there, Ms. Isaac, you would have
1982 a "right turn only" on Daisy Avenue?
1983
1984 Ms. Isaac - We hadn't discussed not having a left turn.
1985
1986 Mr. McKinney - I'm talking about impacting the neighborhood to the rear of
1987 the property. I'm just asking.
1988
1989 Ms. Isaac - I think that if someone were going to exit onto Daisy and
1990 would take a left onto Daisy, it might be because they live there.
1991
1992 Mr. McKinney - I thought you said that was the only exit out.
1993
1994 Ms. Isaac - The exit is onto Daisy.
1995
1996 Mr. Blankinship - But you could exit in either direction; you just couldn't go into
1997 this property from

1998
1999 Mr. McKinney - I understand, that's a one-way in from Nine Mile Road, and
2000 one-way out onto Daisy. I'm just saying if it was a "right turn only" sign there, that the
2001 people who use this facility would not impact that neighborhood.
2002
2003 Ms. Isaac - A sign could be provided.
2004
2005 Mr. Blankinship - We could check with Public Works.
2006

2007 Mr. McKinney - What's Public Works got to do with it?
2008
2009 Mr. Blankinship - Well, they decide who can drive on the streets and so forth.
2010
2011 Mr. McKinney - We decide how they go in.
2012
2013 Ms. Isaac - I don't think that presents a problem, if that's what's wanted.
2014
2015 Mr. Nunnally - Have you got a police report or anything on the traffic, Mr.
2016 Blankinship?
2017
2018 Mr. Blankinship - No, we have not. We send the agenda to Public Works for
2019 comments, and they didn't provide anything like that in response.
2020
2021 Mr. McKinney - There are a lot of these around, aren't there, Mr.
2022 Blankinship? I know there's one on Brook Road.
2023
2024 Mr. Blankinship - Yes sir, car washes, sure.
2025
2026 Mr. Balfour - You say there are four, and one's automatic, and one will
2027 have people in there washing the cars.
2028
2029 Ms. Isaac - No, there's three that you can wash your car yourself. Then
2030 there's one that's automatic. There's no employees connected with it.
2031
2032 Mr. Balfour - I missed, didn't get the do-it-yourself part.
2033
2034 Mr. Kirkland - What provision do you have, say the automatic one is
2035 backed up, where would you stack the cars that couldn't sit out on Nine Mile Road?
2036 Would you just let them sit out in your parking lot out in front of the gas pumps and kind
2037 of curve around to it. I've noticed that most of them get in that situation after it snows,
2038 and people just back up all over the roads.
2039
2040 Mr. Perrotti - There's a road between Nine Mile Road and the front of the
2041 gas pump aisle, the two gas pumps, there's probably about three car widths between
2042 that, so they could reasonably be stacked and not be on the road but actually be on my
2043 property, and there would still be access to the gas pumps.
2044
2045 Ms. Isaac - That was one reason the car wash was pushed back in line
2046 with the existing building, to provide as much stacking in front as we could provide,
2047 because I know that's a big concern of the Traffic Engineer.
2048
2049 Mr. Kirkland - Are you going to have vacuums out on those concrete
2050 islands?
2051
2052 Ms. Isaac - We're proposing that, yes, so you could be vacuuming your

2053 car while someone is washing theirs.
2054
2055 Mr. McKinney - Mr. Perrotti, how will you monitor these washes? Will you
2056 be, or somebody be, at the station that's visible from the station to this? So there's no
2057 way that convenience store is laid out now. The drink boxes are on that back wall.
2058
2059 Mr. Perrotti - As Laraine mentioned, the front façade of the building is
2060 going to be remodeled, and part of that remodeling is to put a storefront that has actual
2061 windows, so you'll be able to see out from all angles.
2062
2063 Mr. Nunnally - I think Ms. Isaac said that you had other stores, or do you
2064 have other car washes, or just convenience stores?
2065
2066 Mr. Perrotti - I have owned car washes in the past that had
2067
2068 Mr. Nunnally - I'm not talking about the past; I'm talking about now.
2069
2070 Mr. Perrotti - No sir, not presently.
2071
2072 Mr. Nunnally - You owned them in the past. How many cars are you
2073 planning on coming through there each day? I know you must have sat down and
2074 figured out how many you're going to need to support it. How many do you think you're
2075 going to have coming in and out of there, approximately?
2076
2077 Mr. Perrotti - To give you an exact number on any given day would be just
2078 a speculation. Typically, there are a lot of variables you have to account for. Just
2079 recently when it snowed and they put the salt on the roads, that may be your busiest
2080 time. Normally, I would probably say between 25 and 75 cars a day. That wouldn't be
2081 initially; it might take three to six months or three to nine months to build up to that
2082 number as far as car washes per day. You also have to keep in mind too; it's just like
2083 the store, not everybody comes at the same time. Everybody comes at a different time,
2084 for the most part.
2085
2086 Mr. Kirkland - Mr. Nunnally was concerned for the neighbors, I think, a little
2087 bit behind there. Most of these people that go through the manual car wash pull around
2088 the corner, sit there and dry their car off. That's normally how it works. They don't drive
2089 off with a wet car. Would you have any objections to posting a sign on the back of the
2090 building that says, "No loud radios," or something like that, to keep the sound down.
2091 Would that be any problem?
2092
2093 Mr. Nunnally - Mr. Blankinship, it seems like we should get a police report
2094 on some of these car washes about what kind of crime is going on late at night and all
2095 this kind of stuff, before we make a decision on this. The State maintains Nine Mile
2096 Road, right, that's a State road.
2097
2098 Mr. Blankinship - Yes sir.

2099
2100 Mr. Nunnally - We've got a traffic light on Holly Avenue, which is about four
2101 or five blocks down east, and there's a traffic light at Newbridge Circle, which is four or
2102 five blocks west I think. It looks like to me there's going to be a terrible traffic jam in
2103 there; I don't care if you have 25 or 75 cars coming in there a day. I don't see how
2104 you're going to make it on 25 cars if you're going to put four car washed in there. That's
2105 a lot of money you're talking about.
2106

2107 Mr. Perrotti - The advantage of this type of site, versus a car wash that's
2108 self-serving, that has no attendant, is the crime. Of course, "No Loitering" signs would
2109 be posted, but there's always going to be one person, probably two people there, at all
2110 times during the hours of operation, so that, to me, and a lot of the car washes where
2111 that might be a problem, as far as people loitering and doing things they shouldn't be, is
2112 because they're there longer than they should be. That would be addressed at this site
2113 because somebody would be there all the time.
2114

2115 Mr. McKinney - Basically what you're saying, is you're going to have a car in
2116 there every 12.8 minutes.
2117

2118 Mr. Perrotti - Once again, it's hard to be that precise.
2119

2120 Mr. McKinney - At maximum, at 75 at 16 hours, that's what it works out to.
2121

2122 Mr. Perrotti - Yes sir. The other thing you have to realize too, is it's just
2123 like anything else, there does become an issue where there will be one or two cars, say
2124 for example, in the self-serve bays, typically somebody's not going to want to wait, just
2125 like if somebody's getting gas, you probably don't want to wait behind them; you'll go to
2126 the next service center. As you mentioned or alluded to, there are other options
2127 available as far as car washes, where somebody could wash their car. As much as I'd
2128 like to believe that everybody would want to wash their car at my location, if it does get
2129 filled, there are other options that are in close proximity, that a lot of people would rather
2130 go to instead of waiting five or ten minutes or whatever the case may be, if that situation
2131 does arise.
2132

2133 Mr. Balfour - Does the person who stays there, kind of control it, so that
2134 when the fellow's in the bay, or lady, when they come out, to dry off, the next guy's not
2135 pushing in so that you don't get bogged up with people trying to get out and get onto
2136 Daisy. Looks like you'd have a traffic jam if everybody decides to dry their car at the
2137 same time back there, that they want to get out. Unless somebody's controlling it, they
2138 can't move.
2139

2140 Mr. Kirkland - For example, at East Coast in the City, which is right across
2141 the County line, they go in there, they wash their cars, and they pull out and they stack
2142 the place up drying their cars, and then they're putting stuff on their wheels, doing the
2143 interior. Some of those guys are in there as long as an hour, and that becomes a real
2144 bog. This only has eight feet to work with to get those cars out of there, and if someone

2145 starts stacking up, it's going to be tight in there.
2146
2147 Mr. Perrotti - The vacuums and any of the self-serve, that's why in the
2148 design, if you notice that, in front of the car wash, there will be available spots for cars to
2149 spray stuff on the wheels, or whatever, as far as what you're talking about.
2150
2151 Mr. Kirkland - I'm worried about the detailers, who, after they go out, they
2152 want to dress it all up, and they wouldn't drive all the way around your gas station and
2153 get in line again and do all that. They would basically just straddle all back there on that
2154 back alley and be lined up, working on their cars. There's only eight feet there; it's
2155 going to be tight to get another car in there.
2156
2157 Mr. Balfour - If somebody tells them, "you've got five minutes; if you want
2158 to detail it, you go home and detail it."
2159
2160 Mr. Kirkland - You won't do much business that way.
2161
2162 Mr. Perrotti - The other thing, too, is if somebody's blocking the exit and
2163 it's a one-way street, I would hope that common sense would prevail, and they would
2164 move out of the way and let the other person exit.
2165
2166 Mr. McKinney - Unfortunately, Mr. Perrotti, they don't have any common
2167 sense that prevails on Brook Road, and they're out there at 3:00 and 4:00 o'clock in the
2168 morning with their boom boxes turned on.
2169
2170 Mr. Perrotti - You mean Nine Mile Road sir?
2171
2172 Mr. Blankinship - No, he's talking about another shopping center.
2173
2174 Mr. McKinney - I'm talking about Brook Road. That's one that I'm familiar
2175 with, that's been a lot of problems, and even though they're closed down, they
2176 congregate there.
2177
2178 Mr. Perrotti - That issue, if it was to become an issue, is one issue that I'm
2179 keenly aware of, because it's not a good business practice to have people congregating
2180 and loitering. If it did become an issue after hours, I would be more than willing to put a
2181 fence up or whatever the case may be, or just to blockage the entrance so that people
2182 could not come on the property after hours. I agree with you.
2183
2184 Ms. Isaac - I want to point out that this one-way exit driveway is a
2185 minimum of eighteen feet wide, so I think if push comes to shove, you might have a car
2186 sitting there, and somebody could still get out around them.
2187
2188 Mr. Kirkland - Okay, it looked like on my drawing that it said "eight."
2189
2190 Ms. Isaac - No, minimum is eighteen feet.

2191
2192 Mr. Kirkland - I was getting ready to say that sure was a narrow little alley
2193 back there on the scale.
2194
2195 Ms. Isaac - No, eighteen is the minimum required by ordinance.
2196
2197 Mr. Marlles - Mr. Chairman, if I could just make a brief comment too, Ms.
2198 Isaac touched on this in her opening comments. This is within the County's recently
2199 designated Enterprise Zone. It's also within the Nine Mile Road Corridor, and
2200 essentially the County's goal is to encourage new businesses and redevelopment along
2201 this corridor. One of the issues that was identified with the Nine Mile Road plan, is the
2202 shallowness of the lots that we have along this corridor. To the extent that the County is
2203 successful in encouraging new businesses, I think we're going to be seeing more and
2204 more of these situations coming up in the future, and it's a positive thing. However, we
2205 do have to deal with the issues that come up, and also protecting the adjacent
2206 residential neighborhoods.
2207
2208 Ms. Isaac - I'd also like to add on to that, there's a paper alley that runs
2209 along the rear of this property. Mr. Perrotti has submitted paperwork to the County for
2210 the vacation. If it is vacated, he picks up five more feet. That doesn't keep this from
2211 being any further away from the existing residences, but it would give a little more room
2212 if he were able to have that and possibly provide for a wider driveway in the future, if
2213 that would become necessary.
2214
2215 Mr. Blankinship - If he could acquire the other half of that alley from the
2216 adjoinders, then he'd have a third lane.
2217
2218 Ms. Isaac - The problem with the vacation is, that one of the houses is
2219 vacant, and there are several owners and nobody can contact them. That's just
2220 something he's working on and is not a given.
2221
2222 Mr. McKinney - Can we get a police report on the facilities in Henrico County
2223 and what problems they have posed for the police, and I think this would be a benefit of
2224 Ms. Isaac and Mr. Perrotti, that if this goes in, then he won't have these problems, if we
2225 have any. I know we have problems with one, but that may just be an isolated one. But
2226 if you could call Henry Stanley and get a police report on the ones throughout the
2227 County, and defer this for a month, and then come back, and we can let Mr. Perrotti
2228 know what the problems are, and see how he wants to address them, if he does or not.
2229
2230 Mr. Blankinship - I don't imagine you want every car wash in the County, but
2231 say we pick three similar.
2232
2233 Mr. McKinney - The open car washes, the same type self-serve as he's
2234 proposing to build. There may be 25 or so. I'm sure the police have a report on them.
2235 It's just unfortunate that we didn't get that before this meeting. I like what he's saying. I
2236 like the idea of the hours of operation. It's a B-3, and it's not running 24 hours a day,

2237 and he did say if there were a problem, that he would put a fence up. If a problem
2238 arises down the road, it could be a condition that he would do this, not that he has to do
2239 it now. Also, if the decibels of the boom boxes, he could have signs up that they can't
2240 turn these radios up full blast and all this sort of thing. A lot of people go to sleep before
2241 10:00 o'clock at night.

2242
2243 Mr. Blankinship - We can certainly request a report from Police.

2244
2245 Mr. McKinney - If that's all right with Mr. Nunnally.

2246
2247 Mr. Nunnally - I'd like to request a deferral, until we do get a copy of the
2248 police report, and that would give us a chance to think more about this, so I'd like to
2249 defer it to next month.

2250
2251 Upon a motion by Mr. Balfour, seconded by Mr. Kirkland, the Board **deferred**
2252 application **A-20-2004** for a variance to build a 4-bay car wash at 400 West Nine Mile
2253 Road (Highland Springs) (Parcel 822-725-1143). The case was deferred from the
2254 February 26, 2004, until the March 25, 2004, meeting, to request information from the
2255 Division of Police and the Department of Public Works.

2256
2257 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4

2258 Negative: 0

2259 Absent: Wright 1

2260
2261 Mr. McKinney - Mr. Perrotti, I think this will be an advantage to you when this
2262 facility does go in, so you'll know where you stand.

2263
2264 **A - 21-2004 GOODING CONSTRUCTION** requests a variance from Section 24-
2265 95(b)(6) of Chapter 24 of the County Code to build a one-family
2266 dwelling at 126 North Fern Avenue (Highland Springs) (Parcel 823-
2267 725-5293 (part)), zoned R-4, One-family Residence District
2268 (Varina). The total lot area requirement is not met. The applicant
2269 has 5,000 square feet of lot area, where the Code requires 6,000
2270 square feet of lot area. The applicant requests a variance of 1,000
2271 square feet of lot area.

2272
2273 Mr. Blankinship - Mr. Chairman, I was brought a note earlier, that case A-21-
2274 2004 Gooding Construction is going to request a deferral. The applicant's mother-in-
2275 law passed away last night, so they called and requested.

2276
2277 Upon a motion by Mr. Kirkland, seconded by Mr. McKinney, the Board **deferred**
2278 application **A-21-2004** for a variance to Code to build a one-family dwelling at 126 North
2279 Fern Avenue (Highland Springs) (Parcel 823-725-5293 (part)).

2280
2281 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4

2282 Negative: 0

2283 Absent: Wright

1

2284

2285 The Board deferred the application at your request, from the February 26, 2004, until
2286 the March 25, 2004, meeting.

2287

2288 **A - 22-2004 DR. DANIEL AND MIRIAM DAVIDOW** request a variance from
2289 Section 24-95(c)(1) of Chapter 24 of the County Code to build a
2290 garage addition at 202 Westham Parkway (Westham) (Parcel 758-
2291 735-0349), zoned R-1, One-family Residence District (Tuckahoe).
2292 The minimum side yard setback is not met. The applicants have 5
2293 feet minimum side yard setback, where the Code requires 12 feet
2294 minimum side yard setback. The applicants request a variance of 7
2295 feet minimum side yard setback.

2296

2297 Mr. Nunnally - Do we have any others who intend to testify in this matter?

2298 Would you raise your right hand and be sworn please?

2299

2300 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2301 truth, the whole truth, and nothing but the truth, so help you God?

2302

2303 Mr. Shearman - I am Michael Shearman, and I'm the architect for the project,
2304 and this is Mrs. Davidow. The Davidows came to us last fall after the hurricane. They
2305 had lost several large trees in their back yard, over 50 feet tall, and 36 inches in
2306 diameter, and one of them had fallen squarely on the existing metal garage in their yard,
2307 the one that's shown on the south side of the property, making it unfunctional. In its
2308 actual location, it's not really reachable from the road anyway. What they asked us to
2309 look at was building a new garage, larger, that would accommodate two cars, and that
2310 could be reached from their driveway. They would like to locate it where we're
2311 proposing it, not only because it's at the end of the existing driveway, but also because
2312 it's directly adjacent to the kitchen and mudroom, so it would give them direct access to
2313 the inside, and they are looking for an attached garage.

2314

2315 In its current location, in order to fit a two-car garage there, it does violate the side yard
2316 setback, so we looked up some other alternatives for placing the garage at other places
2317 on the site. We looked at placing it on the other side of the house, on the south side of
2318 the site, and there were several problems with that. One is that it attaches to the wrong
2319 part of the house; it's not really functional. It enters into the family room, or the living
2320 room, and that really doesn't meet their program. It also would require cutting a new
2321 driveway into that side of the site, which would increase the amount of paving on the
2322 site, which we'd like to avoid. It would also impact the neighbor on that side, since the
2323 neighbor's property is quite close to the property line on that side.

2324

2325 The second alternative that we looked at was pushing the garage into the back yard and
2326 sliding it over so that it met the side yard setback. The issues there are again the
2327 additional amount of paving that we'd have to add to get back to that garage. We'd
2328 have to push it so far back and over that we'd have to create quite a large area in front

2329 to be able to sweep the cars in and in front of the garage, so that would increase the
2330 amount of paving. Another major concern is that it would involve removing two of the
2331 remaining mature trees in the yard, and they lost so much in the hurricane that we're
2332 really trying to avoid that, and they're two quite large trees that we'd have to take out. It
2333 also in that location, would actually place the garage closer to the immediate neighbor's
2334 house than in the position that we're proposing. The adjacent property is a triangular
2335 piece of property, and the neighbor's house is located in this area, so if we were to
2336 place the garage in the back yard, it would actually be a lot closer to the neighbor's
2337 house.

2338
2339 Mr. Nunnally - You'll be on the side next to Mr. Gill I guess.
2340

2341 Mr. Shearman - Mr. Gill, yes, that's correct. The other side is Gaertner, and
2342 both neighbors have expressed enthusiastic support for the location that we have
2343 proposed, even though it's closer to the property line where we're proposing it, it
2344 impacts both of the neighbors a lot less in that location. We submitted one letter from
2345 Mr. and Mrs. Gill in support of the project, and we also have a second letter here from
2346 Mr. and Mrs. Gaertner expressing their support for the project. Based on that and the
2347 desire not to take down any more of the trees that they've already lost in the yard, and
2348 also not to increase the amount of paving and therefore surface run-off on the site, we'd
2349 like to request the variance to put the garage in this location.

2350
2351 Mr. Nunnally - Any questions from the Board or staff?
2352

2353 Mr. Kirkland - Did you remove the old garage completely out?
2354

2355 Mr. Shearman - Not yet, but that would be the first part of the project, would
2356 be the removal of that garage, and that's also something that the Gaertners are very in
2357 favor of.

2358
2359 Mr. Nunnally - Any other questions from Board or staff? No one here in
2360 opposition?
2361

2362 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
2363 Kirkland, the Board **granted** application **A-22-2004** for a variance to build a garage
2364 addition at 202 Westham Parkway (Westham) (Parcel 758-735-0349). The Board
2365 granted the variance subject to the following conditions:
2366

2367 1. Only the improvements shown on the plan filed with the application may be
2368 constructed pursuant to this approval. No substantial changes or additions to the layout
2369 may be made without the approval of the Board of Zoning Appeals. Any additional
2370 improvements shall comply with the applicable regulations of the County Code.
2371

2372 2. The new construction shall match the existing dwelling as nearly as practical.
2373

2374 Affirmative: Balfour, Kirkland, McKinney, Nunnally

4

2375 Negative: 0
2376 Absent: Wright 1

2377
2378 The Board granted this request, as it found from the evidence presented that, due to the
2379 unique circumstances of the subject property, strict application of the County Code
2380 would produce undue hardship not generally shared by other properties in the area, and
2381 authorizing this variance will neither cause a substantial detriment to adjacent property
2382 nor materially impair the purpose of the zoning regulations.

2383
2384 There being no further business, and on a motion by Mr. Kirkland, seconded by
2385 Mr. Balfour, the Board adjourned until **March 25, 2004**, at 9:00 am.

2386
2387

2388

2389 J. W. Nunnally,

2390 Vice Chairman

2391

2392

2393 Benjamin Blankinship, AICP

2394 Secretary

2395