

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, JANUARY 24,**  
4 **2002, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**  
5 **TIMES-DISPATCH ON JANUARY 4 AND 11, 2002.**  
6

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

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

7  
8 Mr. Balfour - I call the meeting of the Henrico County Board of Zoning  
9 Appeals to order, and ask you to stand for the **Pledge of Allegiance**.

10  
11 Mr. Balfour - Mr. Secretary, would you read the rules, please.

12  
13 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board,  
14 ladies and gentlemen. The rules for this meeting are as follows. As the Secretary,  
15 I will call each case. At that time the applicant will come to the podium to present  
16 the case. At that time I'll ask all those who intend to speak, in favor or opposition,  
17 to stand, and they will be sworn in. The applicants will then present their  
18 testimony. When the applicant is finished, anyone else will be given an opportunity  
19 to speak. After everyone has spoken, the applicant, and only the applicant, will be  
20 given the opportunity for rebuttal. After hearing the case, and asking questions,  
21 the Board will take the matter under advisement. They will render all of their  
22 decisions at the end of the meeting. If you wish to know what their decision is,  
23 you may stay until the end of the meeting, or you may call the Planning Office this  
24 afternoon. This meeting is being tape recorded, so we will ask everyone who  
25 speaks, to speak directly into the microphone, and to state your name for the  
26 record. Out in the foyer, there are two binders, which contain the staff report for  
27 each case, including the conditions suggested by the staff. Mr. Chairman, we do  
28 not have any deferrals or withdrawals this morning.

29  
30 Mr. Balfour - The first case is one deferred from a previous meeting?

31  
32 **A -147-2001 WILLIAM DEBENDER** requests a variance from Sections 24-

33 95(i)(2)(b) and 24-95(i) of Chapter 24 of the County Code to  
34 build a detached garage at 11416 Wood Brook Court (Rock  
35 Springs Estates) (Parcel 13-2-G-14), zoned A-1, Agricultural  
36 District (Brookland). The accessory structure height requirement  
37 and accessory structure location requirement are not met. The  
38 applicant wishes to build a detached garage in the front yard  
39 with a height of 16.5 feet, where the Code allows accessory  
40 structures in the rear yard with a height of 15.0 feet.

41  
42 Mr. Balfour - Anybody here for this case?

43  
44 Mr. DeBender - Bill DeBender.

45  
46 Mr. Balfour - Would you raise your right hand please?

47  
48 Mr. Blankinship - Do you swear that the testimony you are about to give is  
49 the truth, the whole truth, and nothing but the truth, so help you God?

50  
51 Mr. DeBender - I do. My name is Bill DeBender. I would like to build a  
52 traditional 2-car garage, in the front, but off to the left side of our property. The  
53 house is situated well back into the lot because it's low lying, and there's a swale  
54 that runs through it, so it's not buildable. We also have the septic system in the  
55 rear. As you see on the left-hand side, it is dropped back, and it's hardly visible,  
56 even from the road. I didn't think that it would be objectionable from anyone  
57 driving past it, and I've got an agreement with a neighbor and the developer, that  
58 they have no issues about it either. The only thing I wanted to add, in the plans  
59 that were submitted, it stated that it was going to be a 22 by 24; we're looking for  
60 a 24 by 24.

61  
62 Mr. Balfour- Adding a couple of feet? Any questions by Board  
63 members?

64  
65 Mr. McKinney - What is this to be constructed out of, Mr. DeBender?

66  
67 Mr. DeBender - It'll have the same material as the house, the windows,  
68 the siding, all the doors, will be the same manufacturer. It'll have the same roofing  
69 material also. We really wanted it to be pleasing to the community and a  
70 compliment to the house.

71  
72 Mr. McKinney - Are you going to brick the front of it, or just do the sides?

73  
74 Mr. DeBender - I didn't think I was going to brick the front of it. If I have  
75 to, I have to. The developer wants to have brick on the front, but .....

76

77 Mr. McKinney - The developer or the builder?  
78

79 Mr. DeBender - The developer of the project, Robert Maughan. He hasn't  
80 stipulated that it has to be. His preference would be brick on the front. I actually  
81 thought that brick on the front would be an issue, because you would see it from  
82 the side, and you'd see the distinct break between siding and brick. I didn't think  
83 that siding would be an issue. It's high quality vinyl siding; it's not a real flimsy,  
84 cheap material.  
85

86 Mr. McKinney - Is your developer also your contractor?  
87

88 Mr. DeBender - No, I don't have a contractor at this time. I was looking  
89 to get the variance first.  
90

91 Mr. Balfour - This picture's looking at it from Wood Brook Court?  
92

93 Mr. DeBender - That's looking at it from Wood Brook Court, yes.  
94

95 Mr. Balfour- Down at the left, it would be facing Wood Brook, a little  
96 to the front of the home?  
97

98 Mr. Balfour - Any other questions?  
99

100 Mr. Wright- Mr. DeBender, why don't you attach, have a little  
101 breezeway or something to attach this to your house?  
102

103 Mr. DeBender - Well, because it's almost obscured by a tree there. That  
104 is the opening to the laundry room, and it's elevated by 4 or 5 steps, and so if we  
105 put a breezeway there, it would really be a pretty large structure, not only the  
106 width that's required, but also the fact that it would have to go up the stairs, and I  
107 just thought that it looked out of place.  
108

109 Mr. Wright- How many of these trees will you have to remove to put  
110 this garage in?  
111

112 Mr. DeBender - We have to remove – there is a sweet gum tree that's on  
113 the, as you're looking down into that section of the driveway, that would face the  
114 garage, there's one sweet gum and one oak tree, no more than about 4 inches in  
115 diameter, that would be very close to the structure itself, and I just didn't want  
116 that there. There may also be one in the rear, depending on how much of a footer  
117 that we have to place there, not a large tree.  
118

119 Mr. Kirkland - What size is your lot, acre-wise?  
120

121 Mr. DeBender - An acre and a quarter.  
 122  
 123 Mr. Kirkland - Is the lot next door to your house a buildable lot?  
 124  
 125 Mr. DeBender - No, it doesn't perk; they've tried a couple of times.  
 126  
 127 Mr. Balfour - Thank you. Any other questions? Anybody here in  
 128 opposition?  
 129

130 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by  
 131 Mr. Wright, the Board **granted** application **A-147-2002** for a variance to build a  
 132 detached garage at 11416 Wood Brook Court (Rock Springs Estates) (Parcel 13-2-  
 133 G-14). The Board granted the variance subject to the following conditions:  
 134

135 1. Only a 24' x 24' garage in the location shown on the plan filed with the  
 136 application may be constructed pursuant to this approval. No substantial changes  
 137 or additions to the layout may be made without the approval of the Board of  
 138 Zoning Appeals. Any additional improvements shall comply with the applicable  
 139 regulations of the County Code.  
 140

141 2. At the time of building permit application, the applicant shall submit the  
 142 necessary information to the Department of Public Works to ensure compliance  
 143 with the requirements of the Chesapeake Bay Preservation Act and the code  
 144 requirements for water quality standards.  
 145

146 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright  
 147 5  
 148 Negative: 0  
 149 Absent: 0  
 150

151 The Board granted this request, as it found from the evidence presented that, due  
 152 to the unique circumstances of the subject property, strict application of the  
 153 County Code would produce undue hardship not generally shared by other  
 154 properties in the area, and authorizing this variance will neither cause a substantial  
 155 detriment to adjacent property nor materially impair the purpose of the zoning  
 156 regulations.  
 157

158 Mr. Balfour - Mr. Secretary?  
 159

160 **A - 1-2002** **DILLARD LANGSTON TUPPONCE, JR.** requests a variance from  
 161 Section 24-95(q)5 of Chapter 24 of the County Code to build a  
 162 one-family dwelling at 8114 Cavendish Lane (Chamberlayne  
 163 Hills) (Parcel 792-754-0474), zoned R-2, One-family Residence  
 164 District (Fairfield). The rear yard setback is not met. The

165 applicant has 25.75 feet rear yard setback, where the Code  
166 requires 45 feet rear yard setback. The applicant requests a  
167 variance of 19.25 feet rear yard setback.  
168

169 Mr. Balfour - Any others to speak on this case? Would you raise your  
170 right hand please?  
171

172 Mr. Blankinship - Do you swear that the testimony you are about to give is  
173 the truth, the whole truth, and nothing but the truth, so help you God?  
174

175 Mr. Balfour - Would you state your name please.  
176

177 Mr. Tupponce - I do. My name is Dillard Langston Tupponce, Jr. The  
178 reason that I'm here today is to request a variance to build this one-family home at  
179 8114 Cavendish Lane. As I've stated in the information that I've put into the  
180 Board, from the beginning we got with the architects. We had them place the  
181 proposed building on the property, and due to a mistake on my part, a  
182 miscommunication to the architects as far as the setbacks were concerned, the  
183 information that they took from what I said, the setbacks were not placed  
184 accordingly. What happened is, when we placed the lot back on, just probably  
185 about a month ago, just because I had a feeling that something just didn't feel  
186 right, I got back in touch with them, I gave them the setbacks again. They placed  
187 it back on and said we were across the setback in the back. And my architects  
188 have also said, they have a lot of experience in this, they were just very surprised  
189 at the setbacks on this lot. They said that generally they can see the 45 feet from  
190 the front and then the 15 from each side, but the back, they're generally dealing  
191 with maybe 25, 35 at the most, and then looking at this lot, the cul-de-sac, the  
192 way it's formed. It's also formed very different, it's a very narrow lot. Also, what  
193 we've done, and I've brought with me, as you see in the plans that you have, on  
194 the survey, what we did is we took, because we're trying to do what we can to  
195 bring this property back down to size, or reduce the size, we've taken the garage  
196 off and placed that so it would be under the house, more or less a sub-basement,  
197 somewhat. Like I said, I brought that with me in case you wanted to see that.  
198

199 Mr. Balfour- Is that a vacant lot behind you that faces Chamberlayne  
200 Road?  
201

202 Mr. Tupponce - Yes, there are 2 vacant lots behind me.  
203

204 Mr. Wright- What does putting the garage underneath the house, what  
205 does that do to the structure insofar as how far it is from the back property line?  
206

207 Mr. Tupponce - Well, it won't move the proposed house at all, but what it  
208 does, because putting that garage on the side, it did extend the width of the house.

209 Like I said, we're trying to bring that back in, so it's not as large on the property.

210

211 Mr. Wright- Which side is the garage on?

212

213 Mr. Tupponce - The garage would still be on the left side of the home.  
214 It's now, on the plan that you have, it's sitting on the left.

215

216 Mr. Wright- Is that the left side facing the house from the street?

217

218 Mr. Tupponce - Left side facing the house from the street. Again,  
219 because from the very beginning, we went to architects to make sure that we,  
220 we've done a lot of studying on this lot and preparing to put this house here. And  
221 like I said, a miscommunication on my part, obviously, to the architects. We've  
222 gotten this far, and we've gone through all the expense of having our plans done,  
223 doing the surveys, doing the tests on the soil, we put a lot of time and effort and  
224 expense into preparing this house for this property, and we've looked. Oh we've  
225 been looking for a couple of years, actually, my wife and I, and we found this lot, it  
226 was just exactly what we wanted, and we went through everything to be sure it  
227 was going to work and be right. I woke up one morning, said something just  
228 doesn't feel right, got in contact with my architects again, had them place it back  
229 on, and we're already pretty much  $\frac{3}{4}$  of the way through with the plan. Now the  
230 plans are complete, we're closing on the property as we speak.

231

232 Mr. Balfour - Any other questions of Mr. Tupponce?

233

234 Mr. McKinney - Do you have the new plans?

235

236 Mr. Tupponce - Yes, would you like to see them?

237

238 Mr. McKinney - You haven't submitted them though?

239

240 Mr. Tupponce - No, well what we did is, we took the garage off and  
241 placed it. This is just proposed for you to see that we're trying to do something to  
242 narrow this house.

243

244 Mr. McKinney - How much did you get it narrowed?

245

246 Mr. Tupponce - I think taking off that garage, that house is 82 feet wide,  
247 it brought it back into, I believe, roughly 60 feet wide.

248

249 Mr. McKinney - So it's 60 feet now instead of 82?

250

251 Mr. Tupponce - It can be. We're willing to try and bring this in if that is  
252 what needs to be done.

253  
254 Mr. McKinney - If we're going to vote on this, we need copies of the new  
255 plan, because this is not what we have in our packet right here, not what you're  
256 going to do.  
257  
258 Mr. Tupponce - I can give that to you.  
259  
260 Mr. McKinney - If you do this, we've got to keep it for 30 days.  
261  
262 Mr. Balfour - He's going to put that on the projector for you, and maybe  
263 we can see it.  
264  
265 Mr. Balfour- That's the new plan. Are you asking us to approve it as  
266 that plan there?  
267  
268 Mr. Tupponce - Yes sir, I guess I am, because what you have in front of  
269 you now, we originally were going to do it like this, and then when we found out  
270 that this may be a problem, we tried to do everything we could to bring it in and  
271 narrow it in the back, but just because it's a one-story dwelling, that's almost  
272 impossible, so we said if we could maybe take the garage off and bring the width  
273 in some, we'll do that.  
274  
275 Mr. McKinney - You say your garage is going to be underneath?  
276  
277 Mr. Tupponce - Yes sir.  
278  
279 Mr. Kirkland - Do you have a perspective or a plan?  
280  
281 Mr. McKinney - I'm looking at the lot. The lot falls off in the rear?  
282  
283 Mr. Tupponce - Yes sir.  
284  
285 Mr. McKinney - This picture that's up here now is the first set of plans we  
286 have in front of us?  
287  
288 Mr. Tupponce - Yes sir.  
289  
290 Mr. McKinney - Do you have a picture of the other one?  
291  
292 Mr. Tupponce - No sir, because we just made the change this week.  
293  
294 Mr. McKinney - Which one do you like?  
295  
296 Mr. Tupponce - Well, we originally liked that first plan.

297  
298 Mr. McKinney - I like that too, the one with the garage on the left. You're  
299 not asking for side yard; you're asking for rear yard.

300  
301 Mr. Blankinship - This doesn't appear to reduce the request very much.

302  
303 Mr. Balfour-- What I'm trying to say is, if you don't want the narrow  
304 house, you may want to leave your variance the way it is. I'm not sure that  
305 changes the back part very much. Anybody else have any comments? In other  
306 words, if you like the first choice, you don't need to reduce it.

307  
308 Mr. McKinney - I think the elevation is a whole lot better looking on this,  
309 what you're presenting, than cutting the garage off the side.

310  
311 Mr. Balfour- Your preference is to have it on the side?

312  
313 Mr. Tupponce - Again, it was, and again, when we started thinking, if we  
314 would do something to make this plan better. Then again, I think my wife would,  
315 now she would prefer to have the garage come in, just so it drives straight in. I  
316 don't want to extend this variance out, your decision out, because we're trying to  
317 get under way if possible.

318  
319 Mr. Balfour-- What we may be able to do, and I'm not speaking for the  
320 Board, just a reaction, we could approve it this way. If you want to narrow it, you  
321 and your wife can discuss it later.

322  
323 Mr. Tupponce - So you said you could approve it as narrowing it?

324  
325 Mr. McKinney - No, we could approve it as is, your original drawing. If  
326 you want to reduce it, that's up to you.

327  
328 Mr. Blankinship - If we approve the reduced drawing, you can't go back to  
329 the larger one.

330  
331 Mr. Balfour- If we leave it the larger one, you and she can discuss and  
332 see who wins the discussion.

333  
334 Mr. McKinney - That's a nice-looking elevation, what you have here.

335  
336 Mr. Balfour - Any other questions? Anyone else in the audience to  
337 speak?

338  
339 After an advertised public hearing and on a motion by Mr. McKinney, seconded by  
340 Mr. Kirkland, the Board **granted** application **A-1-2002** for a variance to build a one-



341 family dwelling at 8114 Cavendish Lane (Chamberlayne Hills) (Parcel 792-754-  
342 0474). The Board granted the variance subject to the following condition:

343  
344 1. This variance applies only to the rear yard setback. All other applicable  
345 regulations of the County Code shall remain in force.

346  
347 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright  
348 5  
349 Negative: 0  
350 Absent: 0

351  
352 The Board granted this request, as it found from the evidence presented that, due  
353 to the unique circumstances of the subject property, strict application of the  
354 County Code would produce undue hardship not generally shared by other  
355 properties in the area, and authorizing this variance will neither cause a substantial  
356 detriment to adjacent property nor materially impair the purpose of the zoning  
357 regulations.

358  
359 **A - 2-2002** **ROBERT L. AND NICOLE BRASWELL** request a variance from  
360 Section 24-94 of Chapter 24 of the County Code to build a one-  
361 family dwelling at 12574 Kain Road (Parcel 734-771-8609),  
362 zoned A-1, Agricultural District (Three Chopt). The lot width  
363 requirement is not met. The applicants have 52.02 feet lot  
364 width, where the Code requires 150 feet lot width. The  
365 applicants request a variance of 97.98 feet lot width.

366  
367 Mr. Balfour - Any others to speak on this case? Would you raise your  
368 right hand please?

369  
370 Mr. Blankinship - Do you swear that the testimony you are about to give is  
371 the truth, the whole truth, and nothing but the truth, so help you God?

372  
373 Mr. Beckstoffer - I do.

374  
375 Mr. Balfour - State your name. Proceed.

376  
377 Mr. Beckstoffer - Herman Beckstoffer; I'm the father-in-law of one of the lot  
378 owners. This lot was given to Robert Braswell by his grandfather, Neil Woodson,  
379 who lives on the small lot in the front. It is a part of a much larger parcel that Mr.  
380 Woodson's owned for many years. The problem is, the width of the access into  
381 the rear of the lot. The lot itself is a little over 2 ½ acres. The proposal is to build  
382 a single-family residence for Mr. Braswell, his wife and their 3 children, so it would  
383 be a 4-bedroom. It would be set well back into the large part of the site, about  
384 where it says "part." They're really no other alternatives that we have to get

385 access or frontage on the road.

386  
387 Mr. Wright- Mr. Beckstoffer, the problem is that you don't have the  
388 width at the building line, is that the problem?

389  
390 Mr. Balfour - Have you read the suggested conditions on the  
391 application?

392  
393 Mr. Beckstoffer - No sir, I don't think there's any problem there. The only  
394 one he has to prove is that his grandfather gave it to him, is the main one I noticed

395  
396 Mr. Balfour - But you have seen these 4 conditions that staff has  
397 suggested if this is approved?

398  
399 Mr. Beckstoffer - I have read it; let me just look briefly over it again.

400  
401 Mr. Balfour - They're standard conditions.

402  
403 Mr. Beckstoffer - They're all fine.

404  
405 Mr. Balfour - Any other questions? Thank you sir.

406  
407 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
408 McKinney, the Board **granted** application **A-2-2002** for a variance to build a one-  
409 family dwelling at 12574 Kain Road (Parcel 734-771-8609). The Board granted  
410 the variance subject to the following conditions:

411  
412 1. This variance applies only to the public street frontage requirement. All  
413 other applicable regulations of the County Code shall remain in force.

414  
415 2. At the time of building permit application the owner shall demonstrate that  
416 the parcel created by this division has been conveyed to members of the immediate  
417 family, and the subdivision ordinance has not been circumvented.

418  
419 3. Approval of this request does not imply that a building permit will be issued.  
420 Building permit approval is contingent on Health Department requirements,  
421 including, but not limited to, soil evaluation for a septic drainfield and reserve area,  
422 and approval of a well location.

423  
424 4. The owners of the property, and their heirs or assigns, shall accept  
425 responsibility for maintaining access to the property until such a time as the access  
426 is improved to County standards and accepted into the County road system for  
427 maintenance.

428

429 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright  
 430 5  
 431 Negative: 0  
 432 Absent: 0  
 433

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

440  
 441 Mr. Balfour - Mr. Secretary?  
 442

443 **A - 3-2002 DAVID AND ELIZABETH ECKHART** request a variance from  
 444 Section 24-94 of Chapter 24 of the County Code to build an  
 445 addition at 2801 Burnlake Court (Woodmark at Wellesley)  
 446 (Parcel 737-758-0983), zoned R-3A, One-family Residence  
 447 District (Three Chopt). The minimum side yard setback and total  
 448 side yard setback are not met. The applicants have 5 feet  
 449 minimum side yard setback and 22.37 feet total side yard  
 450 setback, where the Code requires 10 feet minimum side yard  
 451 setback and 25 feet total side yard setback. The applicants  
 452 request a variance of 5 feet minimum side yard setback and  
 453 2.63 feet total side yard setback.  
 454

455 Mr. Balfour - Any others to speak on this case? Would you raise your  
 456 right hand please?  
 457

458 Mr. Blankinship - Do you swear that the testimony you are about to give is  
 459 the truth, the whole truth, and nothing but the truth, so help you God?  
 460

461 Mr. Silver - I do. Bobby Silver. The customers requested that I build  
 462 an addition for them on the left rear corner of the house, and it encroaches on the  
 463 side yard, so we're requesting a variance for the side yard setback in order to do  
 464 the addition. We also have letters from all the neighbors, saying that they do not  
 465 object to this.  
 466

467 Mr. Wright- What's the size of this proposed addition?  
 468

469 Mr. Silver - It fills up the corner of the back of the house. It's actually  
 470 10 by 12.  
 471

472 Mr. Wright- And what's the purpose of it?

473  
474 Mr. Silver - To increase their family room and breakfast area. They've  
475 had a couple more kids since they built the house, so they need more space.  
476  
477 Mr. Balfour- Flush with the deck, looks like, maybe, from the  
478 photograph?  
479  
480 Mr. Silver - They're actually going to remove part of the deck. That's  
481 not the picture of the house. The deck currently goes in that corner, and they're  
482 going to take the deck down to build the addition.  
483  
484 Mr. Balfour- So it'll be flush with the end of the house then?  
485  
486 Mr. Silver - Flush with the back and the end. In other words, it's  
487 actually just going to complete that corner.  
488  
489 Mr. Wright- This house is sort of catty-cornered on that lot? What's  
490 located to the side where the addition would be made?  
491  
492 Mr. Silver - There's a fence dividing this lot from the next-door  
493 neighbors.  
494  
495 Mr. Wright- Is there any screening there?  
496  
497 Mr. Silver - Well, there are trees. Like I said, I do have a signed okay  
498 from all the neighbors.  
499  
500 Mr. Wright- Do we know how far the corner of that addition is from  
501 the property line? It doesn't show on this plat.  
502  
503 Mr. Silver - The corner of the addition - I think it's 5 feet. I believe  
504 that's correct. Yes, they have 5 feet.  
505  
506 Mr. Wright- The deck comes around there now, I guess.  
507  
508 Mr. Silver - Yes sir.  
509  
510 Mr. Balfour - Any other questions by Board members? Thank you sir.  
511 What is that?  
512  
513 Mr. Silver - These are all the signed okays from the neighbors.  
514  
515 Mr. McKinney - We were supposed to have them before we started the  
516 case.

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Mr. Balfour - Anyone else to speak on this case?

After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted** application **A-3-2002** for a variance to build an addition at 2801 Burnlake Court (Woodmark at Wellesley) (Parcel 737-758-0983). The Board granted the variance subject to the following condition:

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

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

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

**A - 4-2002 CHARLES AND CHARLENE JEFFERS** request a variance from Section 24-94 of Chapter 24 of the County Code to build a sunroom on the existing deck at 6411 Canesville Lane (Midview Woods) (Parcel 808-704-4020), zoned R-3, One-family Residence District (Varina). The rear yard setback is not met. The applicants have 34.5 feet rear yard setback, where the Code requires 40 feet rear yard setback. The applicants request a variance of 5.5 feet rear yard setback.

Mr. Balfour - Is there anyone else to speak on this case? Would you raise your right hand please?

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

Mr. Britt - I do.

Mr. Balfour - State your name please.

561  
562 Mr. Britt - George Britt. I represent Melani Brothers, the contractor  
563 for the Jeffers, and very simply, they would like to add a sunroom, 10 by 16, in  
564 the area where they have an existing deck, and unfortunately, we have very short  
565 rear yard setbacks, and we're requesting a variance of 5.5 feet in the rear so they  
566 can enjoy their sunroom.

567  
568 Mr. Nunnally- Will the sunroom take the place of the deck?

569  
570 Mr. Britt - Yes it would, and of course you see 2 deck structures  
571 there. This is the one that is closest to the house, and it projects out from the  
572 back of the house 10 feet and has a width of 16 feet.

573  
574 Mr. Balfour- You'll leave the second deck there?

575  
576 Mr. Britt - That's correct, yes.

577  
578 Mr. Nunnally- You did say it was 10 by 16, right?

579  
580 Mr. Britt - Yes sir, correct.

581  
582 Mr. Balfour - Any other questions by members of the Board? Any other  
583 people to speak on this matter?

584  
585 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
586 Mr. Wright, the Board **granted** application **A-4-2002** for a variance to build a  
587 sunroom on the existing deck at 6411 Canesville Lane (Midview Woods) (Parcel  
588 808-704-4020). The Board granted the variance subject to the following  
589 condition:

590  
591 1. The property shall be developed in substantial conformance with the plan  
592 filed with the application. No substantial changes or additions to the layout may be  
593 made without the approval of the Board of Zoning Appeals.

594  
595 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright

596 5 0

597 Negative: 0

598 Absent: 0

599  
600 The Board granted this request, as it found from the evidence presented that, due  
601 to the unique circumstances of the subject property, strict application of the  
602 County Code would produce undue hardship not generally shared by other  
603 properties in the area, and authorizing this variance will neither cause a substantial

604 detriment to adjacent property nor materially impair the purpose of the zoning  
605 regulations.

606  
607 **A - 5-2002**            **BILLY R. HERRIN** requests a variance from Section 24-94 of  
608 Chapter 24 of the County Code to build a screened porch at  
609 2325 Summerwood Drive (Steveston) (Parcel 740-753-3711),  
610 zoned R-4C, One-family Residence District (Conditional)  
611 (Tuckahoe). The rear yard setback is not met. The applicant  
612 has 31 feet rear yard setback, where the Code requires 35 feet  
613 rear yard setback. The applicant requests a variance of 4 feet  
614 rear yard setback.

615  
616 Mr. Balfour -                    Any others to speak on this case? Would you raise your  
617 right hand please?

618  
619 Mr. Blankinship -                Do you swear that the testimony you are about to give is  
620 the truth, the whole truth, and nothing but the truth, so help you God?

621  
622 Mr. Balfour -                    State your name please.

623  
624 Mr. Herrin -                    I do. Billy Herrin. We wish to replace our deck with a  
625 screened porch and additional deck to the side of it. We need a variance of 4 feet.  
626 The porch will replace the existing deck; it will be removed; a foundation will be  
627 poured. The porch will be built on that, and a deck to the side of it. The porch will  
628 extend from the house and towards the lot the exact same amount, but since it is  
629 covered, I understand that it requires a variance. We wish to do this for health  
630 problems with my wife, who has allergies, and in the spring she can't enjoy the  
631 deck because of the trees and what they dispense onto the deck, and in the  
632 summertime she has allergies from mosquitoes, so we'd like build a screened porch  
633 enclosed so that she can enjoy the outside.

634  
635 Mr. Wright-                    Mr. Herrin, what's located to the rear of your property?

636  
637 Mr. Herrin -                    Considerably back from the property is a church. You can  
638 see the top of it, Grace Community Baptist Church, and there's nothing between  
639 our lot and that church.

640  
641 Mr. Wright-                    You do have some trees and screening across the rear of  
642 the property?

643  
644 Mr. Herrin -                    Yes, and in the summertime those trees almost completely  
645 block your view. The church has, and they're difficult to see, but closer to the  
646 church, just over the crest of the hill, they have planted vegetation that will  
647 eventually completely block the view from both sides.

648  
649 Mr. Balfour - So you'll still have a deck and a porch, is that what you're  
650 saying?

651  
652 Mr. Herrin - Yes sir. The porch will replace the existing deck, 3 feet  
653 wider than the existing deck, and a deck will be built to the side of that, on the  
654 north side. The porch will be 19 by 12 feet, and the deck will be 14 by 12.

655  
656 Mr. Balfour - Any other questions by Board members. Apparently not.  
657 Thank you sir. Any others to speak on this matter? Anyone else to speak on this  
658 case, for or opposition?

659  
660 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
661 McKinney, the Board **granted** application **A-5-2002** for a variance to build a  
662 screened porch at 2325 Summerwood Drive (Steveston) (Parcel 740-753-3711).  
663 The Board granted the variance subject to the following condition:

664  
665 1. Only the improvements shown on the plan filed with the application  
666 may be constructed pursuant to this approval. No substantial changes or  
667 additions to the layout may be made without the approval of the Board of  
668 Zoning Appeals. Any additional improvements shall comply with the  
669 applicable regulations of the County Code.

670  
671 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright  
672 5  
673 Negative: 0  
674 Absent: 0

675  
676 The Board granted this request, as it found from the evidence presented that, due  
677 to the unique circumstances of the subject property, strict application of the  
678 County Code would produce undue hardship not generally shared by other  
679 properties in the area, and authorizing this variance will neither cause a substantial  
680 detriment to adjacent property nor materially impair the purpose of the zoning  
681 regulations.

682  
683 Mr. Balfour - Mr. Secretary?

684  
685 **A - 6-2002** **TAN-A GROCERY INC.** requests a variance from Sections 24-  
686 96(b)13 and 24-94 of Chapter 24 of the County Code to install a  
687 walk-in freezer at 6221 West Broad Street (Parcel 769-741-  
688 5273), zoned B-2C, Business District (Conditional) (Brookland).  
689 The number of parking spaces requirement and rear yard setback  
690 are not met. The applicant has 35 feet rear yard setback and 57  
691 parking spaces, where the Code requires 40 feet rear yard



692 setback and 62 parking spaces. The applicant requests a  
693 variance of 5 feet rear yard setback and 5 parking spaces.

694  
695 Mr. Balfour - Any others to speak on this matter? Would you raise your  
696 right hand please?

697  
698 Mr. Blankinship - Do you swear that the testimony you are about to give is  
699 the truth, the whole truth, and nothing but the truth, so help you God?

700  
701 Mr. Glenn Thomason - I do.

702  
703 Mr. Balfour - Would you state your name please.

704  
705 Mr. Thomason - My name is Glenn Thomason. I'm the architect for Realty  
706 Design Group, and I've prepared the floor plans for the proposed addition that you  
707 have in your package. What we were trying to accomplish here, actually the  
708 building at 6221 West Broad Street used to be the Rite-Aid Pharmacy, and the  
709 company closed this store for numerous reasons, I suppose. A local family who  
710 owned a grocery store in Henrico County has purchased the building and intends to  
711 move their existing business to this location. They are already underway with the  
712 architectural interior renovations on the interior side already, and have requested  
713 your consideration on adding this freezer and cooler to the back.

714  
715 The picture that's up on the screen now, in fact, shows a picture of the existing  
716 drive-in lane that Rite-Aid had constructed on the rear of this store. We propose to  
717 take down the little canopy that covers their drive-thru window, demolish the drive-  
718 in window itself, and the cooler will be built in this vicinity where the drive-thru  
719 lane was, so we're not encroaching on or modifying the fire lane which exists at  
720 the back of the building. The traffic flow as it exists now will be maintained  
721 precisely as it is now, and when we build this cooler, if it's permitted, we have  
722 included provisions for screening that will go the full height of this freezer. The  
723 freezer will be 12 feet high, and the wall will probably be just short of 14 feet high.  
724 It will be a brick screen wall with Dryvit, or exterior insulated finish system,  
725 whichever you refer to it as, which matches the two materials on the main  
726 building. We won't have any entrances into the freezer or cooler from the rear or  
727 either of its sides. It will be accessed from the interior, and in conjunction to the  
728 addition of this cooler on the back, we've made provisions, while maintaining the  
729 same truck loading space that Rite-Aid used, this new cooler will help screen that  
730 truck loading area somewhat from the people driving by or people in the parking lot  
731 won't be able to see the truck as its parked.

732  
733 Mr. Balfour- Where are you losing the five parking spaces if that was a  
734 drive-thru?

735

736 Mr. Thomason - The way that came up is, we were told that, it was felt  
737 that the addition of the freezer itself, actually calculated, should be added into the  
738 square footage of the building, and then the zoning department's parking ratio  
739 would necessitate an additional 5 places.

740  
741 Mr. Balfour- Oh I see, you're not losing any, you're just .....

742  
743 Mr. Thomason - We're not losing any. We were maxxed out on the site,  
744 100% with parking, actually have exactly the precise amount for the grocery  
745 operation, which was done with the Rite Aid building. The variance asks for 5  
746 extra spaces, but we're creating one extra space in conjunction with this expansion  
747 of the rear. So we actually only need 4 spaces, but the zoning department just  
748 summarized it to put just basically 5. The 5-foot setback that we're encroaching  
749 on actually won't be, it's actually using that 5 feet as part of that drive-thru lane  
750 that Rite Aid used for stacking their vehicles out there, in the drive-thru.

751  
752 Mr. Balfour- The road will stay the same then?

753  
754 Mr. Thomason - The road will stay exactly the same to preserve that fire  
755 lane. We're actually encroaching about 4, a little bit more, like 4 feet, 3 inches,  
756 but they rounded that to 5 feet, which seems reasonable. The interior of the store,  
757 we had considered putting it on the inside, but there were several difficulties to  
758 putting it inside. As we excavated for interior piping, underneath the slab of the  
759 Rite Aid Pharmacy, we discovered that it was not just a 4-5 inch slab of floor, as  
760 we expected, with 4 inches of gravel under it. Turned out that it had the regular 4-  
761 5 inch concrete floor; underneath that was 4 inches of gravel; under that was 2  
762 inches of asphalt from the former operations of Westwood Shopping Center.  
763 Under the 2 inches of asphalt, they found another 4-inch concrete slab, which  
764 apparently was covering some old gasoline or oil tanks that were in the vicinity  
765 before, and under that was 18 inches of gravel fill, so we have a total of nearly 26  
766 inches of solid material.

767  
768 Mr. Blankinship- Does that floor sag at all there?

769  
770 Mr. Thomason - If it does, it's very solid. We anticipated hand-digging  
771 everything in there, but to do the cooler on the inside, we'd have to bring in heavy-  
772 duty equipment, and it would really create quite a bit of damage in terms of the  
773 dust and dirt blowing into the duct work and above the ceilings, and we did have a  
774 grocery store coming in there. We didn't want to have to risk having every crevice  
775 and cranny in the building covered with numerous kinds of dust and debris from  
776 this soil being removed from the inside.

777  
778 Mr. Balfour- That would really fool the archeologists 300 years from  
779 now when they tried to dig in that area.

780  
781 Mr. Thomason - We didn't find any Indian bones under here this time, but  
782 we might hit them when we dig the cooler in back. We'll come back then and ask  
783 for another variance then.

784  
785 Mr. McKinney- Mr. Thomason, what would you do if this request is  
786 denied?

787  
788 Mr. Thomason - I'll tell you, we're at the point, we would have to go and  
789 put this inside if it was denied. It would be extremely difficult, in my opinion as an  
790 architect, to get it inside. Another factor that came into play is the grocery  
791 operation that's moving into this store is a smaller business at present time in  
792 Henrico, and they were (*coughing; unintelligible*) business five times larger than  
793 they are now, and our preliminary calculations in purchasing the building through  
794 the accountant's studies and all, I sense that our mortgage payment, in  
795 comparison, would go from about \$2,000 a month, to over \$10,000 a month, for  
796 this operation. We would need to increase our sales by a significant amount,  
797 which would be at least 5 times of what they do now in business. That was  
798 another secondary reason why we didn't want to put the cooler inside, because it  
799 would force us to have less stock room and possibly reduce our retail sales area.

800  
801 Mr. McKinney - How many square feet are in the existing building now?

802  
803 Mr. Thomason - About 11,000 square feet.

804  
805 Mr. McKinney - Is it going to be a sit-down restaurant?

806  
807 Mr. Thomason - Well, no, it's a grocery, and there will not be any food  
808 service.

809  
810 Mr. McKinney - Well I think where they operate now, they have some  
811 people who come in and eat there.

812  
813 Mr. Thomason - No, their current operation is at Horsepen Road, and it's  
814 called the Tan A Grocery. They do not have any eating or food preparation on site.  
815 There may be some other groceries in that area behind there, that might have some  
816 sit-down areas in there, but their operation, in fact for this grocery, doesn't have  
817 any provisions for sit-down eating at all.

818  
819 Mr. McKinney - Where are the condensing units going for this freezer.

820  
821 Mr. Thomason - Initially we had planned those condensing units to go, as  
822 you can see on one of the floor plans that's attached here, the rear blow-up of the  
823 building had a screened-in wall area that's fronting on Morningside Drive, which is

824 the back corner of that building, and we have abandoned that. I think he's got the  
825 cursor on it now. We are going to put all of the units on top of the existing  
826 building; we've just completed the structural engineering evaluation, and they'll all  
827 be set back from the side of the building a minimum of 10 feet so they won't be  
828 visible from the road. I think for the walk-in freezer itself, it hasn't been  
829 determined if we'll put the units on top of the proposed freezer itself, or on top of  
830 the roof again, of the main building, but we intend to have all the condensers  
831 concealed behind the screened wall we're building as well, so they don't be visible  
832 from the street.

833  
834 Mr. McKinney - Are you telling us that you've got 4 inches of concrete  
835 and all this fill of 26 inches. To run this freezer, why do you have to get  
836 underneath the floor?

837  
838 Mr. Thomason - You have to have actually a typical freezer construction  
839 the way they normally do them and all, and this is the way we were designing it,  
840 for the outside here. They create a concrete sandwich, basically, a 4-inch slab of  
841 concrete, reinforced, that sits on gravel, and then you add in a 4-inch layer of rigid  
842 insulation, and then on top of the rigid insulation, you put in 4 inches of concrete  
843 again, so it makes a 12-inch insulated sandwich, and that needs to be flush with  
844 the interior floor of the grocery, so we don't have to ramp up into the cooler for  
845 this new cooler, if it were put inside.

846  
847 Mr. McKinney - The reason I asked is because I've seen freezers attached,  
848 walk-in freezers to the rear of buildings, that sat basically on grade. I've put a  
849 couple of them in, and they sat right on grade.

850  
851 Mr. Thomason - They appear to be on grade. The details we've gotten  
852 from the refrigeration people that we have, were a 4-inch slab, 4-inch insulation,  
853 and 4-inch concrete. I suppose there may be an alternative to the design of the  
854 bottom.

855  
856 Mr. McKinney - I didn't know if this was something special.

857  
858 Mr. Thomason - Nothing special; that's all the detail on this one, but we do  
859 have a good buffer in terms of the residential area that's located right behind the  
860 Rite Aid. We've got a, forget the exact dimension of it, but it's probably 20 or  
861 more feet wide buffer of Leyland cypresses, and we've got about 30 Leyland  
862 cypresses in there that range from 15 feet, almost to 18, 19 feet high, very solid  
863 buffer, and of course we would be maintaining that.

864  
865 Mr. Kirkland - So you're saying that if we could put it on the outside,  
866 you still would do all this excavation, and the only difference is if you run into all  
867 the other items, that the dust won't be inside the store; it'll be outside.

868  
869 Mr. Thomason - And relocating some utilities that are inside, under the  
870 floor slab, that were part of some plumbing systems that were interior on the  
871 building that will have to be relocated as well.

872  
873 Mr. Kirkland - The loading zone that's on Morningside, are you going to  
874 box that out?

875  
876 Mr. Thomason - We propose to just leave that loading door just the way it  
877 is now and operate with that existing door, so that when trucks park, they'll be  
878 able to use the same parking zone as Rite Aid used and the same loading dock  
879 door.

880  
881 Mr. Kirkland - I noticed when I was over there, there's a wrecker service  
882 across the street, and there were wreckers all the way lined up and down  
883 Morningside Drive. I just wondered how that's going to interfere with your  
884 business. I was over there Sunday; they were all the way up and down.

885  
886 Mr. Thomason - I'm wondering the same thing myself, because they did  
887 have quite a few trucks parked on the street, and I was wondering. We were  
888 going to inquire into that, because we're trying to park our vehicles off-street on  
889 our site, and their vehicles would be a problem for us, since they're not parking on  
890 their site.

891  
892 Mr. McKinney - They're getting ready to move. Another question. Are  
893 you going to have a dumpster?

894  
895 Mr. Thomason - The dumpster exists behind the pharmacy now, there is a  
896 dumpster located basically between the pharmacy building and the 7 shops that  
897 exist there now, and it's already screened in. It's a screened in, wooded closure  
898 that will hold 8 to 10 cubic yards that we will be using.

899  
900 Mr. McKinney - Is that what we see in this picture? And you will have no  
901 outside storage?

902  
903 Mr. Thomason - No outside storage.

904  
905 Mr. McKinney - Mr. Blankinship, should that be a condition?

906  
907 Mr. Blankinship - I believe it's covered by the regulations. It's B-2 zoning,  
908 so it's got a ladder on the outside door.

909  
910 Mr. Balfour - Will the addition of this outside freezer increase the need  
911 for additional parking?

912  
913 Mr. Thomason - We didn't think that the cooler itself would enhance the  
914 need for parking. Storage is such a critical thing in the grocery operation now and  
915 all; we have a fairly low ceiling in there. The interior ceiling's about 12 feet, and  
916 we don't have room to stack but about 2 pallets high, whereas most of the new  
917 grocery stores in their stockrooms have the ability to go up 3 to 4 pallets high,  
918 using the forklift, so we can only stack 2 level high now, so we really don't have  
919 much storage room ability, and we didn't want to increase the storage room any  
920 larger than it is inside the building. That is, if we put the freezer inside, we're  
921 going to have to come up with another almost 800-900 square feet of additional  
922 storage. It would be real cramped in there then.

923  
924 Mr. Kirkland - What do they do in the existing store now?

925  
926 Mr. Thomason - It's packed, very, very solid. They have a small walk-in  
927 cooler freezer and actually the fire code department has been very lenient on them  
928 about allowing them to stack some boxes in areas that block some of the egress  
929 around the building, in terms of walkway width, it's very, very, very packed. It's a  
930 serious problem. This store will eliminate that. What this family hopes to do, is to  
931 try to bring a little upscale international food market to the area that would appeal  
932 to more than just the Asian population, which is mostly in the Horsepen area there  
933 now. Mostly just Asian population shops there now, but this one would be more  
934 on line of what the international Safeway used to do that was on Cary Street.  
935 We're trying to do wide aisles, much wider and cleaner, and all the equipment  
936 inside is new. We've reordered. In fact, there was some speculation about using  
937 some of the existing equipment that they had. We've decided to not use any of  
938 that; we're purchasing all brand new equipment. It's going to be a first class  
939 operation.

940  
941 Mr. Kirkland - I'm well aware of the Asian population over there  
942 shopping on the weekends. My office is right in there. This might be a big help, to  
943 get them over there, so they'd have more parking.

944  
945 Mr. Thomason - I'm really impressed. It's sparked a lot of attention in the  
946 neighborhood, and Asian families and all are really excited about seeing something  
947 like this go in there, and all of a sudden we see people calling and wanting to see if  
948 there's spaces for lease in the area now. They want to be in the vicinity and open  
949 new businesses now because of this. It's a good thing we got to this building first.

950  
951 Mr. Blankinship - It will be a major draw.

952  
953 Mr. Balfour - Any other questions? Anybody else to speak for this  
954 matter? Any opposed? Thank you sir.

955

956 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
957 McKinney, the Board **granted** application **A-6-2002** for a variance to install a walk-  
958 in freezer at 6221 West Broad Street (Parcel 769-741-5273). The Board granted  
959 the variance subject to the following conditions:

960

961 1. Only the improvements shown on the plan filed with the application may be  
962 constructed pursuant to this approval. No substantial changes or additions to the  
963 layout may be made without the approval of the Board of Zoning Appeals. Any  
964 additional improvements shall comply with the applicable regulations of the County  
965 Code.

966

967 2. This approval is subject to all conditions on Plan of Development POD-14-97.

968

969 3. The noise generated by the refrigeration equipment shall not exceed 65 dB at  
970 the property line of the adjoining residence.

971

972 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright

973 5

974 Negative: 0

975 Absent: 0

976

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

983

984 Mr. Balfour - Mr. Secretary.

985

986 **A - 7-2002** **WILLIE LEE JONES, JR.** requests a variance from Sections 24-  
987 95(i)(2)b and (2)a of Chapter 24 of the County Code to build a  
988 storage building at 2707 Hungary Road (Parcel 771-758-6778),  
989 zoned R-3, One-family Residence District (Fairfield). The  
990 accessory structure height limit and accessory structure size limit  
991 are not met. The applicant plans to build a storage building  
992 4,992 square feet in area and 17.67 feet tall, where the Code  
993 permits accessory structures of 960 square feet and 15 feet tall.  
994 The applicant requests a variance of 4,032 square feet  
995 accessory structure size and 2.67 feet accessory structure  
996 height.

997

998 Mr. Balfour - All who plan to speak on this case, stand up. Would both  
999 of you raise your right hand please?

1000  
1001 Mr. Blankinship - Do you swear that the testimony you are about to give is  
1002 the truth, the whole truth, and nothing but the truth, so help you God?

1003  
1004 Mr. Balfour - Would you state your name.

1005  
1006 Mr. Jones Jr. - I do. Willie L. Jones, Jr. I've lived in this area up until  
1007 1946. I was born and raised on my father's home right on Hungary Road. I  
1008 purchased this property from Mr. A. Harvey's estate, possibly about 1942 or '43,  
1009 and I farmed that land until I came out of service, in which time I bought some  
1010 property in Short Pump. After a few years of traveling up and down that distance,  
1011 it became a necessity that I stop farming that land, because I was going to be run  
1012 over by automobiles, coming up and down Hungary Road from Short Pump. I  
1013 abandoned the farming operation and let it grow up. Recently, a few years ago, I  
1014 tried to sell the property, but ran into conflict with the zoning, which claimed that it  
1015 had wetland on it and it was not feasible to go in there and build. In walking over  
1016 the property recently, I found that, at the backside of the property, there is a  
1017 branch that goes down through there, which is a dry weather branch. The only  
1018 time we have any water in the creek back in there was when they had heavy rain.  
1019 But I found the other day when I was walking over the property, that they're  
1020 draining the property behind me, which was the old Laurel Wood Preserving Plant,  
1021 is coming down for the creek down there, and we've got really a gully-washer  
1022 down in there now from the depth that the water's been washed out now. What  
1023 we're asking to do now, being that my property at Short Pump, the Wilton  
1024 Development has bought all the property around my 10 acres I had up there, and I  
1025 am almost forced out of there because I do not want to be in there with people  
1026 running all over my property. We have been over property in Louisa, Hanover,  
1027 Goochland, and Henrico, trying to find property. I'm a widower person, being my  
1028 wife passed away 2 years ago. I have had by-pass on 2 occasions, and I do not  
1029 feel that I can get too far away from the medical attention that I might need in  
1030 future years, being by myself. What we've asked for now is a variance in order to  
1031 build a storage building on the back side of a 3.89 acres that's on here, in order to  
1032 store antique fire equipment that was previously owned by Henrico County, which  
1033 my son has restored and uses in parades and picnics and such things. I also have  
1034 owned 4 antique tractors that I have restored and use those up in Rockville at the  
1035 Antique Days up there. The building we plan on putting up is roughly 105 feet by  
1036 48 feet for storage of this antique equipment. Roughly, it will probably be back off  
1037 Hungary Road 280-285 feet. I intend to build a home on the front part of the  
1038 property, which will be in front of the buildings. I'll have probably 50 feet, at least,  
1039 from the boundary line to my west or north limit, and then the other property will  
1040 probably be 150 feet over there. Many years ago this property was the watering  
1041 point for horses. The well is still there, but it's been covered over; they used to  
1042 have a trough out there on the old dirt road, and horses used to come up and down  
1043 there, and I remember that, that they would water the horses out there on Hungary



1044 Road at that time. I have had no opposition from the neighbors on erecting these  
1045 buildings, and I hope it will be your decision to grant us permission to build there. I  
1046 do want to say that Mr. Lehmann has been very helpful in helping us prepare this  
1047 paper for you.

1048

1049 Mr. Balfour - Thank you sir. Any questions?

1050

1051 Mr. Kirkland - What is the height of this building?

1052

1053 Mr. Jones Jr.- Seventeen feet, 5 inches.

1054

1055 Mr. Kirkland - Will that be seen from Hungary Road? Is it over the house  
1056 you're going to build? Is it taller than the house?

1057

1058 Mr. Jones Jr.- The land slopes back into the back there, so the slope into  
1059 the backside there, so it possibly could be seen from Hungary Road. I don't say it  
1060 will not be, but it will be 285 feet, the house and trees between it, which the  
1061 contractor says will have to have a place 10 feet cleared all the way around the  
1062 building for them to erect the building there.

1063

1064 Mr. Wright- Is the lot fully wooded?

1065

1066 Mr. Jones Jr.- Yes. It's grown up, it's got some pines. I was in it the  
1067 other day, looking at it with the possibility of going in and cutting out some of the  
1068 brush underneath there. The property, at the back side of it, the weevils went  
1069 through the pines and just about killed out all the pines in there. Many of them fell  
1070 all over and everything out back in the back in there.

1071

1072 Mr. Kirkland - You stated there's some wetlands on the property. Has a  
1073 wetlands study been done or anything like that, to make sure that your building  
1074 isn't involved in that area?

1075

1076 Mr. Jones Jr.- There's no wetland up at this part. In the back,  
1077 approximately 4 acres back in there, in May, the engineers went back in there and  
1078 said it was wetland, and also, Neil Farmer wrote it up as a flood plain, and I've had  
1079 the County to go in there for tax purposes, and they claim it is not a flood plain in  
1080 it. Many years ago when they built the Laurel Lake, water used to flow through  
1081 our property, but when they built Laurel Lake they put an abutment across there  
1082 and turned the water into Laurel Lake, and therefore, we had to start to watering  
1083 the cattle from the well at home. That is a dry branching hole in the back, but it is  
1084 classified as wetland back in there, back behind this part.

1085

1086 Mr. Wright- What is the size of the entire parcel that you're talking  
1087 about here?

1088  
1089 Mr. Jones Jr.- Acreage? 3.89.  
1090  
1091 Mr. Wright- That's the whole thing?  
1092  
1093 Mr. Jones Jr.- No, it's 7 and a third acres, I believe, in the whole thing.  
1094  
1095 Mr. Wright- You said something about 4 acres in addition, so you've  
1096 got .....

1097  
1098 Mr. Jones Jr.- Well that was in the backside of this property here, back  
1099 the 4 acres behind where this building would be, but it narrows into a narrow  
1100 portion back there.  
1101

1102 Mr. Kirkland - So you've owned lots 15 and 16 as stated on our plat, is  
1103 that what you're trying to say?  
1104

1105 Mr. Jones Jr.- Correct sir.  
1106

1107 Mr. McKinney- Mr. Jones, what's the height of your tractors?  
1108

1109 Mr. Jones Jr.- The restored tractors would probably be about 5 feet. I  
1110 have a diesel tractor that will probably go about 7 feet. That's a farm tractor that  
1111 I use.  
1112

1113 Mr. McKinney - Well what's the necessity of having such a ceiling height  
1114 this high?  
1115

1116 Mr. Jones III - I'll take care of it.  
1117

1118 Mr. Balfour - Would you state your name first please  
1119

1120 Mr. Jones III - Willie Lee Jones III.  
1121

1122 Mr. Balfour - You were sworn in a minute ago?  
1123

1124 Mr. Jones III - Yes sir. The property is 3 parcels. We tried asking the  
1125 question about why it's not considered 1, when Mr. Lehmann and I talked, and I  
1126 think I talked to Mr. Blankinship as well. The first property that you see up there is  
1127 one parcel, the County zoning or permits consider only that one parcel; they don't  
1128 consider the other 2 parcels. My understanding of that reasoning is, if we ever  
1129 wanted to develop, or if somebody wanted to buy that piece of property and put a  
1130 house on it, they don't consider them all as one. I know he's the only owner, but  
1131 they consider it three pieces, so it is 7.03 acres I think, total amount. The piece

1132 that is in question is 3.-some acres; I'm not sure of the exact amount. To your  
1133 question about the height problem, one of the first vehicles I acquired was a  
1134 Henrico County HazMat vehicle. If you remember, the firefighters purchased this  
1135 vehicle themselves, and it was the first HazMat piece. This thing stands, and I  
1136 don't know if you want a picture of it up there or over here; this thing stands, as  
1137 you can see, all three of the other vehicles are about 10 feet tall. The height  
1138 restriction for the hazmatt is 11 feet, 2, I believe, tall from ground level to the top  
1139 of the truck. Because of that we have to have a 12-foot door to get the truck in  
1140 the building. Because of that, because of the pitch, in one of your drawings it  
1141 shows the pitch will require the top height, I think, to be 17 foot 5 inches, I  
1142 believe, and that would be the reasoning why. These are some of the other  
1143 pictures of the trucks. These are the smaller trucks that I own. This one served at  
1144 Station 11 and Station 5 in Henrico County. These are smaller trucks, but the  
1145 HazMat truck, being the very first HazMat unit Henrico ever had, it has some  
1146 historical significance to it. I've been in discussions with battalion chiefs now, that  
1147 they're looking to either start using this truck again, on a need-by-need basis, not  
1148 this one I'm sorry, the hazmatt truck itself, for rehab on a large-scale fire that they  
1149 could come and borrow my truck, or either I could bring it to them and let them use  
1150 it, on a need-by-need basis. It's doubtful that will happen; Henrico is looking to  
1151 purchase a new rehab truck for them. But that's the reasoning on the height  
1152 problem.

1153  
1154 Mr. Balfour- Does Russell Avenue come up to that property? I notice  
1155 on our vicinity map it says Wakefield Road next to Mayfair, and your plan shows  
1156 Russel Avenue. Am I correct that they're the same, name change?

1157  
1158 Mr. Jones Jr. - Russell Avenue never was put through. It's all grown up;  
1159 it's a piece of property back in there.

1160  
1161 Mr. McKinney- Mr. Jones III, you're telling us about the height. You  
1162 don't have to put an A-roof on this building.

1163  
1164 Mr. Jones III - Yes sir.

1165  
1166 Mr. McKinney- You don't have to put an A-roof on this building.

1167  
1168 Mr. Jones III - Oh I do not?

1169  
1170 Mr. McKinney - You could put a fat, one-half or one-to-twelve fat roof, or  
1171 standing clean roof on it, and you would not have to worry about this as far as the  
1172 height is concerned.

1173  
1174 Mr. Jones III - I was told that it had to be a 4-12 pitch.

1175

1176 Mr. McKinney - Who told you it had to be a 4-12?  
1177  
1178 Mr. Jones III - Mr. Lehmann, L-e-a-m-a-n .....  
1179  
1180 Mr. McKinney - Why does it have to be a 4-12; why couldn't it be a built-  
1181 up slope?  
1182  
1183 Mr. Jones III - I don't know; I'm just going by what I was told sir.  
1184 Maybe I'm mistaken as to why, but that was what we were told for the load ratio,  
1185 for the County requirements to be a 4-12.  
1186  
1187 Mr. McKinney - It's a 80-20 load in both the Code and Henrico County,  
1188 and that could be a flat half or 1-to-12 pitch.  
1189  
1190 Mr. Jones III - That would be fine. We don't have a problem with that.  
1191 The concern we have also, is that it's being considered a storage building. I was  
1192 the one who worded it; I called it a storage building. It's storing fire trucks; it's  
1193 storing tractors. Some people have told me I should have called it a pole barn;  
1194 some people told me I should have called it a garage. I was concerned that when  
1195 you see a 4,000+ square foot building called a garage, you're thinking 24-hour  
1196 operation of maintenance of automobiles and such; that's not happening. This is  
1197 actually just a building that we're currently, I don't have this building out at Short  
1198 Pump at my dad's current property, which I think you referred to as the donut hole  
1199 in this property, that was stopping Wilton from building. The buildings that we  
1200 have out there, he has a building, and I have a building that we're storing 3 of  
1201 these trucks in. The first Monday in February I have to go to South Boston; the  
1202 first ladder truck Henrico County ever had; they're negotiating for me to take it  
1203 back and bring back. That also would play into the size of this building. These 4  
1204 trucks themselves would not take up this full space, obviously. The tractors and  
1205 his shop to be able to do woodworking in, whatever else, lawnmower storage and  
1206 all, would be part of this building.  
1207  
1208 Mr. McKinney - Your dad, I presume, who was talking about the wetlands  
1209 and so forth; this was done on February 8, 1996, by Neil Farmer.  
1210  
1211 Mr. Jones III - Would that be the letter regarding the possible  
1212 development?  
1213  
1214 Mr. McKinney - And it's stated by Mr. Glover about zoning this property;  
1215 well, it's no longer in the Brookland District; it's in the Fairfield District, and it  
1216 would come under Mr. Thornton now. These units you have now, you keep them  
1217 where?  
1218  
1219 Mr. Jones III - Short Pump, at Nuckols Road, Shady Grove area, across

1220 from Station 16.

1221

1222 Mr. McKinney - And that's the property they're getting ready to develop?

1223

1224 Mr. Jones III - Yes sir, Wilton Properties bought all the farms around us.  
1225 They came before this Board, I'm assuming, to try to get it developed, and I think  
1226 you referred to it as the donut hole. My father's property sits right in the middle,  
1227 and unless they acquired his property, then they would not be able to develop  
1228 around him. The other problem is, with having other friends and family and  
1229 neighbors who have had farms with developments built up, he was still operating  
1230 bailing hay, raising ponies, and such, the fear of children cutting their hands on  
1231 barbed wire, smoking in the barn, setting the barn on fire, feeding the ponies and  
1232 horses items and things that you wouldn't want to be feeding them, he felt the  
1233 need to move. We spent the last year, since he signed the contract, looking in  
1234 Rockville, Goochland, all over, trying to find something suitable, close enough for  
1235 him, plus that I could put this facility on. Since he's owned the property since the  
1236 '40's, it's a family, you know, my grandparents' farm, and my uncle's farm, and  
1237 operations are all right there beside it. It made sense that at this point, this is  
1238 where we have to get to. If this variance is approved, then we have the  
1239 opportunity to build there. But he has to be out by January 2003.

1240

1241 Mr. McKinney - When do you restore these vehicles?

1242

1243 Mr. Jones III - When? It comes in varying stages, the ones I've acquired,  
1244 the HazMat and the jeep that I got, which was the last red Fire Chief Henrico had,  
1245 they were restored by the Paint Shop out at Ridgefield Body and Paint; they did the  
1246 body work on the jeep. The lettering was done by Decals Unlimited at their facility  
1247 in Chester. When we're talking restoring, I'm not talking about tearing the whole  
1248 thing down and putting it back together.

1249

1250 Mr. McKinney - What type of work do you do?

1251

1252 Mr. Jones III - I own a fire sprinkler supply company. I sell sprinkler  
1253 materials to the sprinkler contractors.

1254

1255 Mr. McKinney - And your hours of operation at the sprinkler supply?

1256

1257 Mr. Jones III - That I work at? I work out of my home as a  
1258 manufacturer's rep agent. Basically, my theory is, whenever the phone rings and  
1259 somebody needs something, and I answer the phone, then we're in business.

1260

1261 Mr. McKinney - So if you get one of these vehicles from the County or  
1262 wherever, you'd be working on it at night and weekends and so forth?

1263

1264 Mr. Jones III - Pretty much. Most of the time, the only thing I've ever  
1265 done with them is, everything's been done outside of our building. I change the oil,  
1266 just like people change the oil in the car at their house. The fire truck painting has  
1267 always been done outside, because I don't have a paint shop, and this is not going  
1268 to be a paint shop. Any body work, we've never done any body work on any of  
1269 the vehicles yet.

1270  
1271 Mr. McKinney - So what do you really consider this, a museum?  
1272

1273 Mr. Jones III - No, we carry funerals. A firefighter, fallen firefighters, we  
1274 carried Chief Finnigan from the City of Richmond recently. His casket from  
1275 Laburnum Road all the way out to Westhampton on the back of one of our club  
1276 trucks. We carry them to shows, parades, birthday parties. A lot of times people  
1277 will call Henrico Fire asking them to bring a fire truck to a birthday party.  
1278

1279 Mr. McKinney - Do you charge for this service?  
1280

1281 Mr. Jones III - No sir.  
1282

1283 Mr. McKinney - You never charge anything for it?  
1284

1285 Mr. Jones III - No sir. Now we're given donations from different people,  
1286 yes, but it goes to the club, which is the Old Dominion Historical Fire Society,  
1287 totally different entity. I'm an individual member of that group, but we do not  
1288 charge for the service. I've brought them to Public Safety Day with Henrico  
1289 County. Several battalion chiefs have asked me to bring equipment to their open  
1290 houses at their stations and such.  
1291

1292 Mr. McKinney - Because you're asking for this use right in the middle of  
1293 an R-3 zoning residential district. Thank you.  
1294

1295 Mr. Wright- You talked about ponies and farming and bailing hay and  
1296 all, where is all that going to take place?  
1297

1298 Mr. Jones III - That was out at the Short Pump facility; my father's not  
1299 planning on continuing that at this location, no sir.  
1300

1301 Mr. Jones, II I'll sell you some ponies if you're interested.  
1302

1303 Mr. Kirkland - Let me ask you just one more question. Your father's  
1304 going to live in the house, but the facility or the building, you're going to use for  
1305 storage?  
1306

1307 Mr. Jones III - As well as him; he has his tractors that he's restored.

1308  
1309 Mr. Kirkland - You're not going to live in the house on those premises?  
1310  
1311 Mr. Jones III - No sir, I live at 9625 Peppertree Drive, off Gaskins. It's  
1312 also a consideration, we could probably find an acre of land someplace in the  
1313 County or someplace and put a building. It's a security factor. Obviously, if the  
1314 building's out there in the middle of nowhere and nobody's there to watch it. At  
1315 lease with him at this facility, he lives there, he'll be going down there piddling  
1316 with his tractors, cutting grass, whatever.  
1317  
1318 Mr. Wright- Let me ask Mr. Blankinship a question. Could you explain  
1319 why they're restricted to 960 square feet for accessory structures on such a large  
1320 parcel of land?  
1321  
1322 Mr. McKinney - That's a Code requirement.  
1323  
1324 Mr. Wright- I just want to get this in the record.  
1325  
1326 Mr. Blankinship - The Code requires that accessory buildings be no larger  
1327 than 30% of the required rear yard area of the lot, not the actual rear yard area,  
1328 but multiplying the required width by the required rear yard. We've gone back and  
1329 forth in years past, on whether it should be the other way, but the point is to have  
1330 a consistent requirement for everybody in the district so that in a residential district  
1331 you don't get 4,000 square foot accessory buildings popping up without somebody  
1332 having had a chance to review that and determine on a case-by-case basis whether  
1333 that's going to fit into the neighborhood.  
1334  
1335 Mr. McKinney - What size lot would that 960 feet be concerned with?  
1336  
1337 Mr. Blankinship - I guess 80 feet wide.  
1338  
1339 Mr. Wright - Less than an acre?  
1340  
1341 Mr. Blankinship - Oh certainly, a quarter acre.  
1342  
1343 Mr. Wright- Quarter acre? So we're comparing this to what would be  
1344 required for a quarter acre when you've got 10 acres here.  
1345  
1346 Mr. Blankinship - Right. There certainly is a different circumstance here  
1347 from the property across the street.  
1348  
1349 Mr. Wright- My point is that reduces it. It looks like such a large  
1350 variance when you ask for a 4,000 square foot variance, but that's almost like  
1351 comparing apples and oranges.

1352  
1353 Mr. Blankinship - Yes sir. If you look at the map, across the street there,  
1354 you see how it's normally applied; you see normal size R-3 lots and normal size  
1355 accessory buildings in the rear yards, and that's what the Code is written to  
1356 control. In a case like this, the County's position is that it does need case-by-case  
1357 review by the Board, but that it may be reasonable to relax that standard in specific  
1358 cases.

1359  
1360 Mr. Wright- Would it be said that in view of the size of the lot, this  
1361 would, wouldn't something be out of the ordinary, unreasonable to think that way?  
1362

1363 Mr. Blankinship - That's the Board's discretion, yes sir.  
1364

1365 Mr. Jones III - If you notice on there, when I first drew that drawing  
1366 there, and I'm no architect by any means, but I thought that because he owned 7  
1367 acres, you would figure that figure in, and Mr. Lehmann said, "no, it would be the  
1368 3 acres," is what he was figuring. When you throw the other 4+ acres in there ...  
1369

1370 Mr. Wright- It doesn't help you as far as the Code is concerned  
1371 because they're figuring like you had a quarter acre.  
1372

1373 Mr. Jones III - Yes sir, and we have no objection to turning the building  
1374 lengthwise, sideways, whatever direction, and the gentleman on the end, I have no  
1375 problems going back to the building guy and asking him about the height, but  
1376 that's what we went with because of the 12 foot door.  
1377

1378 Mr. Balfour- What's the width of your lot?  
1379

1380 Mr. Jones III - I thought it was 226; Mr. Lehmann said it was 335 feet.  
1381

1382 Mr. Balfour- A hundred yards.  
1383

1384 Mr. Kirkland - You wouldn't have any problem turning the building 48  
1385 feet facing Hungary?  
1386

1387 Mr. Jones III - You mean up and down no, doesn't really matter. I don't  
1388 thing that was the consideration. I think it was the size of the building to the  
1389 square footage of the lot. I had it figured at 3,000,000 some square feet, with all  
1390 the 7.- some acres..  
1391

1392 Mr. Kirkland - I just wondered, when all the trees are trimmed and the  
1393 building's put up, and I'm riding down Hungary Road and I look over top of the  
1394 house, will I look at this huge metal building? Forty-eight feet is a lot narrower  
1395 than 105 feet, and that's what I was trying to get to.



1396  
1397 M. Jones III - We've talked to one guy who was the developer of the  
1398 house, and he said he could build the building himself and design it similar to what  
1399 the house design is, which would be a darker color , which would blend in with  
1400 the woods. I mean the metal buildings can come in different colors – white, red,  
1401 pink, green, blue.

1402  
1403 Mr. Kirkland - What brand building is this?  
1404

1405 Mr. Jones III - Well the one building here was a Morton building; I mean  
1406 there's several different manufacturers out there. We really don't have a set one.  
1407 This is the one we've talked to first, and I think you had that in your packet. If the  
1408 height restriction's a problem, I can talk to him about that. We went with the 12-  
1409 foot door because of the heavy rescue HazMat truck, and because of that he went  
1410 to 17, whatever it was, on that other pitch.

1411  
1412 Mr. Balfour - Any other questions? Anyone else in the audience wish to  
1413 speak?  
1414

1415 Mr. Jones Jr. - I might say that I didn't know this property had been  
1416 rezoned R-3, because I had it in agriculture all those years and didn't know it until I  
1417 got ready to fool with this stuff.

1418  
1419 Mr. McKinney- You should have known it when you got the taxes on it.  
1420

1421 Mr. Jones Jr. - I didn't pay too much attention to it; I just paid them.  
1422

1423 Mr. Balfour - Thank you sir.  
1424

1425 Upon a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board of Zoning  
1426 Appeals **denied** your **A-7-2002** application for a to build a storage building at 2707  
1427 Hungary Road (Parcel 771-758-6778). The Board denied your request as it found  
1428 from the evidence presented that authorizing this variance would be of substantial  
1429 detriment to adjacent property or would materially impair the purpose of the zoning  
1430 regulations.

1431  
1432 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright  
1433 5

1434 Negative: 0

1435 Absent: 0

1436

1437 Mr. Balfour - Next case.  
1438

1439 **A - 8-2002 LILLAH D. AND WILLIAM J. HEISEY** request a variance from

1440 Section 24-94 of Chapter 24 of the County Code to build a  
1441 screened porch on the existing deck at 2748 Rudwick Road  
1442 (Mountain Woods) (Parcel 774-767-7692), zoned R-2AC, One-  
1443 family Residence District (Conditional) (Fairfield). The rear yard  
1444 setback is not met. The applicants have 35.6 feet rear yard  
1445 setback, where the Code requires 45 feet rear yard setback.  
1446 The applicants request a variance of 9.4 feet rear yard setback.  
1447

1448 Mr. Balfour - Anyone else to speak on this case? Raise your right hand  
1449 please?  
1450

1451 Mr. Blankinship - Do you swear that the testimony you are about to give is  
1452 the truth, the whole truth, and nothing but the truth, so help you God?  
1453

1454 Mr. Balfour - Would you state your name.  
1455

1456 Mr. Heisey - My name is William Heisey. We purchased this house a  
1457 year and a half ago, a new house, and at the time we purchased it, we had a lot of  
1458 options, but one of them was a screened in porch. We decided at that time not to  
1459 do it. After having a few summers there, we decided that that was not a good  
1460 decision because of mosquitoes and bugs, and there are a lot of trees on our lot  
1461 and behind our house. What our plan is, the existing deck there is 12 by 18, and  
1462 we plan to put a screened-in porch there, and then right beside it build a 12 by 15  
1463 covered deck in addition to that.  
1464

1465 Mr. Kirkland - You're going to cover the new deck that you're going to  
1466 add, put a roof over it?  
1467

1468 Mr. Heisey - Yes, it's going to conform with the other roof for the  
1469 screened-in porch.  
1470

1471 Mr. Wright- What's located behind your property, please?  
1472

1473 Mr. Heisey - There are a few homes way back from our home, but it's  
1474 basically trees behind our home that separate us from any neighbors in the rear.  
1475 You don't see them until the winter when all the trees have lost their leaves. I  
1476 think there's 2 homes back there.  
1477

1478 Mr. Balfour - Any other questions by Board members? A covered porch  
1479 beside a screened porch, so you're really going to have 2 porches? Any other  
1480 questions? There appear to be none. Anyone else to speak on this case?  
1481

1482 After an advertised public hearing and on a motion by Mr. McKinney, seconded by  
1483 Mr. Wright, the Board **granted** application **A-8-2002** for a variance to build a

1484 screened porch on the existing deck at 2748 Rudwick Road (Mountain Woods)  
1485 (Parcel 774-767-7692). The Board granted the variance subject to the following  
1486 condition:

1487  
1488 1. The property shall be developed in substantial conformance with the  
1489 plan filed with the application. No substantial changes or additions to the  
1490 layout may be made without the approval of the Board of Zoning Appeals.

1491  
1492 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright  
1493 5  
1494 Negative: 0  
1495 Absent: 0  
1496

1497 The Board granted this request, as it found from the evidence presented that, due  
1498 to the unique circumstances of the subject property, strict application of the  
1499 County Code would produce undue hardship not generally shared by other  
1500 properties in the area, and authorizing this variance will neither cause a substantial  
1501 detriment to adjacent property nor materially impair the purpose of the zoning  
1502 regulations.

1503  
1504 Mr. Balfour - Mr. Secretary?  
1505  
1506 **A - 9-2002** **ALLAN S. WAX** requests a variance from Section 24-94 of  
1507 Chapter 24 of the County Code to build a screened porch over  
1508 the existing deck at 10301 Shady Mill Court (Millstone) (Parcel  
1509 737-778-2664), zoned R-3C, One-family Residence District  
1510 (Conditional) (Three Chopt). The rear yard setback is not met.  
1511 The applicant has 33 feet rear yard setback, where the Code  
1512 requires 40 feet rear yard setback. The applicant requests a  
1513 variance of 7 feet rear yard setback.  
1514

1515 Mr. Balfour - Anyone else to speak on this case. Would you raise your  
1516 right hand please?  
1517

1518 Mr. Blankinship - Do you swear that the testimony you are about to give is  
1519 the truth, the whole truth, and nothing but the truth, so help you God?  
1520

1521 Mrs. Wax - I do.  
1522

1523 Mr. Balfour - Would you state your name please. Proceed.  
1524

1525 Mrs. Wax - Yes sir, my name is Katherine Wax. My husband and I  
1526 would like to build a screened-in porch over the existing deck, which is about 12 by  
1527 12. The dimensions would be the same. It wouldn't encroach any further than the

1528 existing deck is. Aesthetically, it would match the house with vinyl siding, and the  
1529 roof shingles would match, the pitch of the roof would match the 4-foot extension  
1530 that you see on the family room in that back elevation. We would also wrap the  
1531 posts in white vinyl. If you can see, the front porch is wrapped that way, so we  
1532 would also make sure that it matches that and goes along with the trim of the  
1533 house. There would be no change in the landscaping. Any builder that we've  
1534 talked to said that they could build it without disrupting any of my landscaping  
1535 there. The property backs up to the main street going through, which is Millstone  
1536 Landing Drive, and the property looks into, you can see that brick wall there.  
1537 There is a wood picket fence that meets that and follows it to the end of Millstone,  
1538 and there's a sidewalk there for residents to use for walking and biking trails. We  
1539 would absolutely want it to be aesthetically pleasing to that whole view and plan to  
1540 make it so.

1541

1542 Mr. Wright- Your house faces on Shady Mill Court?

1543

1544 Mrs. Wax - The front elevation, yes sir, is on Shady Mill Court,

1545

1546 Mr. Wright- Because this would be on the rear of the house, and it  
1547 seems the rear of the house faces Millstone, is that correct?

1548

1549 Mrs. Wax - Yes sir, that's correct. That's the main thoroughfare  
1550 through the subdivision of Millstone.

1551

1552 Mr. Wright- Do you know how many feet there are from the rear of  
1553 your house to Millstone, any idea of the distance?

1554

1555 Mrs. Wax - I don't know. I know that we're asking for a 7-foot  
1556 variance, and it says we have a 33-foot rear setback, and it's required for 40 feet.  
1557 I guess that the 33 feet would be what's there now. The deck comes out that far.

1558

1559 Mr. Wright- There's a wooden fence there, and there seems to be a  
1560 walk. Is that on your property?

1561

1562 Mrs. Wax - Yes. No sir. That's, I guess, community property. The  
1563 subdivision has walking trails through it, the sidewalk, the brick fence and the other  
1564 picture you had up there, the wooden fence meets that, and all of that is  
1565 maintained by the community association.

1566

1567 Mr. Balfour- The brick fence has got Shady Mill written on it – is that  
1568 behind your house? The space from the brick to the street is either county or  
1569 community owned. So your 40 we're talking about goes to the brick fence, I  
1570 suspect, is that right.

1571

1572 Mrs. Wax - Yes sir, that's correct.  
1573  
1574 Mr. Balfour- Then it looks like another 2-3 yards from there to the  
1575 street.  
1576  
1577 Mr. Kirkland - How high is the wood fence that attaches to the brick  
1578 wall?  
1579  
1580 Mrs. Wax - I would guess it's about 3 feet. Almost the same height.  
1581 There are pillars on the ends of the wall that make it a little higher, but it's about  
1582 the same height as that brick wall, so about 3 feet.  
1583  
1584 Mr. Kirkland - Did you plant that grass there?  
1585  
1586 Mrs. Wax - In front of the brick wall?  
1587  
1588 Mr. Kirkland - Or behind it, next to your house.  
1589  
1590 Mrs. Wax - Yes.  
1591  
1592 Mr. Kirkland - It grows pretty good.  
1593  
1594 Mrs. Wax - My husband has a really good green thumb and is really  
1595 proud of his grass.  
1596  
1597 Mr. Wright- Mr. Blankinship, I'm really confused. Judging from what I  
1598 know about surveys, it looks like to me, her property extends, and that heavy line  
1599 is her property line, and there's a little dotted line across there along that wood  
1600 fence, but that's not her property line, is it?  
1601  
1602 Mr. Blankinship - It's labeled "planning strip easement," and there is a  
1603 requirement in this case that the rear setback be measured, be "in addition to the  
1604 easement."  
1605  
1606 Mr. Wright- Doesn't it go to her property line? Don't you measure it  
1607 from her property line?  
1608  
1609 Mr. Blankinship - In the general case you would, but there are specific cases  
1610 where, I believe it's a proffered condition on the zoning, that the rear yard setback  
1611 will be "in addition to the easement."  
1612  
1613 Mr. McKinney - That's not in the staff report.  
1614  
1615 Mr. Blankinship - No sir, it's not.

1616  
1617 Mr. Kirkland - That's probably done in the zoning case for the whole  
1618 subdivision.  
1619  
1620 Mr. Blankinship - Right.  
1621  
1622 Mr. Balfour- Looks like what they're trying to say is that maybe you  
1623 don't have as much need as you think, but that's not before us at this point. There  
1624 may be a restriction required by the subdivision to begin with.  
1625  
1626 Mr. McKinney- Who maintains that strip easement, Mrs. Wax?  
1627  
1628 Mrs. Wax - The Community Association in front of and to the side of  
1629 the wall and the fencing. They maintain all of the shrubbery and the grass there,  
1630 and there's also gas lights; they maintain those.  
1631  
1632 Mr. McKinney- So you pay dues to this?  
1633  
1634 Mrs. Wax - Yes sir.  
1635  
1636 Mr. McKinney- And the association maintains it, cuts the grass and so  
1637 forth?  
1638  
1639 Mrs. Wax. - Yes sir.  
1640  
1641 Mr. Balfour - Any other questions? Anyone else in the audience wish to  
1642 speak on this matter? Thank you, Mrs. Wax.  
1643  
1644 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
1645 McKinney, the Board **granted** application **A-9-2002** for a variance to build a a  
1646 screened porch over the existing deck at 10301 Shady Mill Court (Millstone)  
1647 (Parcel 737-778-2664). The Board granted the variance subject to the following  
1648 conditions:  
1649  
1650 1. Only the improvements shown on the plan filed with the application may be  
1651 constructed pursuant to this approval. No substantial changes or additions to the  
1652 layout may be made without the approval of the Board of Zoning Appeals. Any  
1653 additional improvements shall comply with the applicable regulations of the County  
1654 Code.  
1655  
1656 2. A detailed landscaping shall be submitted to the Planning Office with the  
1657 building permit for review and approval.  
1658

1659 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright  
1660 5  
1661 Negative: 0  
1662 Absent: 0  
1663

1664 The Board granted this request, as it found from the evidence presented that, due  
1665 to the unique circumstances of the subject property, strict application of the  
1666 County Code would produce undue hardship not generally shared by other  
1667 properties in the area, and authorizing this variance will neither cause a substantial  
1668 detriment to adjacent property nor materially impair the purpose of the zoning  
1669 regulations.

1670  
1671 Mr. Balfour - Next case.  
1672

1673 **A - 10-2002** **LOUIS AVELLI** requests a variance from Section 24-41(d) of  
1674 Chapter 24 of the County Code to build a townhouse at 6709  
1675 Ridgedale Court (Courtland at Wyndham) (Parcel 740-777-  
1676 8107), zoned RTHC, Residential Townhouse District  
1677 (Conditional) (Three Chopt). The minimum side yard setback is  
1678 not met. The applicant has 9.5 feet minimum side yard  
1679 setback, where the Code requires 10 feet minimum side yard  
1680 setback. The applicant requests a variance of .5 feet minimum  
1681 side yard setback.  
1682

1683 Mr. Balfour - All who are going to speak on this case, please stand.  
1684 Raise your right hand?  
1685

1686 Mr. Blankinship - Do you swear that the testimony you are about to give is  
1687 the truth, the whole truth, and nothing but the truth, so help you God?  
1688

1689 Mr. Balfour - State your name please.  
1690

1691 Mr. Avelli - I do. Good morning. I am Louis Avelli, and we're asking  
1692 for the 6 inches, half a foot, variance on the setback there. We have a town  
1693 home, which we wish to build there, and have also built the same town home on  
1694 the project before. Obviously, we went over the side setback we did from the  
1695 original building, which you have a picture of, A-10-2002 is the original building,  
1696 which we then have altered to the new design which shows on the plot, and we  
1697 still came up 6 inches over the line. We felt that to alter any more, make it  
1698 smaller, that is a 2-bedroom unit, and that is a front bedroom, would hurt the sales  
1699 and marketability of the unit because we would have to decrease more than 6  
1700 inches to make it aesthetically pleasing for the neighborhood.  
1701

1702 Mr. Balfour - Any questions? The next one over have to be built the

1703 same?

1704

1705 Mr. Avelli - No sir the next one over, which would be Q building, was  
1706 approved by Henrico County. Yesterday we picked up the permit for that building.

1707

1708 Mr. Balfour - Any other questions?

1709

1710 Mr. Blankinship - Let me just clarify one thing about the photographs, Mr.  
1711 Chairman. We took the one photograph showing some of the existing homes, just  
1712 to give you an idea of what they look like, that's just another set of town homes  
1713 on the same site. The photograph below is this site, but it doesn't really give you  
1714 that much information, so that's why we included them both.

1715

1716 Mr. McKinney- How about these photographs had been cleared. It looks  
1717 like a lot of erosion coming off of them, what are they Mr. Blankinship?

1718

1719 Mr. Blankinship - Well, the property had been cleared, had been cleared for  
1720 2 years.

1721

1722 Mr. Avelli - Yes sir, the site was cleared; there is approximately 16  
1723 town homes, 3-unit, 4-unit, 5-unit town homes. We paid for a developer to come  
1724 in and develop all the building pads at one time. Hence, that's why you see all the  
1725 clearing there.

1726

1727 Mr. Wright- They got all the streets in, the street signs, everything.

1728

1729 Mr. Avelli - Yes sir, we are at this point coming up on 2/3 through the  
1730 project, street signs, the fire lane signs, where appropriate, are in, and the road has  
1731 its first coat of asphalt, and our plan is to, in our completed 2 cul-de-sacs this  
1732 spring, put the second coat of asphalt down.

1733

1734 Mr. Balfour - Any other questions by Board members? Anyone else to  
1735 speak on this case? Thank you.

1736

1737 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
1738 Nunnally, the Board **granted** application **A-10-2002** for a variance to build a  
1739 townhouse at 6709 Ridgedale Court (Courtland at Wyndham) (Parcel 740-777-  
1740 8107). The Board granted the variance subject to the following conditions:

1741

1742 1. This variance applies only to the minimum side yard setback. All other  
1743 applicable regulations of the County Code shall remain in force.

1744

1745 2. This approval is subject to all conditions of Plan of Development POD-106-  
1746 96.



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

Negative: 0  
Absent: 0

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

Mr. Balfour - Next case? We're going to take the next 2 together I assume.

**UP- 1-2002** **W. C. ENGLISH, INC.** requests a conditional use permit pursuant to Sections 24-52(d) and 24-103 of Chapter 24 of the County Code to extract materials from the earth at 3541 Britton Road (Parcels 827-697-3933 and 826-697-0978), zoned A-1, Agricultural District (Varina).

**UP- 2-2002** **W. C. ENGLISH, INC.** requests a conditional use permit pursuant to Sections 24-52(d) and 24-103 of Chapter 24 of the County Code to extract materials from the earth at 6919 Monahan Road (Parcel 822-699-9433), zoned A-1, Agricultural District (Varina).

Mr. Balfour - Anyone else to speak on this case? Would you raise your right hand please?

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

Mr. Balfour - State your name.

Mr. Higginbotham - I do. James Higginbotham, with W. C. English. Members of the Board, the UP-1-2002 is an existing borrow pit that we use for the construction of I-895. The Britton Road overpass project, which virtually adjoins this property, is now coming to fruition. Apparently the citizens on Britton Road were concerned that they were initially cul-de-sacs, and they had been promised that there would be an overpass, so I think the County has resolved that issue and is currently negotiating right-of-way, so my understanding is that Britton Road project is imminent and will be constructed. It requires an estimated 60,000 yards on each side of Britton Road. The restrictions on the borrow pit state that I can

1791 only use material with access through 895, and technically, this Britton Road, will  
1792 have an approach field coming up, and I'm going to guess, 3-400 yards on each  
1793 side of the 895 corridor. We're asking that this borrow pit be extended with  
1794 basically the same conditions, but that we be allowed to access Britton Road to get  
1795 the material onto the project.

1796  
1797 The second use permit is UP-2-2002, and the actual 895 project, the quantities for  
1798 borrow ran way under. We actually started clearing a sediment basin on this  
1799 property and then basically stopped when we realized that the quantity was not  
1800 going to be needed. The airport connector, and I understand that the right-of-way  
1801 has been given for the airport connector, and the design phase is nearing  
1802 completion, and so we are asking that this borrow pit at 6919 Monahan Road be  
1803 utilized to construct that airport connector which ties into the 895 project. Again,  
1804 currently I cannot do that because the restriction is that I can only access the  
1805 borrow pit through 895, and we would have to, depending on where the ramps  
1806 are, we're going to have to cross Monahan Road to get to the project and I think  
1807 on preliminary plans that I've seen, there are going to be a ramp coming and  
1808 intersecting in Monahan Road, so we would get on Monahan and go down to that  
1809 ramp and proceed onto the project. That's pretty much it in a nutshell. Both of  
1810 these borrow pits – the first borrow pit again has been in operation probably 2  
1811 years. This pit was approved but never opened up and utilized as a borrow pit.

1812  
1813 Mr. Nunnally- Mr. Higginbotham, you've got 5 of these borrow pits,  
1814 right.

1815  
1816 Mr. Higginbotham - Well, the Schnee Pit is being closed up right now. The  
1817 Gregory Pit is being closed up, and the Preston-Wooten was combined as one, so  
1818 unless I'm missing, the Strath Road never materialized, so we're really got ....  
1819 There are 3 active pits out there right now, yes sir. The Schnee Pit at Osborne  
1820 Turnpike is being restored right now, I mean obviously not right now because of  
1821 the weather, but that pit is basically – no more material is being hauled out of that.  
1822 The Gregory Pit is being restored right now. We did get an extension for the  
1823 Riparian Bench, but that was in the Wooten, so really we've got 3 areas that we  
1824 have extracted dirt from for the 895 construction. We did not start the 4<sup>th</sup> one, the  
1825 Spanos, so actually there are 3 active pits right now sir.

1826  
1827 Mr. Nunnally- Is this the only pit that you can take the topsoil from?

1828  
1829 Mr. Higginbotham - The Britton Road pit is right there at the project. It only  
1830 makes sense to utilize that. The Spanos tract, the other parcels are not even close  
1831 to that airport connector on the UP, and I think maybe that's your question. Does  
1832 that answer your question?

1833  
1834 Mr. Wright- Where do you go on Britton Road, where do you have to

1835 travel to, to get to your job?

1836

1837 Mr. Higginbotham - That's a good question. We're looking at the possibility of  
1838 hauling if the authorities, VDOT or the County will work with us, we have offered  
1839 to actually haul across 895 prior to putting traffic on it, which is scheduled  
1840 somewhere between April and May of this spring, depending on how the bridge  
1841 over the James River goes, that could be postponed a little bit too. But that's one  
1842 option we're looking at. Other than that, I guess you'd have to get on Britton Road  
1843 and go around to Charles City Road and come in that way if traffic gets placed on  
1844 895 prior to the plan.

1845

1846 Mr. Wright- Where are these jobs?

1847

1848 Mr. Higginbotham - Britton Road is right at the entrance to the pit. My  
1849 understanding is FDMK, who is the prime contractor for the 895 project, is  
1850 currently negotiating with Henrico County and VDOT to acquire both the airport  
1851 connector and the Britton Road project. The reason I'm coming to you now, is my  
1852 permit for extraction expires, I believe, in April of this year, and I've got to give you  
1853 60 days notice to ask to get it extended. So I'm trying to get my homework done  
1854 ahead of time to get these approved, so we can proceed on with the construction  
1855 when it comes forth, but I guess to answer your question, English does not have a  
1856 contract right now to build either of these projects. We are asking, because it  
1857 makes sense, to use these current pits.

1858

1859 Mr. Wright- Are you saying that you're negotiating with Henrico  
1860 County to build these projects?

1861

1862 Mr. Higginbotham - English is not; FDMK is.

1863

1864 Mr. Wright- And you'll be doing it for FDMK. So it will be a project for  
1865 Henrico County?

1866

1867 Mr. Higginbotham - Yes sir, a road project. That's my understanding.

1868

1869 Mr. Balfour - Any other questions? I assume the conditions are okay  
1870 with you?

1871

1872 Mr. Higginbotham - It's my understanding that we've got the same conditions  
1873 that we had before, except that we can now actually get out onto the road to haul  
1874 borrow where it's necessary. I don't have a problem with that. To answer Mr.  
1875 Kirkland's question on a well, we did have one lady complain on a well, and we  
1876 went over and determined that her pump had burned out, and I actually offered to  
1877 fix her pump, and actually spent a couple hundred dollars getting it working. But  
1878 she insisted that we hire, and we split the cost, and hired an expert to come in

1879 who determined that the well pump was the problem, not the volume of water. So  
1880 we did have a lot of discussion on all those other borrow pits, and I guess "knock  
1881 on wood," we have not had any problems with wells.

1882

1883 Mr. Kirkland - Mr. Blankinship, didn't we put something in the case  
1884 about wells? Do you think we need to do that on these 2?

1885

1886 Mr. Higginbotham - We're just continuing the same conditions that I had for  
1887 the other one, which required that.

1888

1889 Mr. Balfour - Any other questions? Thank you Mr. Higginbotham.  
1890 Anybody else to speak on this matter?

1891

1892 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
1893 Mr. McKinney, the Board **granted** application **UP-1-2002** for a conditional use  
1894 permit to extract materials from the earth at 3541 Britton Road (Parcels 827-697-  
1895 3933 and 826-697-0978)The Board granted the variance subject to the following  
1896 conditions:

1897

1898 1. This permit is subject to all requirements of Section 24-103 of Chapter 24 of  
1899 the County Code.

1900

1901 2. Monday through Friday hours of operation shall be from 6:00 a.m. to 6:00  
1902 p.m. when Daylight Savings Time is in effect, and from 7:00 a.m. to 5:00 p.m. at  
1903 all other times. Saturday hours of operation shall be 8:00 a.m. to 1:00 p.m.

1904

1905 3. No operations of any kind are to be conducted at the site on Sundays or on  
1906 national holidays.

1907

1908 4. Open and vertical excavations having a depth of 10 feet or more for a period  
1909 of more than 30 days, shall be effectively sloped to a 2 to 1 slope or flatter to  
1910 protect the public safety.

1911

1912 5. All means of access to the property shall be from the public right of way of  
1913 the proposed I-895 or Britton Road.

1914

1915 6. A superintendent who shall be personally familiar with all the terms and  
1916 conditions of Section 24-103 of Chapter 24 of the County Code as well as the  
1917 terms and conditions of UP-1-2002, shall be present at the beginning and  
1918 conclusion of operations each work day to see that all conditions of said Code and  
1919 said Use Permit are carefully observed.

1920

1921 7. Topsoil shall not be removed from any part of the property outside of the  
1922 area in which extraction is authorized. Sufficient topsoil shall be stockpiled on the

1923 property for respreading in a layer with five (5) inches of minimum depth. If the  
1924 site does not yield sufficient topsoil, additional topsoil shall be brought to the site  
1925 to provide the required five-inch layer of cover. All topsoil shall be treated with a  
1926 mixture of seed, fertilizer, and lime as recommended by the County of Henrico after  
1927 the results of soil tests have been submitted to the County of Henrico. All topsoil  
1928 shall be stockpiled within the authorized borrow area and provided with adequate  
1929 erosion control protection.

1930  
1931 8. The rehabilitation of the property shall take place simultaneously with the  
1932 extraction process. Rehabilitation shall not be considered completed until the  
1933 extraction area is covered completely with permanent vegetation.

1934  
1935 9. Responsibility for maintaining the property, fences, and roads in a safe and  
1936 secure condition indefinitely, or for converting the property to some other safe use,  
1937 shall rest with the applicant.

1938  
1939 10. Entrance gates shall be erected and maintained at all entrances to the  
1940 property. These gates shall be locked at all times, except when authorized  
1941 representatives of the applicant are on the property.

1942  
1943 11. Erosion Control Plans shall be submitted to the Department of Public Works  
1944 for review and approval at time of application for the Use Permit. Throughout the  
1945 life of this extraction operation, the applicant shall continuously satisfy the  
1946 Department of Public Works that erosion control procedures are properly handled  
1947 and furnish plans and bonds that the department deems necessary. The applicant  
1948 shall provide certification from a licensed professional engineer that dams,  
1949 embankments and sediment control structures meet standard and approved design  
1950 criteria as set forth by the State.

1951  
1952 12. The areas approved for extraction under this permit shall be delineated on  
1953 the ground by the erection of five (5) foot high metal posts at least five (5) inches  
1954 in diameter and painted in alternate one (1) foot stripes of red and white. These  
1955 posts shall be so located as to clearly define the area in which the extraction is  
1956 permitted. They shall be located, and the location certified by a certified surveyor,  
1957 within ninety (90) days of the date of approval of this use permit by the Board of  
1958 Zoning Appeals, or this use permit is void.

1959  
1960 13. "No Trespassing" signs shall be posted and maintained on the property to  
1961 warn against use of the property by unauthorized persons. The minimum letter  
1962 height shall be three inches and signs are to be posted every 250 feet along the  
1963 perimeter of the property. The applicant shall furnish the Chief of Police a letter  
1964 authorizing enforcement by the County Police Officers of the "No Trespassing"  
1965 regulations, and agreeing to send a representative to court for purposes of  
1966 testimony whenever required or requested by the Division of Police.

1967  
1968 14. Excavation operations shall be discontinued on said site by April, 30, 2004  
1969 and restoration accomplished not later than April 30, 2005 unless a new permit is  
1970 applied for by not later than 60 days before the expiration of the permit, and is  
1971 subsequently granted by the Board of Zoning Appeals.

1972  
1973 15. A financial guaranty satisfactory to the County Attorney shall be posted with  
1974 the Secretary of the Board of Zoning Appeals for extracting materials from 23.44  
1975 acres, in an amount of \$2,000.00 per acre for each disturbed acre of land included,  
1976 for a total of \$46,880.00 guaranteeing that the land will be restored to a  
1977 reasonably level and drainable condition with a minimum slope on the restored  
1978 property being five to one or flatter. The guaranty may provide for the termination  
1979 of the obligations after 30 days notice in writing. Such notice shall be served upon  
1980 the principal and upon the obligee as provided by law for the service of notices. At  
1981 the termination of the aforesaid 30 day notice to the principal, all authority of the  
1982 principal under this use permit to extract materials, and work incident thereto, shall  
1983 cease provided the applicant has not furnished another guaranty suitable to the  
1984 County within said 30 days. The principal shall then proceed within the next  
1985 ensuing 30 days following the termination of its authority under this use permit, to  
1986 accomplish the complete restoration of the land as provided for under the terms of  
1987 this permit. A notice of termination by such surety shall in no event relieve the  
1988 surety from its obligation to indemnify the County of Henrico for a breach of the  
1989 conditions of this use permit.

1990  
1991 16. The applicant shall furnish a certification each year, verifying that the  
1992 guaranty is in effect, premiums have been paid, and the bonding company reaffirms  
1993 its responsibility under the use permit conditions. This certification shall be  
1994 submitted to the Board on April 30th of each year.

1995  
1996 17. This permit does not become valid until the guaranty, required in condition  
1997 No. 15, has been posted with the County, and necessary approval received. This  
1998 must be accomplished within 30 days of the Board's action or the action becomes  
1999 invalid.

2000  
2001 18. A progress report shall be submitted to the Board on April 30th of each year  
2002 during the life of this permit. This progress report must contain information  
2003 concerning how much property has been disturbed to date of the report, the  
2004 amount of land left to be disturbed, and how much rehabilitation has been  
2005 performed, and when and how the remaining amount of land will be rehabilitated,  
2006 and any and all pertinent information about the operation that would be helpful to  
2007 the Board.

2008  
2009 19 If, in the course of its preliminary investigation or operations, applicant  
2010 discovers evidence of the existence of cultural or historical material or the presence

2011 on the site of significant habitat or an endangered species, it will notify appropriate  
2012 professional or governmental authorities and provide them with an opportunity to  
2013 investigate the site and applicant will report the results of such investigation to the  
2014 Planning Office.

2015

2016 20. The applicant shall comply with the Chesapeake Bay Preservation Act and all  
2017 state and local regulations administered under such act applicable to the property  
2018 and shall furnish to the Planning Office copies of all reports required by such act or  
2019 regulations.

2020

2021 21. In the event that an appeal of the Board's approval action is filed, all  
2022 conditions requiring action on the part of the applicant within 90 days are  
2023 considered satisfied if the required actions take place within 90 days of final action  
2024 on the appeal process by the courts.

2025

2026 22. If the Virginia Department of Mines, Minerals and Energy determines that the  
2027 use of this property constitutes a mine, the applicant shall obtain a mine license  
2028 from the Division of Mineral Mining, Virginia Department of Mines, Minerals and  
2029 Energy, within 90 days of such determination, or the use permit is void.

2030

2031 23. No offsite-generated materials shall be deposited on the site unless the  
2032 materials and the plans for their placement have been approved by the Planning  
2033 Office.

2034

2035 24. If the Virginia Department of Mines, Minerals and Energy determines that the  
2036 use of this property constitutes a mine, a sign shall be posted at the entrance to  
2037 the mining site stating the name of the operator, the Henrico use permit number,  
2038 the Division of Mineral Mining mine license number, and the phone number of the  
2039 operator. The sign shall be 12 square feet in area and shall be properly maintained.

2040

2041 25. If the Virginia Department of Mines, Minerals and Energy determines that the  
2042 use of this property constitutes a mine, all drainage and erosion and sediment  
2043 control measures shall conform to the standards and specifications of the Mineral  
2044 Mining Manual Drainage Handbook.

2045

2046 26. If water wells located on surrounding properties are adversely affected, and  
2047 the extraction operations on this site are suspected as the cause, the effected  
2048 property owners may present to the Board evidence that the extraction operation is  
2049 a contributing factor. After a hearing by the Board, this use permit may be revoked  
2050 or suspended, and the operator may be required to correct the problem. The  
2051 applicant shall post a financial guaranty in the amount of \$25,000, satisfactory to  
2052 the County Attorney, guaranteeing compliance with this condition.

2053

2054 27. Failure to comply with any of the foregoing conditions shall automatically  
2055 void this permit.

2056  
2057 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright  
2058 5

2059 Negative: 0  
2060 Absent: 0

2061  
2062 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
2063 Mr. McKinney, the Board **granted** application **UP-2-2002** for a conditional use  
2064 permit to extract materials from the earth at at 6919 Monahan Road (Parcel 822-  
2065 699-9433). The Board granted the variance subject to the following conditions:

2066  
2067 1. This permit is subject to all requirements of Section 24-103 of Chapter 24 of  
2068 the County Code.

2069  
2070 2. Monday through Friday hours of operation shall be from 7:00 a.m. to 7:00  
2071 p.m. when Daylight Savings Time is in effect, and from 7:00 a.m. to 5:00 p.m. at  
2072 all other times. Saturday hours of operation shall be from 7:00 a.m. to 3:00 p.m.

2073  
2074 3. No operations of any kind are to be conducted at the site on Sundays or on  
2075 national holidays.

2076  
2077 4. Open and vertical excavations having a depth of 10 feet or more for a period  
2078 of more than 30 days, shall be effectively sloped to a 2 to 1 slope or flatter to  
2079 protect the public safety.

2080  
2081 5. All means of access to the property shall be from the public right of way of  
2082 the proposed I-895 or Monahan Road.

2083  
2084 6. A superintendent who shall be personally familiar with all the terms and  
2085 conditions of Section 24-103 of Chapter 24 of the County Code as well as the  
2086 terms and conditions of UP-2-2002, and shall be present at the beginning and  
2087 conclusion of operations each work day to see that all conditions of said Code and  
2088 said Use Permit are carefully observed.

2089  
2090 7. Topsoil shall not be removed from any part of the property outside of the  
2091 area in which extraction is authorized. Sufficient topsoil shall be stockpiled on the  
2092 property for respreading in a layer with five (5) inches of minimum depth. If the  
2093 site does not yield sufficient topsoil, additional topsoil shall be brought to the site  
2094 to provide the required five-inch layer of cover. All topsoil shall be treated with a  
2095 mixture of seed, fertilizer, and lime as recommended by the County of Henrico after  
2096 the results of soil tests have been submitted to the County of Henrico. All topsoil  
2097 shall be stockpiled within the authorized borrow area and provided with adequate



2098 erosion control protection. This condition shall not prevent the applicant from  
2099 constructing a screening berm as requested by the owner of the adjoining property.

2100  
2101 8. The rehabilitation of the property shall take place simultaneously with the  
2102 extraction process. Rehabilitation shall not be considered completed until the  
2103 extraction area is covered completely with permanent vegetation.

2104  
2105 9. Responsibility for maintaining the property, fences, and roads in a safe and  
2106 secure condition indefinitely, or for converting the property to some other safe use,  
2107 shall rest with the applicant.

2108  
2109 10. Entrance gates shall be erected and maintained at all entrances to the  
2110 property. These gates shall be locked at all times, except when authorized  
2111 representatives of the applicant are on the property.

2112  
2113 11. Erosion Control Plans shall be submitted to the Department of Public Works  
2114 for review and approval at time of application for the Use Permit. Throughout the  
2115 life of this extraction operation, the applicant shall continuously satisfy the  
2116 Department of Public Works that erosion control procedures are properly handled  
2117 and furnish plans and bonds that the department deems necessary. The applicant  
2118 shall provide certification from a licensed professional engineer that dams,  
2119 embankments and sediment control structures meet standard and approved design  
2120 criteria as set forth by the State.

2121  
2122 12. The areas approved for extraction under this permit shall be delineated on  
2123 the ground by the erection of five (5) foot high metal posts at least five (5) inches  
2124 in diameter and painted in alternate one (1) foot stripes of red and white. These  
2125 posts shall be so located as to clearly define the area in which the extraction is  
2126 permitted. They shall be located, and the location certified by a certified surveyor,  
2127 within ninety (90) days of the date of approval of this use permit by the Board of  
2128 Zoning Appeals, or this use permit is void.

2129  
2130 13. "No Trespassing" signs shall be posted and maintained on the property to  
2131 warn against use of the property by unauthorized persons. The minimum letter  
2132 height shall be three inches and signs are to be posted every 250 feet along the  
2133 perimeter of the property. The applicant shall furnish the Chief of Police a letter  
2134 authorizing enforcement by the County Police Officers of the "No Trespassing"  
2135 regulations, and agreeing to send a representative to court for purposes of  
2136 testimony whenever required or requested by the Division of Police.

2137  
2138 14. Excavation operations shall be discontinued on said site by July 31, 2004,  
2139 restoration accomplished not later than July 31, 2005 unless a new permit is  
2140 applied for by not later than 60 days before the expiration of the permit, and is  
2141 subsequently granted by the Board of Zoning Appeals.

2142  
2143 15. A financial guaranty satisfactory to the County Attorney shall be posted with  
2144 the Secretary of the Board of Zoning Appeals for extracting materials from 23.24  
2145 acres, in an amount of \$2,000.00 per acre for each disturbed acre of land included,  
2146 for a total of \$46,480.00 guaranteeing that the land will be restored to a  
2147 reasonably level and drainable condition with a minimum slope on the restored  
2148 property being five to one or flatter. The guaranty may provide for the termination  
2149 of the obligations after 30 days notice in writing. Such notice shall be served upon  
2150 the principal and upon the obligee as provided by law for the service of notices. At  
2151 the termination of the aforesaid 30 day notice to the principal, all authority of the  
2152 principal under this use permit to extract materials, and work incident thereto, shall  
2153 cease provided the applicant has not furnished another guaranty suitable to the  
2154 County within said 30 days. The principal shall then proceed within the next  
2155 ensuing 30 days following the termination of its authority under this use permit, to  
2156 accomplish the complete restoration of the land as provided for under the terms of  
2157 this permit. A notice of termination by such surety shall in no event relieve the  
2158 surety from its obligation to indemnify the County of Henrico for a breach of the  
2159 conditions of this use permit.

2160  
2161 16. The applicant shall furnish a certification each year, verifying that the  
2162 guaranty is in effect, premiums have been paid, and the bonding company reaffirms  
2163 its responsibility under the use permit conditions. This certification shall be  
2164 submitted to the Board on July 31st of each year.

2165  
2166 17. This permit does not become valid until the guaranty, required in condition  
2167 No. 15, has been posted with the County, and necessary approval received. This  
2168 must be accomplished within 30 days of the Board's action or the action becomes  
2169 invalid.

2170  
2171 18. A progress report shall be submitted to the Board on July 31st of each year  
2172 during the life of this permit. This progress report must contain information  
2173 concerning how much property has been disturbed to date of the report, the  
2174 amount of land left to be disturbed, and how much rehabilitation has been  
2175 performed, and when and how the remaining amount of land will be rehabilitated,  
2176 and any and all pertinent information about the operation that would be helpful to  
2177 the Board.

2178  
2179 19. If, in the course of its preliminary investigation or operations, applicant  
2180 discovers evidence of the existence of cultural or historical material or the presence  
2181 on the site of significant habitat or an endangered species, it will notify appropriate  
2182 professional or governmental authorities and provide them with an opportunity to  
2183 investigate the site and applicant will report the results of such investigation to the  
2184 Planning Office.

2185

2186 20. The applicant shall comply with the Chesapeake Bay Preservation Act and all  
2187 state and local regulations administered under such act applicable to the property  
2188 and shall furnish to the Planning Office copies of all reports required by such act or  
2189 regulations.  
2190

2191 21. In the event that an appeal of the Board's approval action is filed, all  
2192 conditions requiring action on the part of the applicant within 90 days are  
2193 considered satisfied if the required actions take place within 90 days of final action  
2194 on the appeal process by the courts.  
2195

2196 22. If the Virginia Department of Mines, Minerals and Energy determines that the  
2197 use of this property constitutes a mine, the applicant shall obtain a mine license  
2198 from the Division of Mineral Mining, Virginia Department of Mines, Minerals and  
2199 Energy, within 90 days of such determination, or the use permit is void.  
2200

2201 23. No offsite-generated materials shall be deposited on the site unless the  
2202 materials and the plans for their placement have been approved by the Planning  
2203 Office.  
2204

2205 24. If the Virginia Department of Mines, Minerals and Energy determines that the  
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2213 control measures shall conform to the standards and specifications of the Mineral  
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2216 26. If water wells located on surrounding properties are adversely affected, and  
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2221 applicant shall post a financial guaranty in the amount of \$25,000, satisfactory to  
2222 the County Attorney, guaranteeing compliance with this condition.  
2223

2224 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright  
2225 5

2226 Negative: 0

2227 Absent: 0

2228

2229 On a motion by Mr. Wright seconded by Mr. McKinney, the Board approved the  
2230 Minutes of the June 28, 2001, Henrico County Board of Zoning Appeals meeting.

2231

2232 There being no further business, and on a motion by Mr. Wright, seconded by Mr.  
2233 McKinney, the Board adjourned until February 28, 2002, at 9:00 am.

2234

2235

Daniel T. Balfour  
Chairman

2236

2237

2238

2239

Benjamin Blankinship, AICP  
Secretary

2240

2241

2242

2243