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MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF HENRICO COUNTY HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE HENRICO COUNTY GOVERNMENT COMPLEX ON THURSDAY, JUNE 22, 2000, AT 9:00 A.M. NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH ON JUNE 9 AND 16, 2000.

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

Also Present: Benjamin Blankinship, Secretary
Susan W. Blackburn, County Planner II
Florence Ellis, Recording Secretary

Mr. Kirkland - Welcome, ladies and gentlemen. The meeting of the June Board of Zoning Appeals meeting will come to order. Mr. Secretary, before we get started, would you please read the rules.

Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies and gentlemen. The rules for this meeting are as follows. The Secretary, myself, will call each case. Then the applicant will come to the podium to present the case. At that time I'll ask all those who intend to speak, in favor or opposition, to stand, and be sworn in. The applicants will then present their testimony. When the applicant is finished, anyone else will be given an opportunity to speak. After everyone has spoken, the applicant, and only the applicant, will be given the opportunity for rebuttal. After hearing the case, and asking questions, the Board will take the matter under advisement. They will render their decision at the end of the meeting. If you wish to know what their decision is, you may stay until the end of the meeting, or you may call the Planning Office this afternoon. This meeting is being tape recorded, so we will ask everyone who speaks, to speak directly into the microphone on the podium, and to state your name for the record. Out in the foyer, there is a binder, with the staff reports, including the suggested conditions for each case, so if you want to know the conditions that are being discussed, they are all out in the foyer. Mr. Chairman?

Mr. Kirkland - Before we get started, are there any deferrals or withdrawals on the 9:00 o'clock agenda?

Mr. Blankinship - I don't know if we have it in writing, but I was told on the telephone that UP-9, the first case, the circus, the carnival at Virginia Center Commons, is to be withdrawn. I guess we can call the case, and then.....

36 Mr. Kirkland - If you would, call the case.

37

38 **UP-9-2000** **MARTIN HOWARD** requests a temporary use permit pursuant to
39 Section 24-116(c)(1) of Chapter 24 of the County Code to hold a
40 carnival at 10101 Brook Road (Tax Parcel 24-A-7B), zoned B-3C,
41 Business District (Conditional) (Fairfield).

42

43 Mr. Kirkland - Is there anyone here who wishes to speak on this case?

44

45 Mr. Chairman, I move that we withdraw the case without
46 prejudice.

47

48 Upon a motion by Mr. McKinney, seconded by Mr. Nunnally, the Board **allowed**
49 **withdrawal** of the **UP-9-2000** application for a conditional use permit to hold a carnival
50 at 10101 Brook Road. The Board **granted withdrawal without prejudice** at the
51 request of the applicant.

52

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

56

57 Mr. Kirkland - Next case, sir.

58

59 **A - 38-2000** **Ralph B. Higgins** requests a variance from Section 24-94 of
60 Chapter 24 of the County Code to allow a dwelling to remain at 912
61 South Gaskins Road (Tax Parcel 123-A-2), zoned R-0, One-family
62 Residence District (Tuckahoe). The rear yard setback is not met.
63 The applicant has 20 feet rear yard setback where the Code
64 requires 50 feet rear yard setback. The applicant requests a
65 variance of 30 feet rear yard setback.

66

67 Upon a motion by Mr. Wright, seconded by Mr. Balfour, the Board **granted the**
68 **withdrawal of A-38-2000 without prejudice.**

69

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

73

73 **UP- 16-2000** **Chestnut Oaks Association** requests a use permit pursuant to
74 Section 24-12(b) of Chapter 24 of the County Code to expand
75 clubhouse facilities at 2209 North Parham Road (Tax Parcels 68-A-53,
76 69-A-12 and -16), zoned R-3, One-family Residence District (Three
77 Chopt).

78

79 Mr. Kirkland - Anyone else wish to speak on this case, If not, raise your

80 right hand.

81
82 Mr. Blankinship - Do you swear the testimony you are about to give is the
83 truth, the whole truth, and nothing but the truth, so help you God?

84
85 Mr. Kirkland Would you state your name for the record?

86
87 Applicants - My name is Anne Lee Stiener, Kathy Avery.

88
89 Mr. Kirkland Have all your notices been turned in according to County
90 Code? We have them in file

91
92 Ms. Stiener - Yes, sir.

93
94 Mr. Kirkland - Please present your case.

95
96 Ms. Stiener I am Anne Lee Stiener, President of Chestnut Oaks
97 Recreation Association, Board of Directors, with me today is Kathy Avery Vice President
98 of the Board of Directors. Any I have John Gherkin and CG Hicks helping us with the
99 estimates.

100
101 Chestnut Oaks Recreation Center began in 1963 and has over the past 37 years both
102 added and reduced its total property due to new road construction and other land use
103 impacts. It has expanded its facility as the needs of the membership have grown.

104
105 We currently have approximately 8 acres of land, a 25 meter pool, diving area, 6 tennis
106 courts, a locker room and snack building and several picnic tables and a tot lot play
107 area. We currently have a membership of 270 and are allowed to have a many as 375
108 members under County guidelines. Current plans do not call for an increase in
109 membership beyond this maximum, Our pool is open from mid may to labor day and our
110 tennis courts and other facilities can be accessed by members year round.

111
112 We are here today to ask for approval of our plans to improve our property in the
113 following ways. Project no. 1 is to renovate and expand the locker room and toilet
114 facilities adjacent to the pool. Our existing facilities are too small, unheated, and
115 unventilated and do not meet handicap accessibility codes. In the longer term we hope
116 to add additional storage space and possibly a community meeting space as we
117 complete additional building space around the southeast corner of the pool. The entire
118 expanded building will have a new roof and new paint to give it a cleaner and a more
119 unified look. .

120
121 Project 2 is to add a 25 by 40 foot covered open air pavilion between our locker room
122 and our infant pool area to allow mothers and babies to get out of the sun and provide a
123 larger gathering and waiting area for swimmers during summer rain showers. We
124 intend to replace the exiting prefabricated metal canopy on the pool side of the locker
125 room building with a permanent shed roof canopy to tie into the new covered pavilion.

126
127 Project 3 is to add one additional 12 x 80 concrete sunning platform along the north
128 edge of the pool to the two existing stepped platforms. This area gets very crowded
129 during the summer and this expansion will relieve some of that over crowding. The
130 existing fence line around the pool will be pushed back 12 feet to make way for this
131 platform.

132
133 Project 4 is to move the existing entry walk from its present location near the pool to a
134 new location to along the edge of the existing picnic pavilion to create an continuous
135 handicapped accessible pedestrian street from the parking lot to the rear of the property
136 and ultimately to the farthestmost most tennis courts.

137
138 The existing walk comes up to the entry at a angle which disorients visitors and the walk
139 is not built to ADA specifications. Also the picnic pavilion is under used and by
140 connecting the pavilion and the pool area directly, we hope this facility can be better
141 utilized.

142
143 We also hope to add a storage room to the shelter, so the picnic tables can be stored
144 during off season. The new walk will have a concrete masonry retaining wall along its
145 north side with subtle down lighting incorporated into the design to improve visibility and
146 security at night. All lighting patterns will be limited to the walk surface itself and in no
147 way will it affect adjacent properties.

148
149 Project 5 is to include the existing trash dumpster in a treated fenced up area with gates
150 completely eliminating the present visual impact of the present dumpster. The new
151 fenced area will also be landscaped to tie into the existing landscape of the site.

152
153 The bottom line is that improvements should greatly improve the atheistic appeal of the
154 property, further isolate pool noise by increasing the barrier between the neighborhood
155 and the pool area, improve landscaping by hiding the dumpster without increasing traffic
156 or membership to the club.

157
158 We anticipate that the work be done in phases and with emphasis on the
159 additions and alterations to the locker room building as priority one,
160 installation of the picnic pavilion and shed roof next to the pool, priority 2 and
161 installation of the new entry path and access path priority 3. We anticipate
162 beginning in September and completely the work before the next spring
163 opening.

164
165 Mr. Wright- Have you read the conditions proposed?

166
167 Ms. Steiner - Yes I have sir.

168
169 Mr. Wright - And you are in accord with those?

170

171 Ms. Steiner- Yes sir.
172
173 Mr. Kirkland - Any other questions from the Board Members? Any
174 one else wish to speak?
175
176 Sam Scorman - I live as 2120 Dresden Road. I have no serious
177 objections, the only concern I have is the extension of the existing picnic area
178 which is shown along the west side. This is adjacent to my property. I have
179 had problems of various natures and have been able to talk to the previous
180 board members and they have been taken care of. That is the only concern I
181 have. I have no other objections to the rest of what is being proposed.
182
183 Mr. Balfour: Are the problems you are talking about – noise late at
184 night or trash? What kind of problems?
185
186 Mr. Scorman- I have had trash, I have had my fence mugged down,
187 those are the two primary things.
188
189 Mr. Wright- But they are just proposing to add a storage shed to
190 the existing picnic pavilion, aren't they?
191
192 Mr. Scorman- The drawing I was able to get from the department
193 upstairs is small and I am not able to read it. If someone could explain it to
194 me what is being shown, it would help.
195
196 Mr. Wright- Evidently, it is going to be a storage shed. The area
197 is not going to be expanded.
198
199 Mr. Scorman- If that is what they are going to do, that is fine. Thank
200 you.
201
202 Mr. Kirkland- Would like to address that? Ms. Steiner ?
203
204 Ms. Steiner - You are correct. It is just going to be storage, put our
205 picnic tables in there and a ping pong table. To be used to keep things out of
206 the weather. We close the pool facility at 8 PM during the week and 8:30 PM
207 on the weekends. We would like to it to be better utilized, members use it for
208 birthdays parties and civic picnics. I apologize for any problems that this
209 gentleman has had.
210
211 Mr. Wright- Have you met with this gentleman about these

212 concerns?

213

214 Ms. Steiner- No sir. I have never met this man before.

215

216 Mr. Wright- Maybe you could met with them to find out what his
217 concerns are.

218

219 Ms. Steiner- Yes sir.

220

221 Mr. Nunnally- You mentioned the hours, Mr. Blankinship I don't see
222 any conditions concerning the hours of operation.

223

224 Mr. Blankinship- Since this is just a revision of an existing use permit,
225 we did not find it necessary to state them all.

226

227 Mr. Kirkland- Anything else? Does anyone else wish to speak? If
228 not that concludes the case.

229

230 Upon a motion by Mr. Wright, seconded by Mr. Balfour, the Board **granted UP-16-2000.**

231

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

233 Negative: 0

234 Absent: 0

235

236 The Board **granted** this request, as it found from the evidence presented, that
237 authorizing this Use Permit at 2209 Parham Road, subject to the following conditions,
238 will not be of substantial detriment to adjacent property and will not materially impair the
239 purpose of the zoning regulations.

240

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

244

245 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
246 the County Code apply. At the time of building permit application, the applicant shall
247 submit the necessary information to the Department of Public Works to ensure
248 compliance with the requirements of the Chesapeake Bay Preservation Act and the
249 code requirements for water quality standards.

250

251 3. The parking lot, driveways, and loading areas shall be subject to the requirements of
252 Section 24-98 of Chapter 24 of the County Code.

253

254 4. A detailed site lighting plan shall be included with the landscaping plans for Planning
255 Office review and approval.

256
257 5. All exterior lighting shall be shielded to direct light away from adjacent property and
258 streets.

259
260 6. All landscaping shall be maintained in a healthy condition at all times. Dead plant
261 materials shall be removed within a reasonable time and replaced during the normal
262 planting season.

263
264 **A - 40-2000** **DONNIE FARMER** requests a variance from Section 24-95(b)(4) of
265 Chapter 24 of the County Code to build a single family dwelling at 209
266 Lowell Street (Tax Parcel 147-A-123), zoned R-2A, One-family
267 Residence District (Varina). The lot width requirement is not met. The
268 applicant has 51 feet lot width, where the Code requires 65 feet lot
269 width. The applicant requests a variance of 14 feet lot width.

270
271 Mr. Kirkland - Anyone else wish to speak on this case? Would you please
272 raise your right hand and be sworn in?

273
274 Mr. Blankinship - Do you swear that the testimony you are about to give is the
275 truth, the whole truth, and nothing but the truth, so help you God?

276
277 Mr. Kirkland - Okay, would you state your name for the record, please.

278
279 Mr. Farmer- Donnie Farmer

280
281 Mr. Kirkland - Have all your notices been turned in according to the County
282 Code? Yes, we have them in the folder. Proceed.

283
284 Mr. Farmer- I would like to build a house at 209 Laurel. I have an exiting
285 house there now and I want to tear it down and build a new one. As you can see it is
286 kind of rough.

287
288 Mr. Nunnally- What size house are you going to put there?

289
290 Mr. Farmer- It will be 960 sq. feet. It already has county water and
291 sewer. It has been there since 1948.

292
293 Mr. Nunnally- What is directly in back of you house?

294
295 Mr. Farmer- My lot is 400 feet deep and there is nothing but woods. That
296 R-5 back there is just a wooded area.

297
298 Mr. Wright- Have you read the suggested conditions? Are you in accord
299 with those?

300

301 Mr. Farmer- Yes sir.

302

303 Mr. Kirkland- Any other questions? Any one else wish to speak? If not
304 that concludes the case.

305

306 Upon a motion by Mr. Nunnally, seconded by Mr. Wright, the Board **granted A-40-**
307 **2000.**

308

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

310 Negative: 0

311 Absent: 0

312

313 The Board **granted** this request, as it found from the evidence presented, that
314 authorizing this variance at 209 Lowell Street for a variance of 14 feet lot width. with the
315 following conditions, will not be of substantial detriment to adjacent property and will not
316 materially impair the purpose of the zoning regulations.

317

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

321

322 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
323 the County Code apply. At the time of building permit application, the applicant shall
324 submit the necessary information to the Department of Public Works to ensure
325 compliance with the requirements of the Chesapeake Bay Preservation Act and the
326 code requirements for water quality standards.

327

328 **UP- 19-2000 FAIRFIELD COMMONS** requests a temporary use permit pursuant to
329 Section 24-116(c)(1) of Chapter 24 of the County Code to hold a
330 temporary outdoor circus at 4869 Nine Mile Road (Tax Parcel 147-A-
331 26A), zoned B-2, Business District (Fairfield).

332

333 Mr. Kirkland - Mr. Balfour is abstaining from this case. Anyone wishing to
334 speak, please raise your right hand and be sworn in?

335

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

338

339 Mr. Kirkland - Okay, would you state your name for the record, please.

340

341 Mr. Cox- My name is Jeff Cox, General Manager of Fairfield
342 Commons.

343

344 Mr. Kirkland - Have all your notices been turned in according to the County

345 Code? Yes, we have them in the folder. Proceed.

346

347 Mr. Cox- I think I have answered in writing most of the
348 concerns. The dates of the circus are the 2,3,4 and 5 of this year, the times
349 will be from 4:30 PM –7:30 PM every day except for Saturday and we will
350 have a show at 1pm, 4:30 PM and 7:30 PM. We will security 24 hours a day
351 at the site, there is plenty of parking, the noise concerns should not be a
352 problem because of the times. We have off duty police officers stationed at
353 the cash box which is locked. The circus has provided 2 million dollars worth
354 liability insurance. Crowd control will be handled by our security and there's.
355 They will have someone with the circus animals 24 hours a day the whole
356 time it is there. We want to have everything cleaned up by Sunday, because
357 a church meets at the center.

358

359 Mr. Wright- Mr. Blankinship, I noticed in the conditions we don't
360 mention the time of the event.

361

362 Mr. Blankinship- The second condition stating they have to satisfy all
363 requirements of the Division of Police. There were several issues that they
364 were negotiating with Police at the time the reports were drafted. I have heard
365 from Ms. Vann who is satisfied with what has been worked out..

366

367 Mr. Wright- They would set the time of the events,.

368

369 Mr. McKinney- The Police does not have the authority to set the time.
370 We need to set the time in a condition.

371

372 Mr. Wright- I would have thought so.

373

374 Mr. Cox- What we are proposing is a 4:30 PM and 7:30pm
375 show daily. The last day, Saturday, we will have one at 1pm, 4:30 PM, and
376 7:30 PM.

377

378 Mr. McKinney- The 7:30 PM show will be over when?

379

380 Mr. Cox- They should be gone by 9:00 PM.

381

382 Mr. McKinney- Mr. Blankinship, please put that in the conditions.
383 What kind of animals do they have in the show?

384

385 Mr. Cox- I have been told that they have an elephant and some

386 tigers. They did not give me specifics on animals. They have there own
387 security for their animals.

388
389 Mr. McKinney- Mr. Blankinship, Do you have a report from the Police
390 on this, You have discussed this with them and they are satisfied?

391
392 Mr. Blankinship- Yes sir.

393
394 Mr., Kirkland- Any other questions? If not that concludes the case.

395
396 Upon a motion by Mr. McKinney, seconded by Mr. Wright, the Board **granted UP-19-**
397 **2000.**

398 Affirmative: Kirkland, Balfour, McKinney, Nunnally, Wright 5
399 Negative: 0
400 Abstained: 0

401
402 The Board **granted** this request, as it found from the evidence presented, that
403 authorizing this Temporary Use Permit at 4869 Nine Mile Road, subject to the following
404 conditions, will not be of substantial detriment to adjacent property and will not
405 materially impair the purpose of the zoning regulations.

- 406
407 1. This approval is only for Fairfield Commons to conduct a circus at the shopping center on
408 August 2-5, 2000.
409
410 2. The applicant shall satisfy all requirements of the Henrico County Division of Police
411 concerning the security of the site and the patrons of the event.
412
413 3. The applicant shall satisfy all requirements of the Henrico County Department of Health and
414 the Henrico County Department of Building Inspections.
415
416 4. Hours of operation shall be limited to 4:30 - 9:00 PM Wednesday through Friday and 1:00 -
417 9:00 PM Saturday.
418
419 5. The tent and all accessory structures shall be removed from the site by August 9, 2000, at
420 which time this permit shall expire.

421
422 **UP- 20-2000** **STEPHEN J. AND VICTORIA L. MARSHMAN** request a use
423 permit pursuant to Section 24-52(c) of Chapter 24 of the County
424 Code to continue operation of an existing kennel at 8976 Battlefield
425 Park Road (Tax Parcel 257-A-50A), zoned A-1, Agricultural District
426 (Varina).

427
428 Mr. Kirkland - I assume all of you wish to speak, so would you please raise
429 your right hands and be sworn in?

430
431 Mr. Blankinship - Do you swear that the testimony you are about to give is the

432 truth, the whole truth, and nothing but the truth, so help you God?
433
434 Mr. Kirkland - Okay, would you state your name for the record, please.
435
436 Mr. Marshman - I do. My name is Stephen J. Marshman; this is my wife
437 Victoria. We currently reside in Chester. We're in the process of buying a 36-acre
438 parcel at the address specified on Battlefield Park Road, from Mr. Bud Bristow, who's
439 present.
440
441 Mr. Kirkland - Have all your notices been turned in according to the County
442 Code? Yes, we have them in the folder. Proceed.
443
444 Mr. Marshman - To the best of my knowledge, yes sir. As a condition of the
445 sale of Mr. Bristow's property, we would like to continue the operation of an existing
446 boarding kennel on the property. Mr. Bristow has operated this kennel for a number of
447 years. That's a pretty good photo of the kennel; it's a concrete block building. It sits in
448 the center of the 36-acre parcel. It is well back from Battlefield Park Road, screened by
449 trees for the most part, and is well towards the center of the property. We do not
450 propose to make any changes in the normal operations or the pattern of operations of
451 the kennel that Mr. Bristow has set, and we're basically just going to continue the
452 operation of the existing business. The kennel layout was purpose built as a dog
453 kennel; it has its own septic system. There are 24 indoor/outdoor runs that extend
454 partly outdoors; you can see where the dogs are standing in the photo, and there are
455 small doors that extend to the interior of the building. In addition, there are 5 outdoor
456 runs that have small doghouses. A number of Mr. Bristow's customers prefer to board
457 hunting dogs in a more outdoor setting. As regards to the terms, we'd like to talk about
458 that when we get to that part of this.
459
460 Mr. Nunnally Mr. Marshman, are you going to operate this kennel yourself,
461 you and your wife?
462
463 Mr. Marshman - Me, my wife and my 20-year-old son.
464
465 Mr. Nunnally And do you have experience in doing this before, or is this a
466 new venture for you?
467
468 Mr. Marshman - It's a new venture for us. Now we've had the benefit of
469 significant training from Mr. Bristow, over the last few weeks. We've been working on
470 this for more than a month. It's not something we've taken lightly, and we've done quite
471 a lot of research. We've already joined the American Boarding Kennel Association and
472 have in our possession their training materials, but we haven't completely worked
473 through all of that yet.
474
475 Mr. Balfour- What's a dog run? Is that an open area where they can run
476 outside of the kennel area?
477

478 Mr. Marshman - A dog run is a fenced pen, basically.
479

480 Mr. Balfour- Not adjacent to the kennel, but a different area I gather, is
481 that right?
482

483 Mr. Marshman - Actually, the runs are the pens where you see the dogs
484 contained in the photograph. In addition to that, within the fenced space, there's an
485 exercise yard also.
486

487 Mr. Balfour- Is an exercise yard and a dog run the same thing?
488

489 Mr. Marshman - No, the runs are the actual pens in which the dogs are
490 placed.
491

492 Mr. Kirkland- And I assume when it gets cold, they go back in the little
493 door and go inside?
494

495 Mr. Marshman - Normally, during the day, the dogs have access to indoors
496 and outdoors and can move freely. In the evening, predominantly because of the
497 concern over noise, we put the animals inside and close them indoors.
498

499 Mr. Kirkland- The 5 pens that you said that are used for dogs that stay
500 outside – are they located in proximity of this little kennel building?
501

502 Mr. Marshman - They're to the right of the photo, just out of the picture.
503

504 Mr. Kirkland- How large is each one of those? Rough size?
505

506 Mr. Bristow - Twenty-four feet by 6 feet – they are larger than the other
507 runs.
508

509 Mr. Nunnally Where they exercise, are they fenced in also?
510

511 M/M Marshman - Yes, always, always fenced in. One of the sins in this
512 business is to lose your client's dog.
513

514 Mr. Kirkland - Mr. Balfour, did you have a question?
515

516 Mr. Balfour - Is there any restriction on the types of dogs, or do you keep
517 any kind of dog.
518

519 Mr. Marshman - We haven't intended to restrict the types of dogs; we will be
520 vigilant when we take dogs in. Mr. Bristow knows the customers, and we're hoping
521 obviously to attract his existing customer base. We're not interested in aggressive
522 dogs, obviously, and will be vigilant when we take dogs in.
523

524 Mr. Kirkland- You didn't have any problem with the suggested condition #
525 3?
526

527 Mr. Marshman - The one condition that we're concerned about is # 2, the
528 specification for 25 dogs. At maximum capacity we can hold more dogs than that in the
529 existing facility.
530

531 Mr. Kirkland What's more?
532

533 Mr. Marshman - Well there are 29 runs total. Sometimes people ask that their
534 dogs be boarded together in one run.
535

536 Mr. Blankinship - So how many do you think you would like to have?
537

538 Ms. Marshman - Thirty-five?
539

540 Mr. Marshman - What would be reasonable?
541

542 Mr. Bristow - Mr. Chairman, Bud Bristow. I presently operate the kennel.
543 About 30 percent of your customers will want their, they'll have more than one dog, and
544 they'll want them in the same run. Usually they're smaller dogs, and so you could
545 probably put in between 35 and 40 dogs in the existing facilities. The way it's presently
546 written, the restriction that's presently on there, the 25 dogs, there are times when you'll
547 have 25 dogs and you have empty runs and empty spaces, and it's necessary to turn
548 people away to stay within that. Most of these facilities, this is the only facility in Varina,
549 and most of these facilities throughout this whole general area of Richmond will fill up
550 on almost every weekend of the summer and all holidays, so there are times when you
551 have people calling you from everywhere and you have to turn people away.
552

553 Mr. McKinney Mr. Bristow, let me ask you a question. You have 29 runs –
554 the maximum you'd have in a run is 2 dogs, or will you have 3?
555

556 Mr. Bristow - There are times when you'd have puppies or something like
557 that, and they might want 3, but I try to talk the customer out of that and try to put
558 another dog beside their other 2 dogs.
559

560 Mr. McKinney So the # 2 condition could be satisfied if you said "no more
561 than 25 dog runs?
562

563 Mr. Bristow - Twenty-nine dog runs.
564

565 Mr. McKinney I say, no more than 29 dog runs would satisfy that concern?
566

567 Mr. Marshman - Yes sir. The other thing is that kennels typically don't
568 operate continuously at full capacity. As Mr. Bristow said, holiday and vacation time
569 are the peak occupancy times. His experience, and he's been kind enough to share his

570 business data with us, his experience is highly variable over the course of the year, the
571 low point being in January-February, 10 or 15% occupancy during the low period is
572 more typical. If you were to smooth everything out over the year, about 50% occupancy
573 is typical.

574
575 Mr. Kirkland- Mr. Blankinship, have we had any complaints about this
576 facility?

577
578 Mr. Blankinship - Not that I'm aware of, Mr. Chairman, and there are 3 letters
579 that have been submitted in support of this application, which should have been with
580 your packet.

581
582 Mr. Kirkland- Yes, we just got them.

583
584 Mr. McKinney- Mr. Secretary, have we had any contact with Animal
585 Protection of Henrico County in reference to this?

586
587 Mr. Blankinship - I have not, no sir.

588
589 Mr. Kirkland - Any other questions? Okay, let's let the next people speak.
590 Thank you sir. All right, who's next?

591
592 Mr. Marshall - I'm Watson Marshall. I own 34 acres, 2 parcels from this
593 one. My brother-in-law and sister live adjacent to this property, and my niece and
594 nephew live adjacent to this property. Those photographs are a little deceiving,
595 because the woods, they've cut all the wood timber behind those trees. Most of the
596 timber's been cut, and I don't believe anybody in the County polices Mr. Bristow's
597 operation over there. To give you a little history, Bachman Doar, who trained labrador
598 retrievers, he originally got this kennel license and my brother-in-law and my sister were
599 in favor of that. He ran a good operation. The dogs that he trained were labrador
600 retrievers, and he only had them there about two months out of the year. He did most
601 of his training down in South Carolina, where he eventually moved, and he sold the
602 property to Mr. Bristow. Now the County doesn't police this thing, and I would dare say,
603 if you look at Mr. Bristow's records, he has more than the 25 dogs that was allowed
604 under Mr. Bachman Doar's variance, use permit. Now another thing, he has no concern
605 for his neighbors. He gets over there, and he shoots guns. My brother-in-law had a
606 dog who was an older dog, and lightening and thunder, he would let him out of his pen,
607 and Mr. Bristow would start shooting, and the dog would run off. He called Mr. Bristow
608 and said, "would you please stop shooting over there, so I can let my dog come back
609 home." He said, "I'm going to keep on shooting; I have a right to do that." And
610 nobody's called the Planning Commission, and I will admit, I'm one of the dumbest, I
611 didn't know that if you had a complaint about Mr. Bristow, you called the Planning
612 Commission. But if you check the police records, you will see that they have been
613 called many, many times. I talked to the Planning Commission; they said, I said, "have
614 you checked with the police department to see if there was any complaints." They said
615 they didn't have any complaints about Mr. Bristow, but the police department will tell you

616 they have been called time after time after time. Now my youngest son races a race
617 car, and I come home at 1:00 o'clock, 2:00 o'clock, 3:00 o'clock in the morning, either
618 from Saluda or Southampton. My brother-in-law, he goes with us and helps us with the
619 race car, and I'd go up there, and those dogs are just barking, barking, barking, at 1:00,
620 2:00, 3:00 o'clock in the morning, and I date say he's got more than 25 dogs over there.
621 And it's a nuisance, and it doesn't belong down there; it's in the Battlefield Park. He
622 says it's the only one in Varina, don't need it. And another thing that bothers me, he
623 offered, he talked to my nephew, David Capece is here, and he'll tell you about buying,
624 he wants to divide this property up. I don't know whether Marshmans are going to buy
625 the whole thing or not, but he wanted to sell part of it. He was going to sell the house,
626 and he was going to sell the kennel separate. Now I don't know the Marshmans, and
627 they may come down there, and it may be like Mr. Doar. But if Mr. Bristow has anything
628 to do with it, I can tell you, it's a nuisance. And he is going to do what he wants to do.
629 He had a high job; he was the head of Game and Inland Fisheries, and he can do
630 anything he wants. And the police department can't do anything, because he's not
631 shooting within so many feet of the house. And he gets those hunting dogs over there,
632 and I guess he wants to make sure that they're not gun shy, and it's bam, bam, bam,
633 bam, and I can hear it at my mother's, which is two parcels over. And he won't stop; it's
634 just a nuisance; the noise, my brother-in-law will tell you, and my niece and nephew will
635 tell you, and I would ask you just turn it down till somebody looks at it, or defer it, and let
636 somebody go down there and look at his books and see how many dogs he's been
637 taking. Nobody polices it, and nobody cares. And I can tell you from now own, if there's
638 anything, the Planning Commission will hear. But I didn't know that, I thought that if you
639 had a problem with the neighbors shooting guns or noise, you called the police, and the
640 police say we can't do anything about it. Thank you.

641

642

643 Mr. McKinney Mr. Marshall, what would satisfy your concerns on this?

644

645 Mr. Marshall - Just turn it down, just do away with it because they've
646 abused.....

647

648 Mr. McKinney- I mean you've brought up a suggestion of deferring it and
649 getting together with them to find out exactly what they're going to do; maybe there can
650 be some conditions put on it to make it work, or maybe not, but do you think in 30 days
651 that could be addressed and come back?

652

653 Mr. Marshall - You have to ask my brother-in-law and my sister-in-law; they
654 live right next door to it; they are right on the property line, right behind this place, and I
655 would just say, somebody needs to take a look at what these, nobody polices what
656 these people do, and it gets mighty hot down there, if you look where that house is, they
657 can't be inside. It's too hot in there; those kennels, that building, there's no trees,
658 there's no shade, and it's just hot, and those dogs, they get out there, and they just
659 bark, bark, bark. You could imagine living next door to 25 dogs barking, or 30 or 40.
660 There's a lot of deer in that area too, and that's , I think when the deer get out there at
661 night, the dogs are yelping and barking at them. That's it.

662
663 Mr. Balfour- Bubba, is it really more of a police concern, policing concern,
664 though, on your part, that if the new owner is willing to maintain the proper number of
665 dogs and not shoot guns, and provide some shade or whatever may be appropriate for
666 the dogs, would that satisfy you?
667
668 Mr. Marshall - I don't know, you'd have to ask them; I'm just telling you my
669 observations, what I've heard and what I've seen, and I think, I don't live next door to it,
670 it's a nuisance. It wasn't a nuisance when Mr. Doar was there, but Mr. Bristow, he's got
671 the idea that I've got 36 acres here, and I can do what I want, because I'm an official of
672 the Game and Inland Fisheries, I think he's now retired, and I was told if you go out
673 there and oppose this thing, maybe he won't sell the place and go to Arizona; maybe
674 he'll stay there. That may be, but I just think he, himself, has operated a nuisance there
675 with utter disregard and no consideration for his neighbors, and that's not the way
676 people are in Varina. He's an exception.
677
678 Mr. Blankinship - Would you spell your name, please sir?
679
680 Mr. Marshall - My real name is "Watson M. Marshall," but I use "Bubba"
681 because everybody thinks "Watson" is my last name; I have three last names, so I'm
682 just "Bubba Marshall." Thank you.
683
684 Mr. Blankinship - Thank you.
685
686 Mr. Kirkland - Could we hear from you sir?
687
688 Mr. Capece - My name is David John Capece; I live right next to this
689 kennel; I live approximately 400 feet from the side of it, which is on the left-hand side of
690 this kennel. The dogs bark continuously. I have had several occasions where I have
691 called the Henrico County, and they come over there, and a lot of times they'll come
692 back, and they'll say, "well, nobody's home over there." These dogs bark all the time.
693 We have stopped using our end bedroom because we cannot sleep in there anymore. I
694 bought it in '96 and kept on calling the police, and into '97, finally we gave up using the
695 end bedroom. We keep our ceiling fans on at night to drown out the noise. I've got
696 three labs; I've got total control of my dogs as far as barking; if they bark, I shut them
697 up. We have called them on several occasions and asked them to put the dogs up; you
698 can still hear them. The barking is the biggest problem I have. We cannot go outside to
699 eat dinner; they just bark all the time.
700
701 Mr. Kirkland - Thank you sir. Do you have any questions?
702
703 Mr. McKinney Do you hear the shooting also?
704
705 Mr. Capece - Oh yeah, oh yeah, but that stops, that stops; it's just the
706 continuous barking of the dogs.
707

708 Mr. McKinney- When does the shooting take place? I meant to ask Mr.
709 Marshall.
710
711 Mr. Capece - I work the majority, from 6:00 o'clock in the morning I'm
712 gone, till approximately 7:00 at night. On the weekends, it'll occur maybe 9:00, 10:00
713 o'clock, and then just sporadic through the day, it'll go on.
714
715 Mr. McKinney- Till how late at night on the weekends?
716
717 Mr. Capece - Not after dark. This isn't like a .22; this is a big gun; I'm not
718 into guns. I do have a shotgun, and it's bigger than a shotgun.
719
720 Mr. McKinney- All right, thank you.
721
722 Mr. Kirkland - Anyone else?
723
724 Mr. Ellerson - Yes sir, good morning. My name is Melvin R. Ellerson; I live
725 in front of David R. Capece. This dog kennel just got to; he don't take care of no dogs;
726 all he does is get out there and shoot guns and shoot guns, and it's just totally
727 ridiculous. I can't even go out in my back yard and have a picnic or a cookout or read
728 the paper, for him and his barking dogs and shooting of guns. It's just awful; you just
729 wouldn't believe it.
730
731 Mr. Nunnally- How close are you to his property, Mr. Ellerson?
732
733 Mr. Ellerson - I'm approximately, I'm up in front of him; he's 400 feet, I
734 guess I'm about 1,000 feet or so.
735
736 Mr. Kirkland- Can you see yourself on that map?
737
738 Mr. Ellerson - Yeah, it would be up here, A-1, to the right more, a little
739 more, right there.
740
741 Mr. Kirkland- That's you?
742
743 Mr. Ellerson - Yes sir.
744
745 Mr. Blankinship- And you are?
746
747 Mr. Ellerson - Melvin R. Ellerson.
748
749 Mr. Capace- I'm the one where the hand is right now, and my father-in-
750 law's right there.
751
752 Mr. Ellerson- In the past four years they have built three brand new
753 houses down there in front of me, and another one over there in the park, and it's

754 terrible the way this man does, and there's nothing nobody can do with him. You call
755 the police, and they say, "There's nothing we can do with him shooting his guns." I call
756 over there and tell him, he says, "This is my right, to own guns and shoot them." I'm not
757 testing his rights; just ask him to put a little respect for property owners, but he has no
758 respect for nobody. He never has, and he never will.

759
760 Mr. McKinney- Mr. Ellerson, is Mr. Marshall your legal counsel?

761
762 Mr. Ellerson - Yes.

763
764 Mr. McKinney- I'd like to ask Mr. Marshall another question. Mr. Marshall, if
765 this case should be turned down, and Mr. Bristow decides to stay there, you will
766 continue to have the same problems that you have today. Do you agree with that?

767
768 Mr. Marshall - Well, we'll still have the problems, but I intend to bring a suit
769 in there, because I don't believe.....

770
771 Mr. McKinney- What I'm asking, sir, is, I like what you brought up before,
772 about possibly deferring this case, especially with Mr. Ellerson, and the other
773 gentleman, to get together, to find out if conditions can be put on this case, to some way
774 put these dogs up to where they cannot be heard at night, to where they can have some
775 peace and quiet on their land, and we do not have shotguns going off for training of
776 these dogs and so forth. It's my concern if it's turned down, you might wind up having
777 the same thing over and over, even though you bring a suit. You see, you may win it
778 and you may not, and there may be a way that you can get together with Mr. Bristow as
779 their legal counsel, and tell him what's expected, or the new possible owners, and you
780 can find out if it's planned to be subdivided, just a house or just a kennel or so forth. I'm
781 just throwing this out for you.....

782
783 Mr. Marshall - I don't want to pre-judge the Marshmans; they may be like
784 Mr. Doar, but I'm telling you, Mr. Bristow, and you ask what time. I go to my mother's,
785 like 3:00 o'clock, 4:00 o'clock, 5:00 o'clock in the afternoon. It sounds like a
786 muzzleloader or something, that he's over there shooting. I don't know what it is, but it's
787 a powerful gun, because I can hear it, and it shouldn't be; it shouldn't be. But if you
788 want to continue it, if they want to continue it, and try to get together and work out
789 something; the Marshmans may go over there and run it like Bachman Doar did, where
790 it wasn't a nuisance, but I'm telling you, Mr. Bristow and the police said they can't do
791 anything.

792
793 Mr. McKinney- Well that's why I was just throwing this out, and it's up to
794 them to find out if you want to continue it and work it out and get some conditions on
795 this that will satisfy everyone's concerns, try to make it a whole lot better than it is.

796
797 Mr. Marshall - I would be in favor of that.

798
799 Mr. Blankinship - Has everyone spoken?

800
801 Mr. Kirkland - Has everyone spoken?
802
803 Mr. Ellerson - No, I haven't finished yet.
804
805 Mr. Kirkland- Oh, you hadn't finished.
806
807 Mr. Ellerson - No, you called Mr. Marshall up.....
808
809 Mr. McKinney- Yeah, Mr. Ellerson hadn't finished.
810
811 Mr. Ellerson - This man was supposed to build a fence or something
812 around his dog kennels so that noise would go up in the air, but he hasn't done
813 anything. All he does is a bunch of promises. When he first moved here, I signed a
814 paper for him to have these dog kennels. I tried to be nice; I tried to be a neighbor to
815 him, but he's no neighbor, you'd better believe that.
816
817 Mr. Balfour- Was that a requirement, to build a fence?
818
819 Mr. Ellerson- No, that's what he said he was going to do, so that noise
820 would go up in the air; I just think it's a lot of smoke going up in the air, is what he's
821 trying to do here.
822
823 Mr. McKinney- Well, Mr. Ellerson, if it could be worked out to where
824
825 Mr. Ellerson - He's not going to work out anything with anybody; you'd
826 better believe that.
827
828 Mr. McKinney- That's not what I'm saying, Mr. Ellerson. I'm saying, if you
829 and the other citizens in the area who have these complaints, can get with Mr. Marshall,
830 and put together the conditions that you want to see on this case, and bring it back to us
831 in a month. Either you can get it worked out, or you can't get it worked out; we're
832 certainly hearing all the complaints that you have, and I see it's quite a bit. Maybe it can
833 be made to satisfy you; I don't know that.
834
835 Mr. Ellerson - Well, this man says he's going to put these dogs up; his
836 kennels are not air conditioned; I don't think these kennels are air conditioned; you can't
837 put no 30 dogs, or whatever dogs he's got inside this kennel; they're not even air
838 conditioned. Oh, they are air conditioned? Didn't know that?
839
840 Well, this barking, you just wouldn't believe it, and they called the police on them, and
841 they called the police, and they come down there at 2:00 or 3:00 o'clock in the morning.
842 Matter of fact he said, "Call me, instead of the police, and I'll come out and take care of
843 them dogs." They call over there, and he don't even come to the phone, or answer the
844 door, or do anything.
845

846 Mr. McKinney- Well, I think we need a police report on this, and then.....
847
848 Mr. Ellerson - Well he's got the times and all the dates right there, that he's
849 called the police.....
850
851 Mr. Kirkland - Well, that's all right, I need, Mr. Blankinship, if you would get
852 the calls and service on this place. One more person, right here, wanted to speak.
853 Okay, you're next, get in line here.
854
855 Ms. Capece - Good morning, my name is Cathy Capece, and I'm married
856 to David, and, to make a long story short, I have documented each time that I have
857 called Bud and Alicia, which is his wife, I don't know if she's his ex-wife now. Do you
858 want me to read everything, I mean it's a lot?
859
860 Mr. Kirkland - Just give me a number.
861
862 Ms. Capece - Okay, okay, the first time was 9/5/96, I had called. Another
863 time was 10/3/96, and I called. Another time was 10/12/96, 11/11/96, okay, we tried to,
864 you know, settle this issue. I went over there, I talked to them, I called them on the
865 phone, you know, the next day, the next night, it's the same thing.
866
867 Mr. Kirkland - How about in the year '99 and 2000, have you made any
868 calls?
869
870 Ms. Capece - No, there haven't been any problems, you know, I just sleep
871 with the fan on.
872
873 Mr. Blankinship - There haven't been any complaints.....
874
875 Ms. Capece - Right – it doesn't do any good. And then the last five times,
876 the police were involved. We called the non-emergency number, and they came each
877 time.
878
879 Mr. Kirkland- What time was that?
880
881 Ms. Capece - One time it was at 11:30 at night, one time at 12:30, 2:00,
882 2:00 am.....
883
884 Mr. Blankinship - Could I have those. It will help me track it from the other
885 end.
886
887 Mr. Kirkland - Yes sir, if you've like to speak. This gentleman.
888
889 Mr. McKinney- Oh, this is the applicant. Mr. Bristow, are you in opposition
890 to this case?
891

892 Mr. Bristow - No, I'm in support of it.
893
894 Mr. McKinney- Well, that has already gone by. You didn't stand up when
895 we had support.
896
897 Mr. Bristow - Oh, I did stand up and held up my hand.
898
899 Mr. McKinney- I understand, but when we asked for any other people, didn't
900 you Mr. Chairman?
901
902 Mr. Kirkland - Yes.
903
904 Mr. Blankinship - And you spoke, I believe.
905
906 Mr. Kirkland - And you spoke, didn't you sir?
907
908 Mr. Bristow - No sir, I just, at one point while Stephen was testifying, you
909 asked some questions, which I answered, but I do have some information I'd like to
910 give.
911
912 Mr. McKinney- How about you do that in rebuttal?
913
914 Mr. Bristow - Yes sir.
915
916 Mr. Wynn - My name is Allen Wynn, and I'm a neighbor of Mr. Bristow,
917 and I'm also a customer. We've been taking our dogs to the kennel for a number of
918 years; it is a great convenience for people who live in Varina, I would like to point that
919 out. I think that Mr. Bristow, or Mr. Marshman, made the point that there are no other
920 kennels in the area, and that's valuable to us. I certainly, I like on Hoke Brady Road, I
921 would say, a half a mile from the kennel, so I'm not sure if I can speak to the general
922 noise issue. I think that the statement that the dogs bark "continuously" is not true. I
923 walk my dogs to the kennel when I take them for boarding, and I never hear the dogs.
924 Now this is in the morning usually, so I have that experience of being around the kennel
925 when there is no noise at all. The point that I would like to make is, this is a rural
926 neighborhood, and virtually everyone in the neighborhood has dogs. I have three.
927 Many, many of the neighbors have a lot of dogs. Walking or jogging around the one-
928 mile block in the neighborhood, and passing the kennel, there are at least a dozen
929 dogs, who all start barking, you know, when you walk your dogs, or you run by, or
930 anything, so, you know, it's a neighborhood full of dogs, so, you know, I don't think it
931 would be this very quiet, pristine place, if it weren't for the kennel. And I wanted to
932 make that point. That's all I have to say.
933
934 Mr. Kirkland - Anyone else to speak in opposition? Mr. Marshman, if you'd
935 like to come up and rebut these issues, and I think Mr. Bristow can come too. Mr.
936 Bristow, if you'd come also, if you'd like to add something to it at the same time, since
937 you still do own the property.

938
939 Mr. Marshman - Okay, first of all, I have not had the opportunity to meet
940 these people and discuss these concerns with them, and I'm a little surprised by this, of
941 course, and we'll do whatever you tell us we need to do. There were a few issues that I
942 wrote down that I can, I think, address. One is, allegation was made that the trees have
943 been cut. Mr. Bristow did cut the timber two years ago. There is still a screen of trees
944 around most of the kennel area, but it's not acres of trees, as it was previously. That's a
945 true statement. The land is reserved for timber; the trees have been replanted; the
946 trees will come back, but trees come back at their own pace. Not much we can do
947 about that. We are buying the entire property, if we can work this out. We're not going
948 to buy just the kennel and try to put someone in a position where Mr. Bristow's home,
949 which is at the end of the driveway, the kennel being at the foot of the driveway, that
950 would be an untenable sort of situation for someone, so we're not doing that. We don't
951 have the same interest in firearms, so whatever much of the conflict seems to be over
952 noise associated with firearms, it's not going to be an issue. One of the, the
953 configuration of the kennel building is such that there are basically two wings in which
954 dogs are housed, and a central office. One of the wings, the wing to the right, already
955 has an air conditioner in it. It is an air conditioned facility. We've already discussed with
956 Mr. Bristow, putting an air conditioner in the other end of the building. We'll do that in
957 due course. We would probably be able to get that done before the end of the summer.
958
959 Mr. McKinney- Excuse me, Mr. Marshman, I don't mean to interrupt you, but
960 if we're in the process, and you want to defer this, because of these concerns, or do you
961 want to go ahead and present your whole case and let us vote on it today?
962
963 Mr. Marshman - My preference would be to present the whole case.
964
965 Mr. McKinney- So you want us to vote on this case today, without meeting
966 with those neighbors? Because that's exactly what we're going to do.
967
968 Mr. Balfour- Is your purchase subject to Mr. Bristow's?
969
970 Mr. Marshman - Is it a condition of the sale, yes sir.
971
972 Mr. Balfour- All right, if we put conditions on Mr. Bristow, you're telling us
973 you'll live with them? Or you'll decide not to buy, I guess?
974
975 Mr. Wright- He's moving, so..... Mr. Bristow's not the applicant .
976 This is a different application. If we turn this down, Mr. Bristow continues his operation.
977 That's what I've been trying to tell these folks.
978
979 Mr. Balfour- I see Bristow's name here on some of these papers, but the
980 application's here in Mr. Marshman's name.
981
982 Mr. Marshman - Well, I guess I would say, that rather than be rejected, I
983 would rather be deferred, obviously

984
985 Mr. McKinney- I can't say that you're going to be rejected, but, I mean, you
986 basically to this point have very good testimony in the opposition, and I think, if I was in
987 your situation, I would ask for a deferral, to go ahead to see if I could work it out with the
988 neighbors that are jumping up and down because of what's happened in the past;
989 maybe it can be rectified in the future, I don't know that. And I don't know if it's
990 necessary, if Mr. Bristow wants to speak, he's welcome to speak, but he might want to
991 speak at the next meeting. What we try to do is not be redundant on it, and if he, you
992 know, not hear all the case, if you're going to present it and come back and give us
993 testimony next month.
994
995 Mr. Bristow- Mr. Chairman, I think I have some information that you
996 haven't heard, and I would like to speak in rebuttal.
997
998 Mr. Balfour- Let me make a comment, Mr. Bristow, we don't need to hear
999 your defenses of what's happened in the past, because if you're not going to own it in
1000 the future, we can put restrictions on that that will affect Mr. Marshman. Of course, now
1001 if you're going to continue to own it, we're obviously going to put some restrictions on
1002 you, but we're trying to suggest that you all may want to get together and talk about it
1003 and then come back. You might save us, and you, some time.
1004
1005 Mr. Bristow- That's correct.
1006
1007 Mr. Balfour- We care to hear from you, Mr. Bristow, but if you're not going
1008 to own it, we don't want to hear about what happened five years ago.
1009
1010 Mr. Marshman - Mr. Chairman, would it be possible for us to perhaps step
1011 outside the meeting room and discuss this, and if we can reach some accommodation,
1012 come back in?
1013
1014 Mr. McKinney- Well, I don't think you can do that with your opposition.
1015
1016 Mr., Kirkland- I think you have a lot of people here, and you need to sit
1017 down one on one, family, and discuss this, and you just can't do it in 15 or 20 minutes. I
1018 really, I mean that's my opinion; we've seen this happen before, and they usually end
1019 up, you know, coming back, and nothing's been accomplished.
1020
1021 Mr. Balfour- What's your schedule for your closing?
1022
1023 Mr. Marshman - We were trying to close on the 30th of June?
1024
1025 Mr. Balfour- And what's your loan commitment expiration date?
1026
1027 Mr. Marshman - I'm sorry, I didn't
1028
1029 Mr. Balfour- You got a loan to buy this property?

1030
1031 M/M Marshman - Yes.
1032
1033 Mr. Kirkland- What's the expiration date on your loan?
1034
1035 Ms. Marshman - If you extended this,
1036
1037 Ms. Marshman - If you would extend this to the next meeting, it would be
1038 beyond our loan; this would cause us serious financial trauma.
1039
1040 Mr. Balfour- Why don't you defer it a few minutes, go outside and call
1041 your lawyer and find out if you can get an extension – we can at least do that for you.
1042
1043 Mr. Bristow - Mr. Chairman, can I respond to some of this; I've been the
1044 subject of the meeting today, rather than the kennel I think.
1045
1046 Mr. Kirkland- Yes sir, but the case was brought before us by Mr.
1047 Marshman, and not you, and so therefore we would turn down or pass what he's doing.
1048
1049 Mr. Bristow - I understand, but I have a right to, hopefully

1050
1051 Mr. McKinney- He has the right to defend himself.
1052
1053 Mr. Kirkland - I'll give you a few minutes to defend yourself.
1054
1055 Mr. Bristow - I do have some pictures here, which I want to offer to you.
1056
1057 Mr. Kirkland - Now if we get them, they'll be part of our case for thirty days.
1058
1059 Mr. Bristow - That's a picture from the closest, about 25 yards from the
1060 closest

1061
1062 Mr. Kirkland - If you would, sir, Mr. Bristow, you're going to have to get to
1063 the mike, because we're taping this, and it's hard to hear what you say.
1064
1065 Mr. McKinney- You're going to have to repeat what you said, because we're
1066 recording this
1067
1068 Mr. Bristow - The first picture is from the Capece house, or from about 25
1069 yards on my property, toward the kennel, looking south. The second picture is a picture
1070 from the road, the entrance road, looking in toward the kennel. This gives you an idea
1071 of the perspective of which we're talking. It is about 100 yards from his house, maybe a
1072 little more, and it is screened by trees. Now there was some information concerning the
1073 kennel, and the way it was operated, etc. The way it was operated originally, those
1074 doors that you're looking at on the picture on the wall, the dogs can come back and
1075 forth, four feet is inside, and 16 feet is outside, and the dogs go back and forth

1076 continually. When I took over the operation originally in '91, we kept it that way, and
1077 there were only about 300 dog nights per year spent in the kennel. It was a very low
1078 level, and that was when most of the problem was, with the noise. In 1996, I decided
1079 that we would try to operate it as a business, and so we've put guillotine doors on the
1080 kennel. The dogs now are put inside, where they can't bark, or they only bark at each
1081 other, and they won't bark at night, and it usually is about 7:00 o'clock, and then in the
1082 morning, a few minutes before 8:00, they're turned out. There isn't a problem with
1083 barking dogs in this kennel at night, and during the day, they will bark when you drive
1084 up; during the day when other dogs come over and visit them, they will bark, and often,
1085 it's the neighbors' dogs. Sometimes the three dogs that are next that belong to the
1086 Capece are, but I can hear what goes on as far as barking, and I have solved the
1087 problems when I do have one. Now the last complaint that we have received, and the
1088 only complaints we've ever received on barking dogs, is from the Capece house next
1089 door; I've never had a complaint from any other neighbor in that area, and if you look at
1090 the map, you can see there are quite a few. The other houses that were referred to, I
1091 didn't build. Mr. Ellerson indicated there were three other houses, and they were
1092 creating problems or something. I didn't build those, those aren't on my property. But I
1093 don't have any complaints from anyone during that entire period. Now the last
1094 complaint that I'm aware of, that the Capece's brought, was in Thanksgiving of '97, and
1095 that was when I was gone. I was gone overnight, and the person that was running it,
1096 failed to put the dogs up overnight, and I found out the next day from the police. And
1097 that is the last complaint that I'm aware of that I've had. As far as shooting the guns,
1098 I've had no complaints from anyone on that other than Mr. Ellerson, and maybe some of
1099 the other people should have complained, but I did shoot the guns. The new owners
1100 have no plans to do that. They don't hunt. I can answer any questions as to the
1101 operation; I've always considered it a very professional and a very clean unit; I get those
1102 comments from the people, and I think you have 3 or 4 letters to that effect, and I have
1103 some others here I could read, that have been sent to you from neighbors that do use
1104 the place.

1105
1106 Mr. Kirkland - Any questions?

1107
1108 Mr. McKinney- Mr. Bristow, are you retired?

1109
1110 Mr. Bristow - Yes sir. Yes sir.

1111
1112 Mr. McKinney- And when did you retire?

1113
1114 Mr. Bristow - In '93.

1115
1116 Mr. McKinney- In '93? Okay. And you live on the property, and you
1117 basically stay there most of the time?

1118
1119 Mr. Bristow - Yes, all the time, unless I'm on vacation or something.

1120
1121 Mr. McKinney- What you're saying is fine, and what we're hearing from the

1122 opposition is the shooting and the dogs barking, you say they don't bark. We don't have
1123 a recorder here to know whether they bark or not. That's why I'm saying, if you can get
1124 this 30 days, maybe it can be worked out, maybe it can't.

1125
1126 Mr. Bristow - Yeah, well, the sale is contingent on them receiving a permit,
1127 and so I'm not sure it's going to be possible, you know. I think one thing you should
1128 consider is that, there won't be any shooting with the new, the shooting doesn't have
1129 anything to do with the dog kennel operation at all. That's just on County property, you
1130 know, or agricultural property, that's 38 acres there that I had that I hunted on, and I did
1131 some target shooting on it, you know. But the new people, as I understand it, are not,
1132 don't intend to shoot. The previous owner did. He was a dog trainer, and shot all day
1133 long in the training of the dogs as a part of it. And I'll answer any questions that you
1134 can. I was not aware that we had any barking dog problems since '97, and I've
1135 received no complaints on that, and my neighbors have, well, you've got some letters
1136 from some of them.

1137
1138 Mr. Balfour-- If your sale doesn't go through, so you expect to continue
1139 operating it as a kennel?

1140
1141 Mr. Bristow - Yes sir, we would continue it as we do now. It has about, it
1142 has an average of about 10 dogs per day, average occupancy, if there were such a
1143 thing, throughout the year, and those dogs are let out every morning, and then they're
1144 put up every night. Sometimes you have them in, locked in during the day, and the air
1145 conditioner's on if it's especially hot, and the same is true in the winter if it's especially
1146 cold. We are inspected annually by the State Veterinarians' Office, and we've always
1147 had no complaints or recommendations or anything from them, so there is an agency
1148 that has oversight.

1149
1150 Mr. Balfour- Is there a certain time of night the dogs have to be inside?

1151
1152 Mr. Bristow - There's not a night, there's not a certain time that they have
1153 to, but we try to put them in around 7:00 in the summertime like this; it's earlier in the
1154 winter.

1155
1156 Mr. Balfour- You're saying that once they're in, you're not supposed to be
1157 about to hear them barking, is that correct?

1158
1159 Mr. Bristow - They'll stop barking, and you can hear them if you're outside,
1160 but usually you'll hear other dogs in the neighborhood barking more than you can them.
1161 It's not a problem when they're inside. A dog usually will shut up even if he's constantly
1162 barking and lonesome; you put him inside, he'll shut up in a little while, but you can't
1163 hear him anyway.

1164
1165 Mr. Kirkland- Mr. Marshman, are you going to go ahead and call your
1166 lawyer and see if you can extend the loan, or would you want us to hear the case, and
1167 then go one way or the other?

1168
1169 Mr. Marshman - We'd like the opportunity to do that, and see the impact, and
1170 then come back and give you a final.....

1171
1172 Mr. Kirkland- All right, we will pass this while you go make the phone call,
1173 and when you come back in, we'll continue it.

1174 **RESUME TESTIMONY AFTER A-42-2000**

1175
1176 **A - 42-2000 REFUGE CHURCH OF OUR LORD JESUS** requests a variance
1177 from Section 24-96(c) of Chapter 24 of the County Code to build a
1178 church addition at 520 Whiteside Road (Tax Parcels 175-A-34, 35
1179 and 40), zoned A-1, Agricultural District (Varina). The parking lot
1180 location requirement is not met. The applicant has 10 feet front yard
1181 setback, where the Code requires 50 feet front yard setback. The
1182 applicant requests a variance of 40 feet front yard setback.

1183
1184 Mr. Kirkland - I assume you wish to speak on this case, so would you
1185 please raise your right hand and be sworn in?

1186
1187 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1188 truth, the whole truth, and nothing but the truth, so help you God?

1189
1190 Mr. Kirkland - Have all your notices been turned in? Yes we have them in
1191 the file, Okay, would you state your name for the record, please.

1192
1193 Mr. Blackley- My name is Clay Blackley, with Bay Design Group
1194 representing the applicant. We are doing the site plans and representing the client for
1195 this case. For our plan of development we need a required number of parking spaces
1196 and to meet that we have to use the front yard setback to meet that requirement. If we
1197 don't use that setback we will about 1/2 of our required parking. In that area there is
1198 about 42 spaces that we would lose. The parking spaces are calculated by the
1199 amount of seats in the proposed additions. To deny that would be to deny the building
1200 expansion. We believe that this a more organized way of dealing with parking. Right
1201 now the parking that is being used in the front yard of the existing property. Not real
1202 organized and not as esthetically pleasing as it could be.

1203
1204 What we would do is set the parking back 10 feet off the property line, more like a
1205 commercial project. Then use that area in the 50 foot setback for the parking lot. We
1206 will be dedicating 15 feet of right of way, so the road way will be the width it is supposed
1207 to be in the future. The County is requiring us to put in curb and gutter and storm sewer
1208 in addition to the road widening.

1209
1210 We like the layout, we think it will work. It will be better for the neighborhood all in all.

1211
1212 Mr. Nunnally- How many seats did you say you were going to have in this
1213 new addition?

1214
1215 Mr. Blackley- I think it is 142 seats.
1216 Mr. Nunnally- And what is the code requirement? One seat for every 4
1217 seats?
1218
1219 Mr. Blackley- The Parking requirement was for 86 spaces and we were
1220 providing 92 spaces.
1221
1222 Mr. Nunnally- How many members do you have in the congregation?
1223
1224 Mr. Rositer We have approximately 125 members.
1225
1226 Mr. Balfour- Are you asking for more parking spaces than you have
1227 members?
1228
1229 Mr. Blackley- I think there was a miss-conception, in the staff report it said
1230 146 spaces, I think it is suppose to say 146 seats not spaces. The spaces we are
1231 providing is 92 and the requirement is 86. So we are losing about ½ of what is required.
1232
1233 Mr. Kirkland- Any other questions.?
1234
1235 Mr. McKinney- Are you for or against?
1236
1237 Rev. Manson I am Rev. Manson pastor of Bethany Baptist Church, which
1238 is the church adjacent to the applicant. I am also a neighbor there in that community
1239 and have been for the last 35 years. WE do not oppose the facility being proposed but
1240 we would like is a deferral of 30 days so the two churches can get together and discuss
1241 the proposal. We have been using a portion of the parking lot for over 75 years. We
1242 have worship services at the same time and what we would like is a contractual
1243 agreement where we could still have rights to be able to park on this property. We have
1244 not had an opportunity to communicate with the Refuge Church about this matter. WE
1245 want to talk in regards to the parking lot area.
1246
1247 The Bay Design Group mentions a road dedication, the community has adopted the
1248 highway there and we have a concern. But to widen just a portion of it, we would like
1249 the entire road to be widened not just that section. Could we have the opportunity to
1250 come together, to reason, to talk about our concerns.
1251
1252 Mr. Kirkland- The case we are dealing with is the parking spaces in the
1253 front yard. It really has nothing to do with the agreement y'all have with the church.
1254 The widening of Whiteside Road is between you and Henrico County. I would say it is
1255 up to the applicant to ask for the deferral. We are not involved with contracts with other
1256 churches. If we pass it, it is their property and they can do with it what they want. They
1257 can be a good neighbor and share, but that is between the two of you. The case we are
1258 hearing is parking spaces.
1259

1260 Rev. Mansion- Can we have a deferral to work out some sort of parking
1261 agreement.
1262
1263 Mr. McKinney- After it goes through this process, it will go through a Plan of
1264 Development process with the Planning Commission. You will have an opportunity to
1265 sit down with them and go over the plans. The Planning Commission is a public hearing
1266 and you will have plenty of time to get with them on this issue.
1267
1268 Rev. Mansion- We just wanted to state publicly that we are not opposed to
1269 the addition, but do feel a need to discuss the parking issue further.
1270
1271 Mr. Davis- I am Henry Davis, a trustee at Bethany Baptist Church, I also
1272 want to state that we are not opposed to the addition. We have not had any
1273 communication concerning this parking lot. We do feel the need to have an agreement
1274 with the Refugee Church concerning this parking.
1275
1276 Mr. Kirkland- As stated by Mr. McKinney, you will have plenty of time to
1277 discuss this with the applicant during the Plan of Development process. Next, sir.
1278
1279 Mr. Mansion- I am Isiah Manson, I am a trustee with Bethany Baptist
1280 Church. I want to be on record as not opposing the addition to Refugee Church. My
1281 concern is that same, that we be notified of the development and be able to discuss
1282 this.
1283
1284 Mr. Kirkland- Do you want to rebut any of this?
1285
1286 Mr. Blackley- I would like to clarify a few things. They will get an
1287 opportunity to fully engage in this project when it comes before the Planning
1288 Commission. We cannot move forward with this project until this variance is acted
1289 upon. The staff has put the plan on hold until this action is finale. Right now the
1290 schedule is behind a year due to design changes. We don't want to leave the
1291 neighborhood out, we do want to meet with them. What ever arrangements for a
1292 meeting works, we will be happy to accommodate them.
1293
1294 Mr. Kirkland- Once all the paper work is done, the Church is going to
1295 commence in building the project, correct?
1296
1297 Mr. Blackley- Yes, as fast as they can and as the budget will allow.
1298
1299 Mr. Kirkland- Any one else wish to speak on this case? Any other
1300 questions by Board Members? If not that concludes the case.
1301
1302 Upon a motion by Mr. Nunnally, seconded by Mr. Balfour, the Board **granted A-42-**
1303 **2000.**
1304

1305 Affirmative: Kirkland, Balfour, McKinney, Nunnally, Wright 5
 1306 Negative: 0
 1307 Abstained: 0

1308
 1309 The Board granted this request, as it found from the evidence presented that
 1310 authorizing this variance at 520 Whiteside Road for a variance of 40 feet of front yard
 1311 parking setback subject to the following conditions, will not be of substantial detriment to
 1312 adjacent property and will not materially impair the purpose of the zoning regulations.

1313
 1314 1. The property shall be developed in substantial conformance with the plan filed with
 1315 the application. No changes or additions to the layout may be made without the
 1316 approval of the Board of Zoning Appeals.

1317
 1318 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
 1319 the County Code apply. At the time of building permit application, the applicant shall
 1320 submit the necessary information to the Department of Public Works to ensure
 1321 compliance with the requirements of the Chesapeake Bay Preservation Act and the
 1322 code requirements for water quality standards.

1323
 1324 3. Approval of this request does not imply that a building permit will be issued. Building
 1325 permit approval is contingent on Health Department requirements, including, but not
 1326 limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well
 1327 location.

1328
 1329 4. The parking lot, driveways, and loading areas shall be subject to the requirements of
 1330 Section 24-98 of Chapter 24 of the County Code.

1331
 1332 **RESUME TESTITOMY ON UP-20-2000**

1333
 1334 Mr. Kirkland - Has there been a call for any deferrals for the 10:00 o'clock
 1335 agenda? Have we had any information come back in here from Mr. Marshman? Still
 1336 trying to get in touch with someone?

1337
 1338 Mr. McKinney- Well, we're holding these folks here up, if somebody can go
 1339 out there and get them, and get them in here, we can get it over with.

1340
 1341 Mr. Kirkland- I appreciate it sir, thank you. Mr. Marshman, have you made
 1342 a decision?

1343
 1344 Mr. Marshman - I have a question that affects my decision, a procedural
 1345 question. I'm not entirely certain as to the rules regarding this proceeding. If we allow
 1346 you to proceed and vote on this today, and the decision of the Board is to deny the
 1347 variance, does that prevent me from coming back subsequently?

1348
 1349 Mr. Kirkland- For one year.

1350

1351 Mr. Marshman - Okay, then we'd like a 30-day deferral.
1352
1353 Mr. Kirkland - Do I hear a motion for a 30-day deferral in this case?
1354
1355 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **deferred** the **UP-**
1356 **20-2000** application for 30 days, from the June 22, 2000, until the July 27, 2000,
1357 meeting, at the request of the applicant.
1358
1359 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1360 Negative: 0
1361 Absent: 0
1362
1363 The Board deferred the request for a conditional use permit to continue operation of an
1364 existing kennel at 8976 Battlefield Park Road, to allow time to negotiate with those who
1365 spoke in opposition.
1366
1367 **A - 43-2000 PREY PONG** requests a variance from Sections 24-95(b)(5) and 24-
1368 95(c)(1) of Chapter 24 of the County Code to build an addition at 6511
1369 Fitzhugh Avenue (Westhaven) (Tax Parcel 102-11-E-136), zoned R-3,
1370 One-family Residence District (Three Chopt). The lot width
1371 requirement, minimum side yard setback, and total side yard setback
1372 are not met. The applicant has 50 feet lot width, 4 feet minimum side
1373 yard setback and 10 feet total side yard setback, where the Code
1374 requires 65 feet lot width, 7 feet minimum side yard setback and 15
1375 feet total side yard setback. The applicant requests variances of 15
1376 feet lot width, 3 feet minimum side yard setback and 5 feet total side
1377 yard setback.
1378
1379 Mr. Kirkland- Any one hear wish to speak on this case? Yes sir. My name
1380 is Ernie Taylor. If you would raise your right hand and be sworn in.
1381
1382 Mr. Blankinship Do you swear to tell the truth and nothing but the truth so
1383 help you God?
1384
1385 Mr. Taylor- Yes sir.
1386
1387 Mr. Kirkland- Would you state your name for the record.
1388
1389 Mr. Taylor- Ernie Taylor.
1390
1391 Mr. Kirkland- Have all you notices be turned according to County Code?,
1392 yes we have them in the file. State your case.
1393
1394 Mr. Taylor- There is an addition done some time ago on the side of the
1395 dwelling. The owners would like to expand the existing addition so that it extends from
1396 the front of the house to the rear. It will not extend any farther into the side yard than

1397 what it presently does. The roof line in the front and back and the outside walls will
1398 match the existing structure.

1399
1400 Mr. Kirkland- Same height on the roof?

1401
1402 Mr. Taylor- Yes sir. The only difference on the exterior will be the vinyl
1403 siding.

1404
1405 MR. Kirkland- Are you going to do the whole house in vinyl siding?
1406

1407 Mr. Taylor- No sir. The addition will be vinyl, the applicant expressed
1408 interest in doing the whole house some day, but not right now. It will look nice.

1409
1410 Mr. Wright- Will there be any windows in the new addition?

1411
1412 Mr. Taylor- I need to look at the plans,

1413
1414 Mr. Wright - There are no windows shown on the plans. You would have
1415 to cover up that one window shown on the photo.

1416
1417 Mr. Taylor- That whole wall will be moved out and forward. I honestly
1418 can't tell you exactly what the addition will look like. The use currently is a galley
1419 kitchen and the owners want to enlarge that.

1420
1421 Mr. Wright- What kind of roof will you have on this addition?

1422
1423 Mr. Taylor It will be a shingle roof that will blend with the exiting roof
1424 line.

1425
1426 Mr. McKinney- The same height?

1427
1428 Mr. Wright- So you are going to raise the roof to same height of the
1429 existing part of the house. Will you tear down what's there and replace it with new?

1430
1431 Mr. Taylor- Yes sir. The concrete slab will be enlarged and the new
1432 construction will be built on that. It will not extend any closer to the side property line
1433 than it does now.

1434
1435 Mr. Kirkland- Any other questions? Any one else wish to speak on this
1436 case? If not that concludes the case. Thank you.

1437
1438 After a motion from Mr. Wright, seconded by Mr. Nunnally the Board approved **A-43-**
1439 **2000.**

1440
1441 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1442 Negative: 0

1443 Absent: 0

1444
1445 The Board granted this request, as it found from the evidence presented that
1446 authorizing this variance of 15 feet lot width, 3 feet minimum side yard setback and 5
1447 feet total side yard setback at 6511 Fitzhugh Avenue subject to the following condition,
1448 will not be of substantial detriment to adjacent property and will not materially impair the
1449 purpose of the zoning regulations.

1450
1451 1. Only the improvements shown on the plan filed with the application may be
1452 constructed pursuant to this approval. Any additional improvements shall comply with
1453 the applicable regulations of the County Code.

1454
1455
1456 **UP- 21-2000 TARMAC AMERICA, INC.** requests a use permit pursuant to
1457 Sections 24-52(d) and 24-103 of Chapter 24 of the County Code to
1458 extract materials from the earth at 4721 Curles Neck Road (Tax Parcel
1459 270-A-1), zoned A-1, Agricultural District (Varina).

1460
1461 Mr. Balfour- I must abstain from this case.

1462
1463 Mr. Kirkland- Any one hear wish to speak on this case? If you would raise
1464 your right hand and be sworn in.

1465
1466 Mr. Blankinship Do you swear to tell the truth and nothing but the truth so
1467 help you God?

1468
1469 Mr. Lewis- Yes sir.

1470
1471 Mr. Kirkland- Would you state your name for the record.

1472
1473 Mr. Lewis- Monte Lewis I am with Lewis and Associates representing
1474 Tarmac America.

1475
1476 Mr. Kirkland- Have all you notices be turned according to County Code?,
1477 yes we have them in the file. State your case.

1478
1479 Mr. Lewis- This is another area of Curles Neck that they wish to extract
1480 sand and gravel from. This is in between existing mining sites., As you can see in the
1481 photo, the one to the right is a pond which was a result of one of the mining operations
1482 that has been reclaimed and there is one to the west and to the north. The area to the
1483 south is another mining site that has been reclaimed.

1484
1485 The extraction techniques and the shipping will be the same as with existing site. The
1486 material is shipped out of the site via the James River. Nothing will be going out to the
1487 road.

1488
1489 Mr. Nunnally- You have read all the conditions?

1490
 1491 Mr. Lewis- Yes sir, we are in agreement with those conditions.
 1492
 1493 Mr. Nunnally- We haven't had any complaints have we Mr. Blankinship?
 1494
 1495 Mr. Blankinship- No sir.
 1496
 1497 Mr. Kirkland- Is this a model of what a quarry should be? Any other
 1498 people to speak on this case? If not that concludes the case. Thank you.
 1499

1500 After a motion from Mr. Nunnally and seconded by Mr. McKinney, the Board **approved**
 1501 **UP-21-2000**.

1503 Affirmative:	Kirkland, McKinney, Nunnally, Wright	4
1504 Negative:		0
1505 Absent:	Balfour	1

1506
 1507 The Board granted the use permit subject to the following conditions:
 1508

- 1509 1. This permit is subject to all requirements of Section 24-103 of Chapter 24 of the
 1510 County Code.
- 1511
 1512 2. Hours of operation shall be from 7:00 a.m. to 5:00 p.m. from December 1 to March
 1513 31, and from 6:00 a.m. to 6:00 p.m. from April 1 to November 30, EST or EDT,
 1514 whichever is in effect in the County of Henrico.
- 1515
 1516 3. No operations of any kind are to be conducted at the site on Sundays, nor on
 1517 national holidays.
- 1518
 1519 4. All roads used in connection with this use permit shall be effectively treated by
 1520 sprinkling or otherwise treated with water, calcium chloride, or other wetting agents to
 1521 eliminate any dust nuisance.
- 1522
 1523 5. Open and vertical excavations having a depth of 10 feet or more, for a period of
 1524 more than 30 days, shall be effectively sloped to a 2 to 1 slope or flatter to protect the
 1525 public safety.
- 1526
 1527 6. Routes of ingress and egress shall be over the applicant's rights of way to the
 1528 loading area at the James River as outlined on the map filed with the application.
 1529
- 1530 7. A superintendent who shall be personally familiar with all the terms and conditions of
 1531 Section 24-103 of Chapter 24 of the County Code as well as the terms and conditions of
 1532 UP-21-2000 shall be present at the beginning and conclusion of operations each work
 1533 day to see that all the conditions of said Code and said Use Permit are carefully
 1534 observed.
 1535

1536 8. Topsoil shall not be removed from any part of the property outside of the area in
1537 which extraction is authorized. Sufficient topsoil shall be stockpiled on the property for
1538 respreading in a layer with five (5) inches of minimum depth. If the site does not yield
1539 sufficient topsoil, additional topsoil shall be brought to the site to provide the required
1540 five-inch layer of cover. All topsoil shall be treated with a mixture of seed, fertilizer, and
1541 lime as recommended by the County of Henrico after the results of soil tests have been
1542 submitted to the County of Henrico. All topsoil shall be stockpiled within the authorized
1543 borrow area and provided with adequate erosion control protection.

1544
1545 9. The rehabilitation of the property shall take place simultaneously with the mining
1546 process. Rehabilitation shall not be considered completed until the mined area is
1547 covered completely with permanent vegetation.

1548
1549 10. Responsibility for maintaining the property, fences, and roads in a safe and secure
1550 condition indefinitely, or of converting the property to some other safe use, shall rest
1551 with the applicant.

1552
1553 11. Erosion Control Plans shall be submitted to the Department of Public Works for
1554 review and approval at time of application for the Use Permit. Throughout the life of this
1555 extraction operation, the applicant shall continuously satisfy the Department of Public
1556 Works that erosion control procedures are properly handled and furnish plans and
1557 bonds that the department deems necessary. The applicant shall provide certification
1558 from a licensed professional engineer that dams, embankments and sediment control
1559 structures meet standard and approved design criteria as set forth by the State.

1560
1561 12. The areas approved for mining under this permit shall be delineated on the ground
1562 by the erection of five (5) foot high metal posts at least five (5) inches in diameter and
1563 painted in alternate one (1) foot stripes of red and white. These posts shall be so
1564 located as to clearly define the area in which the mining is permitted. They shall be
1565 located, and the location certified by a certified surveyor, within thirty (30) days of the
1566 date of approval of this use permit by the Board of Zoning Appeals, or this use permit is
1567 void.

1568
1569 13. Excavation operations shall be discontinued on said site by June 30, 2002, and
1570 restoration accomplished by not later than June 30, 2003 unless a new permit is applied
1571 for by not later than 60 days before the expiration of the permit, and is subsequently
1572 granted by the Board of Zoning Appeals.

1573
1574 14. A financial guaranty satisfactory to the County Attorney shall be posted with the
1575 Secretary of the Board of Zoning Appeals for extracting materials from 137.41 acres, in
1576 an amount of \$2,000.00 per acre for each acre of land included under development, for
1577 a total of \$274, 820.00 guaranteeing that the land will be restored to a reasonably level
1578 and drainable condition with a minimum slope on the restored property being five to one
1579 or flatter. The guaranty may provide for the termination of the obligations after 30 days
1580 notice in writing. Such notice shall be served upon the principal and upon the obligee
1581 as provided by law for the service of notices. At the termination of the aforesaid 30 day
1582 notice to the principal, all authority of the principal under this use permit to extract

1583 materials, and work incident thereto, shall cease provided the applicant has not
1584 furnished another guaranty suitable to the County within said 30 days. The principal
1585 shall then proceed within the next ensuing 30 days following the termination of its
1586 authority under this use permit, to accomplish the complete restoration of the land as
1587 provided for under the terms of this permit. A notice of termination by such surety shall
1588 in no event relieve the surety from its obligation to indemnify the County of Henrico for a
1589 breach of the conditions of this use permit.
1590

1591 15. The applicant shall furnish a certification each year, verifying that the guaranty is in
1592 effect, premiums have been paid, and the bonding company reaffirms its responsibility
1593 under the use permit conditions. This certification shall be submitted to the Board on
1594 June 30 of each year.
1595

1596 16. This permit does not become valid until the guaranty, required in condition No. 14,
1597 has been posted with the County, and necessary approval received. This must be
1598 accomplished within 30 days of the Board's action or the action becomes invalid.
1599

1600 17. A progress report shall be submitted to the Board on June 30, 2001. This progress
1601 report must contain information concerning how much property has been mined to date
1602 of the report, the amount of land left to be mined, and how much rehabilitation has been
1603 performed, and when and how the remaining amount of land will be rehabilitated, and
1604 any and all pertinent information about the operation that would be helpful to the Board.
1605

1606 18. If, in the course of its preliminary investigation or operations, applicant discovers
1607 evidence of the existence of cultural or historical material or the presence on the site of
1608 significant habitat or an endangered species, it will notify appropriate professional or
1609 governmental authorities and provide them with an opportunity to investigate the site
1610 and applicant will report the results of such investigation to the Planning Office.
1611

1612 19. The applicant shall comply with the Chesapeake Bay Preservation Act and all state
1613 and local regulations administered under such act applicable to the property and shall
1614 furnish to the Planning Office copies of all reports required by such act or regulations.
1615

1616 20. The applicant must obtain a mine license from the Division of Mineral Mining,
1617 Department of Mines, Minerals and Energy, Commonwealth of Virginia within 90 days of
1618 the approval of this use permit or the use permit is void.
1619

1620 21. No off-site generated materials shall be deposited on the mining site unless the
1621 materials and the plans for their placement have been approved by the Planning Office.
1622

1623 22. A sign shall be posted at the entrance to the mining site stating the name of the
1624 operator, the Henrico use permit number, the Division of Mineral Mining mine license
1625 number, and the phone number of the operator. The sign shall be 12 square feet in area
1626 and shall be properly maintained.
1627

1628 23. All drainage and erosion and sediment control measures shall conform to the
1629 standards and specifications of the Mineral Mining Manual Drainage Handbook. Any

1630 drainage structures in place prior to October 14, 1992 and which do not conform to the
1631 Mineral Mining Manual Drainage Handbook may remain in place until such time as any
1632 reconstruction is required at which time said structures shall be brought into
1633 conformance with the Mineral Mining Manual Drainage Handbook.

1634 24. Failure to comply with any of the foregoing conditions shall automatically void this
1635 permit.
1636

1637
1638 **A - 44-2000 WEST MANOR HOMES** requests a variance from Section 24-95(b)(5)
1639 of Chapter 24 of the County Code to build a single family home at 7011
1640 Vanderbilt Avenue (Crestview) (Tax Parcel 92-7-12-128), zoned R-3,
1641 One-family Residence District (Three Chopt). The lot width
1642 requirement is not met. The applicant has 60 feet lot width, where the
1643 Code requires 65 feet lot width. The applicant requests a variance of 5
1644 feet lot width.

1645
1646 The discussion that follows will apply for all the cases in Crestview, and each case will
1647 be voted on separately.

1648
1649 Mr. Balfour- I must abstain from these cases. All the notices are in the
1650 files.

1651
1652 Mr. Blankinship- Please raise your right hand. Do you swear to tell the truth
1653 the whole truth and nothing but the truth so help you God?

1654
1655 Mr. Lewis- I do.

1656
1657 Mr. Kirkland- Please state you name for the record.

1658
1659 Mr. Lewis- My name is Mr. Monte Lewis with Lewis and Associates and
1660 I am the representative for all these matters. Every lot has the same situation. The
1661 subdivision was recorded in the mid-1940's and each lot has 60 feet of lot width and the
1662 requirement is 65 feet. We need the variance for lot width on each one of these lots.
1663 We have no problem meeting the setback requirements and what we plan to do is
1664 replace these houses with new homes. If we were just remodeling the homes, we
1665 would not need these variances. I have drawings of several of the models that are to be
1666 constructed on these lots. If you would like to see them, I can show them to you.

1667
1668 Mr. Kirkland- Yes please, and what price range are these homes going to
1669 be?

1670
1671 Mr. Lewis- I believe that these are going to be in the \$130,000 to
1672 \$150,000 range.

1673
1674 Mr. Lewis- These photos are of the houses we have already built in the
1675 area. We were able to build these because we had rezoned the property to R-4A, One

1676 Family Residence District. We did not rezone these lots because it would appear as
1677 spot zoning. That is why we are before you today. We plan to have the same product
1678 line on all the lots. The houses will be torn down and replaced. Our time frame is not
1679 immediate, it will be over the next two years. The two lots on Horsepen Road are slated
1680 to begin work immediately.

1681
1682 Mr. Kirkland- Is this the last phase of this project?

1683
1684 Mr. Lewis- We are working on plans for the back phase to redo all the
1685 roads, sewer, water lines , storm sewer.

1686
1687 Mr. Kirkland- Any other questions?

1688
1689 Mr. McKinney- Mr. Lewis, where were these pictures taken?

1690
1691 Mr. Lewis- These pictures were taken of the existing homes already
1692 built.

1693
1694 Mr. Nunnally- Are all these houses going to be for sale, or are some going to be
1695 rental?

1696
1697 Mr. Lewis- We are not really sure. The ones that are going to be for
1698 sale are the ones that will be built where the infrastructure improvements are being
1699 done. We are discussing with the County the possibility of having the rest of the
1700 improvements done under a block grant. But as of right now, we do not know how
1701 many units will be for sale and how many for rent.

1702
1703 Mr. Kirkland- What is the rent on one of these houses?

1704
1705 Mr. Chasen- We had not done an analysis of the rent structure. I would
1706 estimate that it would be \$1,000.00 a month.

1707
1708 Mr. Kirkland- Any other questions? Any one else wish to speak on this
1709 case? No other discussion on these cases, that concludes the cases.

1710
1711 Upon a motion by Mr. Wright, seconded by Mr. Nunnally, the Board **granted A-44-2000.**

1712
1713 Affirmative: Kirkland, McKinney, Nunnally, Wright 4

1714 Negative: 0

1715 Absent: Balfour 1

1716
1717 The Board granted this request, as it found from the evidence presented, that
1718 authorizing this variance of 5 feet of lot width at 7011 Vanderbilt Avenue subject to the
1719 following conditions will not be of substantial detriment to adjacent property and will not
1720 materially impair the purpose of the zoning regulations.

1721

1768
1769 Upon a motion by Mr. Wright, seconded by Mr. Nunnally, the Board **granted A-46-2000.**

1770
1771 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
1772 Negative: 0
1773 Abstained Balfour 1

1774
1775 The Board granted this request, as it found from the evidence presented, that
1776 authorizing this variance of 5 feet of lot width at 1506 Harvard Road subject to the
1777 following conditions will not be of substantial detriment to adjacent property and will not
1778 materially impair the purpose of the zoning regulations.

1779
1780 1. This approval is only for a single-family dwelling as described in the application. Any
1781 additional improvements shall comply with the applicable regulations of the County
1782 Code.

1783
1784 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
1785 the County Code apply. At the time of building permit application, the applicant shall
1786 submit the necessary information to the Department of Public Works to ensure
1787 compliance with the requirements of the Chesapeake Bay Preservation Act and the
1788 code requirements for water quality standards.

1789
1790 **A - 47-2000 WEST MANOR HOMES** requests a variance from Section 24-95(b)(5)
1791 of Chapter 24 of the County Code to build a single family home at
1792 1604Harvard Road (Crestview) (Tax Parcel 92-7-1-8), zoned R-3,
1793 One-family Residence District (Three Chopt). The lot width
1794 requirement is not met. The applicant has 60 feet lot width, where the
1795 Code requires 65 feet lot width. The applicant requests a variance of
1796 5 feet lot width.

1797
1798 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted A-47-**
1799 **2000.**

1800
1801 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
1802 Negative: 0
1803 Abstained Balfour 1

1804
1805 The Board granted this request, as it found from the evidence presented, that
1806 authorizing this variance of 5 feet of lot width at 1604Harvard Road subject to the
1807 following conditions will not be of substantial detriment to adjacent property and will not
1808 materially impair the purpose of the zoning regulations.

1809
1810 1. This approval is only for a single-family dwelling as described in the application. Any
1811 additional improvements shall comply with the applicable regulations of the County
1812 Code.

1813

1814 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
1815 the County Code apply. At the time of building permit application, the applicant shall
1816 submit the necessary information to the Department of Public Works to ensure
1817 compliance with the requirements of the Chesapeake Bay Preservation Act and the
1818 code requirements for water quality standards.

1819
1820 **A - 48-2000 WEST MANOR HOMES** requests a variance from Section 24-95(b)(5)
1821 of Chapter 24 of the County Code to build a single family home at 1704
1822 Harvard Road (Crestview) (Tax Parcel 92-7-1-13), zoned R-3, One-
1823 family Residence District (Three Chopt). The lot width requirement is
1824 not met. The applicant has 60 feet lot width, where the Code requires
1825 65 feet lot width. The applicant requests a variance of 5 feet lot width.

1826
1827 Upon a motion by Mr. Wright, seconded by Mr. Nunnally, the Board **granted A-48-2000.**

1828
1829 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
1830 Negative: 0
1831 Abstained Balfour 1

1832
1833 The Board granted this request, as it found from the evidence presented, that
1834 authorizing this variance of 5 feet of lot width at 1704 Harvard Road subject to the
1835 following conditions will not be of substantial detriment to adjacent property and will not
1836 materially impair the purpose of the zoning regulations.

1837
1838 1. This approval is only for a single-family dwelling as described in the application. Any
1839 additional improvements shall comply with the applicable regulations of the County
1840 Code.

1841
1842 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
1843 the County Code apply. At the time of building permit application, the applicant shall
1844 submit the necessary information to the Department of Public Works to ensure
1845 compliance with the requirements of the Chesapeake Bay Preservation Act and the
1846 code requirements for water quality standards.

1847
1848 **A - 49-2000 CHARLES GLEN LLC** requests a variance from Section 24-95(b)(5) of
1849 Chapter 24 of the County Code to build a single family home at 7008
1850 Horsepen Road (Crestview) (Tax Parcel 92-7-16-20), zoned R-3,
1851 One-family Residence District (Three Chopt). The lot width
1852 requirement is not met. The applicant has 60 feet lot width, where the
1853 Code requires 65 feet lot width. The applicant requests a variance of
1854 5 feet lot width.

1855
1856 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted A-49-**
1857 **2000.**

1858
1859 Affirmative: Kirkland, McKinney, Nunnally, Wright 4

1860 Negative: 0
 1861 Abstained Balfour 1

1862
 1863 The Board granted this request, as it found from the evidence presented, that
 1864 authorizing this variance of 5 feet of lot width at 7008 Horsepen Road subject to the
 1865 following conditions will not be of substantial detriment to adjacent property and will not
 1866 materially impair the purpose of the zoning regulations.

1867
 1868 1. This approval is only for a single-family dwelling as described in the application. Any
 1869 additional improvements shall comply with the applicable regulations of the County
 1870 Code.

1871
 1872 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
 1873 the County Code apply. At the time of building permit application, the applicant shall
 1874 submit the necessary information to the Department of Public Works to ensure
 1875 compliance with the requirements of the Chesapeake Bay Preservation Act and the
 1876 code requirements for water quality standards.

1877
 1878 **A - 50-2000 CHARLES GLEN LLC** requests a variance from Section 24-95(b)(5) of
 1879 Chapter 24 of the County Code to build a single family home at 7000
 1880 Horsepen Road (Crestview) (Tax Parcel 92-7-16-24), zoned R-3, One-
 1881 family Residence District (Three Chopt). The lot width requirement is
 1882 not met. The applicant has 60 feet lot width, where the Code requires
 1883 65 feet lot width. The applicant requests a variance of 5 feet lot width.

1884
 1885 Upon a motion by Mr. Wright, seconded by Mr. Nunnally, the Board **granted A-50-2000.**

1886
 1887 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
 1888 Negative: 0
 1889 Abstained Balfour 1

1890
 1891 The Board granted this request, as it found from the evidence presented, that
 1892 authorizing this variance of 5 feet of lot width at 7000 Horsepen Road subject to the
 1893 following conditions will not be of substantial detriment to adjacent property and will not
 1894 materially impair the purpose of the zoning regulations.

1895
 1896 1. This approval is only for a single-family dwelling as described in the application. Any
 1897 additional improvements shall comply with the applicable regulations of the County
 1898 Code.

1899
 1900 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
 1901 the County Code apply. At the time of building permit application, the applicant shall
 1902 submit the necessary information to the Department of Public Works to ensure
 1903 compliance with the requirements of the Chesapeake Bay Preservation Act and the
 1904 code requirements for water quality standards.

1905

1906 **A - 51-2000** **GGC ASSOCIATES LLC** requests a variance from Section 24-95(b)(5)
1907 of Chapter 24 of the County Code to build a single family home at 7001
1908 Tulane Avenue (Crestview) (Tax Parcel 92-7-16-45), zoned R-3, One-
1909 family Residence District (Three Chopt). The lot width requirement is
1910 not met. The applicant has 60 feet lot width, where the Code requires
1911 65 feet lot width. The applicant requests a variance of 5 feet lot width.
1912

1913 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted A-51-**
1914 **2000.**

1915			
1916	Affirmative:	Kirkland, McKinney, Nunnally, Wright	4
1917	Negative:		0
1918	Abstained	Balfour	1

1919
1920 The Board granted this request, as it found from the evidence presented, that
1921 authorizing this variance of 5 feet of lot width at 7001 Tulane Avenue subject to the
1922 following conditions will not be of substantial detriment to adjacent property and will not
1923 materially impair the purpose of the zoning regulations.
1924

1925 1. This approval is only for a single-family dwelling as described in the application. Any
1926 additional improvements shall comply with the applicable regulations of the County
1927 Code.
1928

1929 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
1930 the County Code apply. At the time of building permit application, the applicant shall
1931 submit the necessary information to the Department of Public Works to ensure
1932 compliance with the requirements of the Chesapeake Bay Preservation Act and the
1933 code requirements for water quality standards.
1934

1935 **A - 52-2000** **WEST MANOR HOMES** requests a variance from Section 24-95(b)(5)
1936 of Chapter 24 of the County Code to build a single family home at 7003
1937 Tulane Avenue (Crestview) (Tax Parcel 92-7-16-46), zoned R-3, One-
1938 family Residence District (Three Chopt). The lot width requirement is
1939 not met. The applicant has 60 feet lot width, where the Code requires
1940 65 feet lot width. The applicant requests a variance of 5 feet lot width.
1941

1942 Upon a motion by Mr. Wright, seconded by Mr. Nunnally, the Board **granted A-52-2000.**

1943			
1944	Affirmative:	Kirkland, McKinney, Nunnally, Wright	4
1945	Negative:		0
1946	Abstained	Balfour	1

1947
1948
1949 The Board granted this request, as it found from the evidence presented, that
1950 authorizing this variance of 5 feet of lot width at 7003 Tulane Avenue subject to the

1951 following conditions will not be of substantial detriment to adjacent property and will not
1952 materially impair the purpose of the zoning regulations.

1953
1954 1. This approval is only for a single-family dwelling as described in the application. Any
1955 additional improvements shall comply with the applicable regulations of the County
1956 Code.

1957
1958 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
1959 the County Code apply. At the time of building permit application, the applicant shall
1960 submit the necessary information to the Department of Public Works to ensure
1961 compliance with the requirements of the Chesapeake Bay Preservation Act and the
1962 code requirements for water quality standards.

1963
1964 **A - 53-2000 WEST MANOR HOMES** requests a variance from Section 24-95(b)(5)
1965 of Chapter 24 of the County Code to build a single family home at 7009
1966 Tulane Avenue (Crestview) (Tax Parcel 92-7-16-49), zoned R-3, One-
1967 family Residence District (Three Chopt). The lot width requirement is
1968 not met. The applicant has 60 feet lot width, where the Code requires
1969 65 feet lot width. The applicant requests a variance of 5 feet lot width.

1970
1971 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted A-53-**
1972 **2000.**

1973
1974 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
1975 Negative: 0
1976 Abstained Balfour 1

1977
1978 The Board granted this request, as it found from the evidence presented, that
1979 authorizing this variance of 5 feet of lot width at 7009 Tulane Avenue subject to the
1980 following conditions will not be of substantial detriment to adjacent property and will not
1981 materially impair the purpose of the zoning regulations.

1982
1983 1. This approval is only for a single-family dwelling as described in the application. Any
1984 additional improvements shall comply with the applicable regulations of the County
1985 Code.

1986
1987 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
1988 the County Code apply. At the time of building permit application, the applicant shall
1989 submit the necessary information to the Department of Public Works to ensure
1990 compliance with the requirements of the Chesapeake Bay Preservation Act and the
1991 code requirements for water quality standards.

1992
1993 **A - 54-2000 WEST MANOR HOMES** requests a variance from Section 24-95(b)(5)
1994 of Chapter 24 of the County Code to build a single family home at 7011
1995 Tulane Avenue (Crestview) (Tax Parcel 92-7-16-50), zoned R-3, One-
1996 family Residence District (Three Chopt). The lot width requirement is

1997 not met. The applicant has 60 feet lot width, where the Code requires
1998 65 feet lot width. The applicant requests a variance of 5 feet lot width.
1999

2000 Upon a motion by Mr. Wright, seconded by Mr. Nunnally, the Board **granted A-54-2000**.

2001			
2002	Affirmative:	Kirkland, McKinney, Nunnally, Wright	4
2003	Negative:		0
2004	Abstained	Balfour	1

2005
2006 The Board granted this request, as it found from the evidence presented, that
2007 authorizing this variance of 5 feet of lot width at 7011 Tulane Avenue subject to the
2008 following conditions will not be of substantial detriment to adjacent property and will not
2009 materially impair the purpose of the zoning regulations.
2010

2011 1. This approval is only for a single-family dwelling as described in the application. Any
2012 additional improvements shall comply with the applicable regulations of the County
2013 Code.
2014

2015 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
2016 the County Code apply. At the time of building permit application, the applicant shall
2017 submit the necessary information to the Department of Public Works to ensure
2018 compliance with the requirements of the Chesapeake Bay Preservation Act and the
2019 code requirements for water quality standards.
2020

2021 **A - 55-2000** **GGC ASSOCIATES** requests a variance from Section 24-95(b)(5) of
2022 Chapter 24 of the County Code to build a single family home at 7012
2023 Tulane Avenue (Crestview) (Tax Parcel 92-7-14-56), zoned R-3, One-
2024 family Residence District (Three Chopt). The lot width requirement is
2025 not met. The applicant has 60 feet lot width, where the Code
2026 requires 65 feet lot width. The applicant requests a variance of 5 feet
2027 lot width.
2028

2029 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted A-55-**
2030 **2000**.

2031			
2032	Affirmative:	Kirkland, McKinney, Nunnally, Wright	4
2033	Negative:		0
2034	Abstained	Balfour	1

2035
2036
2037 The Board granted this request, as it found from the evidence presented, that
2038 authorizing this variance of 5 feet of lot width at 7012 Tulane Avenue subject to the
2039 following conditions will not be of substantial detriment to adjacent property and will not
2040 materially impair the purpose of the zoning regulations.
2041

2042 1. This approval is only for a single-family dwelling as described in the application. Any
2043 additional improvements shall comply with the applicable regulations of the County
2044 Code.

2045
2046 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
2047 the County Code apply. At the time of building permit application, the applicant shall
2048 submit the necessary information to the Department of Public Works to ensure
2049 compliance with the requirements of the Chesapeake Bay Preservation Act and the
2050 code requirements for water quality standards.

2051
2052 **A - 56-2000 WEST MANOR HOMES** requests a variance from Section 24-
2053 95(b)(5)of Chapter 24 of the County Code to build a single family home
2054 at 7006 Tulane Avenue (Crestview) (Tax Parcel 92-7-14-59), zoned R-
2055 3, One-family Residence District (Three Chopt). The lot width
2056 requirement is not met. The applicant has 60 feet lot width , where the
2057 Code requires 65 feet lot width. The applicant requests a variance of 5
2058 feet lot width.

2059
2060 Upon a motion by Mr. Wright, seconded by Mr. Nunnally, the Board **granted A-56-2000.**

2061

2062 Affirmative:	Kirkland, McKinney, Nunnally, Wright	4
2063 Negative:		0
2064 Abstained	Balfour	1

2065
2066 The Board granted this request, as it found from the evidence presented, that
2067 authorizing this variance of 5 feet of lot width at 7006 Tulane Avenue subject to the
2068 following conditions will not be of substantial detriment to adjacent property and will not
2069 materially impair the purpose of the zoning regulations.

2070
2071 1. This approval is only for a single-family dwelling as described in the application. Any
2072 additional improvements shall comply with the applicable regulations of the County
2073 Code.

2074
2075 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
2076 the County Code apply. At the time of building permit application, the applicant shall
2077 submit the necessary information to the Department of Public Works to ensure
2078 compliance with the requirements of the Chesapeake Bay Preservation Act and the
2079 code requirements for water quality standards.

2080
2081 **A - 57-2000 WEST MANOR HOMES** requests a variance from Section 24-
2082 95(b)(5)of Chapter 24 of the County Code to build a single family home
2083 at 7005 Miami Avenue (Crestview) (Tax Parcel 92-7-14-85), zoned R-
2084 3, One-family Residence District (Three Chopt). The lot width
2085 requirement is not met. The applicant has 60 feet lot width, where the
2086 Code requires 65 feet lot width. The applicant requests a variance of 5
2087 feet lot width.

2088
2089 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted A-57-**
2090 **2000.**

2091
2092 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
2093 Negative: 0
2094 Abstained Balfour 1

2095
2096
2097 The Board granted this request, as it found from the evidence presented, that
2098 authorizing this variance of 5 feet of lot width at 7005 Miami Avenue subject to the
2099 following conditions will not be of substantial detriment to adjacent property and will not
2100 materially impair the purpose of the zoning regulations.

2101
2102 1. This approval is only for a single-family dwelling as described in the application. Any
2103 additional improvements shall comply with the applicable regulations of the County
2104 Code.

2105
2106 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
2107 the County Code apply. At the time of building permit application, the applicant shall
2108 submit the necessary information to the Department of Public Works to ensure
2109 compliance with the requirements of the Chesapeake Bay Preservation Act and the
2110 code requirements for water quality standards.

2111
2112 **A - 58-2000 GGC ASSOCIATES** requests a variance from Section 24-95(b)(5) of
2113 Chapter 24 of the County Code to build a single family home at 7002
2114 Miami Avenue (Crestview) (Tax Parcel 92-7-12-101), zoned R-3, One-
2115 family Residence District (Three Chopt). The lot width requirement is
2116 not met. The applicant has 60 feet lot width, where the Code
2117 requires 65 feet lot width. The applicant requests a variance of 5 feet
2118 lot width.

2119
2120 Upon a motion by Mr. Wright, seconded by Mr. Nunnally, the Board **granted A-58-2000.**

2121
2122 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
2123 Negative: 0
2124 Abstained Balfour 1

2125
2126
2127 The Board **granted** this request, as it found from the evidence presented, that
2128 authorizing this variance of 5 feet of lot width at 7002 Miami Avenue subject to the
2129 following conditions will not be of substantial detriment to adjacent property and will not
2130 materially impair the purpose of the zoning regulations.

2131

2132 1. This approval is only for a single-family dwelling as described in the application. Any
2133 additional improvements shall comply with the applicable regulations of the County
2134 Code.

2135
2136 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
2137 the County Code apply. At the time of building permit application, the applicant shall
2138 submit the necessary information to the Department of Public Works to ensure
2139 compliance with the requirements of the Chesapeake Bay Preservation Act and the
2140 code requirements for water quality standards.

2141
2142
2143 **A - 59-2000 WEST MANOR HOMES** requests a variance from Section 24-95(b)(5)
2144 of Chapter 24 of the County Code to build a single family home at 7000
2145 Miami Avenue (Crestview) (Tax Parcel 92-7-12-102), zoned R-3, One-
2146 family Residence District (Three Chopt). The lot width requirement is
2147 not met. The applicant has 60 feet lot width, where the Code requires
2148 65 feet lot width. The applicant requests a variance of 5 feet lot width.

2149
2150 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted A-59-**
2151 **2000.**

2152

2153 Affirmative:	Kirkland, McKinney, Nunnally, Wright	4
2154 Negative:		0
2155 Abstained	Balfour	1

2156
2157 The Board **granted** this request, as it found from the evidence presented, that
2158 authorizing this variance of 5 feet of lot width at 7000 Miami Avenue subject to the
2159 following conditions will not be of substantial detriment to adjacent property and will not
2160 materially impair the purpose of the zoning regulations.

2161
2162 1. This approval is only for a single-family dwelling as described in the application. Any
2163 additional improvements shall comply with the applicable regulations of the County
2164 Code.

2165
2166 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
2167 the County Code apply. At the time of building permit application, the applicant shall
2168 submit the necessary information to the Department of Public Works to ensure
2169 compliance with the requirements of the Chesapeake Bay Preservation Act and the
2170 code requirements for water quality standards.

2171

2171
2172 **UP- 22-2000 H H HUNT CORPORATION** requests a use permit pursuant to Section
2173 24-12(b) of Chapter 24 of the County Code to operate a recreation
2174 center at 4601Twin Hickory Lake Drive (Tax Parcel 27-A-9A), zoned R-
2175 5C, General Residence District (Conditional) (Three Chopt).
2176
2177 Mr. Blankinship- Mr. Chairman, it was brought to my attention that the staff
2178 report did not include several of the conditions that we have made standard for this sort
2179 of application. I have a new staff report, the analysis has not changed but the
2180 conditions have.
2181
2182 Mr. Balfour- I must abstain from voting on this case.
2183
2184 Mr. Spain- My name is Melvin Spain, I am with the firm of Youngblood &
2185 Tyler and Associates.
2186
2187 Mr. Kirkland- Anyone wishes to speak, please raise your right hand and
2188 be sworn in.
2189
2190 Mr. Blankinship- Do you swear that the testimony you about to give is the
2191 truth , the whole truth and nothing but the truth so help you God?
2192
2193 Mr. Spain - I do.
2194
2195 Mr. Kirkland- Have all the notices been turned in accordance with the
2196 County Code? I see them in the file, please state your case.
2197
2198 Mr. Spain- HH Hunt Corporation is asking for a permit to develop a 10
2199 acre recreational area to serve the community of Twin Hickory. Cross-access have
2200 been made for pedestrian access and sidewalks have been made available for the
2201 development of this project.
2202
2203 We have reviewed the latest conditions that we received yesterday and most of the
2204 conditions are acceptable. Mr. Moore will address the conditions that we have some
2205 concern with. The condition that states the swimming pool needs to have a 6 foot high
2206 chain link fence around it, we would prefer to use a 6 foot high wrought iron fence to
2207 secure the pool.
2208
2209 Mr. Moore_ My name is George Moore with HH Hunt Corporation. I
2210 wanted to address the issue of the hours of operation and the parking spaces
2211 requirements. It is our desire to use this facility so that it will serve the needs of those in
2212 the community of Twin Hickory. As you may know, we developed Wyndham which is
2213 another master plan community. There is also a swim and racquet club there, we would
2214 like to use the same hours of operation that is in place there. Those are Monday
2215 through Saturday 6 am to 12 midnight and Sunday 8 am to 10 PM. That would be for
2216 the building itself. We have a building there that has a large room to be used for parties

2217 and get-togethers and another room that we are calling our technology room. This
2218 room allows people to come and use the computers and fax machines. The reason we
2219 want it open at 6am is that we know people come in use the facility before they go to
2220 work. The outdoor amenities, the pool and tennis courts, play ground, we would
2221 request 6 am to 10 PM. The only exception would be for swim meets, and condition # 4
2222 addresses that.

2223
2224 The other issue is the parking requirements. Right now the plan shows 50 parking
2225 spaces on the hard surface, and we have overflow parking also on some of the grass
2226 areas. It is a similar arrangement we have in Wyndham. So the total parking that we
2227 can provide is a total of 100 spaces. We feel this is adequate for the facility. As you
2228 know, we have invested a lot of money to make the whole neighborhood pedestrian
2229 friendly. We have provided sidewalks along the roads, paths though the
2230 neighborhoods, and a pedestrian tunnel under the road directly across from this facility
2231 for the sole purpose of access. We feel that the majority of the members will walk to the
2232 facility. We would request that the parking space condition reflect what is on the plans.

2233
2234 Mr. Wright- How did we arrive at the one space per 3 families?

2235
2236 Mr. Blankinship- That is a figure that has become a standard through the
2237 years. I am not particularly wedded to that. It is not addressed in the ordinance, so we
2238 are not bound by it. It may have suitable in the other cases.

2239
2240 Mr. Wright- The one in Wyndham seems to working OK.

2241
2242 Mr. Kirkland- You said you wanted the pool opened from 6 am to 10 PM?
2243 Is that correct, 7 days a week?

2244
2245 Mr. Moore- That is correct. The outdoor amenities would be used from 6
2246 am to 10 PM, those are the pool, the tennis courts, and the playground. There are a lot
2247 of folks in Wyndham, who like to play tennis before they go to work. The pool probably
2248 wouldn't open until 8 am, it would be or swim team and swim lessons.

2249
2250 Mr. Wright- What is located adjacent to this facility. I see a C-1 zoned
2251 property, and a R-6 property.

2252
2253 Mr. Moore- The C-1 is flood plain and nothing can be built there and the
2254 R-6 will have a multi-family development. What is not shown on the map is a proposed
2255 5 acre lake that will be located between the Club House and the Multi-family
2256 development. There are no single family neighborhoods that adjacent to the facility.

2257
2258 Mr. Wright- Noise probably would not be a factor then. .?

2259
2260 Mr. Moore_ No.

2261
2262 Mr. McKinney- What are the months of operation for the pool?

2263
2264 Mr. Moore- Memorial Day to Labor Day.
2265
2266 Mr. McKinney- I have seen outdoor pools used through September. So why
2267 don't we say until the end of September.
2268
2269 Mr. Wright- And the weather has been warm enough that some of the
2270 pools have been opening earlier like mid-May. So why don't we say from May through
2271 September.
2272
2273 Mr. McKinney- That sounds good. And this would only be for the pool.
2274
2275 Mr. Kirkland- I have a question about the wrought iron fence. Is going to
2276 be safe fence, how close are the pickets?
2277
2278 Mr. Moore- We did check that with Building Inspections so the fence
2279 would meet code. The Code discusses the distance between the pickets and
2280 addresses the top and bottom rails.
2281
2282 Mr. Kirkland- We will just change the wording in the fence condition from
2283 chain link to wrought iron. Any other questions of Board Members? Any one else to
2284 speak on this case? That concludes the case.
2285
2286 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted UP-22-**
2287 **2000 with the amended conditions.**
2288
2289 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
2290 Negative: 0
2291 Abstained: Balfour 1
2292
2293 The Board granted this request, as it found from the evidence presented, that
2294 authorizing this use permit at 4601 Twin Hickory Lake Drive for a non-commercial
2295 recreation facility with the following conditions, will not be of substantial detriment to
2296 adjacent property and will not materially impair the purpose of the zoning regulations.
2297
2298 1. The property shall be developed in substantial conformance with the plan filed with
2299 the application. No changes or additions to the layout may be made without the
2300 approval of the Board of Zoning Appeals.
2301
2302 2. The recreation center shall be operated on a nonprofit basis and be open only to
2303 members and their guests.
2304
2305 3. Hours of operation shall be limited to 6:00 AM to 10:00 PM for outdoor activities and
2306 6:00 AM to 12:00 midnight for indoor activities. The pool season shall be limited to May
2307 1 to September 30.
2308

2353
2354 Mr. Blankinship- Do you swear that the testimony you about to give is the
2355 truth, the whole truth and nothing but the truth so help you God?
2356

2357 Mr. Strangeboston -I do.
2358

2359 Mr. Kirkland- Have all the notices been turned in accordance with the
2360 County Code? I see them in the file, please state your case.

2361 Mr. Strangeboston- I am Donald Strangeboston, I am representing the
2362 owner for the project and we are asking for a variance on the number of
2363 parking spaces required for the project.

2364 WE had a variance last year to provide 85 parking spaces for 77 units. And
2365 the requirement was also that we have storm water management for 116
2366 parking spaces even though we were not going to build them. And since then
2367 experience in assisted living parking requirements in 3 new facilities in
2368 Western Henrico that have now been in business for year to a year and one
2369 half, and they are 80-95% full. The key element is that due to consideration of
2370 zoning we can only build an assisted living facility on that property. We can
2371 not build anything else on that site. We are proposing to build 77 units and
2372 that density is proffered so there is no future expansion. The required parking
2373 should be appropriate to the single use permitted on the site not to something
2374 else that is not going to be done. Any other use of the property requires an
2375 amendment of proffers. We can not build anything else on this site so we
2376 should have the parking that is appropriate to an assisted living facility.
2377

2378 Of the three new stand-alone assisted living facilities, all three administers
2379 have stated that their existing parking adequately meets their needs. Sunrise
2380 has 1 space per 3 units, Marriott has 1½ spaces per 3 units, Manor House
2381 has 2 spaces per 3 units. What we are proposing is a total of 58 spaces for
2382 our 77 units or 2¼ spaces per 3 units. Which is 12% greater than the largest
2383 one. We would offer to increase that in the future if the need is demonstrated.
2384 Right now we are concerned about over building and losing green space. It is
2385 going to increase the storm water run off, and its going to add heat retention.
2386 An empty parking lot is an eye sore.
2387

2388 The second issue is storm water retention. Originally we were required to
2389 provide in access of the number of spaces we intended to build. It doesn't
2390 help anybody it creates a maintenance burden and delays construction. The
2391 community does not gain from it. We would like to provide the appropriate
2392 parking for the facility and provide the necessary storm water treatment

2393 retention for what we intend to build.

2394
2395 We would have 2 points – 1. We would ask to provide 58 parking spaces now
2396 with the agreement to increase as required as the County deems necessary.
2397 2. We provide storm water retention and water quality appropriate to
2398 construction as permitted with additions if required if parking is extended.

2399
2400 Mr. Kirkland- We had this case about a year ago. What were you
2401 trying to do then, were you trying to build the whole facility out then too.

2402
2403 Mr. Strangeboston- The facility was the same, we were just talking to
2404 about parking. If you will allow us to build the 58 spaces, then we will build
2405 the storm water retention for that and that only. We don't want to build more
2406 than we need.

2407
2408 Mr. Wright- So that is part of your request, to reduce the parking and
2409 the storm water retention.

2410
2411 Mr. Strangeboston- Yes sir. Assisted living facility is a little different than
2412 others. The average age of a resident female is 86 and male is 82. Most of
2413 them can not drive or they wouldn't be there. The parking is for staff and
2414 visitors.

2415
2416 Mr. Kirkland- What is the number of staff employed by the facility?

2417
2418 Mr. Strangeboston- The maximum shift will be 12 employees and the total
2419 is 32 employees.

2420
2421 Mr. Kirkland- Any other questions? Any one else wish to speak on
2422 this case? If not that concludes the case.

2423
2424 Upon a motion by Mr. Kirkland, seconded by Mr. Nunnally, the Board **granted A-60-**
2425 **2000.**

2426
2427 Affirmative: Kirkland, McKinney, Nunnally, 3
2428 Negative: 0
2429 Absent: Balfour, Wright 2

2430
2431 The Board granted this request, as it found from the evidence presented, that
2432 authorizing this variance at 9010 Woodman Road to allow 58 parking spaces instead of 83
2433 with the following conditions, will not be of substantial detriment to adjacent property
2434 and will not materially impair the purpose of the zoning regulations.

2477 on 4 inches of compressed gravel. Locating it in the flood plain would require building
2478 up the pad so the flooding would not affect it.

2479
2480 The place where we wish to locate it is towards the street corner of the lot. We have
2481 planted several bushes and trees to act as a screen. They will reach 4 –40 feet when
2482 they are mature. We will supplement these plantings to screen the gazebo completely.
2483 All of our neighbors have expressed approval of the gazebo. If we ever sell it, I will
2484 remove the gazebo from the site.

2485
2486 We feel we cannot put it in the floodplain due to the flooding and that this site in the side
2487 yard is the only viable place for it.

2488
2489 Mr. Kirkland- Any questions? Any Board Members have any questions?
2490 Any one else wish to speak on this case? If not that concludes the case.

2491
2492 Upon a motion by Mr. Balfour, seconded by Mr. McKinney, the Board **granted A-61-**
2493 **2000.**

2494
2495 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2496 Negative: 0
2497 Absent: 0

2498
2499 The Board **granted** this request, as it found from the evidence presented, that
2500 authorizing this variance at 10824 Weather Vane Road for the placement of the accessory
2501 structure in the side yard with the following condition, will not be of substantial detriment
2502 to adjacent property and will not materially impair the purpose of the zoning regulations.

2503
2504 1. Only the improvements shown on the plan filed with the application may be
2505 constructed pursuant to this approval. Any additional improvements shall comply
2506 with the applicable regulations of the County Code.

2507
2508

2509 **A - 62-2000 ST. MICHAEL'S CATHOLIC CHURCH** requests a variance from
2510 Section 24-96(c) of Chapter 24 of the County Code to build a parking
2511 lot for a church at 4491 Springfield Road (Tax Parcels 38-A-40 and -
2512 42), zoned A-1, Agricultural District (Three Chopt). The parking lot
2513 location requirement is not met. The applicant has 12 feet front yard
2514 setback, where the Code requires 50 feet front yard setback. The
2515 applicant requests a variance of 38 feet front yard setback.

2516
2517 Mr. Kirkland- Anyone wishes to speak, please raise your right hand and
2518 be sworn in.
2519

2520 Mr. Blankinship- Do you swear that the testimony you about to give is the
2521 truth, the whole truth and nothing but the truth so help you God?

2522
2523 Mr. Lewis - I do.

2524
2525 Mr. Kirkland- Have all the notices been turned in accordance with the
2526 County Code? Please turn them into the Secretary. State your name for the record.

2527 Mr. Lewis- I am Mr. Monte Lewis, I am with Lewis and Associates
2528 representing the church. This is an existing church, which has parking problems and
2529 access problems as far as traffic is concerned. We have submitted a site plan to the
2530 Planning Commission showing an addition and parking. The addition is for a total 1,000
2531 seats and the parking requirement is 250 spaces and we are providing 525. We are far
2532 exceeding what the County requires. We know in the past that there has been a
2533 parking problem. They have parked across Springfield Road, taken up both sides of
2534 Springfield Road. We are trying to eliminate this practice by providing more parking
2535 than is required. Our application today is to allow parking in the 50 foot front yard
2536 setback of the property. To the rear of this property is a RPA stream that does not allow
2537 for any disturbance. We also have a BMP pond in the rear that limits the use of the site
2538 for parking.

2539
2540 We also have redesigned the entrance and exist from the site to facilitate a smoother
2541 movement of cars to and from the site. The completion of the Springfield Road
2542 construction will help in elevating the congestion in the area and provide more
2543 pavement for the cars to travel on.

2544
2545 At the point where the setback is 12 feet, the parking lot is lower than the road by about
2546 3 feet. It is acting as a natural berm to screen the public from the parking lot. That
2547 area will be landscaped to supplement the screening.

2548
2549 Mr. Wright- Is that the closest point to the road. And that will be
2550 screened from the road?

2551
2552 Mr. Lewis- Yes sir, that area will be landscaped.

2553
2554 Mr. Wright- And of course there will be 4 lanes of traffic with a median
2555 strip between this and the houses across the street.

2556
2557 Mr. Kirkland- Any other questions?

2558
2559 Mr. Wright- The concentration of parking is on Sunday.

2560
2561 Mr. Bock- I am John Bock, one of the architects on the project. Yes, Sunday
2562 morning is the most concentrated load on the parking lot. They do have services on
2563 Friday and Saturday, but Sunday is the big day.

2564
2565 Mr. Kirkland - Any other questions? Any one else wish to speak on this case?
2566

2567 Mr. Singer- My name is Jack Singer, I live directly across from the
2568 church. We look directly out onto a house that the church has left in despicable
2569 condition.
2570

2571 That is our view everyday as we leave our door. We have had our driveway blocked by
2572 the parishioners. I am glad that the parking lot will be built. I don't know why it has to
2573 be built in front of our house. I want to make sure that there are proper buffers there
2574 and that there is enough room for the sufficient plantings. Traffic is a problem on
2575 Sunday. We witness one accident a week in front of that church. I think there should
2576 be a turning lane into the church. I am not adverse to putting the parking lot in there I
2577 just think there has to be enough of a buffer so that it is not unsightly and a turning lane.
2578

2579 Mr. Kirkland- This is only for distance of the front parking lot to the front
2580 property line. If you want to talk about the buffer and the turning lane, you need to go
2581 the Planning Commission hearing when the POD is heard. That will occur after this
2582 hearing. That is where the actual site plan is discussed and decided on. You can
2583 discuss the bushes, plants and trees during that meeting.
2584 We are speaking right now about the parking spots.
2585

2586 Mr. Singer- Who do I speak to about the turning lane?
2587

2588 Mr. Kirkland- That is between the State Highway Department, the traffic
2589 engineer of Henrico Co. and Mr. Lewis. Mr. Blankinship can get you in touch with the
2590 correct people in the County. You will be notified of the Plan of Development hearing
2591 and all of this can be discussed then.
2592

2593 Mr. Singer- I have had too much trouble with the Church and do not trust
2594 that they will do what they say they will do. Therefore, I want the 50 foot setback to
2595 remain.
2596

2597 Mr. Bock- I would like to address the issue of the house. The site that
2598 that house sits on was just purchases within the last few months. The church is in the
2599 process of having the houses demolished. I know they look terrible right now, but we
2600 are in the process of getting rid of them.
2601

2602 We would happy to have a condition that would require some buffering along that
2603 portion of the lot across the street from Mr. Singer.
2604

2605 Mr. Kirkland- Any other questions? If not that concludes the Case.
2606

2607 Upon a motion by Mr. Wright, seconded by Mr. Nunnally, the Board **granted A-62-2000**.
2608

2609 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2610 Negative: 0
2611 Absent: 0

2612
2613 The Board granted this request, as it found from the evidence presented, that
2614 authorizing this variance to allow a parking lot in the front yard for a church at 4491
2615 Springfield Road subject to the following conditions will not be of substantial detriment
2616 to adjacent property and will not materially impair the purpose of the zoning regulations.

- 2617
2618 1. Only the improvements shown on the plan filed with the application may be
2619 constructed pursuant to this approval. Any additional improvements shall comply with
2620 the applicable regulations of the County Code.
2621
2622 2. This approval is subject to all conditions that may be placed on the proposed Plan of
2623 Development by the Planning Commission.
2624
2625 3. The landscape plan shall include plantings to screen the view of the parking lot from
2626 Springfield Road.

2627
2628 Upon motion by Mr. Balfour, seconded by Mr. Nunnally, the minutes of February
2629 24,2000 were approved as corrected.

2630
2631 There being no further business and on a motion by Mr. Wright, seconded by Mr.
2632 McKinney, the Board adjourned until March 23, 2000.

2633

2634

2635 Richard Kirkland,

2636 Chairman

2637

2638

2639

2640 Benjamin Blankinship, AICP

2641 Secretary

2642

2643

2644