

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 23,**
4 **2003, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**
5 **TIMES-DISPATCH ON JANUARY 2 AND 9, 2003.**
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
James F. Lehmann, County Planner
Priscilla M. Parker, Recording Secretary

7
8 Mr. Balfour - I call the meeting of the County of Henrico Board of Zoning
9 Appeals to order. Would you stand for the **Pledge of Allegiance**. Mr. Secretary, would
10 you read the rules, please.

11
12 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
13 and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each
14 case. Then at that time the applicant should come to the podium. I will ask everyone
15 who intends to speak on that case, in favor or in opposition, to stand and be sworn in.
16 The applicants will then present their testimony. After the applicant has spoken, the
17 Board will ask them questions, and then anyone else who wishes to speak will be given
18 the opportunity. After everyone has spoken, the applicant, and only the applicant, will
19 be given the opportunity for rebuttal. After hearing the case, and asking questions, the
20 Board will take the matter under advisement. They will render all of their decisions at
21 the end of the meeting. If you wish to know their decision on a specific case, you can
22 either stay until the end of the meeting, or you can call the Planning Office later this
23 afternoon. This meeting is being tape recorded, so we will ask everyone who speaks, to
24 speak directly into the microphone on the podium, and to state your name and spell
25 your last name as well. And finally, out in the foyer, there are two binders, containing
26 the staff report for each case, including the suggested conditions.

27
28 Mr. Balfour - Thank you sir. Do we have any requests for withdrawals or
29 deferrals?

30
31 Mr. Blankinship - We have 2 withdrawals, Mr. Chairman. A-5 and A-6 both
32 requested withdrawal without prejudice. A-6 is interested in re-filing. A-5 will go
33 through a different process.

34
35 Mr. Balfour - That's Godfrey and Madden?
36
37 Mr. Blankinship - Yes sir. The first case is not on the agenda that was printed
38 for this morning's meeting. It's on the published agenda, but it did not make it onto this
39 printing.
40
41 **UP- 39-2002** **GILLIES CREEK INDUSTRIAL RECYCLING, LLC** requests a
42 temporary conditional use permit pursuant to Section 24-116(c)(1)
43 of Chapter 24 of the County Code to process and sell topsoil at
44 2980 Meadow Road (Parcel 843-720-7272), zoned A-1, Agricultural
45 District (Varina).
46
47 Mr. Balfour - Any others expect to testify in this matter? Raise you right
48 hand.
49
50 Mr. Blankinship - Do you swear that the testimony you are about to give is the
51 truth, the whole truth, and nothing but the truth, so help you God?
52
53 Mr. Deal - I do. Gentlemen, my name is John Deal. I represent
54 Warren T. Leber, the owner of this property, as well as Gillies Creek Industrial
55 Recycling, LLC. We discussed the case at the last meeting. If I remember correctly,
56 the meeting was continued to this month for one purpose, and that was so that the
57 Board could have the opportunity to review the standard 2-year temporary use permit
58 situation, vs. the 4-year that I was asking for. I've spoken with the County Attorney on
59 the issue, and I understand that while the Code provision doesn't say it can't be
60 renewed, it's been the opinion of Mr. Tokarz and his office to this Board that it is to be
61 issued only for 2 years, and there is to be no renewals of it, and that that's his
62 interpretation of the statute. I abide by that, my client wants to move forward and get
63 things moving.
64
65 Mr. Nunnally - One question Mr. Deal. Is there any way possible that you
66 can use that Darbytown site for processing this soil, instead of Meadow Road? It will
67 bring a lot of traffic down through there, you know that?
68
69 Mr. Deal - I understand that sir. The Masonic Lane site is getting kind
70 of cramped, from what I understand. I'm not as familiar with that site as I am with this
71 one, but I understand it's getting right cramped. There's a lot of things going on over
72 there, and the nature of what this site is for, that we're talking about in this case, is to
73 bring overburdened, unusable topsoil, clay, you know, all the ingredients that can go in
74 a field like this, and that lends itself to the – when people are hauling off of a site, let's
75 say they want to lower the Diamond, they'll go out there and they'll take the top off first
76 and haul that away, they'll going to lower the Diamond 8 feet, from what I understand,
77 then you get into the clays and things. All of that, in the orderly operation of a business
78 going to the same place, makes a big difference. I think that some of these trucks
79 coming in will bring the soil to be processed, and some of them will take the soil out

80 also. I'm not going to say that's for all of them, that's for sure. Some people may just
81 want to come in and buy some soil. But I don't think that every load of topsoil that is
82 processed on this property is necessarily going to mean an extra truck coming and an
83 extra truck going. I think a lot of these gentlemen are working projects and, hey, I've got
84 some overburden but I need some topsoil. I can take my overburden here, pick the
85 topsoil up and come back, and everybody's the beneficiary of it.

86
87 Mr. Nunnally - Okay, have you read the conditions on this?

88
89 Mr. Deal - Yes sir, and we're agreeable to the conditions.

90
91 Mr. Nunnally - If I have my way, it's going to be a close watch on it, to make
92 sure they go by these conditions.

93
94 Mr. Deal - I understand sir. Given the past history, I don't blame your
95 statement a bit in the world, but I think, as I said the last time, we finally have an
96 operator there who has the wherewithal to close this thing out, and that's what Mr.
97 Leber wants, and Mr. Liesfeld thinks that will be it, and everybody's a winner if that
98 happens.

99
100 Mr. Blankinship - It's been better the last 2 years than it was previously;
101 there's room for improvement yet.

102
103 Mr. Balfour - Any other questions? Thank you, Mr. Deal.

104
105 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
106 Wright, the Board **granted** application **UP-39-2002** for a temporary conditional use
107 permit to process and sell topsoil at 2980 Meadow Road (Parcel 843-720-7272). The
108 Board granted the use permit subject to the following conditions:

109
110 1. Before beginning any work, the applicant shall submit erosion control plans to the
111 Department of Public Works for review and approval. Throughout the life of the
112 operation, the applicant shall continuously satisfy the Department of Public Works that
113 erosion control procedures are properly maintained, and shall furnish plans and bonds
114 that the department deems necessary. The applicant shall provide certification from a
115 licensed professional engineer that dams, embankments and sediment control
116 structures meet the approved design criteria as set forth by the State. If this condition is
117 not satisfied within 90 days of approval, the use permit shall be void.

118
119 2. The applicant shall comply with the Chesapeake Bay Preservation Act and all
120 state and local regulations administered under such act applicable to the property, and
121 shall furnish to the Planning Office copies of all reports required by such act or
122 regulations.

123
124 3. Hours of operation shall be from 7:00 a.m. to 5:30 p.m. Monday through Friday,
125 and 7:00 a.m. to 12:00 noon Saturday.

- 126
127 4. No operations of any kind are to be conducted at the site on Sundays, New
128 Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving or Christmas.
129
- 130 5. All means of access to the property shall be from the established entrance onto
131 Meadow Road. All truck traffic to the site shall approach from Williamsburg Road north
132 on Drybridge Road, then east on Meadow Road. All truck traffic leaving the site shall
133 travel west on Meadow Road, then south on Drybridge Road to Williamsburg Road.
134
- 135 6. The applicant shall erect and maintain gates at all entrances to the property.
136 These gates shall be locked at all times, except when authorized representatives of the
137 applicant are on the property.
138
- 139 7. The applicant shall post and maintain a sign at the entrance to the mining site
140 stating the name of the operator, the use permit number, the mine license number, and
141 the telephone number of the operator. The sign shall be 12 square feet in area and the
142 letters shall be three inches high.
143
- 144 8. The applicant shall post and maintain "No Trespassing" signs every 250 feet
145 along the perimeter of the property. The letters shall be three inches high. The
146 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
147 enforce the "No Trespassing" regulations, and agreeing to send a representative to
148 testify in court as required or requested by the Division of Police.
149
- 150 9. Standard "Truck Entering Highway" signs shall be erected on Meadow Road on
151 each side of the entrances to the property. These signs will be placed by the County, at
152 the applicant's expense.
153
- 154 10. The applicant shall post and maintain a standard stop sign at the entrance to
155 Meadow Road.
156
- 157 11. The applicant shall provide a flagman to control traffic from the site onto the
158 public road, with the flagman yielding the right of way to the public road traffic at all
159 times. This flagman will be required whenever the Division of Police deems necessary.
160
- 161 12. All roads used in connection with this use permit shall be effectively treated with
162 calcium chloride or other wetting agents to eliminate any dust nuisance.
163
- 164 13. The operation shall be so scheduled that trucks will travel at regular intervals and
165 not in groups of three or more. This includes trucks working under UP-38-2002.
166
- 167 14. Trucks shall be loaded in a way to prevent overloading or spilling of materials of
168 any kind on any public road.
169
- 170 15. A superintendent, who shall be personally familiar with all the terms and
171 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms

172 and conditions of this use permit, shall be present at the beginning and conclusion of
173 operations each work day to see that all the conditions of the Code and this use permit
174 are observed.

175
176 16. This permit shall expire on January 23, 2005, and shall not be renewed.

177
178 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
179 Negative: 0
180 Absent: 0

181
182 The Board granted the request because it found the proposed use will be in substantial
183 accordance with the general purpose and objectives of Chapter 24 of the County Code.

184
185 **A - 1-2003** **GLADYS I. MALLORY** requests a variance from Section 24-
186 95(b)(5) of Chapter 24 of the County Code to build a one-family
187 dwelling at 8813 Mount Olive Avenue (Anderson Plan) (Parcel 782-
188 760-2017), zoned R-3, One-family Residence District (Fairfield).
189 The total lot area requirement is not met. The applicant has 6,981
190 square feet total lot area, where the Code requires 8,000 square
191 feet total lot area. The applicant requests a variance of 1,019
192 square feet total lot area.

193
194 Mr. Balfour - Anyone else to speak on this matter? Raise your right hand
195 and be sworn, please.

196
197 Mr. Blankinship - Do you swear that the testimony you are about to give is the
198 truth, the whole truth, and nothing but the truth, so help you God?

199
200 Mr. Walker - I affirm. Good morning, gentlemen. My name is Eric
201 Walker, and I'm here representing Gladys I. Mallory. What we're proposing to do
202 is build a single-family dwelling on this property.

203
204 Mr. McKinney - Mr. Walker, what is the construction of this building? Is
205 it frame, brick, vinyl siding, what?

206
207 Mr. Walker - Actually, that building at some point prior to my talking
208 with Ms. Mallory had been demolished.

209
210 Mr. McKinney - I'm talking about the one you're proposing to build.

211
212 Mr. Walker - I'm sorry, it's vinyl siding.

213
214 Mr. McKinney - How about your foundation?

215
216 Mr. Walker - Brick.

217

218 Mr. McKinney - Do you have a fireplace? What type?
 219
 220 Mr. Walker - Yes sir. Gas fireplace with brick foundation.
 221
 222 Mr. McKinney - How many square feet in this house, Mr. Walker?
 223
 224 Mr. Walker - The house that we propose to build is approximately
 225 1100 square feet.
 226
 227 Mr. McKinney - What do you mean, "approximately"? It's got to be
 228 1100 minimum.
 229
 230 Mr. Walker - I believe, if I'm not mistaken, it's 1112. I just didn't
 231 know the precise square footage.
 232
 233 Mr. Kirkland - Mr. Walker, will you be able to meet all the setback
 234 requirements, being as how the lot is going to be reduced in so much area?
 235
 236 Mr. Walker - Yes sir. The only thing that we didn't currently meet is
 237 the total area.
 238
 239 Mr. Blankinship - Mr. Walker, do you know why the previous dwelling was
 240 demolished?
 241
 242 Mr. Walker - I do not. I just found that out, based on the research
 243 that you did, so I never knew that there was a home there.
 244
 245 Mr. Blankinship - When you first became aware of the property, it was
 246 already vacant?
 247
 248 Mr. Walker - Right.
 249
 250 Mr. Balfour - Any other questions? Thank you.
 251

252 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
 253 Wright, the Board **granted** application **A-1-2003** for a variance to build a one-family
 254 dwelling at 8813 Mount Olive Avenue (Anderson Plan) (Parcel 782-760-2017). The
 255 Board granted the variance subject to the following conditions:
 256

257 1. This variance applies only to the minimum lot area requirement. All other
 258 applicable regulations of the County Code shall remain in force.
 259

260 2. The foundation and the chimney shall be brick.
 261

262 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
 263 Negative: 0

264 Absent:

0

265

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

271

272 **A - 2-2003**

PERCY N. BOZE requests a variance from Section 24-9 of Chapter
273 24 of the County Code to build a one-family dwelling at 2051 Old
274 Hanover Road (Parcel 835-723-4465), zoned A-1, Agricultural
275 District (Varina). The public street frontage requirement is not met.
276 The applicant has 0 feet public street frontage, where the Code
277 requires 50 feet public street frontage. The applicant requests a
278 variance of 50 feet public street frontage.

279

280 Mr. Balfour - Anyone else to speak on this matter? Raise your right hand
281 and be sworn, please.

282

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

285

286 Mr. Boze - I do. I am Percy N. Boze. I need a variance for the right-of-
287 way, 50-foot road frontage, to build a one-family dwelling for my daughter back on the
288 farm.

289

290 Mr. McKinney - How are you going to get to this lot, Mr. Boze?

291

292 Mr. Boze - I have a road all the way back there now, gravel road.

293

294 Mr. Nunnally - So you're going to give her the right-of-way to get to the
295 house?

296

297 Mr. Boze - Yes.

298

299 Mr. Balfour - Where will it come in from, Chinchilla Drive?

300

301 Mr. Boze - No, Old Hanover Road.

302

303 Mr. Kirkland - Does it follow that dotted line that's coming down on the
304 drawing, on the plat map? Do you have the drawing? Does it follow that little line along
305 the property line?

306

307 Mr. Boze - I see it.

308

309 Mr. Nunnally - You've read the conditions on this case? You agree with

310 them?

311

312 Mr. Boze - I'll abide by them.

313

314 Mr. Nunnally - If I understand it correctly now, you've got one daughter on
315 one side of I-295 and one on the other, and you're right in the middle?

316

317 Mr. Boze - I can take all the service calls.

318

319 Mr. Balfour - Any other questions? Thank you.

320

321 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
322 Wright, the Board **granted** application **A-2-2003** for a variance to build a one-family
323 dwelling at 2051 Old Hanover Road (Parcel 835-723-4465). The Board granted the
324 variance subject to the following conditions:

325

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

328

329 2. At the time of building permit application, the applicant shall submit the
330 necessary information to the Department of Public Works to ensure compliance with the
331 requirements of the Chesapeake Bay Preservation Act and the code requirements for
332 water quality standards.

333

334 3. At the time of building permit application the owner shall demonstrate that the
335 parcel created by this division has been conveyed to a member of the immediate family,
336 and the subdivision ordinance has not been circumvented.

337

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

340

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

345

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

347 Negative: 0

348 Absent: 0

349

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

355

356 **A - 3-2003** **AZZURRO RESTAURANT** requests a variance from Section 24-
357 101(e)(2) of Chapter 24 of the County Code to build an addition and
358 enclose the patio at 6221 River Road (Parcel 761-731-9193),
359 zoned B-2C, Business District (Conditional) (Tuckahoe). The front
360 yard setback is not met. The applicant has 11.77 feet front yard
361 setback, where the Code requires 50 feet front yard setback. The
362 applicant requests a variance of 38.23 feet front yard setback.
363

364 Mr. Balfour - Anyone else to speak on this matter? Raise your right hand
365 and be sworn, please.
366

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

370 Mr. Marchant - I do. I'm Reilly Marchant. I represent Azzurro Restaurant. I
371 have with me today Jay Depew, who is the General Manager of the restaurant, and also
372 Bruce Perretz, who is the architect who drafted up the plans for the addition, just in case
373 there are any questions that they would need to answer. Gentlemen, this Board, back
374 in 1995, was kind enough to grant to the restaurant, a variance from the Section 22-
375 101(e)(2), of the County Code, regarding the setback. The setback requirement was 50
376 feet, and this Board allowed the variance at that time, so that the restaurant could build
377 an outdoor patio. That's been very successful, and they've enjoyed that. They now
378 simply want to enclose it, put a rooftop on it, so that it can be used 12 months a year,
379 instead of 3 or 4, and it will not require any change to the setback. We're not going out
380 any further. It stays along the same boundary lines as the patio already existing, and
381 will just, as I said, be enclosed. The only other addition is out the back of the
382 restaurant, there is about, I think a 25- or 30-foot extension of the restaurant, out into
383 the area behind it for the kitchen, because by enclosing the outdoor patio and having
384 those additional seats on a 12-month basis, they needed a little additional room for the
385 kitchen. That addition on the back, again does not go any closer to the road; it does not
386 change or encroach on the existing setback, and in fact, in terms of going behind the
387 shopping center, it doesn't even go any further back than other ends of other buildings
388 that stick out there in the back of the shopping center. It mostly just takes up a little
389 walkway that the restaurant was using, and I think incorporates a walk-in freezer that
390 they had back there.
391

392 Mr. Balfour - I think I read too, that the enclosure really is something that
393 you can open up in the summer time, is that right, a glass enclosure?
394

395 Mr. Marchant - Mr. Perretz is shaking his head, so I'll agree with that. The
396 main point is to use it for full time. I did, for what it's worth, talk to some of the
397 neighbors, and the lawyer for the shopping center, and I didn't have anybody indicate to
398 me they had a problem with it. I called several of the folks that I saw had been given
399 notice.
400

401 Mr. Balfour - Any questions by Board members? You're locked in too, in

402 that this is an old shopping center, and some of these newer rules came in after that.

403

404 Mr. Marchant - Yes, that was the problem back in '95 when the Board
405 granted the first variance. As you know, on River Road there, there's just no further
406 way for the shopping center to go, and it's just an old shopping center, and I think that
407 was the basis for the variance in the first place. Again, we're not asking for any
408 changes to that variance, just to enclose what we've got.

409

410 Mr. Balfour - Any other questions? Thank you.

411

412 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
413 McKinney, the Board **granted** application **A-3-2003** for a variance to build an addition
414 and enclose the patio at 6221 River Road (Parcel 761-731-9193). The Board granted
415 the variance subject to the following condition:

416

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

422

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

424 Negative: 0

425 Absent: 0

426

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

432

433 **A - 4-2003** **STAN SMITH** requests a variance from Section 24-95(b)(5) of
434 Chapter 24 of the County Code to build an attached carport at 8709
435 Weldon Drive (Ridgecrest) (Parcel 752-742-8523), zoned R-3, One-
436 family Residence District (Tuckahoe). The minimum side yard
437 setback and total side yard setback are not met. The applicant has
438 5.9 feet minimum side yard setback and 21 feet total side yard
439 setback, where the Code requires 8 feet side yard setback and 24
440 feet total side yard setback. The applicant requests a variance of
441 2.1 feet side yard setback and 5.1 feet total side yard setback.

442

443 Mr. Balfour - Anyone else to speak on this matter? Raise your right hand
444 and be sworn, please.

445

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

448
449 Mr. Smith - I do. E. L. Smith. I'm representing my brother, who is
450 buying the house. He lives in Seattle, Washington, and plans to retire here. My house
451 backs up on this property, so we're the only members of our family left, and he's
452 anxious to come. I have a photograph of what it would look like, if members would like
453 to see it. It's a house right around the corner from ours. We based our plan on theirs,
454 because we feel like it was an attractive addition, and it will give his vehicle some
455 protection from the weather and will not detract from the appearance of the homes in
456 the neighborhood. He's trying to upgrade the property.

457
458 Mr. Balfour - Any other questions? Thank you.
459

460 Mr. Blankinship - As I mentioned, Mr. Chairman, A-5 and A-6 have been withdrawn.
461 Do you want to vote on those, to allow, on A-6. Withdrawn, both. A-6 would like to
462 withdraw without prejudice; they are interested in re-filing. A-5 has just been withdrawn
463 outright because this Board does not have the authority to amend a proffered condition
464 as requested.

465
466 **A - 5-2003** **CATHLEEN GODFREY** requests a variance from Section 24-41(e)
467 of Chapter 24 of the County Code to build a Florida room at 12025
468 Bexley Court (Worthington Hills) (Parcel 734-757-8842), zoned R-
469 5C, General Residence District (Conditional) (Three Chopt). The
470 rear yard setback is not met. The applicant has 35 feet rear yard
471 setback, where the Code requires 40 feet rear yard setback. The
472 applicant requests a variance of 5 feet rear yard setback.

473
474 **A - 6-2003** **GARY AND SUE MADDEN** request a variance from Section 24-94
475 of Chapter 24 of the County Code to build an attached garage at
476 300 Sleepy Hollow Road (Sleepy Hollow Estates) (Parcel 749-736-
477 6330), zoned R-1, One-family Residence District (Tuckahoe). The
478 rear yard setback is not met. The applicant has 35 feet rear yard
479 setback, where the Code requires 50 feet rear yard setback. The
480 applicant requests a variance of

481
482 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **allowed**
483 **withdrawal without prejudice** of application **A-6-2003** for a variance to build an
484 attached garage at 300 Sleepy Hollow Road (Sleepy Hollow Estates) (Parcel 749-736-
485 6330). The case was withdrawn without prejudice at the request of the applicant.

486
487 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
488 Negative: 0
489 Absent: 0

490
491 **A - 7-2003** **SAGE CREST I, LLC** requests a variance from Sections 24-94 and
492 24-9 of Chapter 24 of the County Code to build a one-family
493 dwelling at 3307 Sandy Lane (Parcel 806-732-7534), zoned A-1,

494 Agricultural District (Fairfield). The lot width requirement, public
495 street frontage requirement, and total lot area requirement are not
496 met. The applicant has .97 acre total area, 110 feet lot width, and 0
497 feet public street frontage, where the Code requires 1 acre total
498 area, 150 feet lot width, and 50 feet public street frontage. The
499 applicant requests a variance of .03 acre total area, 40 feet lot
500 width, and 50 feet public street frontage.
501

502 Mr. Balfour - Anyone else to speak on this matter? Raise your right hand
503 and be sworn, please.
504

505 Mr. Blankinship - Do you swear that the testimony you are about to give is the
506 truth, the whole truth, and nothing but the truth, so help you God?
507

508 Ms. Fritz - I do. I'm Tina Fritz, one of the principals with Sage Crest.
509 My partner and I are considering buying the property, which currently has a home on
510 the front of this acreage, but the back of it is suitable for a second home to be built.
511 There are a lot of other single-family homes in the area, and if we divide the property
512 into 2 lots, the second lot will be shy of 1 acre by a small portion, .03 acre.
513

514 Mr. Balfour - What is your access back to that area?
515

516 Ms. Fritz - There is a road along the side of the current home, and we
517 would just extend that driveway back to the second parcel. Since we would own both
518 parcels, we would have to put something into the deed, saying that there would be
519 access to the second parcel.
520

521 Mr. Balfour - Any other questions? Apparently not. Thank you, ma'am.
522

523 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
524 Wright, the Board **granted** application **A-7-2003** for a variance to build a one-family
525 dwelling at 3307 Sandy Lane (Parcel 806-732-7534). The Board granted the variance
526 subject to the following conditions:
527

- 528 1. This variance applies only to the public street frontage requirement. All other
529 applicable regulations of the County Code shall remain in force.
530
- 531 2. At the time of building permit application, the applicant shall submit the
532 necessary information to the Department of Public Works to ensure compliance with the
533 requirements of the Chesapeake Bay Preservation Act and the code requirements for
534 water quality standards.
535
- 536 3. The applicant shall present proof with the building permit application that a legal
537 access to the property has been obtained.
538

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

542
543 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
544 Negative: 0
545 Absent: 0

546
547 The Board granted this request, as it found from the evidence presented that, due to the
548 unique circumstances of the subject property, strict application of the County Code
549 would produce undue hardship not generally shared by other properties in the area, and
550 authorizing this variance will neither cause a substantial detriment to adjacent property
551 nor materially impair the purpose of the zoning regulations.

552
553 Minutes of the November 21, 2002, meeting of the Board of Zoning Appeals were
554 distributed for consideration.

555
556 There being no further business, the Board adjourned until **February 27, 2003**, at
557 9:00 am.

558

559 Daniel T. Balfour,

560 Chairman

561

562 Benjamin Blankinship, AICP

563 Secretary

564