

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, JULY 24, 2003, AT**
4 **9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
5 **DISPATCH ON JULY 3 AND 10, 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
Lee J. Tyson, 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, to state your name, and to spell your
25 last name please. And finally, out in the foyer, there are two binders, containing the
26 staff report for each case, including the conditions that have been recommended by the
27 staff.

28
29 Mr. Balfour - Thank you sir. Mr. Secretary, are there any requests for
30 withdrawals or deferrals on the 9:00 o'clock docket?

31
32 Mr. Blankinship - There are, Mr. Chairman. **UP-12** and **UP-13-2003**, the two
33 **BON SECOURS ST. MARY'S** cases, have been withdrawn.

34
35 **UP- 12-2003** **BON SECOURS ST. MARY'S HOSPITAL** requests a temporary

36 conditional use permit pursuant to Section 24-116(c)(1) of Chapter
37 24 of the County Code to allow temporary parking at 2300
38 Dumbarton Road (Parcels 780-745-3121, 2808 and 3308), zoned
39 R-4, One-family Residence District (Brookland).
40

41 **UP- 13-2003** **BON SECOURS ST. MARY'S HOSPITAL** requests a temporary
42 conditional use permit pursuant to Section 24-116(c)(1) of Chapter
43 24 of the County Code to allow temporary parking at 2605
44 Dumbarton Road (Parcel 779-744-0545), zoned R-4, One-family
45 Residence District (Brookland).
46

47 Mr. Balfour - The Board would like to comment, that the first case on the
48 docket, **A-60-2003**, has already been heard. Decision will be made with the other
49 decisions at the end of the docket. I suggest that will probably be no earlier than about
50 10:30, as we have a 9:00 o'clock docket and a 10:00 o'clock docket. So if any of you
51 are here on that particular case, we'll be glad for you to stay and watch, but there may
52 be better things you'd rather do, in which case you might want to come back about
53 10:30, I would suggest, if you want to be here when that decision is made. That being
54 said, Mr. Secretary, would you call the first case.
55

56 **Deferred from Previous Meeting**

57
58 **A - 60-2003** **HANOVER ASSOCIATES LIMITED** appeals a decision of the
59 Director of Planning pursuant to Section 24-116(a) of Chapter 24 of
60 the County Code regarding the property at 7202 Brook Road
61 (Parcel 784-750-6778), zoned B-3, Business District (Fairfield).
62

63 Mr. Balfour - The case has already been heard. Do I hear any motion?
64

65 Mr. McKinney - Yes sir, Mr. Chairman. We have two items on this, is that
66 correct, Mr. Blankinship?
67

68 Mr. Blankinship - Yes sir, there were two separate notices of violation.
69

70 Mr. McKinney - Would you read those.
71

72 Mr. Blankinship - I'll take the accessory structures first. On the matter of
73 accessory structures, we served a notice of violation, listing Units 1, 2, 3, 4, 16, 28, 29,
74 34, 38, 41, 47, 57, 58, 59, and 60, and each of those was cited for having an accessory
75 structure less than ten feet from the principal structure.
76

77 Mr. Balfour - Do I hear a motion in relation to the first violation?
78

79 Mr. McKinney - I move that we deny that.
80

81 Mr. Wright - Deny the appeal?

82
83 Mr. McKinney - Deny the appeal on that.
84
85 Mr. Kirkland - Second.
86
87 Mr. Blankinship - That's a motion by Mr. McKinney, seconded by Mr. Kirkland,
88 to deny the appeal and uphold the decision of the Zoning Administrator.
89
90 Mr. Balfour - Any discussion? All in favor of denying the appeal relating to
91 the structures and other matters mentioned?
92
93 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
94 Kirkland, the Board **denied Hanover Associates appeal A-60-2003** of a decision of the
95 Director of Planning regarding accessory structure distance from the principal structure
96 for 15 trailer units of the property at 7202 Brook Road (Parcel 784-750-6778).
97
98 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
99 Negative: 0
100 Absent: 0
101
102 The Board denied the appeal, affirming the decision of the Director of Planning,
103 regarding accessory structures less than 10 feet from the principal structures.
104
105 Mr. Balfour - Would you read the second.
106
107 Mr. Blankinship - The second was "Conducting a use not permitted in the
108 zoning district in violation of Section 24-6(a) of the Henrico County Code. Operating a
109 mobile home park in excess of 20 units as approved by the Board of Zoning Appeals in
110 1948."
111
112 Mr. Balfour - Do I hear a motion relating to that appeal.
113
114 Mr. McKinney - I move that we approve that, predicated on the information
115 that we have received in reference to Chapter 424, as amended on March 20, 1995,
116 15.1.2-2311 (C), referring to the letter from Mr. Clarke dated 1972, to let it remain as is.
117
118 Mr. Kirkland - I'll second.
119
120 Mr. Balfour - It has been moved and seconded that pursuant to Virginia
121 Code Section 15.1.2-2311 (C), that the trailers be allowed to stay as they are. Any
122 discussion of the motion? All in favor of the motion, say "aye." Any opposed? Motion
123 passes.
124
125 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
126 Kirkland, the Board **granted Hanover Associates appeal A-60-2003**, reversing the

127 decision of the Director of Planning, regarding the number of trailers on the property in
128 excess of 20. at 7202 Brook Road (Parcel 784-750-6778).

129
130 The Board granted the appeal on the grounds that Hanover Associates' predecessor in
131 title made a substantial, unrecoverable investment in good-faith reliance on a 1972
132 letter from a County official stating that the trailer park was a lawful nonconforming use.

133
134 The Board determined that the notice of violation concerning "trailers in excess of the 20
135 approved in 1948" had the effect of reversing the 1972 letter.

136
137 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
138 Negative: 0
139 Absent: 0

140

141 **New Applications**

142

143 **UP- 14-2003** **HARRY E. BURROWS** requests a conditional use permit pursuant
144 to Section 24-12(d) of Chapter 24 of the County Code to keep a
145 homing pigeon loft at 13 Kemper Court (Parcel 826-715-4259),
146 zoned R-3, One-family Residence District (Varina).

147

148 Mr. Balfour - All who intend to testify in this matter, would you please rise.
149 Do we have any others who intend to testify in this matter? Would you raise your right
150 hand and be sworn please?

151

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

154

155 Mr. Burrows - I do. I'm Harry E. Burrows. I've had a pigeon loft at this
156 house for about thirty years, and this is the first time I've heard about a conditional use
157 permit, so I'm really ignorant about it.

158

159 Mr. Nunnally - It's been there for thirty years?

160

161 Mr. Burrows - Yes sir.

162

163 Mr. Nunnally - How many pigeons do you have there?

164

165 Mr. Burrows - Right now I've got about thirty.

166

167 Mr. Nunnally - You've got a 10-foot tall, 8-foot wide, 6-foot deep loft?

168

169 Mr. Burrows - Yes, it's 8-feet tall, but right now I've got it off the ground
170 about 2 feet, so from the ground to the top of it is 10 feet.

171

172 Mr. Nunnally - You need a loft that large for thirty pigeons? That's almost
173 as large as my tool shed.
174
175 Mr. Burrows - Not really. What, 6 by 8, but 10-feet tall, because I measure
176 from the ground to the top of it, but it's actually 6 by 8?
177
178 Mr. Kirkland - Mr. Blankinship, have we had any complaints from citizens
179 concerning this?
180
181 Mr. Blankinship - We received a complaint regarding a carport that was in the
182 front yard, and I understand that that's been removed. The complainant brought it to
183 our attention that there was also a roller pigeon loft on the property, but of course he
184 can abate the violation either by getting rid of it, or by making it lawful, by getting the
185 use permit, so I don't see the complainant here.
186
187 Mr. Balfour - You've seen the three conditions of four, since you've
188 already gotten rid of the carport. The other three restrictions, one of which says that we
189 state the number of birds to be allowed? Any other questions by Board members?
190
191 Mr. Nunnally - In case this Board approves this, are you willing to cut down
192 on the number of pigeons you have?
193
194 Mr. Burrows - Yes sir. To me, it isn't any harder to take care of five than it
195 is of thirty.
196
197 Mr. Nunnally - It might not take more care for thirty than it does five, but
198 what I'm getting at is, if you've got thirty pigeons flying around, there's a lot of droppings
199 going somewhere.
200
201 Mr. Burrows - Yes sir, there probably is. These pigeons land nowhere but
202 on my loft.
203
204 Mr. Nunnally - None of your neighbors ever complained to you?
205
206 Mr. Burrows - No sir. And everybody knows I've got them, because they
207 watch them.
208
209 Mr. Nunnally - Have you ever had more than thirty, or is thirty the most
210 you've ever had?
211
212 Mr. Burrows - I've probably had more than thirty, to be honest with you.
213
214 Mr. Nunnally - What's your average? Over the years?
215
216 Mr. Burrows - About thirty. About thirty.
217

218 Mr. Balfour - Any other questions by Board members?
219
220 Mr. McKinney - How many would you like to have, Mr. Burrows?
221
222 Mr. Burrows - A lot of people like them. I raise a lot of them and give them
223 away.
224
225 Mr. McKinney - My question was, "how many would you like to have?"
226
227 Mr. Burrows - Thirty.
228
229 Mr. Balfour - Any other questions? Thank you, Mr. Burrows. Being as
230 how no one else indicated an interest in speaking on this matter, that concludes the
231 case.
232
233 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
234 McKinney, the Board **granted** application **UP-14-2003** for a conditional use permit to
235 keep a pigeon loft at 13 Kemper Court (Parcel 826-715-4259). The Board granted the
236 use permit subject to the following conditions:
237
238 1. This approval is only for the pigeon loft shown on the plans submitted with the
239 case. No additional loft shall be erected nor the existing loft be expanded without
240 approval of the Board of Zoning Appeals.
241
242 2. No birds may be replaced, and no new birds may be added, so that the number
243 of birds will be reduced by attrition to 15.
244
245 3. The loft shall be kept in a manner to prevent odors, vermin, or disease from
246 affecting surrounding properties.
247
248 4. The car port located in the front yard of the dwelling must be removed from the
249 property.
250
251 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
252 Negative: 0
253 Absent: 0
254
255 The Board granted the request because it found the proposed use will be in substantial
256 accordance with the general purpose and objectives of Chapter 24 of the County Code.
257
258 **UP- 15-2003** **EASTERN HENRICO RURITAN CLUB** requests a temporary
259 conditional use permit pursuant to Section 24-116(c)(1) of Chapter
260 24 of the County Code to operate a turkey shoot at 3808 Nine Mile
261 Road (Parcel 806-723-4768), zoned A-1, Agricultural District
262 (Varina).
263

264 Mr. Balfour - Do we have any others who intend to testify in this matter?
265 Would you two gentlemen raise your right hand and be sworn please?

266
267 Mr. Blankinship - Do you swear that the testimony you are about to give is the
268 truth, the whole truth, and nothing but the truth, so help you God?
269

270 Mr. Ayres - I do. I'll speak. My name is John Ayres. We're just trying to
271 get another permit. We've been running a turkey shoot over there for approximately
272 thirty years, never had any real complaints about it, so we're trying to get a new permit
273 for the next two years.

274
275 Mr. Balfour - Any questions by Board members?
276

277 Mr. Nunnally - Mr. Ayres, have you read the conditions on the case, the
278 same as last year's? You agree with those all right.
279

280 Mr. Ayres - Yes sir. Yes sir.
281

282 Mr. Balfour - Any other questions by Board members? Thank you sir.
283

284 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
285 Kirkland, the Board **granted** application **UP-15-2003** for a temporary conditional use
286 permit to operate a turkey shoot at 3808 Nine Mile Road (Parcel 806-723-4768). The
287 Board granted the variance subject to the following conditions:
288

289 1. The turkey shoot shall be at least 300 feet from any lot occupied by a dwelling or
290 from a building other than buildings on the same parcel.
291

292 2. No shooting shall be done in or along any road or street or within 100 yards
293 thereof, as required by the Code of Virginia.
294

295 3. The land shall be properly posted to show the particular area in which the
296 shooting is occurring.
297

298 4. Sufficient off-street parking shall be provided for all cars visiting the premises.
299

300 5. No beer, wine or any other alcoholic beverages shall be consumed on the area of
301 the shooting. A sign to this general effect must be posted on the property.
302

303 6. Restrooms shall be provided.
304

305 7. Hours of firing shall be restricted to the period 6:00 p.m. and 10:00 p.m. on
306 Fridays during October through December and on the Wednesday before Thanksgiving
307 during the calendar years 2003 and 2004.
308

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

5

310 Negative: 0
311 Absent: 0

312
313 The Board granted the request because it found the proposed use will be in substantial
314 accordance with the general purpose and objectives of Chapter 24 of the County Code.

315
316 **UP- 16-2003** **RYAN HOMES** requests a temporary conditional use permit
317 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code
318 to locate a temporary sales trailer at 2219 Mountain Road
319 (Mountain Road Townes) (Parcel 776-765-5797), zoned RTHC,
320 Residential Townhouse District (Conditional) (Fairfield).

321
322 Mr. Balfour - Do we have any others who intend to testify in this matter?
323 Would you raise your right hand and be sworn please?

324
325 Mr. Blankinship - Do you swear that the testimony you are about to give is the
326 truth, the whole truth, and nothing but the truth, so help you God?

327
328 Mr. Bjelstrand - I do. My name is Kenneth Bjelstrand. Mr. Chairman,
329 members of the Board, Mr. Blankinship, I'm here on behalf of the applicant, Ryan
330 Homes, requesting a conditional use permit to locate a temporary sales trailer off
331 Mountain Road in our new townhouse subdivision at Woodman and Mountain Road
332 areas. As you know, if you've seen our previous requests for temporary trailers, they
333 are very nicely done. They are usually brand new; if not, the nicest ones that the
334 company has. We landscape them very heavily and light them up, provide more than
335 adequate parking, and generally do a very nice job. It is truly temporary; we hope to
336 have the trailer gone as soon as the model home is completed. I can't really tell you
337 what time that would be definitely, just because we never know how long a development
338 phase of it takes. But it is truly temporary; we will remove it as soon as the model home
339 is completed.

340
341 Mr. Balfour - Any questions by Board members? You've seen the
342 requirement that it be removed by September 1 of next year. Any other questions?

343
344 Mr. McKinney - Or when you get a CO for the model. Either or.

345
346 Mr. Bjelstrand - I certainly hope it's not next September.

347
348 Mr. Balfour - Any other questions? Is the next case yours too?

349
350 Mr. Bjelstrand - Yes sir.

351
352 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
353 Wright, the Board **granted** application **UP-16-2003** for a temporary conditional use
354 permit to locate a temporary sales trailer at 2219 Mountain Road (Mountain Road

355 Townes) (Parcel 776-765-5797). The Board granted the use permit subject to the
356 following conditions:

- 357
- 358 1. The temporary sales trailer shall be removed from the property by September 1,
359 2004 or when a Certificate of Occupancy is issued for the model home, whichever shall
360 occur first.
 - 361
 - 362 2. Landscaping and lighting shall conform to the specifications shown on the
363 approved landscaping and lighting plan.

364

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

368

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

371

372 **UP- 17-2003** **RYAN HOMES** requests a temporary conditional use permit
373 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code
374 to locate a temporary sales trailer at 10070 Three Chopt Road
375 (Three Chopt Village) (Parcel 748-756-8078), zoned R-6C, General
376 Residence District (Conditional) (Three Chopt).

377

378 Mr. Balfour - Do we have anyone else expect to testify in this matter?
379 You've already been sworn.

380

381 Mr. Bjelstrand - It's the same thing. It's the exact same product, same trailer,
382 done the same way as the others. We will again landscape it, light it, have more than
383 adequate parking, and again, it is truly temporary. We will remove it as soon as the
384 model building is complete. I have no problem with the suggested conditions.

385

386 Mr. Balfour - Any questions by Board members? Thank you.

387

388 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
389 McKinney, the Board **granted** application **UP-16-2003** for a temporary conditional use
390 permit to locate a temporary sales trailer at 2219 Mountain Road (Mountain Road
391 Townes) (Parcel 776-765-5797). The Board granted the use permit subject to the
392 following conditions:

- 393
- 394 1. The temporary sales trailer shall be removed from the property by September 1,
395 2004 or when a Certificate of Occupancy is issued for the model home, whichever shall
396 occur first.
 - 397
 - 398 2. Landscaping and lighting shall conform to the specifications shown on the
399 approved landscaping and lighting plan.
- 400

401 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
402 Negative: 0
403 Absent: 0
404

405 The Board granted the request because it found the proposed use will be in substantial
406 accordance with the general purpose and objectives of Chapter 24 of the County Code.
407

408 **UP- 18-2003** **APPLE VALLEY, LLC** requests a temporary conditional use permit
409 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code
410 to locate a temporary sales trailer at 10290 Woodman Road
411 (Woodman Trace) (Parcel 773-763-6864), zoned R-3, One-family
412 Residence District (Fairfield).
413

414 Mr. Balfour - Is anyone here on that case? We'll pass that by.
415

416 ***(Case called again at end of 9:00 o'clock docket. No response. Passed till the***
417 ***end of the 10:00 o'clock docket.)***
418

419 ***(Case called at end of 10:00 o'clock docket.)***
420

421 Upon a motion by Mr. McKinney, seconded by Mr. Wright, the Board **deferred**
422 application **UP-18-2003** for a temporary conditional use permit to locate a temporary
423 sales trailer at 10290 Woodman Road (Woodman Trace) (Parcel 773-763-6864). The
424 case was deferred because no one was present to speak on the applicant's behalf or
425 answer questions, from the July 24, 2003, until the August 28, 2003, meeting.
426

427 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
428 Negative: 0
429 Absent: 0
430

431 **A - 82-2003** **KELVIN WILLIAMS AND DOREEN ANGLERO** request a variance
432 from Section 24-95(i)(2) of Chapter 24 of the County Code to build
433 a detached garage at 7561 Turner Road (Phillips Woods) (Parcel
434 831-692-5020), zoned A-1, Agricultural District (Varina). The
435 accessory structure location requirement is not met. The applicants
436 wish to build a detached garage in the side yard, where the Code
437 allows accessory structures in the rear yard.
438

439 Mr. Balfour - Do we have any others who intend to testify in this matter?
440 Would you raise your right hand and be sworn please?
441

442 Mr. Blankinship - Do you swear that the testimony you are about to give is the
443 truth, the whole truth, and nothing but the truth, so help you God?
444

445 Mr. Boykin - I do. I'm James Boykin, Heartland Industries. What we're
446 proposing to do is build a detached garage to the right of Mr. Williams' home. The

447 reason we're doing that, if you see the plot plan there, there is a septic tank and drain
448 field directly behind the house on the right side, where we would normally put a garage,
449 and it would create a hardship if we were to try to put it there. They would have to
450 remove that septic tank and drain field and move it all over to the left and tear down
451 about a hundred trees to move that, so we're requesting the proposed 24 by 24
452 detached garage. There is a buffer of trees between the house and the neighbor to the
453 right, and we would set that into those trees. Originally, we were told there was a ten-
454 foot setback by the zoning. That was not true; it was a three-foot setback, so we would
455 push it into the trees there to hide it from the road as much as possible. Also, the buffer
456 would remain between the neighbor's house and Mr. Williams' house to screen that
457 from his view.

458
459 Mr. Nunnally - Those trees that you're speaking of, are they on your client's
460 property, or the neighbor's property? Which one?
461

462 Mr. Boykin - Yes. There would be remaining trees on both properties, but
463 we'd just ease it in there. As you can see, there's just some scrub trees in there, mostly
464 an open area, but we would move it back and hide it as best as possible. It would be
465 exactly matching the house, as far as the vinyl siding, doors and windows and things.
466

467 Mr. Balfour - Any other questions by Board members?
468

469 Mr. Blankinship - Mr. Chairman, let me just mention, we did receive one phone
470 call on this case, a neighbor who said that they had no objection.
471

472 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
473 Kirkland, the Board **granted** application **A-82-2003** for a variance to build a detached
474 garage at 7561 Turner Road (Phillips Woods) (Parcel 831-692-5020). The Board
475 granted the variance subject to the following conditions:
476

477 1. Only the improvements shown on the plan filed with the application may be
478 constructed pursuant to this approval. No substantial changes or additions to the layout
479 may be made without the approval of the Board of Zoning Appeals. Any additional
480 improvements shall comply with the applicable regulations of the County Code.
481

482 2. The new construction shall match the existing dwelling as nearly as practical.
483

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

487
488 The Board granted this request, as it found from the evidence presented that, due to the
489 unique circumstances of the subject property, strict application of the County Code
490 would produce undue hardship not generally shared by other properties in the area, and
491 authorizing this variance will neither cause a substantial detriment to adjacent property
492 nor materially impair the purpose of the zoning regulations.

493
494 Mr. Blankinship - Mr. Chairman, the next three cases are companion cases.
495
496 **A - 83-2003** **SUSAN M. JANCAREK** requests a variance from Section 24-9 of
497 Chapter 24 of the County Code to build a one-family dwelling at
498 8243 New Market Heights Lane (Parcel 826-685-5931), zoned A-1,
499 Agricultural District (Varina). The public street frontage requirement
500 is not met. The applicant has 0 feet public street frontage, where
501 the Code requires 50 feet public street frontage. The applicant
502 requests a variance of 50 feet public street frontage.
503
504 **A - 84-2003** **SUSAN M. JANCAREK** requests a variance from Section 24-9 of
505 Chapter 24 of the County Code to build a one-family dwelling at
506 8239 New Market Heights Lane (Parcel 826-685-8248), zoned A-1,
507 Agricultural District (Varina). The public street frontage requirement
508 is not met. The applicant has 0 feet public street frontage, where
509 the Code requires 50 feet public street frontage. The applicant
510 requests a variance of 50 feet public street frontage.
511
512 **A - 85-2003** **SUSAN M. JANCAREK** requests a variance from Sections 24-94
513 and 24-9 of Chapter 24 of the County Code to build a one-family
514 dwelling at 8237 New Market Heights Lane (Parcel 826-685-5445),
515 zoned A-1, Agricultural District (Varina). The lot width requirement,
516 public street frontage requirement, and total lot area requirement
517 are not met. The applicant has .962 acre lot area, 118 feet lot
518 width, and 0 feet public street frontage, where the Code requires 1
519 acre lot area, 150 feet lot width, and 50 feet public street frontage.
520 The applicant requests a variance of .038 acre lot area, 32 feet lot
521 width, and 50 feet public street frontage.
522
523 Mr. Balfour - Anyone who would like to speak on A-83, A-84, and A-85-
524 2003, please stand up. Do we have any others who intend to testify in this matter?
525 Would you raise your right hand and be sworn please?
526
527 Mr. Blankinship - Do you swear that the testimony you are about to give is the
528 truth, the whole truth, and nothing but the truth, so help you God?
529
530 Ms. Isaac - I do. I am Laraine Isaac. Good morning. Susan Jancarek
531 owns three lots, and these lots have existed as independent lots for some time. The
532 previous owner bought one in 1960, another in 1969, and another in 1974. Two of the
533 lots meet all of the requirements of the ordinance except for the street frontage. The
534 third lot has a notch cut out of it. She's trying to buy that, but is having a hard time
535 finding the owner. If she can purchase that, that lot would be brought into compliance
536 with the ordinance except for the road frontage. There was an existing house on one of
537 the lots, and it burned in December. The one on the southwest, 1.009 acres.
538

539 Mr. Blankinship - It shows on the aerial photograph.
540
541 Ms. Isaac - That little notch, the taxes have not been paid on it in two
542 years. She's contacted real estate, that is she can't find the owner, to buy it, then she's
543 going to try and get it on back taxes. So she is making every effort she can. I really
544 have no more information.
545
546 Mr. Nunnally - Your client, is he a developer, or is he going to sell?
547
548 Ms. Isaac - She's an individual, not a family thing. She bought these
549 lots, parcels, and my understanding is that she has a buyer for one of them, so she will
550 build a house and sell it to him. The other two will be leased.
551
552 Mr. Balfour - Any other questions by Board members?
553
554 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
555 Kirkland, the Board **granted** application **A-83-2003** for a variance to build a one-family
556 dwelling at 8243 New Market Heights Lane (Parcel 826-685-5931). The Board granted
557 the variance subject to the following conditions:
558
559 1. This variance applies only to the public street frontage requirement. All other
560 applicable regulations of the County Code shall remain in force.
561
562 2. At the time of building permit application, the applicant shall submit the
563 necessary information to the Department of Public Works to ensure compliance with the
564 requirements of the Chesapeake Bay Preservation Act and the code requirements for
565 water quality standards.
566
567 3. Approval of this request does not imply that a building permit will be issued.
568 Building permit approval is contingent on Health Department requirements, including,
569 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
570 of a well location.
571
572 4. The applicant shall present proof with the building permit application that a legal
573 access to the property has been obtained.
574
575 5. The owners of the property, and their heirs or assigns, shall accept responsibility
576 for maintaining access to the property until such a time as the access is improved to
577 County standards and accepted into the County road system for maintenance.
578
579 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
580 Negative: 0
581 Absent: 0
582
583 The Board granted this request, as it found from the evidence presented that, due to the
584 unique circumstances of the subject property, strict application of the County Code

585 would produce undue hardship not generally shared by other properties in the area, and
586 authorizing this variance will neither cause a substantial detriment to adjacent property
587 nor materially impair the purpose of the zoning regulations.
588

589 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
590 Kirkland, the Board **granted** application **A-84-2003** for a variance to build a one-family
591 dwelling at 8239 New Market Heights Lane (Parcel 826-685-8248). The Board granted
592 the variance subject to the following conditions:
593

594 1. This variance applies only to the public street frontage requirement. All other
595 applicable regulations of the County Code shall remain in force.
596

597 2. At the time of building permit application, the applicant shall submit the
598 necessary information to the Department of Public Works to ensure compliance with the
599 requirements of the Chesapeake Bay Preservation Act and the code requirements for
600 water quality standards.
601

602 3. Approval of this request does not imply that a building permit will be issued.
603 Building permit approval is contingent on Health Department requirements, including,
604 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
605 of a well location.
606

607 4. The applicant shall present proof with the building permit application that a legal
608 access to the property has been obtained.
609

610 5. The owners of the property, and their heirs or assigns, shall accept responsibility
611 for maintaining access to the property until such a time as the access is improved to
612 County standards and accepted into the County road system for maintenance.
613

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

617
618 The Board granted this request, as it found from the evidence presented that, due to the
619 unique circumstances of the subject property, strict application of the County Code
620 would produce undue hardship not generally shared by other properties in the area, and
621 authorizing this variance will neither cause a substantial detriment to adjacent property
622 nor materially impair the purpose of the zoning regulations.
623

624 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
625 Kirkland, the Board **granted** application **A-85-2003** for a variance to build a one-family
626 dwelling at 8237 New Market Heights Lane (Parcel 826-685-5445). The Board granted
627 the variance subject to the following conditions:
628

629 1. This variance applies only to the lot area, lot width and public street frontage
630 requirement. All other applicable regulations of the County Code shall remain in force.

631
632 2. At the time of building permit application, the applicant shall submit the
633 necessary information to the Department of Public Works to ensure compliance with the
634 requirements of the Chesapeake Bay Preservation Act and the code requirements for
635 water quality standards.

636
637 3. Approval of this request does not imply that a building permit will be issued.
638 Building permit approval is contingent on Health Department requirements, including,
639 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
640 of a well location.

641
642 4. The applicant shall present proof with the building permit application that a legal
643 access to the property has been obtained.

644
645 5. The owners of the property, and their heirs or assigns, shall accept responsibility
646 for maintaining access to the property until such a time as the access is improved to
647 County standards and accepted into the County road system for maintenance.

648
649 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
650 Negative: 0
651 Absent: 0

652
653 The Board granted this request, as it found from the evidence presented that, due to the
654 unique circumstances of the subject property, strict application of the County Code
655 would produce undue hardship not generally shared by other properties in the area, and
656 authorizing this variance will neither cause a substantial detriment to adjacent property
657 nor materially impair the purpose of the zoning regulations.

658
659 **A - 86-2003** **JANE A. VANDENBURGH** requests a variance from Section 24-
660 95(c)(4) of Chapter 24 of the County Code to build a front porch at
661 1403 Landis Drive (Fort Hill) (Parcel 763-742-2121), zoned R-3,
662 One-family Residence District (Three Chopt). The front yard
663 setback is not met. The applicant has 28 feet front yard setback,
664 where the Code requires 35 feet front yard setback. The applicant
665 requests a variance of 7 feet front yard setback.

666
667 Mr. Balfour - Do we have any others who intend to testify in this matter?
668 Would you raise your right hand and be sworn please?

669
670 Mr. Blankinship - Do you swear that the testimony you are about to give is the
671 truth, the whole truth, and nothing but the truth, so help you God?

672
673 Mr. Bradshaw - I do. I am Charles Bradshaw. We'd like to put a front porch
674 on this house. It would cosmetically make it look nice. You have three different styles
675 on the houses there. You have a gable on the front right. You have a gable in the
676 center (hers just happens to be on the front right), and you have one with no gable on

677 the front at all. I have a list of people who have signed around the neighborhood, plus a
678 list of people who actually want to do the same thing, who are right there in the
679 neighborhood. On the corner, which this doesn't show, and an aerial view doesn't show
680 it either; I'm not sure what the picture was actually taking, but at 7314 Three Chopt,
681 which is right on the corner, four doors down from this lot, there's a garage that's been
682 built so close to the road, even though it's in the people's back yard from Three Chopt,
683 it's actually sitting right next to the front yards of these people here, at 1301, 1303, and
684 right down the line.

685
686 Mr. Balfour - Any questions by Board members?

687
688 Mr. Nunnally - Any other houses in that block have front porches like this?

689
690 Mr. Bradshaw - No sir, but I do have the names of people who want to do the
691 same thing.

692
693 Mr. Nunnally - So we would be creating a precedent here that would kind of
694 open up things?

695
696 Mr. Bradshaw - Yes sir, you might, but then again, you're also improving the
697 looks of homes and improving the value of the real estate.

698
699 Mr. Balfour - This porch would extend across the entire front of the house,
700 is that correct?

701
702 Mr. Bradshaw - Yes sir.

703
704 Mr. Kirkland - You don't have a drawing or something of it, do you? We'd
705 like to see what it would look like. If you give it to us, we have to keep it for thirty days.

706
707 Mr. Bradshaw - Yes sir, I do. I have no problem with that. I did these
708 myself, so they're not as professionally done.

709
710 Mr. Balfour - It looks like this property backs up to the church on
711 Monument?

712
713 Mr. Bradshaw - Yes sir, it backs up to the Lutheran Church. There's a
714 privacy fence on the back of Jane's house, next door has a privacy fence. The church
715 just did a big renovation last year.

716
717 Mr. Wright - Does that area on the right side of the house extend forward
718 of the rest of the house? It looks like there's an indention there, is that correct? Do you
719 have a picture of the house?

720
721 Mr. Balfour - The porch looks like it goes straight across, whereas the
722 picture we have looks like there's a whole room sitting out front, so the porch wouldn't

723 go all the way across; it would just go across half of it.
 724
 725 Ms. Vandenburg - It's flat.
 726
 727 Mr. Blankinship - I think it's fooling the eye, because there is a three-foot wide
 728 porch.
 729
 730 Mr. Balfour - Is the porch going to be straight across then, and the "A" part
 731 on the front going to be above.
 732
 733 Mr. Bradshaw - The "A" part I'm taking off.
 734
 735 Mr. Balfour - Any other questions by Board members? Thank you.
 736
 737 Mr. Bradshaw - Excuse me sir, you're saying you're going to keep the
 738 drawings for thirty days. Will we have an answer in thirty days or in an hour and a half?
 739
 740 Mr. Balfour - You'll have an answer in probably an hour and a half.
 741
 742 Mr. Bradshaw - Thank you, sir. You have a good day.
 743

744 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
 745 McKinney, the Board **granted** application **A-86-2003** for a variance to build a front
 746 porch at 1403 Landis Drive (Fort Hill) (Parcel 763-742-2121). The Board granted the
 747 variance subject to the following conditions:
 748

749 1. Only the improvements shown on the plan filed with the application may be
 750 constructed pursuant to this approval. No substantial changes or additions to the layout
 751 may be made without the approval of the Board of Zoning Appeals. Any additional
 752 improvements shall comply with the applicable regulations of the County Code.
 753

754 2. The new construction shall match the existing dwelling as nearly as practical.
 755

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

759
 760 The Board granted this request, as it found from the evidence presented that, due to the
 761 unique circumstances of the subject property, strict application of the County Code
 762 would produce undue hardship not generally shared by other properties in the area, and
 763 authorizing this variance will neither cause a substantial detriment to adjacent property
 764 nor materially impair the purpose of the zoning regulations.
 765

766 **A - 87-2003** **JUDY POORE** requests a variance from Section 24-94 of Chapter
 767 24 of the County Code to build an addition to accessory structure at
 768 3021 Quail Walk Drive (Quail Walk) (Parcel 773-771-5740), zoned

769 R-2, One-family Residence District (Brookland). The rear yard
770 setback is not met. The applicant has 41 feet rear yard setback,
771 where the Code requires 45 feet rear yard setback. The applicant
772 requests a variance of 4 feet rear yard setback.
773

774 Mr. Balfour - Do we have any others who intend to testify in this matter?
775 Would you raise your right hand and be sworn please?
776

777 Mr. Blankinship - Do you swear that the testimony you are about to give is the
778 truth, the whole truth, and nothing but the truth, so help you God?
779

780 Ms. Poore - Yes. I'm Judy Poore. We're requesting a variance of four
781 feet, so that we can build an addition to the back of the garage. We want to build an
782 eleven-foot addition to the back of the garage, that would match the house, and we
783 have just put vinyl siding on the house, and we would continue with the vinyl siding on
784 the garage. The garage is set back an additional footage from the house, which has
785 more variance on the front of the lot than it needs. We're cut just a little short on the
786 back. When we had investigated what to do, we did look at our options of putting the
787 addition on various sides of the garage, which would block windows or block access to
788 the back of the yard, and putting the addition on the front of the garage would block
789 windows again. We do have a privacy fence, which would block the view from the
790 neighbors.
791

792 Mr. Blankinship - Let me call your attention, Mr. Chairman, to the handout that
793 was left at your place when you came in. That pertains to this case.
794

795 Mr. Kirkland - Ms. Poore, what is this storage area going to be used for,
796 lawn mowers, or what?
797

798 Ms. Poore - Basically lawn mowers and boxes; I'm a collector of junk.
799

800 Mr. Poore - I'm Mark Poore. We've also purchased a new vehicle
801 recently that we'd like to garage-keep, and in the past we haven't kept vehicles in the
802 garage, and now we'd like to actually utilize it for that. Right now it's got lawn mowers,
803 storage boxes, stuff like that, and really, it's just not big enough, so we need to move it
804 somewhere, and that's why we're requesting the variance for the addition.
805

806 Mr. Balfour - I see by your sketch that this will have a brick bottom to it,
807 just like the garage does?
808

809 Ms. Poore - Yes, it would match consistently with the garage. The
810 garage has a cement floor, and that would have a cement floor also.
811

812 Mr. Balfour - Other questions by Board members? Thank you.
813

814 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
815 Nunnally, the Board **granted** application **A-87-2003** for a variance to build an addition to
816 accessory structure at 3021 Quail Walk Drive (Quail Walk) (Parcel 773-771-5740). The
817 Board granted the variance subject to the following conditions:

818
819 1. Only the improvements shown on the plan filed with the application may be
820 constructed pursuant to this approval. No substantial changes or additions to the layout
821 may be made without the approval of the Board of Zoning Appeals. Any additional
822 improvements shall comply with the applicable regulations of the County Code.

823
824 2. The new construction shall match the existing dwelling as nearly as
825 practical.

826
827 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
828 Negative: 0
829 Absent: 0

830
831 The Board granted this request, as it found from the evidence presented that, due to the
832 unique circumstances of the subject property, strict application of the County Code
833 would produce undue hardship not generally shared by other properties in the area, and
834 authorizing this variance will neither cause a substantial detriment to adjacent property
835 nor materially impair the purpose of the zoning regulations.

836
837 Mr. Balfour - The Chairman would make a comment that we've got to wait
838 till 10:00 to announce these cases, but I wonder if we could move along. Would you
839 rather take a break for half an hour?

840
841 Mr. Blankinship - What you could do is take a vote on these cases up to this
842 point.

843
844 Mr. Balfour - Mr. Secretary, what the Board would like to do is, we
845 announced that we wouldn't vote on the first case on the docket till the end of the
846 second docket, but we did not say that for the rest of them. So would you call beginning
847 with UP-14-2003, and we can go ahead and vote those through to the 10:00 o'clock
848 docket.

849
850 Mr. Balfour - Mr. Secretary, would you call again UP-18-2003.

851
852 Mr. Balfour - We'll take a recess then for about 20 minutes.

853
854 **Beginning at 10:00**

855
856 Mr. Balfour - I call the meeting of the Henrico County Board of Zoning
857 Appeals back to order. On behalf of the Board, I apologize that we had to have people
858 wait for twenty minutes. We set these schedules based on the time that we expect
859 each case to take. Some of you may not have been aware, may not have picked up on

860 the fact that two cases were withdrawn, and that related to the Bon Secours St. Mary's
861 Hospital. When those cases were withdrawn, that probably took away the twenty
862 minutes that you had to wait and we had to wait, but we don't know people are going to
863 withdraw cases until we get here. We apologize to you; we had to wait as you did. Now
864 we'll call the 10:00 o'clock docket for people who may be here for that docket. You may
865 want to read the rules again.

866
867 Mr. Blankinship - The rules for this meeting are as follows. As Secretary, I will
868 call each case. Then at that time the applicant should come to the podium. I will ask
869 everyone who intends to speak on that case, in favor or in opposition, to stand and be
870 sworn in. The applicants will then present their testimony. After the applicant has
871 spoken, then anyone else who wishes to speak will be given the opportunity. After
872 everyone has spoken, the applicant, and only the applicant, will be given the opportunity
873 for rebuttal. After hearing the case, and asking questions, the Board will take the matter
874 under advisement. They will render all of their decisions at the end of the meeting. If
875 you wish to know their decision on a specific case, you can either stay until the end of
876 the meeting, or you can call the Planning Office later this afternoon. This meeting is
877 being tape recorded, so we will ask everyone who speaks, to speak directly into the
878 microphone on the podium, to state your name, and to spell your last name please.
879 And finally, out in the foyer, there are two binders, containing the staff report for each
880 case, including the conditions that have been recommended by the staff.

881
882 Mr. Balfour - Are there any deferrals or withdrawals? Would you call the
883 first case please?

884
885 **New Applications**

886
887 **A - 88-2003** **DONNA AND WARREN BATTLE** request a variance from Section
888 24-30.1(a) of Chapter 24 of the County Code to build a sunroom at
889 5508 Yates Lane (Wynfield) (Parcel 815-724-6624), zoned R-5,
890 General Residence District (Varina). The front yard setback,
891 minimum side yard setback, and rear yard setback are not met.
892 The applicant has 34 feet front yard setback, 7 feet minimum side
893 yard setback and 21 feet rear yard setback, where the Code
894 requires 35 feet front yard setback, 8 feet minimum side yard
895 setback and 35 feet rear yard setback. The applicant requests a
896 variance of 1 foot front yard setback, 1 foot minimum side yard
897 setback and 14 feet rear yard setback.

898
899 Mr. Balfour - Do we have any others who intend to testify in this matter?
900 Anybody who might say something, even if you're not sure, but you might, you might as
901 well be sworn in at one time. Would you raise your right hand and be sworn please?

902
903 Mr. Blankinship - Do you swear that the testimony you are about to give is the
904 truth, the whole truth, and nothing but the truth, so help you God?

905

906 Mr. Farrar - I do. I'm Terry Farrar. I've been coming out here about
907 every single month for a long, long time, and this one really baffles me a little here. As
908 far as the hardship goes, I absolutely agree with you on that. When Mr. and Mrs. Battle
909 purchased the home a year ago, they had the intention of doing something with the
910 existing deck that was on their home at the time. Obviously, as you see, they wanted to
911 purchase a 12 by 15 sunroom to go on that. The reason I'm confused is, we're asking
912 for a foot on the front and a foot on the side, and this is the largest I've ever had to
913 approach, 14 feet in the rear. What we're going to hopefully do, is build a sunroom on
914 the existing structure there. We're not going to protrude anything. We're going to tear
915 that structure out and put the sunroom on a concrete foundation. I've got some pictures
916 to show you what it's going to look like.

917
918 Mr. Balfour - Any questions by Board members?

919
920 Mr. Nunnally - Mr. Farrar, you said the deck was on the house when they
921 purchased it?

922
923 Mr. Farrar - Yes sir, it was.

924
925 Mr. Nunnally - And this sunroom you're going to put on there is going to be
926 the same size?

927
928 Mr. Farrar - Yes sir.

929
930 Mr. Balfour - Any other questions by Board members?

931
932 Mr. Nunnally - What's located to the rear of this property?

933
934 Mr. Farrar - You have an easement that's back there. From the back
935 where the privacy fence is, it's not going to be able to be seen from the rear yard, if
936 that's what you're asking.

937
938 Mr. Nunnally - What is located to the rear, beyond the rear property line?

939
940 Mr. Farrar - I think that's an apartment complex or condos.

941
942 Mr. Balfour - Any other questions? Do you two folks want to testify?

943
944 Ms. Carey - My name is Juanita Carey, and I live across the street, and I
945 don't know too much about this building situation. I don't know why I got the notice
946 since I live across the street and they're building a sunroom on the back of their home. I
947 just want to know how I'm affected by it.

948
949 Mr. Balfour - They give you notice because you are an adjoining
950 landowner, and you have the right to, since they ask you for a change in zoning
951 regulations in your neighborhood, you have a right as a neighbor to know what they're

952 doing and to express an opinion about it. If you oppose it, you can say so and why. If
953 you don't mind their enclosing their deck, then you just say to us that you have no
954 objection to it.

955
956 Mr. Kirkland - You're automatically contacted because you're an adjacent
957 landowner.

958
959 Ms. Carey - I didn't know that. I was wondering how I would be affected,
960 and I thought I'd come.

961
962 Mr. Balfour - If they were going to put a two-story, big garage back there,
963 and you thought it looked pretty ugly, then it would affect you. That's the idea. This
964 may not affect you at all because you may not even see it, but you still have the right to
965 be notified.

966
967 Ms. Carey - I don't have a problem with that.

968
969 Mr. Johnson - My name is Lawrence Johnson, and I live next door to them,
970 and I'm wondering how does that foot affect my property on that side.

971
972 Mr. Blankinship - That house is not moving any closer, but we noticed when
973 we were reviewing the case, that it's a little closer to the property line, it's actually less
974 than a foot, but it's closer to the property line than it's allowed to be, so we're clearing
975 that problem up while we have this in front of the Board already. They're not adding on
976 to that side or moving it or anything. It's just going to stay exactly the way it is, but this
977 will make it cleaner for them if they try to sell the property in the future.

978
979 Mr. Johnson - All right. Thank you.

980
981 Mr. Balfour - Apparently what they're doing, is they're enclosing their deck
982 the same size the deck is now. I believe they were the only two who expressed an
983 interest in commenting on this case.

984
985 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
986 McKinney, the Board **granted** application **A-88-2003** for a variance to build a sunroom
987 at 5508 Yates Lane (Wynfield) (Parcel 815-724-6624). The Board granted the variance
988 subject to the following conditions:

989
990 1. Only the improvements shown on the plan filed with the application may be
991 constructed pursuant to this approval. No substantial changes or additions to the layout
992 may be made without the approval of the Board of Zoning Appeals. Any additional
993 improvements shall comply with the applicable regulations of the County Code.

994
995 2. The new construction shall match the existing dwelling as nearly as practical.

996
997 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

998 Negative: 0
999 Absent: 0

1000
1001 The Board granted this request, as it found from the evidence presented that, due to the
1002 unique circumstances of the subject property, strict application of the County Code
1003 would produce undue hardship not generally shared by other properties in the area, and
1004 authorizing this variance will neither cause a substantial detriment to adjacent property
1005 nor materially impair the purpose of the zoning regulations.

1006
1007 **A - 89-2003** **GEORGE MCCLELLAN** appeals a decision of the Director of
1008 Planning pursuant to Section 24-116(a) of Chapter 24 of the County
1009 Code regarding the property at 1797 Hungary Road (North Run
1010 Hills) (Parcel 778-759-1670), zoned R-2, One-family Residence
1011 District (Fairfield).

1012
1013 Mr. Balfour - Anyone here to speak on that case? Do we have any others
1014 who intend to testify in this matter? Would you raise your right hand and be sworn
1015 please?

1016
1017 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1018 truth, the whole truth, and nothing but the truth, so help you God?

1019
1020 Mr. McClellan - I do. I'm George McClellan. My next-door neighbor has
1021 been complaining about my machinery. I don't run a business from my home. There's
1022 just a trailer and a truck that I drive to work and back. It is parked behind the house, on
1023 the corner of the house. We do have it in a fenced area, and we've been trying to do
1024 some things. As you can see, the front of the house stays in good shape. The cars are
1025 all parked out there. If you look at this, you can see the machine, but only if you're
1026 looking right at the front of the house. If you're coming down the road, you cannot see
1027 that machinery and stuff until you get right up on the house. We're just trying to stay at
1028 the house; I rent the house. When I moved into the house that was a reason for moving
1029 in. I stayed there six months before this gentleman actually complained about the
1030 machine being there; I really don't know why. I have nowhere else to store it.

1031
1032 Mr. Nunnally - You say you drive it back and forth to work – what kind of
1033 work do you do, sir?

1034
1035 Mr. McClellan - That's all it's used for. I do aboveground swimming pools.

1036
1037 Mr. Nunnally - Can you leave it at the job site?

1038
1039 Mr. McClellan - When permitted, I do. I do above-grounds, not in the
1040 grounds, so most of the time usually I'm only on the job 45 minutes.

1041

1042 Mr. McKinney - Mr. McClellan, did Henrico County give you a copy of the
1043 zoning ordinance for R-2 zoning? Do you have a copy of it? So why are you appealing
1044 it?
1045
1046 Mr. McClellan - Yes sir. Why? To keep the rental on my house, because
1047 without the machine and the truck, I can't live there.
1048
1049 Mr. McKinney - But you can't store equipment in a residential neighborhood.
1050
1051 Mr. McClellan - I'm not actually storing it. I'm just using it to go back and
1052 forth to work, sir.
1053
1054 Mr. McKinney - How about when you're not working, it's being stored there,
1055 isn't it?
1056
1057 Mr. McClellan - Basically the same as a truck that you drive to work or a car
1058 that you drive to work, yes sir.
1059
1060 Mr. Blankinship - Let me just add, Mr. Chairman, that the Code does allow one
1061 commercial vehicle, provided it's less than 5,000 pounds. So the truck itself could stay,
1062 if the trailer and the bobcat were stored elsewhere.
1063
1064 Mr. Balfour - Any other questions by Board members? You'll have to talk
1065 to some of your businesses in the same market, and find out where they store their
1066 equipment.
1067
1068 Mr. McClellan - Most of them store it right at home, so obviously I must be in
1069 the wrong zone or something, I don't know. I see buses stored at their houses, and
1070 stuff down the road, in the same neighborhood. I guess they use them for work, back
1071 and forth, for driving.
1072
1073 Mr. Balfour - These are school buses you're talking about?
1074
1075 Mr. McClellan - There are some exceptions for a school bus if you're a
1076 school bus driver.
1077
1078 Mr. Blankinship - They're not commercial.
1079
1080 Mr. McClellan - My vehicle's not commercial. It's not rated commercial; it's
1081 not used as commercial.
1082
1083 Mr. Balfour - I think your vehicle is all right. I think the complaint has to do
1084 with the bobcat, a piece of equipment.
1085
1086 Mr. McClellan - They say over 5,000 pounds; well, that machine isn't over
1087 5,000 pounds, it or the trailer.

1088
1089 Mr. Kirkland - Mr. McClellan, let me ask you a question. In our staff report,
1090 they inventory your equipment. You have a dump truck, a box truck, and two bobcats
1091 on a commercial trailer?
1092
1093 Mr. McClellan - Yes sir. No sir. One bobcat.
1094
1095 Mr. Kirkland - I just want to make sure I've got all these straight. What do
1096 you drive, other than the dump truck, to get back and forth? Do you have a pick-up
1097 truck?
1098
1099 Mr. McClellan - No. I use the dump truck only, back and forth to work.
1100
1101 Mr. McKinney - What's the weight of your dump truck, Mr. McClellan?
1102
1103 Mr. McClellan - Probably about 3900. It's a one-ton dump truck, just like a
1104 regular pick-up.
1105
1106 Mr. McKinney - Mr. Blankinship, how'd you get two bobcats?
1107
1108 Mr. Blankinship - I was taking that off of the inspection report. I'm sorry we
1109 don't have the inspector here this morning.
1110
1111 Mr. McClellan - I have pictures of everything that they have, and they only
1112 have one bobcat in here. I don't have two bobcats on the property.
1113
1114 Mr. Kirkland - So you install these pools, and you're not a contractor?
1115
1116 Mr. McClellan - No, I am a contractor, but my office is not at my home.
1117
1118 Mr. Kirkland - You don't have space at your office to park these vehicles?
1119
1120 Mr. McClellan - No sir. If I did, I would do that. This wouldn't be an issue.
1121 I'm not there to make people mad or anything. If I had a place to park it, I would do so.
1122
1123 Mr. McKinney - Mr. Blankinship, can he park this in a garage?
1124
1125 Mr. Blankinship - One commercial vehicle, yes.
1126
1127 Mr. McClellan - There's no way of putting a privacy fence up?
1128
1129 Mr. Blankinship - The Code doesn't provide for that. It just says you can have
1130 one commercial vehicle, provided it's less than 5,000 pounds.
1131
1132 Mr. McKinney - You can't have one covered either, can you? With a cover?
1133

1134 Mr. Blankinship - No.
1135

1136 Mr. Balfour - Thank you. You may want to see if you can either leave
1137 your equipment where you are doing your job, or find another place where you can
1138 store it, probably rent a little space. Now I know that's not the answer you want, but the
1139 reason these zoning rules are there is because the integrity of these neighborhoods is
1140 established in different ways – by size of houses, size of garages, where they're located
1141 so you don't have houses that are one foot from each other. You may think the
1142 equipment is fine, but you might object to the next guy who keeps ten dogs in his back
1143 yard that bark all night, and you don't like it, so there's a limit to how many dogs you can
1144 keep. The complainant is trying to state a position he thinks he has a right to, that
1145 where you live has a limit to how much equipment you may have there. I sympathize
1146 with the position that you're in, but we don't have a lot of choice. I'm sorry, as I say, for
1147 your situation, but you might need to look for a place where you can store the other
1148 vehicles, and it may cost you a little rent, or maybe you can pool your resources with
1149 somebody else in the same position, and you can find a place together. There is no
1150 one else to speak, is that right?

1151
1152 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1153 Kirkland, the Board **denied** application **A-89-2003** to appeal a decision of the Director of
1154 Planning regarding the property at 1797 Hungary Road (North Run Hills) (Parcel 778-
1155 759-1670).

1156
1157 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1158 Negative: 0
1159 Absent: 0

1160
1161 The Board denied your request as it found that the Director of Planning correctly
1162 interpreted and applied the County Code.

1163
1164 **A - 90-2003** **KEITH ENROUGHTY** requests a variance from Section 24-95(c)(1)
1165 of Chapter 24 of the County Code to build a carport at 1617 Foster
1166 Road (Berkshire Park) (Parcel 762-744-8857), zoned R-3, One-
1167 family Residence District (Three Chopt). The minimum side yard
1168 setback and total side yard setback are not met. The applicant has
1169 0 feet minimum side yard setback and 14 feet total side yard
1170 setback, where the Code requires 7 feet minimum side yard
1171 setback and 19.5 feet total side yard setback. The applicant
1172 requests a variance of 7 feet minimum side yard setback and 5.5
1173 feet total side yard setback.

1174
1175 Mr. Balfour - Anyone here to speak on that matter? Do we have any
1176 others who intend to testify in this matter? Would you raise your right hand and be
1177 sworn please?

1178
1179 Mr. Blankinship - Do you swear that the testimony you are about to give is the

1180 truth, the whole truth, and nothing but the truth, so help you God?
1181
1182 Mr. Enroughty - I do. My name is Keith Enroughty. I want to add an
1183 attached carport on the side of my house. Right now I have a freestanding one, and it's
1184 not wide enough for the van I've got. When the lift opens and comes down, you need
1185 more room than is there to go on and off.
1186
1187 Mr. Balfour - The picture we have shows a boat in there, is that right?
1188
1189 Mr. Enroughty - Yes, it's there for now. I'm going to take it down to my dad's
1190 house.
1191
1192 Mr. Balfour - But it's not wide enough for your van?
1193
1194 Mr. Enroughty - No, it takes every bit of the width of that driveway. When I
1195 park, I'm all the way on the left side, and the life comes down, and by the time you roll
1196 off, it sits right to the other side. That carport is twelve feet wide, and when I put it up, I
1197 was driving a car, and I thought I could just make do when I got a van. When I got the
1198 van, there was just no way to do it.
1199
1200 Mr. Wright - What's going to happen to that carport that's there?
1201
1202 Mr. Enroughty - My brother's going to take it.
1203
1204 Mr. Wright - You're going to remove it?
1205
1206 Mr. Enroughty - Yes, he's going to take it. It's going to be the same type
1207 structure, steel tubing structure, same type top; it's going to attach to the house and
1208 come out and then straight down.
1209
1210 Mr. Wright - Have you got a drawing or a picture to show us what you
1211 propose to build?
1212
1213 Mr. Enroughty - Yes, I found some pictures on the Internet. It's not the same
1214 company, but it's a similar type.
1215
1216 Mr. Balfour - The one you have here looks like it's not attached to the
1217 house.
1218
1219 Mr. Enroughty - It's similar to the picture, attached on one side, coming out
1220 and then coming straight down.
1221
1222 Mr. Wright - So it will be completely open on the side and the back and
1223 the front?
1224

1225 Mr. Enroughty - Yes. The height of the van, I don't want to make it any taller
1226 than I have to, I think eight or nine feet tall.
1227

1228 Mr. Wright - Whose car is that in this picture that we have here, that's
1229 parked next to the carport with the boat in it? Is that your neighbor's car?
1230

1231 Mr. Enroughty - That's my next-door neighbor's. Right behind his truck,
1232 there are two huge oak trees that are going to be right across from where the carport
1233 comes out, so he can't get back that far. It's really not going to affect him, and he said
1234 it's fine with him. Without cutting down those two trees, he can't use that space, so he
1235 told me it would be okay.
1236

1237 Mr. Balfour - So your carport is going to be sitting back farther than his
1238 truck, is what you're saying. His truck is really sitting out front.
1239

1240 Mr. Enroughty - Yes, and that carport is really two feet farther forward from
1241 the house, so you can't really tell the depth of it, but it's going to be two feet farther
1242 back, and the boat's going back down to my dad's.
1243

1244 Mr. Wright - If we were to approve this, would you be agreeable to a
1245 condition that if you were to move from this house, that this carport be removed, so the
1246 property could come into compliance?
1247

1248 Mr. Enroughty - Sure. Yes, I would take it down, if it had to come down,
1249 because it's not a real, it's semi-permanent I guess, because it's attached, but it's not
1250 framed, and to demolish it is only eight or ten bolts, shake it around, and it should come
1251 down.
1252

1253 Mr. Wright - My concern is that it's right on the property line.
1254

1255 Mr. Balfour - The idea would be it's only an exclusive right to you if it were
1256 granted, not something you can pass on to another owner.
1257

1258 Mr. Enroughty - Yes, I've been there 15-16 years; I'm going to stay for as
1259 long as I can see. The past six months the rain has been so bad, it's just gotten to be a
1260 bigger issue with me. But sure, I can take it down if it had to come down.
1261

1262 Mr. Balfour - Are there any other questions by Board members?
1263 Apparently not, thank you sir.
1264

1265 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1266 McKinney, the Board **granted** application **A-90-2003** for a variance to build a carport at
1267 1617 Foster Road (Berkshire Park) (Parcel 762-744-8857). The Board granted the
1268 variance subject to the following conditions:
1269

1270 1. Only the improvements shown on the plan filed with the application may be
1271 constructed pursuant to this approval. No substantial changes or additions to the layout
1272 may be made without the approval of the Board of Zoning Appeals. Any additional
1273 improvements shall comply with the applicable regulations of the County Code.

1274
1275 2. The new construction shall match the existing dwelling as nearly as practical.
1276

1277 3. When the current owner moves out of the house the carport shall be
1278 brought into compliance and this variance shall expire.

1279
1280 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1281 Negative: 0
1282 Absent: 0
1283

1284 The Board granted this request, as it found from the evidence presented that, due to the
1285 unique circumstances of the subject property, strict application of the County Code
1286 would produce undue hardship not generally shared by other properties in the area, and
1287 authorizing this variance will neither cause a substantial detriment to adjacent property
1288 nor materially impair the purpose of the zoning regulations.
1289

1290
1291 **A - 91-2003 JOSEPH AND JUDITH JAGDMANN** request a variance from
1292 Section 24-94 of Chapter 24 of the County Code to build an
1293 addition at 12504 Hardings Trace Place (Hardings Trace) (Parcel
1294 733-758-5343), zoned R-3C, One-family Residence District
1295 (Conditional) (Three Chopt). The rear yard setback and total side
1296 yard setback are not met. The applicant has 34 feet rear yard
1297 setback and 27 feet total side yard setback, where the Code
1298 requires 40 feet rear yard setback and 30 feet total side yard
1299 setback. The applicant requests a variance of 6 feet rear yard
1300 setback and 3 feet total side yard setback.
1301

1302 Mr. Balfour - Do we have any others who intend to testify in this matter?
1303 Would you raise your right hand and be sworn please?
1304

1305 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1306 truth, the whole truth, and nothing but the truth, so help you God?
1307

1308 Ms. Jagdmann - I do. My name is Judith Jagdmann. Mr. Kinton, our
1309 architect, is with me as well, today. We request a variance from the rear setbacks to
1310 build a Florida room. Basically, the Florida room is going where our deck is right now.
1311 We're in an R-3 lot, and we're in a cul-de-sac in a very acute pie-shaped portion of the
1312 cul-de-sac, which prevents us from building or adding on to have the square footage
1313 that most R-3 lots would have. When we moved into the house, we had one child. We
1314 have four bedrooms. We now have two children, and we have a foreign exchange
1315 student living with us, and we can certainly use the extra room for various reasons, and

1316 we would very much like to stay where we are. I've spoken with all the adjacent
1317 property owners, and they have no problem with the various. I would mention that the
1318 report came back that the original structure did not meet the side setbacks. I believe
1319 that that is incorrect, based on the drawings that we submitted. When we went out and
1320 did the measurements, we do believe that we meet the side setbacks, and we'd be glad
1321 to provide any additional data that is needed for that. I'm willing to answer any
1322 questions that you may have, but would very much appreciate the six feet.

1323
1324 Mr. Balfour - Any questions by Board members?

1325
1326 Mr. Wright - You have referred to the fact that this is an odd-shaped lot.

1327
1328 Ms. Jagdmann - Yes sir, and I know that a lot of cul-de-sacs have that
1329 problem, but when I was looking at the other cul-de-sacs in our subdivision, or in others
1330 as well, this is acutely narrow, and it stays narrow for a long portion. We moved three
1331 feet off the front setback just to be able to get the structure on, so we're longer on the
1332 front setback as well.

1333
1334 Mr. Wright - It does also appear that this addition encroachment would be
1335 much less on the south side than on the north side because of the way the lot it.

1336
1337 Ms. Jagdmann - Yes, it's sort of a triangular encroachment.

1338
1339 Mr. Balfour - Any other questions by Board members? Sir, did you want
1340 to add anything?

1341
1342 Mr. Kinton - My name is Greg Kinton. Just to speak a little bit on the side
1343 yard setback, the fifteen-foot dimension, I guess you could say it's the bottom corner of
1344 the property. That was an erroneous dimension; it's actually larger than that and meets
1345 the setback requirements.

1346
1347 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1348 McKinney, the Board **granted** application **A-91-2003** for a variance to build an addition
1349 at 12504 Hardings Trace Place (Hardings Trace) (Parcel 733-758-5343). The Board
1350 granted the variance subject to the following conditions:

1351
1352 1. The property shall be developed in substantial conformance with the plan filed
1353 with the application. No substantial changes or additions to the layout may be made
1354 without the approval of the Board of Zoning Appeals

1355
1356 2. The new construction shall match the existing dwelling as nearly as practical.

1357
1358 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1359 Negative: 0

1360 Absent: 0
1361

1362 The Board granted this request, as it found from the evidence presented that, due to the
1363 unique circumstances of the subject property, strict application of the County Code
1364 would produce undue hardship not generally shared by other properties in the area, and
1365 authorizing this variance will neither cause a substantial detriment to adjacent property
1366 nor materially impair the purpose of the zoning regulations.
1367

1368 Mr. Balfour - Any more questions? Mr. Secretary, would you recall again,
1369 UP-18-2003.
1370

1371 Mr. Blankinship - Mr. Chairman, on the matter of the calendar, we have given
1372 you two different options. As you know, the standard meeting time is the fourth
1373 Thursday, except that we adjust the November and December dates to the third
1374 Thursday in order to avoid Thanksgiving and Christmas. The way the calendar works
1375 out this year, if you follow that, we would have five weeks between the September
1376 meeting and the October meeting, and then only three weeks between the October
1377 meeting and the November meeting. So we have proposed that as Option # 1. Option
1378 # 2 would also move the October meeting to the third Thursday, and if you do that, then
1379 we have four weeks between September and October, four weeks between October
1380 and November.
1381

1382 **Approval of 2004 Calendar # 1:**
1383

- 1384 1. October 28 (normal fourth Thursday, 5 weeks after September meeting)
- 1385
- 1386 2. November 18 (third Thursday, 3 weeks after October meeting)
- 1387
- 1388 3. December 16 (third Thursday, 4 weeks after November meeting)
- 1389

1390 **Or, Approval of 2004 Calendar # 2:**
1391

- 1392 1. October 21 (third Thursday, 4 weeks after September meeting)
- 1393
- 1394 2. November 18 (third Thursday, 4 weeks after October meeting)
- 1395
- 1396 3. December 16 (third Thursday, 4 weeks after November meeting)
- 1397

1398 Mr. McKinney - That helps the staff, doesn't it?
1399

1400 Mr. Blankinship - Yes sir.
1401

1402 Mr. Balfour - Staff favors the second?
1403

1404 Mr. Blankinship - Yes sir.
1405

1406 Upon a motion by Mr. McKinney, seconded by Mr. Wright, the Board **approved the**
1407 **2004 Calendar # 2.**

1408
1409 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1410 Negative: 0
1411 Absent: 0
1412
1413 There being no further business, and on a motion by Mr. Wright, seconded by
1414 Mr. Kirkland, the Board adjourned until **August 28, 2003**, at 9:00 am.
1415
1416

1417 Daniel T. Balfour,
1418 Chairman

1419
1420 Benjamin Blankinship, AICP
1421 Secretary

1422