

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF  
2 HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE  
3 HENRICO COUNTY GOVERNMENT COMPLEX, ON THURSDAY, MARCH 22, 2001,  
4 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-  
5 DISPATCH ON MARCH 1 AND 8, 2001.  
6

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  
Priscilla M. Parker, Recording Secretary

7  
8 Mr. Kirkland -Welcome, ladies and gentlemen, to the March meeting of the Board of  
9 Zoning Appeals. Before we get started, I'll have the Secretary read the rules.  
10

11 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies  
12 and gentlemen. The rules for this meeting are as follows. The Secretary, myself, will  
13 call each case. Then the applicant will come to the podium to present the case. At that  
14 time I'll ask all those who intend to speak, in favor or opposition, to stand, and they will  
15 be sworn in. The applicants will then present their testimony. When the applicant is  
16 finished, anyone else will be given an opportunity to speak. After everyone has spoken,  
17 the applicant, and only the applicant, will be given the opportunity for rebuttal. After  
18 hearing the case, and asking questions, the Board will take the matter under  
19 advisement. They will render all of their decisions at the end of the meeting. If you  
20 wish to know what their decision is, you may stay until the end of the meeting, or you  
21 may call the Planning Office at the end of the day. This meeting is being tape recorded,  
22 so we will ask everyone who speaks, to speak directly into the microphone on the  
23 podium, and to state your name for the record. Out in the foyer, there are two binders,  
24 which contain the staff report for each case, including the conditions suggested by the  
25 staff. Mr. Chairman?  
26

27 Mr. Kirkland - Thank you sir. Do we have any requests for withdrawals or  
28 deferrals on the 9:00 o'clock agenda?  
29

30 Mr. Blankinship - No sir, not until 10:00.  
31

32 Mr. Kirkland - All right, if you would, call the first case.  
33

34 **A - 20-2001** **KELLIE L. MURPHY** requests a variance from Section 24-95(c)(1)  
35 of Chapter 24 of the County Code to build a garage and storage

March 22, 2001

36 shed at 8808 Bellefonte Road (Bellefonte) (Tax Parcel 100-5-B-  
37 10), zoned R-2, One-family Residence District (Tuckahoe). The total  
38 side yard setback is not met. The applicant has 31.85 feet total side  
39 yard setback, where the Code requires 34.50 feet total side yard  
40 setback. The applicant requests a variance of 2.65 feet total side  
41 yard setback.

42  
43 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,  
44 sir, raise your right hand and be sworn in.

45  
46 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
47 truth, the whole truth, and nothing but the truth, so help you God?

48  
49 Mr. Murphy - I do. My name is David Murphy; I'm Kellie Murphy's  
50 husband.

51  
52 Mr. Kirkland - Have all your notices been turned in according to the County  
53 Code? We have them in the file. Okay, proceed with your case.

54  
55 Mr. Murphy - Yes sir. We have 3 young children, 4 and under, and we  
56 need to try to get a play area where they can basically do whatever they want, a  
57 particular room without going into the other areas of the home. So we've got a utility  
58 room that presently keeps the washer and dryer, those types of things, and supplies.  
59 We want to enclose our carport, make it a garage, and really there is not enough room  
60 for anything other than the automobile the way the present slab is set up. Our  
61 application basically is for a little side shed for garbage cans, recycling, those types of  
62 things, with a door on the access side to be able to take those things to the street once  
63 a week when pick-up is being done. Presently, behind the carport is a concrete slab.  
64 There was a suggestion by the County to put the shed behind there, but that is indeed  
65 already a concrete slab that is used for a basketball court, activity area, and so forth.  
66 On that side there is a large holly bush to the left of the carport. That would even hide  
67 the addition to the carport area, and I think we're asking for a 3 foot variance, something  
68 like that, would not even be visible from the street.

69  
70 Mr. Kirkland - Any questions by the Board members?

71  
72 Mr. Nunnally - What is that shed, 12 by 6?

73  
74 Mr. Murphy - Yes sir. It would be right behind that holly tree; there's a  
75 crape myrtle behind that, and it would come out off of here like a lean-to type of  
76 situation, and then down to the ground.

77  
78 Mr. Wright - Wouldn't you have to move that holly tree to have access?

79  
80 Mr. Murphy - We may need to trim the back side of it, but it pretty much  
81 ends right at the support column on the left side of the carport.

82  
83 Mr. Wright - Your shed has a door towards the street, is that not correct?  
84  
85 Mr. Murphy - My brother did the rendering, and I believe the door might be  
86 coming out to the front side of the street. I thought we'd talked about putting it on the  
87 back side to be able to get bicycles and things like that out of there, and the trash cans  
88 and so forth. I don't know whether that was the back side or the front side. We'd like to  
89 have the extra room, because you can see, when there is a vehicle in there, it's hard to  
90 move around the vehicle. I'd like to move the chemicals and other items out of the utility  
91 room if the kids are going to be in there.  
92  
93 Mr. Wright - The closing of the carport doesn't create the problem; it's the  
94 adding of the additional shed.  
95  
96 Mr. Murphy - If we enclose the carport and we have all the other supplies  
97 in there, there's not going to be any room to walk around the vehicle, to try to get things  
98 in the vehicle, out of the vehicle, ourselves in the vehicle, out of the vehicle, and that's  
99 why we're trying to get just a little bit of room to slide trash cans up into, and slide other  
100 things up into, to give us some leeway around the vehicle. We've got the chimney as  
101 well, you can see the chimney sticks out, that takes up a lot of room itself, onto the  
102 carport, so you don't have a whole lot of room on that right side of the vehicle to begin  
103 with, even when you have nothing in the concrete area.  
104  
105 Mr. Wright - Does that holly tree extend all the way to your sideline? I  
106 was wondering how you would be able to have access to the street through the holly  
107 tree.  
108  
109 Mr. Murphy - No sir, not quite to the sideline. What I'll do if we get the  
110 variance granted, I'll take anything I can and bring it out the front towards the paved  
111 driveway. If it's a trash can or recycle, I'll bring it out through the front; we primarily use  
112 it out the front breezeway. There's a fence behind the holly tree; we've got our yard  
113 fenced in, from the holly tree back to the front of the vehicle there's a cedar fence that  
114 goes out to the property line to the left behind that holly bush.  
115  
116 Mr. Wright - Will there be a door out of the rear of this addition that you're  
117 putting on?  
118  
119 Mr. Murphy - Yes, there will be a door out the back, and it will probably be  
120 open so that you can enter into it and get to paint or anything that we might want. I  
121 want to put shelves and things like that, as well, in the storage area so that I can put  
122 paint and chemicals for the yard, anything that might be in the utility room now, as we  
123 convert that over to a den type area for the kids. That's why, if we just enclose the  
124 garage and we don't get any more room, then as I put shelves and things like that in it,  
125 there's not going to be any room to move around in the garage area.  
126

127 Mr. Wright - Will there be a door on the front of the enclosed area; this  
128 doesn't show us anything.

129  
130 Mr. Murphy - It's 12 feet by 6 feet; the last time I talked to my brother, we  
131 were talking about putting a door on the back side on the long side of the rectangle. I  
132 don't know what you would suggest in that area, but I'd like to keep the holly tree if I  
133 could, and I plan on doing that.

134  
135 Mr. Kirkland - Any other questions?

136  
137 Mr. Murphy - We did send out all the registered letters for everybody.

138  
139 Mr. Kirkland - Anyone else wish to speak on this case? If not sir, that  
140 concludes your case.

141  
142 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
143 Wright, the Board **granted** your application **A-20-2001** for a variance from Section 24-  
144 95(c)(1) of Chapter 24 of the County Code to build a garage and storage shed at 8808  
145 Bellefonte Road (Bellefonte) (Tax Parcel 100-5-B-10). The Board granted the variance  
146 subject to the following conditions:

147  
148 1. Only the improvements shown on the plan filed with the application may be  
149 constructed pursuant to this approval. Any additional improvements shall comply with  
150 the applicable regulations of the County Code.

151  
152 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
153 Negative: 0  
154 Absent: 0

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

161  
162 Mr. Kirkland - Next case.

163  
164 Mr. Blankinship - Mr. Chairman, these next 2 are companion cases; do you  
165 want me to call them together?

166  
167 **A - 21-2001** **CAREY OAKLEY** requests a variance from Section 24-95(b)(6) of  
168 Chapter 24 of the County Code to build a single family home at 21  
169 North Elm Avenue (Highland Springs) (Tax Parcel 148-10-E-27  
170 (part)), zoned R-4, One-family Residence District (Varina). The total  
171 lot area requirement is not met. The applicant has 5,000 square feet  
172 total lot area, where the Code requires 6,000 square feet total lot

173 area. The applicant requests a variance of 1,000 square feet total  
174 lot area.

175  
176 **A - 22-2001** **CAREY OAKLEY** requests a variance from Section 24-95(b)(6) of  
177 Chapter 24 of the County Code to build a single family home at 23  
178 North Elm Avenue (Highland Springs) (Tax Parcel 148-10-E-27  
179 (part)), zoned R-4, One-family Residence District (Varina). The total  
180 lot area requirement is not met. The applicant has 5,000 square feet  
181 total lot area, where the Code requires 6,000 square feet total lot  
182 area. The applicant requests a variance of 1,000 square feet total  
183 lot area.

184  
185 Mr. Kirkland - Does anyone else wish to speak on these cases? Ma'am, do  
186 you wish to speak? Raise your right hand, and the applicant also, and be sworn in. Sir,  
187 raise your right hand and be sworn in.

188  
189 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
190 truth, the whole truth, and nothing but the truth, so help you God?

191  
192 Mr. Kirkland - If you would, sir, state your name for the record.

193  
194 Mr. Oakley - I'm Carey Oakley

195  
196 Mr. Kirkland - Have all your notices been turned in, according to the County  
197 Code? If you would, state your case.

198  
199 Mr. Oakley - On the existing property, there is a house that's been  
200 damaged by fire, damaged beyond the point of repair. There's also a metal shed on the  
201 back of the property. There's also several large trees that in ice or wind storms, they  
202 propose a threat to power and adjacent property. What we'd like to do is take down the  
203 existing house, shed, trees, and everything, and build 2 new single family dwellings on  
204 these lots.

205  
206 Mr. Nunnally - Mr. Oakley, what size homes are you going to build?

207  
208 Mr. Oakley - On the plans, they would be about 950 square foot homes;  
209 one of them is 32 feet by 30 feet; the other is 35 feet by 28 feet.

210  
211 Mr. Nunnally - Are they going to be rental houses, or are they going to be  
212 for sale?

213  
214 Mr. Oakley - No sir, they will be rental houses. They will be a little bit  
215 better than the average. As you can see, we're going to put a stoop on the front of  
216 them; they'll have a brick foundation; and they'll have salt treated decks on the back.

217

218 Mr. Balfour - It says you're going to rebuild a house and sell the remaining  
219 lot. Is that not true, are you going to build 2 homes?  
220  
221 Mr. Oakley - It's our intention to build 2 homes sir,  
222  
223 Mr. Nunnally- The home and lot behind you, and the lots south on your  
224 street, are they 100-foot lots?  
225  
226 Mr. Oakley - I believe they are sir. The lots are only 100 feet deep by  
227 .....  
228  
229 Mr. Nunnally - I know most of them across the street are 50 by 100  
230 feet.....  
231  
232 Mr. Oakley - Most of the houses in that area are on 50 by 100.  
233  
234 Mr. Kirkland - Mr. Oakley, how long has this home been in disrepair from  
235 the fire?  
236  
237 Mr. Oakley - Sir, I started on it back around the beginning of the year,  
238 January or something like that. From what I understand, it was destroyed by fire  
239 probably before Christmas.  
240  
241 Mr. Nunnally - And you purchased it when?  
242  
243 Mr. Oakley - I haven't purchased it yet; that's pending this hearing.  
244  
245 Mr. Wright - You have a contract subject to approval here? You can look  
246 at it from the exterior and see a little smoke damage, but could it be repaired?  
247  
248 Mr. Oakley - Sir, that picture doesn't do it justice. Looking at the  
249 insurance report that the owner has for the property, it's actually going to cost more to  
250 repair it than what the property's worth. The roof is caved in on the back side; the  
251 ceiling is gone. It's totaled; it really is. I think the County's pushing to have it torn down  
252 now.  
253  
254 Mr. Kirkland - Any other questions by Board members?  
255  
256 Mr. McKinney - Mr. Secretary, Mr. Oakley stated he was going to build 150  
257 square foot house; his plans show 980. As I see it, it's R-4, not R-4A, which requires  
258 him to build a minimum square footage of 1,000 feet, is that correct.  
259  
260 Mr. Blankinship - I believe that's right, let me look it up here.  
261  
262 Mr. McKinney - Mr. Oakley, minimum square footage would have to be 1,000  
263 square feet.

264  
265 Mr. Oakley - The house is 980; I'm not clear on this.  
266  
267 Mr. McKinney - Minimum square footage in R-4 is 1,000 square feet; in R-4A  
268 it's 950, and your plans at 28 by 35 is 980 square feet, so you're 20 feet under.  
269  
270 Mr. Oakley - We have a covered front porch.  
271  
272 Mr. McKinney - That doesn't count.  
273  
274 Mr. Oakley - And the deck on the back doesn't count either?  
275  
276 Mr. McKinney - No, that does not count.  
277  
278 Mr. Blankinship - There's a note on that chart, Mr. McKinney, that says  
279 "finished floor area for one-story dwellings may be 900 square feet."  
280  
281 Mr. McKinney - In R-4? So what would it be in R-4A?  
282  
283 Mr. Blankinship - 950, and that note is not on there.  
284  
285 Mr. McKinney - That doesn't make sense. It is 1,000; at least in the Code it's  
286 1,000. I don't know why it would be more for R-4 than it is for R-4A. I guess he can  
287 work that out when he files the building permit.  
288  
289 Mr. Oakley - This is the same size house that is currently in the Highland  
290 Springs area; in fact there are 2 right across the street from me.  
291  
292 Mr. Kirkland - Any other questions? Ma'am are you the opposition? Would  
293 you come forward, please? There will be time to rebut. State your name please.  
294  
295 Ms. Vaughan - My name is Brenda Vaughan, and I live at 100 North Elm,  
296 diagonally across from this property. We don't agree with Mr. Oakley's tearing down  
297 this house and building one rental property. All the lots around this house are 100 by  
298 100 lots, and we're single family homes on it; we own our property, and we don't  
299 necessarily want 2 rental properties at that corner. We have one rental property across  
300 the street from me now; we don't need 2 more. It's a busy intersection too, and we  
301 don't feel that 2 rental properties should go up, plus it's not in ordinance with the rest of  
302 the ones on the corner. Those are one house on the corners, with a 100 by 100 lots.  
303 We don't disagree with one, but we disagree with 2.  
304  
305 Mr. Nunnally - Ma'am, do you live in the brick house across the street?  
306  
307 Ms. Vaughan - The white one, that's catty-corner, not directly in front, but  
308 this way.  
309

310 Mr. Kirkland - Does anyone else wish to speak?  
311  
312 Ms. Willis - My name is Laura Willis, and I live at the house across the  
313 street from this property. I agree with everything Mrs. Vaughan has said, that we don't  
314 need more rental property. It's a very busy corner; there are a lot of kids in the  
315 neighborhood. What I don't understand is, we get a letter stating that he wants to build  
316 one house; now it's saying two. We spoke to Mr. Oakley, and he said 2; then we got a  
317 certified letter, and it said one, that he wanted to build one dwelling, now we're back to  
318 2?  
319  
320 Mr. Blankinship - You should have gotten 2 letters; they're separate cases,  
321 and each case is for the one house.  
322  
323 Ms. Willis - No, we just received one certified letter, and I agree with just  
324 one.  
325  
326 Mr. Kirkland- We've got problems, then, if we didn't get.....  
327  
328 Mr. Kirkland - Hang on just a second; we're going to check this and see if  
329 you got both notices. Sir, did you send out 2 sets of letters, since you had 2 cases?  
330  
331 Mr. Oakley - We sent one letter to each individual; did it contain 2 different  
332 letters?  
333  
334 Mr. Kirkland - Mr. Blankinship, shouldn't 2 notices have been sent out  
335 because it's 2 cases?  
336  
337 Mr. Blankinship - I think the Code requirement is that they be notified of the  
338 time and place of the hearing. Certainly we want people to be aware of the substance  
339 of what's being heard as well.  
340  
341 Mr. Kirkland - That's probably why she has the misunderstanding about  
342 there being one versus 2 houses, because she basically got the first one.....  
343  
344 Ms. Willis - But I still agree to just one, instead of 2 rentals.  
345  
346 Mr. Kirkland - Do you have a copy of the letter, Ms. Blackburn? Is this both  
347 cases?  
348  
349 Ms. Blackburn - No, there would have been a separate letter for each one.  
350  
351 Mr. Wright- If this was both cases, you'd be all right.  
352  
353 Mr. Kirkland - We can't hear the case.  
354



355 Mr. Kirkland - We can hear one of them, whichever one they notified. We  
356 can hear the one that Ms. Willis got the letter on, A-21-2001, the first case, the one on  
357 the corner.  
358

359 Mr. Nunnally - I don't think that just one case would suffice for Mr. Oakley  
360 anyway; he needs to find out whether he can put 2 houses there. We should just defer  
361 it until next month, until they have the other letter.  
362

363 Ms. Willis - So we have to come back again?  
364

365 Mr. Kirkland - Yes ma'am. Hang on a second; we're going to talk to the  
366 applicant. Do you have any problem with a deferral, Mr. Oakley? We can only vote on  
367 one case today. The other one can't be heard today.  
368

369 Mr. Oakley - I don't have a problem with it, no sir. The only concern is, I  
370 believe the County was after the owner to take down the existing house. As part of the  
371 agreement, if I were to buy it, I would take down the house.  
372

373 Mr. Kirkland - Mr. Blankinship, can you handle holding them off for 30  
374 days?  
375

376 Mr. Blankinship - Who is it, Building Inspections?  
377

378 Mr. Oakley - Bill Mountcastle is the current owner, and I'm sure it's  
379 Building Inspections.  
380

381 Mr. Kirkland - So we would defer both of these cases for 30 days, A-21 and  
382 A-22, to April 26. Do I have a motion to defer both cases?  
383

384 Ms. Willis - So we will receive another letter?  
385

386 Mr. Kirkland - Yes, you will receive 2 letters.  
387

388 Mr. Balfour - Mr. Blankinship, I'm not sure why the background in each  
389 case says that he's going to rebuild a house on the adjoining lot and sell the subject lot,  
390 and the other one says that he's going to rebuild the house on the subject lot and sell  
391 remaining lot.  
392

393 Mr. Blankinship - I don't know the source of that information either; I'll find it  
394 out.  
395

396 Mr. Oakley - I'm afraid I don't either; it was never our intention to rebuild  
397 the existing house. We want to take down the house, the trees, and divide the property  
398 into 2 parcels.  
399

400 Mr. Balfour - I understand that; it's just the way that this thing is written, it  
401 looks like to me that you're selling both of them.

402  
403 Mr. Kirkland - I've got a motion to second. All those in favor say aye.

404  
405 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
406 Wright, the Board **deferred** your **A-21-2000** application for a variance to build a single  
407 family home at 21 North Elm Avenue (Highland Springs) (Tax Parcel 100-5-B-10). The  
408 case was deferred for 30 days, at your request, from the March 22, 2001, until the April  
409 26, 2001, meeting.

410 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
411 Negative: 0  
412 Absent: 0  
413

414  
415 The Board deferred your request because the required certified notices had not been  
416 sent to all property owners abutting or across the street from the affected property.

417  
418 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
419 Wright, the Board **deferred** your **A-22-2000** application for a variance to build a single  
420 family home at 23 North Elm Avenue (Highland Springs) (Tax Parcel 148-10-E-27). The  
421 case was deferred for 30 days, at your request, from the March 22, 2001, until the April  
422 26, 2001, meeting.

423  
424 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
425 Negative: 0  
426 Absent: 0  
427

428 The Board deferred your request because the required certified notices had not been  
429 sent to all property owners abutting or across the street from the affected property.

430  
431 **A - 25-2001** **JOHN R. AND NATALIE N. CONGDON** request a variance from  
432 Sections 24-95(k) and 24-94 of Chapter 24 of the County Code to  
433 allow an existing house to remain at 109 Walsing Drive (Dorset  
434 Woods) (Tax Parcel 111-11-B-8), zoned R-1, One-family  
435 Residence District (Tuckahoe). The minimum side yard setback and  
436 rear yard setback are not met.

437  
438 Mr. Kirkland - Is the applicant here for this case? If you would come  
439 forward. Anyone else wish to speak on this case? Okay, raise your right hand and be  
440 sworn in.

441  
442 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
443 truth, the whole truth, and nothing but the truth, so help you God?  
444

445 Mr. Kirkland - Okay, sir, if you would, state your name for the record. Have  
446 all your notices been turned in, according to the County Code? We have them in the  
447 file. Proceed with your case.  
448

449 Mr. Congdon - John R. Congdon. My wife and I bought a lot in Dorset  
450 Woods in 1962, and we had a house built there, and we've been living there ever since.  
451 Recently, we've decided to buy a home in Randolph Square, and therefore we would  
452 have to sell the house we live in now. After we got real estate lined up to sell it for us,  
453 he met with the County and found out that there was a variance needed, that the  
454 setbacks were not being met, which my wife and I were unaware of, so that's my case.  
455

456 Mr. Nunnally - Have you put it up for sale sir, or have you got a contract on  
457 it?  
458

459 Mr. Congdon - We have no contract on it; it's supposed to be shown as of  
460 this Sun.  
461

462 Mr. Wright - So what you want to do is sell the other lot as a separate lot?  
463 Lot 7?  
464

465 Mr. Congdon - Well, it could work out that way; whoever wants to buy it may  
466 want it all. On the other hand, they may not want the lot, and we'd have to sell it  
467 separately.  
468

469 Mr. Balfour - Are you planning to offer them for sale together though?  
470

471 Mr. Congdon - Yes sir.  
472

473 Mr. Wright - Well without lot 7, if he's got lot 7 with lot 8, he has no  
474 problem, is that right?  
475

476 Mr. Balfour - If he sells them together, he's got no problem. The problem  
477 is if he sells them separately, which is why I asked you if you planned to sell them  
478 together.  
479

480 Mr. Congdon - Well, I don't know what to do, to be honest with you.  
481

482 Mr. Balfour - You have the option to go either way, I guess, if we approve  
483 your request.  
484

485 Mr. Congdon - Yes sir, in other words, whoever wants to buy the house  
486 might feel like – that lot is presently assessed at \$165,000, and it may be that they don't  
487 want to have the lot.  
488

489 Mr. Wright - I understand. However, if the Board does not approve your  
490 request, then you'd be required to sell them both together. In other words,. You're not

491 going to be foreclosed from selling your property, you've been using those together all  
492 these years, is that correct?

493  
494 Mr. Congdon - Not all these years, no sir. We built the house in 1962, but  
495 we owned the lot in 1958, before we built the house, for about 3 years.

496  
497 Mr. Wright - You owned both lots at the same time?

498  
499 Mr. Congdon - No, the lot the house is on was purchased in 1958, and the  
500 house was built on it in 1962. We did not buy the lot behind us until 1970, 8 years later.  
501 So this house was built apparently with the wrong setbacks, not to our knowledge.

502  
503 Mr. Wright - The question is, how was that done?

504  
505 Mr. Blankinship - That's a fine question, but if it was 1962, our records from  
506 that period would not give us that detailed history. We have the general information  
507 about the permit, but we don't have a note explaining why it was approved that way. It  
508 does appear to have just been an error.

509  
510 Mr. Balfour - Mr. Chairman, it appears to me that the issue is going to  
511 come up now or later if somebody wants to build on the lot. If we don't approve it today,  
512 whoever buys that lot is probably going to buy it subject to us letting them build on it, so  
513 they'll come back a second time. So I think we've got the problem coming, one way or  
514 the other, if somebody wants to build on that lot, and that's the only reason they'd buy it  
515 separate from the house I'm sure.

516  
517 Mr. Wright - But he's selling the house and lot.

518  
519 Mr. Balfour - I understand, but I think he wants the option that if somebody  
520 wants the house and doesn't want to pay \$165,000 for the adjacent lot, then he's going  
521 to sell the house, and then sell the lot for \$165,000 to somebody else who's not going to  
522 be able to buy it and put a house on it, without coming to us.

523  
524 Mr. Congdon - That could well happen. On the other hand, someone could  
525 buy the house and lot together and later decide themselves they wanted to sell the lot.  
526 That could cause them not to buy it.

527  
528 Mr. Wright - Why couldn't you sell lot 7 and somebody build a house on  
529 it? You could. That doesn't violate anything.

530  
531 Mr. Congdon - You can sell it, can't you, at the moment?

532  
533 Mr. Balfour - As long as they abide by where to put the house, it's okay.  
534 It's your house that has the problem.

535

536 Mr. Wright - So what would be required then? Would the County make  
537 him tear his house down?  
538  
539 Mr. Blankinship - Well he would have trouble financing.  
540  
541 Mr. Wright - Or a buyer would have trouble. He wouldn't be able to  
542 finance it until – that would be the answer to that thing.  
543  
544 Mr. Congdon - If you went and looked, it's been there a long time, it's not  
545 affecting anything. The way it looks, like it is, it doesn't bother anybody; it hasn't since  
546 1962. As far as a variance is concerned, I can't see where it hurts anything.  
547  
548 Mr. Blankinship - I think the buyer of lot 7 would want to site their house  
549 somewhat to the east on that lot, if it were sold separately. But the lot's 154 feet wide,  
550 so there's certainly room to move away.  
551  
552 Mr. Wright - Do we know what the size of lot 7 is?  
553  
554 Mr. Blankinship - It's 154 feet wide, but in area, I don't know.  
555  
556 Mr. Congdon - The gentleman with me knows, I think. He has the plat and  
557 so forth.  
558  
559 Mr. Wright - If you built a house on lot 7, it would front on Erlwood Road,  
560 wouldn't it?  
561  
562 Mr. Congdon - Yes sir, and the house on the other side of that lot does face  
563 on Erlwood.  
564  
565 Mr. Wright - So the place your house causes a problem would be to the  
566 rear of the house on lot 7?  
567  
568 Mr. Blankinship - No, it would be to the left.  
569  
570 Mr. Wright - Well, you put the house here, it would be to the rear of it  
571 though. The problem is, the rear part of the house is too close to the lot. Or you could  
572 chop off about 4 feet?  
573  
574 Mr. Kirkland - Anyone else wish to speak in favor of this case?  
575  
576 Mr. McKinney - He's got plenty of room.  
577  
578 Mr. Wright - He's got plenty of room on lot 7, but that doesn't help him  
579 with his problem on lot 8.  
580

581 Mr. McKinney - Well I think if he puts his house on the market, as Mr.  
582 Blankinship says, and whoever buys it wants to put a mortgage on it, without a variance  
583 on lot 8. It really doesn't affect lot 7.

584  
585 Mr. Kirkland - If you would sir, come to the podium, state your name, and  
586 are you in favor of the case, sir?

587  
588 Mr. Downey - I'm J. R. Downey. Just a real quick mention; apparently the  
589 front of the lot, according to the County for setback purposes, is actually on Erlwood  
590 Road, and I think that's what's caused the confusion, because what's currently the back  
591 of the house from physically looking at it, is actually the side of the house for setback  
592 purposes. Apparently that was not picked up when the house was first built back in  
593 1962. Yes, it would be a problem with financing; it would also be just a general problem  
594 with marketing; nobody wants to buy a house with this sort of problem on it, until it's  
595 settled one way or the other.

596  
597 Mr. Blankinship - Do you happen to have the area of lot 7?

598  
599 Mr. Downey - It's approximately a little under  $\frac{3}{4}$  of an acre.

600  
601 Mr. Wright - Would it be possible for him to purchase a part of lot 7 to re-  
602 divide it? How much would it take?

603  
604 Mr. Blankinship - To re-divide it? He 'd still have the rear yard issue, going  
605 back against the other property. He's asking for 15 feet of side yard and 14 feet of rear  
606 yard; it's substantial.

607  
608 Mr. Wright - That would not solve the problem, not entirely. If the house  
609 fronted on Walsing Drive, he would have no side yard problem, but there would still be a  
610 rear yard problem.

611  
612 Mr. Downey - That is correct, but the lots have never been combined; they  
613 are still taxed and looked at by the County as separate lots.

614  
615 Mr. Kirkland - Any other questions? Okay, now we'll hear from the  
616 opposition. Go ahead, sir. State your name for the record, please.

617  
618 Mr. Casalino - My name is Tom Casalino, and I live on the property behind  
619 lot 7. My house faces Cragmont Drive. Just for the record, first of all, I have no  
620 problem in Mr. Congdon and his wife having a home there, and basically in essence,  
621 they're using lot 7 as part of their property. The way the house is situated, they have  
622 utilized it as one lot. It's landscaped that way; there's an irrigation system in that lot 7  
623 as part of the home, and it's unfortunate that somewhere in 1962, there was a mistake,  
624 but I think in offering the variance, we're rectifying a decision or mistake in '62 that can  
625 possibly affect the value of the property in lot 8, if lot 7 is sold in a subsequent purchase,  
626 or even sold now. It would affect the property values. You would have the potential to

627 have a house within 20 feet of the property line, with a side view into the back of a  
628 house no more than 5 feet away. So from our view on lot 7, it also presents what I think  
629 is possibly not an unreasonable thought, that the view from our home, it could impact  
630 our property values, because it would appear to be far more densely populated than the  
631 neighborhood is set up. I respect Mr. Congdon's wish to sell the house and move on; I  
632 think that it's the right thing to do. My concern is in granting the variance, we open up a  
633 potential value issue in the neighborhood that could occur in a subsequent sale, or if  
634 somebody's motivated to sever lot 7 from the property. In talking to Mr. Downey, he  
635 also made the comment, and he made it just now too, and I appreciate that, that if you  
636 buy the lot 8, you really are not motivated to sell lot 7, because you're basically living in  
637 somebody else's yard as a result of that. That's my thought.

638  
639 Mr. Balfour - Say that last statement again.

640  
641 Mr. Casalino - Based on the way the property is situated, if you look at the  
642 way the house is situated, if you look at the way the house is situated, the back of the  
643 house that Mr. Congdon lives in is so close to the property line that in selling lot 7, as  
644 the owner of that property, you would be probably risking your own privacy and your  
645 own value by developing the property next door.

646  
647 Mr. Balfour - I'm not sure I understand that. If you're going to buy lot 7,  
648 you're going to buy it to put a house on it.

649  
650 Mr. Casalino - Well, if you buy it to put a house on it, you have the risk,  
651 based on the zoning, when there's a 20-foot side setback, of having a house as close  
652 as 25 feet from the back of the other house.

653  
654 Mr. Balfour - Well that's what the person who buys the lot is going to have  
655 to determine when he pays for it, isn't he.

656  
657 Mr. Casalino - But doesn't that have a potential impact on the value of the  
658 property on lot 8, and potentially on my property, as I look out the back and see the  
659 density that I didn't plan to purchase when I paid a half a million dollars for my house?

660  
661 Mr. Balfour - How about a real estate appraisal?

662  
663 Mr. Wright - You're on lot 6, is that correct?

664  
665 Mr. Casalino - No, I own the property.....

666  
667 Mr. Kirkland - In this picture, is that your house that we see.....can  
668 you put the pictures up Susan. Is that your house we see there? Right through the  
669 trees there?

670  
671 Mr. Casalino - Yes, that is my house.

672

673 Mr. Wright- And that would be behind lot 7?  
674  
675 Mr. Casalino - That's right behind lot 7, so my back yard faces lot 7.  
676  
677 Mr. McKinney- When did you move there Mr. Casalino?  
678  
679 Mr. Casalino - We purchased the house in June of '99.  
680  
681 Mr. McKinney- Did you ask about that lot when you purchased your house?  
682  
683 Mr. Casalino - Not specifically. As we talked to the real estate folks in the  
684 area as it was being marketed, we were told that that land belonged to Mr. Congdon,  
685 and he was utilizing it as part of the house. I did not know that it was a separate lot, and  
686 he'd paid taxes on it, and it was a considered a buildable lot.  
687  
688 Mr. McKinney- But it is a free-standing lot, and it has been surveyed and so  
689 forth, and it's a lot on it's own.  
690  
691 Mr. Casalino - I believe that's the case, and to be honest with you, a house  
692 going up behind me does not disturb me. That's a fact of life. What it is, is how it's  
693 situated and positioned on lot 7, as it relates to the house on lot 8, becomes the issue.  
694 It creates a feeling of density that the neighborhood was never conceived of having. My  
695 request would be that the parcel of land, 7, needs to be sold with 8, and not severable.  
696 I don't know how the zoning laws work to do that, but it's been treated since 1970, I  
697 guess, as one piece of property, and it's been landscaped and utilized that way. That  
698 would be my request if that's possible.  
699  
700 Mr. Wright- So your request is we deny this application for a variance?  
701  
702 Mr. Casalino - Yes, that's actually true.  
703  
704 Mr. Kirkland - Any other opposition?  
705  
706 Mr. Blankinship - If the variance were denied, he could still sell lot 7.  
707  
708 Mr. Wright - That's correct. He could, that wouldn't stop him, but he'd  
709 probably have difficulty selling lot 8.  
710  
711 Mr. Casalino - He couldn't pass clear title.  
712  
713 Mr. Kirkland - Thank you sir. Anyone else in opposition? Sir, would you  
714 like to come forward and rebut any statements he made?  
715  
716 Mr. Congdon - The lot wasn't necessarily good looking like it is now. I put  
717 azaleas on it, and dressed it up real nice, so that I could have something nice behind



718 me. However, had I not done that, I doubt if anybody would have cared whether a  
719 house was back there or not; they probably would have welcomed it.

720

721 Mr. Balfour - How do you plan to market it, as one parcel, the house and  
722 the lot together?

723

724 Mr. Congdon - We plan to ask whoever is interested in it, which way they  
725 would like it.

726

727 Mr. Balfour - So you're planning to sever the price in 2 parts, so if  
728 somebody asks you, you can say "I'll sell you the whole house for a half million dollars;  
729 I'll sell you the house without the adjoining lot for \$400,000, is that what you're saying?"

730

731 Mr. Congdon - It might end up that way, but if I were buying the house  
732 myself today, maybe it's not fair, because I've lived there so long, but I would think  
733 whoever would want to buy it would probably want to buy the lot, because it is pretty.  
734 You can see some of it right in the pictures, the bushes and things. It helps the house a  
735 whole lot, and it helps all the houses around it.

736

737 Mr. McKinney - Mr. Congdon, if you sold lot 7, would you remove the brick  
738 wall? It appears on this plat that it encroaches on lot 7. It's about 60 feet of brick wall,  
739 and it appears to be over the survey line, so in other words, if you sold lot 7 separately,  
740 you've got a problem with your brick wall on lot 7.

741

742 Mr. Congdon - That's another reason why, I think whoever buys it will  
743 probably want the lot.

744

745 Mr. McKinney - And you say lot 7 is assessed at \$165,000?

746

747 Mr. Congdon - Yes sir, and so is lot 8, with just the lot.

748

749 Mr. Wright - The land value. Let me bring up something that's interesting.  
750 Suppose he tries to sell both of them together, but since they're separate lots, the  
751 purchaser tries to finance the purchase of lot 8 with the house. We've still got a  
752 violation. What would the lending institution do about that, without a variance?

753

754 Mr. McKinney - They could take and put it all in one lot.

755

756 Mr. Wright - That would be the only solution, join the 2. Eliminate lot 7.

757

758 Mr. Congdon - That pushes the price up right high for that area; I don't know  
759 if somebody's going to want to buy both of them at the same time. It kind of remains to  
760 be seen.

761

762 Mr. McKinney - That may reduce the assessed value if you put them  
763 together. I think you'd have an argument on that, that they were separate lots then; it  
764 would be only one lot.

765  
766 Mr. Congdon - I've been paying separate taxes, separate lots, since 1970.

767  
768 Mr. Kirkland - Any other questions? Thank you sir. Anyone else wish to  
769 speak? Last call. Mr. Downey?

770  
771 Mr. Downey - Am I allowed to speak again?

772  
773 Mr. Kirkland - You're for it, you can.

774  
775 Mr. Downey - I just wanted to clarify the question about the brick wall, from  
776 a just from a pure marketing standpoint. The house will be offered with the lot; a person  
777 will not be able to buy just the lot; they can buy the house, and if they want to buy just  
778 the house and not the lot, then we will negotiate on that. Obviously if you decide to buy  
779 one and not the other, in the course of negotiating the contract, dealing with the brick  
780 wall will have to be negotiated, either through an easement or some understanding as  
781 to who maintains it and whether it can remain or not; that's how that situation would be  
782 handled.

783  
784 Mr. McKinney - Mr. Downey, you could move the lot line over to take care of  
785 the brick wall; you've still got enough room.

786  
787 Mr. Downey - We could. Again, that would just be part of the negotiating  
788 process with whoever owned lot 8 and whoever would want to buy lot 7.

789  
790 Mr. Kirkland - Okay, if no further questions, that concludes the case.

791  
792 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
793 McKinney, the Board **granted** your application **A-25-2001** for a variance to allow an  
794 existing house to remain at 109 Walsing Drive (Dorset Woods) (Tax Parcel 111-11-B-  
795 8). The Board granted the variance subject to the following conditions:

796  
797 1. This approval applies only to the improvements shown on the plan filed with the  
798 application. Any additional improvements shall comply with the applicable regulations of  
799 the County Code.

800  
801 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
802 Negative: 0  
803 Absent: 0

804  
805 The Board granted this request, as it found from the evidence presented that, due to the  
806 unique circumstances of the subject property, strict application of the County Code  
807 would produce undue hardship not generally shared by other properties in the area, and

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

810  
811 **A - 26-2001**            **THERESA FAISON** requests a variance from Sections 24-94 and  
812 24-9 of Chapter 24 of the County Code to build a single family  
813 home at 5490 Darbytown Road (Tax Parcels 241-A-30 (part), 33  
814 and 35A (part)), zoned A-1, Agricultural District (Varina). The lot  
815 width requirement and public street frontage requirement are not  
816 met. The applicant has 30 feet lot width and 30 feet public road  
817 frontage, where the Code requires 150 feet lot width and 50 feet  
818 public road frontage. The applicant requests variances of 120 feet  
819 lot width and 20 feet public road frontage.

820  
821 Mr. Kirkland -                    Is the applicant here for this case? If you would, ma'am,  
822 come on down. Does anyone else wish to speak on this case? If you would, sir, stand  
823 up and raise your right hand and be sworn in too.

824  
825 Mr. Blankinship -                Do you swear that the testimony you are about to give is the  
826 truth, the whole truth, and nothing but the truth, so help you God?

827  
828 Mr. Kirkland -                    State your name for the record please. Have all your notices  
829 been turned in? We have them in the file. OK, state your case.

830  
831 Ms. Faison -                      I do. My name is Theresa Faison Yes, they have been. I  
832 plan to build a single-family dwelling on this parcel of land. What is unique to this  
833 situation is that this parcel of land is totally surrounded by other land owners, and I do  
834 not have road front access. The property owners to the south, which is closest to  
835 Darbytown Road, of this property, have agreed to allow me to purchase a 30-foot wide  
836 strip of land to access my property, so I am petitioning the Board to allow me to vary  
837 from the Code.

838  
839 Mr. Wright -                      For the record, what's the size of your lot?

840  
841 Ms. Faison -                      It's 23 ½ acres.

842  
843 Mr. Wright -                      That access, would that be an easement, or would the  
844 property be deeded to you?

845  
846 Ms. Faison -                      It will be deeded.

847  
848 Mr. Wright -                      So you will own it? Thirty feet wide?

849  
850 Ms. Faison -                      Yes. Yes.

851  
852 Mr. Balfour -                      Have you read the conditions on the application? And you  
853 agree with them okay?

854  
855 Ms. Faison - Yes I have. Indeed.  
856  
857 Mr. Balfour - Mr. Blankinship, should a condition be on there, that this  
858 conveyance, that the right-of-way be confirmed subject to the purchase that she's  
859 talking about.  
860  
861 Mr. Blankinship - Condition 4 is the standard condition that they have legal  
862 access.  
863  
864 Mr. Kirkland - Any other questions by Board members?  
865  
866 Mr. Nunnally - Let's get this straight. You have 23 1/3 acres, yet this paper  
867 says they are going to convey 13.5 acres to you. Are you going to get the whole 23 1/2  
868 acres, or are you just going to get 13 1/2 acres?  
869  
870 Ms. Faison - It will be 23 1/2 acres.  
871  
872 Mr. Kirkland - Anyone else wish to speak in favor of the case? You in favor  
873 sir. If you would, come on down.  
874  
875 Mr. Randolph - My name is Bernard Randolph, and I own the property in  
876 front of her, and the only concern, really, the easement that I was going to let her have,  
877 the 30-foot deeded right-of-way, but the only concern is that, would that be enough to  
878 house the utilities and the power line to come in on that 30-foot easement, because I'm  
879 not in favor of letting the power line come through my property. That's the only, will that  
880 30 feet be appropriate for that?  
881  
882 Mr. McKinney - The County standard's 44 feet, isn't it?  
883  
884 Mr. Blankinship - For a paved street – 50 is normally what we see in cases like  
885 this, but it'll just depend on the power company.  
886  
887 Mr. Kirkland - How far back is that from the street, to the property itself?  
888  
889 Mr. Blankinship - It's a long way; it's over 1,000 feet.  
890  
891 Mr. Kirkland - It's a long line. There's no power lines running anywhere  
892 behind the property or anywhere to the sides or anything? And you're going to have  
893 your own septic tank and water, so all you're concerned with is electricity.  
894  
895 Mr. McKinney - And Telco, and cable, and underground.  
896  
897 Mr. Wright - They would probably run that underground, wouldn't they?  
898 Yes, and it would cost a pretty penny to run that thing underground that far.  
899

900 Mr. McKinney - Put total electric house in there, and Virginia Power will work  
901 with you. Virginia Power will work with you pretty good.

902  
903 Mr. Wright - That's really not our problem, is it.

904  
905 Mr. Kirkland - Okay, thank you sir. Thank you ma'am. That concludes the  
906 case.

907  
908 Mr. Balfour - As a comment, I think the lady and the gentleman probably  
909 need to get together and find out if you've got that concern, by calling the power  
910 company and asking them how they're going to put the line in and where it's going to  
911 be, and if you don't want it on your property, you and she may need to negotiate a wider  
912 path.

913  
914 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
915 Mr. Wright, the Board **granted** your application **A-26-2001** for a variance to build  
916 a single family home at 5490 Darbytown Road (Tax Parcels 241-A-30 (part), 33  
917 and 35A (part)). The Board granted the variance subject to the following  
918 conditions:

919  
920 1. Only the improvements shown on the plan filed with the application may be  
921 constructed pursuant to this approval. Any additional improvements shall comply with  
922 the applicable regulations of the County Code.

923  
924 2. At the time of building permit application, the applicant shall submit the  
925 necessary information to the Department of Public Works to ensure compliance with the  
926 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
927 water quality standards.

928  
929 3. Approval of this request does not imply that a building permit will be issued.  
930 Building permit approval is contingent on Health Department requirements, including,  
931 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval  
932 of a well location.

933  
934 4. The applicant shall present proof with the building permit application that a legal  
935 access to the property has been obtained.

936  
937 5. The owners of the property, and their heirs or assigns, shall accept responsibility  
938 for maintaining access to the property until such a time as the access is improved to  
939 County standards and accepted into the County road system for maintenance.

940 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
941 Negative: 0  
942 Absent: 0  
943  
944

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

950

951 **A - 28-2001**                    **DONALD W. ATKINSON** requests a variance from Section 24-  
952 95(d)(3) of Chapter 24 of the County Code to build a single family  
953 home at 404 Willomett Avenue (Chamberlayne Estates) (Tax  
954 Parcel 96-2-10-6), zoned R-4, One-family Residence District  
955 (Fairfield). The total lot area requirement is not met. The applicant  
956 has 7,793.4 square feet of total lot area, where the Code requires  
957 8,000.0 square feet of total lot area. The applicant requests a  
958 variance of 206.6 square feet of total lot area.

959

960 Mr. Kirkland -                    Does anyone else wish to speak on this case? Ma'am would  
961 you raise your right hand and be sworn in?

962

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

965

966 Mr. Kirkland -                    State your name please. Have all your notices been turned  
967 in according to the County Code? We have them in the file. Okay, state your case.

968

969 Ms. Atkinson -                    Yes I do. Lisa Atkinson. We're requesting a variance to  
970 have a house built on this property.

971

972 Mr. Wright -                      I understand this property is not served by public water, is  
973 that correct?

974

975 Ms. Atkinson -                    That is correct; we will have to have a well.

976

977 Mr. Wright -                      Does it have a well on it?

978

979 Ms. Atkinson -                    Yes sir, which has been approved, subject to the variance.

980

981 Mr. Wright -                      Is there any possibility, Mr. Blankinship, that water will be  
982 extended closer to the property in the future? You said it's 300 feet away – where  
983 would that be?

984

985 Mr. Blankinship -                Susan, is this one of yours? Do you know where that water  
986 line runs?

987

988 Ms. Blackburn -                    The report says it's at the intersection of Tamiani and  
989 Willomett, which is right here. That's where the water line stops.

990

991 Mr. Blankinship - More than 300 feet.  
992  
993 Mr. Wright - So the other houses that are east of this particular house  
994 own wells too? And they're on 50-foot lots?  
995  
996 Mr. Blankinship - Looks like the 2 of them are on three 50-foot lots. It's 60, 60  
997 and 69, so they are wider than this one. The corner lot's a little bit wider.  
998  
999 Mr. Kirkland - That's 69.48, I guess, the way I'm reading it?  
1000  
1001 Mr. Wright - This lot is about the size of the others in the area, 2, 3, 4, and  
1002 5.  
1003  
1004 Ms. Atkinson - My understanding is the reason why we need the variance is  
1005 so we can have the well put in there.  
1006  
1007 Mr. Wright - The reason is, if you had public water, you would not need a  
1008 variance. It requires a larger lot if you have to have a well.  
1009  
1010 Ms. Atkinson - Yes sir.  
1011  
1012 Mr. Wright - Is sewage available to the property? So it's just the well.  
1013  
1014 Mr. Blankinship - Yes.  
1015  
1016 Ms. Atkinson - Yes sir.  
1017  
1018 Mr. McKinney - Is this a spec house?  
1019  
1020 Ms. Atkinson - We've got a partner; we're going to build a house, either for a  
1021 friend of ours, or we will be selling it as a spec house, either way. We've got somebody  
1022 already in mind, with the intention of buying it.  
1023  
1024 Mr. Wright - How many square feet?  
1025  
1026 Ms. Atkinson - The house is going to be approximately 1120 square feet.  
1027  
1028 Mr. Wright - Is that typical of the other houses in the area, roughly.  
1029  
1030 Ms. Atkinson - To my understanding, it is.  
1031  
1032 Mr. Wright - Have you read the conditions proposed for the case? Have  
1033 you seen the conditions that have been proposed for this case?  
1034

1035 Ms. Atkinson - I have not read over them. My husband was supposed to be  
1036 here and had to go out of town unexpectedly, so I'm here for him. But I know there are  
1037 some conditions.

1038  
1039 Mr. Wright - The first one is that you satisfy the requirements for approval  
1040 of a well; you say that's been done. Secondly, only improvements shown on your plan  
1041 can be constructed on your lot. The third one is, you have to satisfy the requirements of  
1042 the Chesapeake Bay Preservation Act, if that has any bearing on this lot, I don't know.

1043  
1044 Mr. Kirkland - Any other questions by Board members? Anyone else wish  
1045 to speak. Ma'am, that concludes the case.

1046  
1047 After an advertised public hearing and on a motion by Mr. McKinney, seconded  
1048 by Mr. Wright, the Board **granted** your application **A-28-2001** for a variance to  
1049 build a single family home at 404 Willomett Avenue (Chamberlayne Estates)  
1050 (Tax Parcel 96-2-10-6). The Board granted the variance subject to the following  
1051 conditions:

1052  
1053 1. Approval of this request does not imply that a building permit will be issued.  
1054 Building permit approval is contingent on Health Department requirements for approval  
1055 of a well location.

1056  
1057 2. Only the improvements shown on the plan filed with the application may be  
1058 constructed pursuant to this approval. No substantial changes or additions to the layout  
1059 may be made without the approval of the Board of Zoning Appeals. Any additional  
1060 improvements shall comply with the applicable regulations of the County Code.

1061  
1062 3. At the time of building permit application, the applicant shall submit the  
1063 necessary information to the Department of Public Works to ensure compliance with the  
1064 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
1065 water quality standards.

1066  
1067 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1068 Negative: 0  
1069 Absent: 0

1070  
1071 The Board granted this request, as it found from the evidence presented that, due to the  
1072 unique circumstances of the subject property, strict application of the County Code  
1073 would produce undue hardship not generally shared by other properties in the area, and  
1074 authorizing this variance will neither cause a substantial detriment to adjacent property  
1075 nor materially impair the purpose of the zoning regulations.

1076  
1077 **A - 29-2001** **BARON WRIGHT** requests a variance from Section 24-95(c)4 of  
1078 Chapter 24 of the County Code to build a covered front porch at  
1079 1013 Westham Parkway (Westhampton Hills) (Tax Parcel 101-26-  
1080 D-14), zoned R-3, One-family Residence District (Tuckahoe). The  
1081 front yard setback is not met. The applicant has 29.3 feet front yard



1082 setback, where the Code requires 35.0 feet front yard setback. The  
1083 applicant requests a variance of 5.7 feet front yard setback.

1084  
1085 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,  
1086 sir, raise your right hand and be sworn in.

1087  
1088 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1089 truth, the whole truth, and nothing but the truth, so help you God?

1090  
1091 Mr. Kirkland - State your name for the record please. Have all your notices  
1092 been turned in? Thank you. Proceed with the case.

1093  
1094 Mr. B. Wright - Yes I do. Baron M. Wright. Yes sir. Recently married, about  
1095 a year ago, and my wife and I have seriously considered this project that we've  
1096 undertaken, a remodeling project for our home here at Westham Parkway. We've  
1097 contracted with an architect, Bob Steele, to make some improvements to the home. All  
1098 of the improvements, except for this variance application, are all within the square  
1099 footage of the home, and all actually occur within Henrico County Code requirements.  
1100 We had asked our architect, Bob Steele, to review the front of the house and try to  
1101 come up with a solution to this front door situation. If you'll notice, the front porch has 2  
1102 steps that are very accessible, convenient to step onto. Then when you walk into the  
1103 recessed doorway, there is an additional step. It has to do with the height of the brick  
1104 and the porch, but there is an additional step. That step actually takes you into that  
1105 recessed doorway, of which you have to open a storm door, which protrudes you out  
1106 back into an uncovered area. Basically, because you're pulling that storm door towards  
1107 you, it actually creates a situation where you have to tread back and forth across the  
1108 step that is within the recessed doorway. Because of the typical weather conditions in  
1109 Richmond, for whatever reason, our front porch is constantly wet. The rain just comes  
1110 in there at such an angle that that area tends to be wet, and the recession there in the  
1111 doorway does not really provide adequate cover. My wife, in fact, wears high heels to  
1112 work, and she's come home, in fact, on a couple of occasions has felt uncomfortable to  
1113 the point where she was slipping when she was actually pulling that door open.  
1114 Additionally, even bringing groceries and things like that within the house is somewhat  
1115 awkward. So we asked our architect to come up with a solution here that esthetically  
1116 would be pleasing to the neighborhood, and then as we reviewed the plans, went to  
1117 submit the plans to Henrico County permits location, is when we discovered that the  
1118 building setback was not met. So what we are asking for is a resolution, or the variance  
1119 to be able to improve this potentially dangerous situation, the hazardous situation, with  
1120 the recession there in the step, and the ideal solution here will be to level out the front  
1121 porch and create just basically a roof extension. If you can picture the roof extension  
1122 coming off, that will basically meet where you see the front of that concrete step, that's  
1123 basically how far, which is approximately 5 feet, will come out, and then present a level  
1124 treat area where you can walk into the new front door, and that would not be recessed.  
1125 That is what we're asking.

1126  
1127 Mr. Wright - How wide would this porch be?

1128  
1129 Mr. B. Wright - Approximately 17 feet wide. The basic structure of it will be,  
1130 again a roof extension supported by columns, and we chose columns to go with the  
1131 style and the feel of the neighborhood. We feel that we're adding some architectural  
1132 value to the home with those columns.

1133  
1134 Mr. Wright- Why is it necessary that it be 17 feet wide?  
1135

1136 Mr. B. Wright - The style of the front door that we're choosing is, we're  
1137 putting additional windows on the side of that, all within the setback requirements,  
1138 they're basically beyond the front of the house, so we're going to be changing the front  
1139 door, with 2 windows on the side, so the width of the porch was to balance the  
1140 architectural design of the front door and those windows.

1141  
1142 I would like to add – there are a few homes on Westham Parkway. The actual picture  
1143 that you have is our neighbor to the south, but 2 houses down towards Patterson, there  
1144 is at 1017 Westham Parkway, Fred Browning is the owner there, he has a similar style  
1145 porch, it's not as long, but there are the basic columns that we're talking about. You  
1146 can't quite see it in the picture. Across the street, at 1012 Patterson Avenue, Richard,  
1147 I've forgotten Richard's last name. He has a porch again that has those columns, that  
1148 we're trying to stay with the feel of the neighborhood. And I have spoken with all our  
1149 neighbors. Of course we met and sent out the certified letters to meet the requirements  
1150 for the variance, but I did talk with all my neighbors, and they were all very agreeable to  
1151 the situation and quite frankly, happy that we were improving the neighborhood and  
1152 doing these sorts of things.

1153  
1154 And also, in driving around the neighborhood a little bit more, up on West Durwood  
1155 Crescent, on your map you should be able to see it as well, 10002, 10004, and 10006,  
1156 all 3 of those houses have a very similar porch configuration, with the roof extension  
1157 and the front 2 columns supporting the roof, and on further down on West Durwood  
1158 Crescent, there was an example of a porch situation that was actually very close to the  
1159 street; it was about 25 feet from the street. You can't quite see it on your map. If you  
1160 followed West Durwood Crescent up off of your map, maybe 2 or 3 houses, up around  
1161 in this area, right around the bend there, there is a house, 1117 West Durwood  
1162 Crescent that has a porch that comes approximately 25 feet from the street. So we feel  
1163 like we're reasonably staying within the style of the neighborhood.

1164  
1165 Mr. Kirkland - Any other questions of the Board members? Anyone else  
1166 wish to speak on this case? Thank you sir; that concludes the case.  
1167

1168 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
1169 McKinney, the Board **granted** your application **A-29-2001** for a variance to build a  
1170 covered front porch at 1013 Westham Parkway (Westhampton Hills) (Tax Parcel 101-  
1171 26-D-14). The Board granted the variance subject to the following conditions:  
1172

1173 1. Only the improvements shown on the plan filed with the application may be  
1174 constructed pursuant to this approval. Any additional improvements shall comply with  
1175 the applicable regulations of the County Code.

1176  
1177 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1178 Negative: 0  
1179 Absent: 0

1180  
1181 The Board granted this request, as it found from the evidence presented that, due to the  
1182 unique circumstances of the subject property, strict application of the County Code  
1183 would produce undue hardship not generally shared by other properties in the area, and  
1184 authorizing this variance will neither cause a substantial detriment to adjacent property  
1185 nor materially impair the purpose of the zoning regulations.

1186  
1187 **A - 30-2001** **KAY P. WILLIAMS** requests a variance from Section 24-95(i)(2) of  
1188 Chapter 24 of the County Code to build a shed at 402 Beechwood  
1189 Drive (Westham) (Tax Parcel 113-9-9-24), zoned R-1, One-family  
1190 Residence District (Tuckahoe). The accessory structure location  
1191 requirement is not met. The applicant has a detached shed in the  
1192 side yard, where the Code requires detached structures to be  
1193 located in the rear yard. The applicant requests a variance to build  
1194 a detached shed to replace an existing one in the side yard.

1195  
1196 Mr. Kirkland - Does anyone else wish to speak on this case? If not, would  
1197 you raise your right hand and be sworn in.

1198  
1199 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1200 truth, the whole truth, and nothing but the truth, so help you God?

1201  
1202 Mr. Balfour - Mr. Chairman, I must disqualify myself.

1203  
1204 Mr. Kirkland - Make a note there, Mr. Secretary. Ma'am, have all your  
1205 notices been turned in, according to the County Code?

1206  
1207 Ms. Williams - I do. Yes sir. We would like to take down a shed, a small  
1208 unattractive shed, right there, and build another shed, a much more attractive shed, with  
1209 more space. We don't have an attic or a basement, so we have very little storage  
1210 space, and we would just like to build a bigger shed, a much more attractive design by  
1211 Doug Bowman. It would be very attractive and kind of blend in with our garden, which  
1212 my husband is a gardener, Fielding Williams, and he will want to have a much more  
1213 attractive building than that shed is. We have a hillside that drops down. Our house is  
1214 built on a hillside, the left side is a wing, so we can't build the shed behind the house,  
1215 because it drops off. The area that's there is the best location because immediately it  
1216 drops off right behind a brick patio where we have holly trees and rhododendrons and  
1217 azaleas, and so actually we don't have a back yard behind the house, it just drops, and  
1218 then we have the creek right behind the drop. We have very little area, so I would

1219 consider that shed area, if you were looking at it, you'd think it was a back yard, but it's  
1220 called the side yard. We have a great big hillside where our house is, our main house.  
1221 To the right of that house are great big trees, holly trees and huge rhododendrons that  
1222 have been there for 50 years, so it's well protected, and then it drops down really fast,  
1223 so you don't see what's below. You would not see this from the front; if you did, you just  
1224 might see a little tip of the roof or something. So it's a well-protected area.

1225  
1226 Mr. Kirkland - What size is this shed? This is a 16 by 20 shed, is that  
1227 correct? Is this going to have a foundation, or is this going to be on skids?

1228  
1229 Ms. Williams - No I will have foundation.

1230  
1231 Mr. Kirkland - What kind of doors does it have on it, just regular walk-  
1232 through doors?

1233  
1234 Ms. Williams - The new doors will have maybe a glass door. It's going to be  
1235 very attractive, because the back of our house is what makes our house special; it's not  
1236 the front. It kind of goes down these hills. If ever you were to look out, you want to see  
1237 something; this is just kind of an eyesore, really takes away from the beauty of the back.  
1238 It would blend into that house, probably have glass doors, and we had an addition put  
1239 on that's very attractive with columns and stuff. If you've ever seen anything Mr.  
1240 Bowman does, he doesn't do anything that's not perfect, so it'll have a glass door on  
1241 one side and on the other.

1242  
1243 Mr. Kirkland - When you call it a shed, I think of a shed.....

1244  
1245 Ms. Williams - Well, it's not a shed; that's what I want to say.

1246  
1247 Mr. Kirkland - It's a storage building is basically what it is.

1248  
1249 Mr. Balfour - I gather there's a little creek behind your house, between you  
1250 and the people on Baldwin Road; it looks like there's no house behind you.

1251  
1252 Ms. Williams - No houses at all on either side; there's a creek and then a  
1253 huge back yard on both sides. Actually they have a playhouse that we look down on,  
1254 right directly behind us. That creek comes up, and one time when we had the big flood,  
1255 it came right up to the tip of where our 13-foot drop goes, so it just would not be  
1256 appropriate to put anything there, or any shed or storage room building on stilts.

1257  
1258 Mr. Kirkland - Any other questions by Board members? Anybody else wish  
1259 to speak on this case? If not, ma'am, that concludes your case.

1260  
1261 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
1262 McKinney, the Board **granted** your application **A-30-2001** for a variance to build a shed  
1263 at 402 Beechwood Drive (Westham) (Tax Parcel 113-9-9-24). The Board granted the  
1264 variance subject to the following conditions:

1265  
1266 1. Only the improvements shown on the plan filed with the application may be  
1267 constructed pursuant to this approval. Any additional improvements shall comply with  
1268 the applicable regulations of the County Code.

1269  
1270 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1271 Negative: 0  
1272 Absent: 0

1273  
1274 The Board granted this request, as it found from the evidence presented that, due to the  
1275 unique circumstances of the subject property, strict application of the County Code  
1276 would produce undue hardship not generally shared by other properties in the area, and  
1277 authorizing this variance will neither cause a substantial detriment to adjacent property  
1278 nor materially impair the purpose of the zoning regulations.

1279  
1280 **UP- 4-2001 WEST END ASSEMBLY OF GOD** requests a temporary conditional  
1281 use permit pursuant to Section 24-116(c)(1) of Chapter 24 of the  
1282 County Code to locate two storage trailers at 401 North Parham  
1283 Road (Tax Parcel 112-A-52), zoned R-1, One-family Residence  
1284 District (Tuckahoe).

1285  
1286 Mr. Kirkland - Anyone else wish to speak on this case? If you would come  
1287 forward, ma'am, and be sworn in.

1288  
1289 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1290 truth, the whole truth, and nothing but the truth, so help you God?

1291  
1292 Mr. Kirkland - Would you state your name for the record. Have all  
1293 your notices been turned in, according to the County Code? State your case.

1294  
1295 Ms. Johnson - Cynthia Johnson. Yes they have. For the last couple of  
1296 years we have asked for a variance for the very same function. We have a yard sale  
1297 about the third week in May; ours this year is May 19. It is a way that we can have our  
1298 members bring their yard sale donations and drop them off, because of limited storage  
1299 space at the facility. We do this a month before and then get it out within 2 or 3 days  
1300 after the sale, so the total time that they would be there would be about 5 weeks. It is  
1301 not seen by Parham Road or any of our neighbors because of the woods around it and  
1302 a board fence between us and everyone else, and will be used during regular service  
1303 hours for people to make drop-offs.

1304  
1305 Mr. Balfour - You'll be in the same basic location as it's been before, I  
1306 guess?

1307  
1308 Ms. Johnson - Yes sir.

1309

1310 Mr. Wright - This condition has got to be corrected. It says it will be  
1311 removed before May 24, 2000.

1312  
1313 Ms. Johnson - Should be 2001.

1314  
1315 Mr. Kirkland - Any other questions by Board members? Anyone else wish  
1316 to speak? That concludes the case ma'am.

1317  
1318 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
1319 McKinney, the Board **granted** your application **UP-4-2001** for a temporary conditional  
1320 use permit to locate two storage trailers at 401 North Parham Road (Tax Parcel 112-A-  
1321 52). The Board granted the use permit subject to the following conditions:

1322  
1323 1. Only the trailers shown on the plan filed with the application may be erected  
1324 pursuant to this approval.

1325  
1326 2. The trailers shall be removed from the property on or before May 24, 2001.

1327  
1328 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1329 Negative: 0  
1330 Absent: 0

1331  
1332 The Board granted the request because it found the proposed use will be in substantial  
1333 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1334  
1335 **A - 31-2001** **BARBARA P. PALMER** requests a variance from Section 24-94 of  
1336 Chapter 24 of the County Code to build a single family home at 912  
1337 Dabbs House Road (Tax Parcel 140-A-36A), zoned A-1,  
1338 Agricultural District (Varina). The total lot area requirement is not  
1339 met. The applicant has 0.75 acre total lot area, where the Code  
1340 requires 1.00 acre total lot area. The applicant requests a variance  
1341 of 0.25 acre total lot area requirement.

1342  
1343 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,  
1344 ma'am, stand up, please, and be sworn in. And you can also, ma'am, raise your right  
1345 hand and be sworn in also.

1346  
1347 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1348 truth, the whole truth, and nothing but the truth, so help you God?

1349  
1350 Ms. Palmer - I affirm.

1351  
1352 Mr. Kirkland - Thank you. Okay, state your name for the record please.  
1353 Proceed with your case.

1354

1355 Ms. Palmer - Barbara P. Palmer. Good morning. My husband and I  
1356 purchased this property in June of '99, with the plan to build a single-family house on  
1357 the property. At the time that we purchased the property, we knew that previously, there  
1358 was a house on the property. There is a well and septic on the property also. That  
1359 house was town down. In investigating and trying to determine what we needed to do in  
1360 order to build our home, we found that the well was okay, but there was a change in the  
1361 County Ordinance because of the location of the property, we needed to have public  
1362 sewer. So we made arrangements for that; we've paid all the fees. So this property will  
1363 have the public sewer and the private well. Further investigation showed that our  
1364 property did not meet the current requirement for land area for a single-family dwelling  
1365 in this zoning. Of course that was another surprise to us, because we were not made  
1366 aware of that by the realtor when we purchased it, and when we initially contacted the  
1367 County about County requirements, so that brought us to this stage, where we were told  
1368 we needed to ask for a variance. We are missing ¼ of an acre in the amount of the  
1369 requirement for this zoning area. The house that we're planning to build, it has enough  
1370 frontage from the road, and enough from the back to meet the requirements. It's going  
1371 to be a 2,000 square foot home. We also are okay for the side, but it's just that the  
1372 requirement, according to the County, is 1 acre for the zoning, and we don't have that.  
1373 Currently, with the way the lot is now, unless we're able to build on it, we're not going to  
1374 be able to do anything with it. It's not an option at present time to purchase additional  
1375 property from our neighbors. We're paying taxes just on the lot right now, and if we  
1376 were given the variance, at least there would be a home there, and that would of  
1377 course, mean the taxes would increase to the County, if we were to get this variance. I  
1378 think you have the background information in front of you. If you have any questions, I'll  
1379 be glad to answer.

1380  
1381 Mr. Nunnally - Ms. Palmer, you've tried to buy some land from your  
1382 neighbors?

1383  
1384 Ms. Palmer - No, we were not made aware of the restriction until our  
1385 builder had sent in the application for the building permit, and there was a 2-day time  
1386 period that we had to apply for this variance, so we decided to go on with this process  
1387 rather than go through making an attempt to buy additional property from the neighbors.

1388  
1389 Mr. Kirkland - You say you had sewer put on the property?

1390  
1391 Ms. Palmer - We paid the fees. That is on hold, pending the outcome of  
1392 this variance hearing.

1393  
1394 Mr. Kirkland - But the fees would be refundable if you did not get the  
1395 variance?

1396  
1397 Ms. Palmer - Yes.

1398

1399 Mr. Kirkland - Any other questions by Board members? Ma'am are you for  
1400 the case, or against it? Okay, if you want to come up and speak for just a minute.  
1401 Ma'am, what's your name for the record?

1402  
1403 Ms. Huggins - For it. I live across the street from this building supposed to  
1404 be coming up, and I just want to let Ms. Palmer and her family know that I don't have  
1405 any objections about this house going up. Clara Huggins, 915 Dabbs House Road.

1406  
1407 Mr. Kirkland - Ma'am, that concludes the case.

1408  
1409 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
1410 Wright, the Board **granted** your application **A-31-2001** for a variance to build a single  
1411 family home at 912 Dabbs House Road (Tax Parcel 140-A-36A). The Board granted  
1412 the variance subject to the following condition:

1413  
1414 1. This variance is only for the purpose of allowing a dwelling on the parcel. Any  
1415 additional improvements shall comply with the applicable regulations of the County  
1416 Code.

1417  
1418 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1419 Negative: 0  
1420 Absent: 0

1421  
1422 The Board granted this request, as it found from the evidence presented that, due to the  
1423 unique circumstances of the subject property, strict application of the County Code  
1424 would produce undue hardship not generally shared by other properties in the area, and  
1425 authorizing this variance will neither cause a substantial detriment to adjacent property  
1426 nor materially impair the purpose of the zoning regulations.

1427  
1428 **UP- 5-2001** **JOHN W. WARRINER, IV** requests a conditional use permit  
1429 pursuant to Sections 24-52(d) and 24-103 of Chapter 24 of the  
1430 County Code to extract materials from the earth at 8381 Warriner  
1431 Road (Tax Parcel 254-A-5), zoned A-1, Agricultural District (Varina).

1432  
1433 Mr. Kirkland - Anyone else wish to speak on this case? Raise your right  
1434 hands and be sworn in.

1435  
1436 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1437 truth, the whole truth, and nothing but the truth, so help you God?

1438  
1439 Mr. Kirkland - State your name for the record please. Have all your notices  
1440 been turned in according to the County Code? We have them in the file. Okay, state  
1441 your case.

1442  
1443 Ms. Isaac - Laraine Isaac. Mr. Warriner has not owned the property  
1444 since the first use permit was granted in 1981. Several years ago he inherited this



1445 property from his father and began operating the gravel pit. Although there have been  
1446 some problems in the past, Mr. Warriner has improved the property and has worked  
1447 with the County inspectors to insure that all requirements are being met. In trying to  
1448 solve some of his problems, he developed a short list of rules for the drivers. All drivers  
1449 entering the pit area must read and sign it, and I would like to submit a copy of it for the  
1450 record. Mr. Warriner has taken the attitude that he has rules. If you break them, you  
1451 don't come back to the pit. It's a zero tolerance with the drivers coming on to his  
1452 property. Although the gravel pit is still in operation, rehabilitation has started and will  
1453 continue as the area is mined. I've had contact with only one adjacent neighbor, who's  
1454 concerned about gravel pits and how they leave gaping holes in the land, and I  
1455 explained the whole rehabilitation process, the bonding requirements by the County,  
1456 and she seemed satisfied. I believe Mr. Warriner has shown he is capable of operating  
1457 his business in a professional way, and I am requesting that the Board approve his use  
1458 permit for 2 more years.

1459  
1460 Mr. Wright - Ms. Isaac, do you know how much longer this operation will  
1461 be going on?  
1462

1463 Ms. Isaac - This area that's being mined now, it kind of depends on  
1464 White Oak being built, the area's are being mined more quickly than they were. It's  
1465 possible that this area could be done in 2 years, or maybe 4. When Mr. Warriner's  
1466 father ran the pit, it was run in a more haphazard manner. If someone would call him  
1467 and say he needed gravel, he could go in. The present owner is running a tighter ship  
1468 now as far as who uses it. It's being used more now than it was under his father's  
1469 ownership, but it's being run now more professionally too.  
1470

1471 Mr. Wright - You access this area from Warriner Road, is that correct?  
1472 And how many trucks a day go in and out of there?  
1473

1474 Ms. Isaac - It varies. I don't know what the maximum number would be,  
1475 about 30?  
1476

1477 Mr. Kirkland - Sir, if you would, come forward. We're taping this. If you  
1478 have any information, you could speak into the microphone please.  
1479

1480 Ms. Isaac - This is John Warriner, the owner and operator of the pit.  
1481

1482 Mr. Warriner - Depends on the demand. Are you referring to per day,  
1483 or.....  
1484

1485 Mr. Wright - In an average day.  
1486

1487 Mr. Warriner - It's not an everyday thing; it's a hit and miss type deal. It  
1488 could run anywhere between 50 to 100 trucks in a day's time. Not number of trucks, but  
1489 number of times coming in and out of the pit. It may be 15 trucks total, as far as the  
1490 number of trucks itself.

1491  
1492 Mr. Kirkland - Any more questions by Board members? Anyone else in  
1493 favor of the case? Ms. Isaac, I think we'll hear the opposition; then you'll have time to  
1494 rebut. You're opposed sir? Come forward. State your name for the record please.  
1495  
1496 Mr. Johnston - Mike Johnston. I'm not necessarily in opposition or in favor.  
1497 My concern is my grandmother owns some property at the power line, which would be  
1498 east of Mr. Warriner's pit. The concern I have is access of people, I'm sure with Mr.  
1499 Warriner's permission, going to the power line and across my grandmother's property.  
1500  
1501 Mr. Wright - I don't understand. Would you say that again? I didn't quite  
1502 catch that.  
1503  
1504 Mr. Johnston - Because there's a gravel pit there, they have access to enter  
1505 the power lines, and they drive down the power lines.....  
1506  
1507 Mr. Wright - You mean the power line across the rear of this property?  
1508 And what's your question?  
1509  
1510 Mr. Johnston - The people going through the gravel pit access the power  
1511 lines, and they cut across my grandmother's property, hunting and stuff like that.  
1512  
1513 Mr. Wright - They're not permitted to do that. This permit limits their  
1514 access to .....  
1515  
1516 Mr. Johnston - These aren't trucks; these are hunting vehicles, personal  
1517 vehicles, nothing to do with the mining, the gravel, at all. I don't have any problem with  
1518 that at all.  
1519  
1520 Mr. Kirkland - Maybe Ms. Isaac will address that.  
1521  
1522 Mr. Wright - It's almost impossible to control those things.  
1523  
1524 Ms. Isaac - I can't solve this problem, but I think Mr. Warriner would be  
1525 happy to talk to him and see if between them, they can come up with a resolution. I  
1526 know that Mr. Warriner's had trespassers on the property; he wants to know who's back  
1527 there. Of course for his liability, he needs to know who's back there. And I think right  
1528 now the 2 people ought to get together and try to work something out. I'm sure Mr.  
1529 Warinner will do everything he can.  
1530  
1531 Mr. Wright - Is the property posted?  
1532  
1533 Ms. Isaac - I don't know if it's posted back there, since no one's  
1534 supposed to be back there, because I know we have to post the actual area that's being  
1535 mined, but this is outside of that. If posting the property can help, I'm sure that can be  
1536 addressed.

1537  
1538 Mr. Wright - Number 13 of the conditions says applicants shall maintain  
1539 "no trespassing" signs every 200 feet along the perimeter of the property – is that being  
1540 done?

1541  
1542 Ms. Isaac - I know it's posted around the pet area, because he owns  
1543 over 300 acres. We will meet that condition, and hopefully that will take care of Mr.  
1544 Johnson's problem.

1545  
1546 Mr. Wright - At least people then would be violating the law if they come  
1547 aboard, and could be prosecuted.

1548  
1549 Mr. Kirkland - Any more questions by Board members? If not, that  
1550 concludes the case.

1551  
1552 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
1553 Mr. Wright, the Board **granted** your application **UP-5-2001** for a conditional use  
1554 permit to extract materials from the earth at 8381 Warriner Road (Tax Parcel  
1555 254-A-5). The Board granted the use permit subject to the following conditions:

1556  
1557 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of  
1558 the County Code.

1559  
1560 2. Before beginning any work, the applicant shall provide a financial guaranty in an  
1561 amount of \$2,000.00 per acre for each acre of land to be disturbed, for a total of  
1562 \$42,982.00, guaranteeing that the land will be restored to a reasonably level and  
1563 drainable condition. This permit does not become valid until the financial guaranty has  
1564 been approved by the County Attorney. The financial guaranty may provide for  
1565 termination after 90 days notice in writing to the County. In the event of termination, this  
1566 permit shall be void, and work incident thereto shall cease. Within the next 90 days the  
1567 applicant shall restore the land as provided for under the conditions of this use permit.  
1568 Termination of such financial guaranty shall not relieve the applicant from its obligation  
1569 to indemnify the County of Henrico for any breach of the conditions of this use permit. If  
1570 this condition is not satisfied within 90 days of approval, the use permit shall be void.

1571  
1572 3. Before beginning any work, the applicant shall submit erosion control plans to the  
1573 Department of Public Works for review and approval. Throughout the life of the  
1574 operation, the applicant shall continuously satisfy the Department of Public Works that  
1575 erosion control procedures are properly maintained, and shall furnish plans and bonds  
1576 that the department deems necessary. The applicant shall provide certification from a  
1577 licensed professional engineer that dams, embankments and sediment control  
1578 structures meet the approved design criteria as set forth by the State. If this condition is  
1579 not satisfied within 90 days of approval, the use permit shall be void.

1580

- 1581 4. Before beginning any work, the applicant shall obtain a mine license from the  
1582 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied  
1583 within 90 days of approval, the use permit shall be void.  
1584
- 1585 5. Before beginning any work, the areas approved for mining under this permit shall  
1586 be delineated on the ground by five-foot-high metal posts at least five inches in diameter  
1587 and painted in alternate one foot stripes of red and white. These posts shall be so  
1588 located as to clearly define the area in which the mining is permitted. They shall be  
1589 located, and their location certified, by a certified land surveyor. If this condition is not  
1590 satisfied within 90 days of approval, the use permit shall be void.  
1591
- 1592 6. In the event that the Board's approval of this use permit is appealed, all  
1593 conditions requiring action within 90 days will be deemed satisfied if the required actions  
1594 are taken within 90 days of final action on the appeal.  
1595
- 1596 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all  
1597 state and local regulations administered under such act applicable to the property, and  
1598 shall furnish to the Planning Office copies of all reports required by such act or  
1599 regulations.  
1600
- 1601 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings  
1602 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.  
1603
- 1604 9. No operations of any kind are to be conducted at the site on Sundays or national  
1605 holidays.  
1606
- 1607 10. All means of access to the property shall be from the established entrance onto  
1608 Warriner Road.  
1609
- 1610 11. The applicant shall erect and maintain gates at all entrances to the property.  
1611 These gates shall be locked at all times, except when authorized representatives of the  
1612 applicant are on the property.  
1613
- 1614 12. The applicant shall post and maintain a sign at the entrance to the mining site  
1615 stating the name of the operator, the use permit number, the mine license number, and  
1616 the telephone number of the operator. The sign shall be 12 square feet in area and the  
1617 letters shall be three inches high.  
1618
- 1619 13. The applicant shall post and maintain "No Trespassing" signs every 250 feet  
1620 along the perimeter of the property. The letters shall be three inches high. The  
1621 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to  
1622 enforce the "No Trespassing" regulations, and agreeing to send a representative to  
1623 testify in court as required or requested by the Division of Police.  
1624

- 1625 14. Standard "Truck Entering Highway" signs shall be erected on Warriern Road on  
1626 each side of the entrances to the property. These signs will be placed by the County, at  
1627 the applicant's expense.  
1628
- 1629 15. The applicant shall post and maintain a standard stop sign at the entrance to  
1630 Warriner Road.  
1631
- 1632 16. The applicant shall provide a flagman to control traffic from the site onto the  
1633 public road, with the flagman yielding the right of way to the public road traffic at all  
1634 times. This flagman will be required whenever the Division of Police deems necessary.  
1635
- 1636 17. All roads used in connection with this use permit shall be effectively treated with  
1637 calcium chloride or other wetting agents to eliminate any dust nuisance.  
1638
- 1639 18. The operation shall be so scheduled that trucks will travel at regular intervals and  
1640 not in groups of three or more.  
1641
- 1642 19. Trucks shall be loaded in a way to prevent overloading or spilling of materials of  
1643 any kind on any public road.  
1644
- 1645 20. The applicant shall maintain the property, fences, and roads in a safe and secure  
1646 condition indefinitely, or convert the property to some other safe use.  
1647
- 1648 21. If, in the course of its preliminary investigation or operations, the applicant  
1649 discovers evidence of cultural or historical resources, or an endangered species, or a  
1650 significant habitat, it shall notify appropriate authorities and provide them with an  
1651 opportunity to investigate the site. The applicant shall report the results of any such  
1652 investigation to the Planning Office.  
1653
- 1654 22. If water wells located on surrounding properties are adversely affected, and the  
1655 extraction operations on this site are suspected as the cause, the effected property  
1656 owners may present to the Board evidence that the extraction operation is a contributing  
1657 factor. After a hearing by the Board, this use permit may be revoked or suspended, and  
1658 the operator may be required to correct the problem.  
1659
- 1660 23. Open and vertical excavations having a depth of 10 feet or more, for a period of  
1661 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the  
1662 public safety.  
1663
- 1664 24. Topsoil shall not be removed from any part of the property outside of the area in  
1665 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for  
1666 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled  
1667 within the authorized mining area and provided with adequate to the site to provide the  
1668 required five-inch layer of cover. All topsoil shall be erosion control protection. If the  
1669 site does not yield sufficient topsoil, additional topsoil shall be brought treated with a



1716  
1717 The Board granted the request because it found the proposed use will be in substantial  
1718 accordance with the general purpose and objectives of Chapter 24 of the County Code.  
1719  
1720 Mr. Kirkland - Before we go on break, do we have a deferrals or  
1721 withdrawals, so if anybody's sitting here, they can go ahead and leave now?  
1722  
1723 Mr. Blankinship - No sir, no withdrawals or deferrals.  
1724  
1725  
1726 **UP- 6-2001** **W. E. ALDRIDGE** requests a temporary conditional use permit  
1727 pursuant to Section 24-116-(c)(1) of Chapter 24 of the County Code  
1728 to split and sell firewood at 4515 Wistar Road (Tax Parcel 70-A-78),  
1729 zoned R-3, One-family Residence District (Brookland).  
1730  
1731 Mr. Kirkland - Anyone else wish to speak on this case besides the  
1732 applicant? Okay sir, if you'd raise your right hand and be sworn in.  
1733  
1734 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1735 truth, the whole truth, and nothing but the truth, so help you God?  
1736  
1737 Mr. Kirkland - State your name for the record please. Have all your  
1738 neighbors been contacted, according to the County Code? We have the receipts. State  
1739 your case sir.  
1740  
1741 Mr. Aldridge - W. E. Aldridge. I've lived here for 33 years and have a nice  
1742 fireplace to heat my home and would like to be able to split some firewood to do that,  
1743 and I have some friends and neighbors who'd also like to have some firewood, because  
1744 of the cost of fuel that's increased so much. Then I'll probably be retiring before too  
1745 long, and I'd like to have something to do, to kind of keep me going, to get my exercise.  
1746  
1747 Mr. Nunnally - You haul these logs from Louisa County?  
1748  
1749 Mr. Aldridge - I have in the past. My sons help do some logging there in  
1750 Louisa. I have a few farms up there in Louisa, that I cut the timber off of it, and I hate to  
1751 see it go to waste, and so we sold it as firewood.  
1752  
1753 Mr. Kirkland - And you do sell this firewood?  
1754  
1755 Mr. Aldridge - Some of it, yes.  
1756  
1757 Mr. Kirkland - Have you seen the staff report and the photos that were with  
1758 the staff report?  
1759  
1760 Mr. Aldridge - Yes sir.  
1761

1762 Mr. Kirkland - What is the deal with all the cars?  
1763  
1764 Mr. Aldridge - I have 7 sons and a daughter, and some of the old cars they  
1765 had just conked out, so I parked them there, but they are gone now, so I don't have to  
1766 worry about that.  
1767  
1768 Mr. Blankinship - When were those cars removed?  
1769  
1770 Mr. Aldridge - Last night, the last ones, but they have been removed. I  
1771 didn't need them, just hadn't gotten around to getting rid of them.  
1772  
1773 Mr. Nunnally - Where do you sell this firewood, Mr. Aldridge? Do people  
1774 come to your house and get it, or do you deliver it to them?  
1775  
1776 Mr. Aldridge - Either way.  
1777  
1778 Mr. Nunnally - Well how much traffic do you have coming in there buying  
1779 loads from you?  
1780  
1781 Mr. Aldridge - Not too much. I don't sell that much.  
1782  
1783 Mr. Wright - Do you realize that this is a request for a temporary use  
1784 permit which will expire, if granted, it will expire 2 years from now, and cannot be  
1785 renewed under the County Ordinance. So if the Board sees fit to grant this, you would  
1786 have to cease this operation on March 22, 2003.  
1787  
1788 Mr. Aldridge - I read that, yes sir.  
1789  
1790 Mr. Wright - I just wanted to make sure you understood that, if this were  
1791 approved.  
1792  
1793 Mr. Kirkland - Any other questions of the Board members? Anyone else  
1794 wish to speak? That concludes the case, sir.  
1795  
1796 After an advertised public hearing and upon a motion by Mr. McKinney, seconded by  
1797 Mr. Nunnally, the Board **denied** the **UP-6-2001** application for a conditional use permit  
1798 pursuant to Section 24-52(d)24-103 of Chapter 24 of the County Code to split and sell  
1799 firewood at 4515 Wistar Road (Tax Parcel 70-A-78). The Board denied the request as it  
1800 found from the evidence presented that approving the permit would be of substantial  
1801 detriment to adjacent property or would materially impair the purpose of the zoning  
1802 regulations.  
1803  
1804 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1805 Negative: 0  
1806 Absent: 0  
1807



1808 **A - 32-2001**                    **LAURA AND CARL SCHWERTZ** request a variance from Section  
1809 24-94 of Chapter 24 of the County Code to build an addition at 3318  
1810 Horselydown Court (Foxhall) (Tax Parcel 35-1-A-37), zoned R-  
1811 2AC, One-family Residence District (Conditional) (Tuckahoe). The  
1812 rear yard setback is not met. The applicants have 28 feet rear yard  
1813 setback, where the Code requires 45 feet rear yard setback. The  
1814 applicants request a variance of 17 feet rear yard setback.  
1815

1816 Mr. Kirkland -                    Does anyone else wish to speak on this case? If you would  
1817 sir, raise your right hand and be sworn in.  
1818

1819 Mr. Blankinship -                Do you swear that the testimony you are about to give is the  
1820 truth, the whole truth, and nothing but the truth, so help you God?  
1821

1822 Mr. Schwertz -                    Good morning. My name is Carl Schwertz, and my notices  
1823 have been sent in.  
1824

1825 Mr. Kirkland -                    That's good. All right, state your case.  
1826

1827 Mr. Schwertz -                    My wife and I purchased this property about 10 years ago,  
1828 and since then have had 2 children, who, much like the first applicant, have decided that  
1829 it's fun to play in the house, so we are going to convert our garage. The plan is to  
1830 convert the existing attached garage into a rec room, and therefore, we would like to  
1831 add a garage, and that's what's proposed. The photographs show the area that it'll be  
1832 attached to the home. Because the rear line on the property slopes so severely, we  
1833 encroach into the rear yard setback. It's interesting that in this process, while we've  
1834 asked architects and contractors to look at it, that our blueprints actually show the  
1835 house being built flip-flopped from what it is, and had they built it pursuant to the  
1836 blueprints, I wouldn't be here today. However, they didn't do that, and I'm not sure why.  
1837 It may have been side yard setbacks at the time, but we're here requesting a variance.  
1838

1839 Mr. Wright -                      It's not possible to build a garage on the other side of the lot?  
1840

1841 Mr. Schwertz -                    No sir, it would encroach then on the side yard. Actually, if  
1842 you look at the photograph that's displayed right at the moment, to the right of the  
1843 picture, that side of our house right now is right on the side yard setback.  
1844

1845 Mr. Wright -                      I was thinking behind the house, not on the side.  
1846

1847 Mr. Schwertz -                    Yes sir, but if we went behind where the deck is, the  
1848 characteristic of the house, you can see the 3 windows there, above and below, that  
1849 above is the master bedroom, below is the kitchen. I think if we put a 2-car garage  
1850 behind that, it would destroy pretty much the best part of the house. I not only have  
1851 given notice to all my neighbors, but have spoken to each individual one, and nobody  
1852 has any opposition, clearly as shown by nobody appearing today. Foxhall, as you may  
1853 know, is increasing in size. It seems like every house that's built is about a thousand

1854 square feet more than mine, and they seem to be getting bigger. So it would be in  
1855 keeping with the property.

1856  
1857 Mr. Balfour - Your lot looks like it's a trapezoid, and your house, as you  
1858 say, is sitting unusual. But there's not a house immediately behind you, it doesn't  
1859 appear.

1860  
1861 Mr. Schwertz - Along the rear line, the house that's shown in the  
1862 photograph, that one goes along the rear line and the corner, and then the house that's  
1863 shown to the left in the photograph actually borders on our rear line as well, but you're  
1864 right; it's not directly behind. A characteristic of cul-de-sac lots.

1865  
1866 Mr. Wright - Would you access from the side?

1867  
1868 Mr. Schwertz - Yes sir, it would be a side entry, just like the current garage.

1869  
1870 Mr. Wright - I take it you would extend your asphalt driveway back to the  
1871 garage?

1872  
1873 Mr. Schwertz - Yes sir, that's correct, we would not go any further to the  
1874 right.

1875  
1876 Mr. Wright - Is there any screen along the rear of your property?

1877  
1878 Mr. Schwertz - No sir, I did say..... I wrote individual letters, along  
1879 with the notice, to my neighbors, and my wife and I did propose and plan to, even  
1880 without this, to put screening behind our property there along where the swing set is.  
1881 We just recently mulched that area. That was the next phase of the landscaping, was to  
1882 screen that back. We've spoken to our neighbors and told them that was part of our  
1883 plan.

1884  
1885 Mr. Wright - This garage, then, would take out those windows that are on  
1886 the rear of your house, is that correct?

1887  
1888 Mr. Schwertz - No, it would actually fit in that corner. The current door is the  
1889 garage entry door. As the photographs have shown, it would be built around the gas  
1890 fireplace flue that's shown; it would fit in that corner. On of the questions that I would  
1891 ask of the Board, I notice that the condition that the Planning Department said was that  
1892 it would be built per plans. Actually the current plans are for a garage and second story  
1893 over the top of the garage; I don't know if that makes any difference to this Board or not.  
1894 Obviously, the second story isn't any larger than the first story from a width standpoint.  
1895 But in answer to your question, Mr. Wright, it would actually take out that upper window.

1896  
1897 Mr. Kirkland - Any other questions? Anyone else wish to speak? That  
1898 concludes the case, sir.

1899

1900 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
1901 Wright, the Board **granted** your application **A-32-2001** for a variance to build an  
1902 addition at 3318 Horselydown Court (Foxhall) (Tax Parcel 35-1-A-37). The Board  
1903 granted the variance subject to the following condition:

1904  
1905 1. Only the improvements shown on the plan filed with the application may be  
1906 constructed pursuant to this approval. Any additional improvements shall comply with  
1907 the applicable regulations of the County Code.

1908  
1909 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1910 Negative: 0  
1911 Absent: 0

1912  
1913 The Board granted this request, as it found from the evidence presented that, due to the  
1914 unique circumstances of the subject property, strict application of the County Code  
1915 would produce undue hardship not generally shared by other properties in the area, and  
1916 authorizing this variance will neither cause a substantial detriment to adjacent property  
1917 nor materially impair the purpose of the zoning regulations.

1918  
1919 **A - 33-2001** **VERNON C. PLACK** requests a variance from Section 24-94 of  
1920 Chapter 24 of the County Code to build an addition at 831 Arlington  
1921 Circle (University Heights) (Tax Parcel 101-10-A-J), zoned R-2,  
1922 One-family Residence District (Tuckahoe). The minimum side yard  
1923 setback and total side yard setback are not met. The applicant has  
1924 7.85 feet minimum side yard setback and 17.60 feet total side yard  
1925 setback, where the Code requires 10.0 feet minimum side yard  
1926 setback and 30.0 feet total side yard setback. The applicant  
1927 requests variances of 2.15 feet minimum side yard setback and  
1928 12.4 feet total side yard setback.

1929  
1930 Mr. Kirkland - Anyone else wish to speak on this case? If you would sir,  
1931 raise your right hand and be sworn in.

1932  
1933 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1934 truth, the whole truth, and nothing but the truth, so help you God?

1935  
1936 Mr. Plack - I do.

1937  
1938 Mr. Kirkland - State your name for the record. Have all your notices been  
1939 turned in, according to the County Code? We have them in the file. Thank you.  
1940 Proceed with your case.

1941  
1942 Mr. Plack - My name is Vernon Plack. Yes sir. Good morning. I'm not  
1943 sure if this is pertinent to the case, but there was one page in the handout that showed  
1944 the shape of the lot, and it actually showed both the lines on both sides of the house  
1945 going straight back, which varies somewhat from the diagram you're seeing above here,

1946 which shows where the proposed addition is being added. The yard actually moves off  
1947 down to the right. We actually have a little bit more land than that; the person I bought  
1948 the house from actually thought she had more land, and I have the deed with me too, to  
1949 show that in fact we do have more property than when it goes straight back. It angles  
1950 off some to the right, as shown on the screen right now. So there's a little more  
1951 property there actually. It's a deep lot; it's over 300 feet at its longest point, and  
1952 probably 275 at its shortest point. It's not that wide; it's 100 feet wide; it does widen in  
1953 the back because it runs along Sawmill Road. It's not a big house; it's a one-story  
1954 house with 3 bedrooms. One of the bedrooms is very small; it's basically a 10 by 9 –  
1955 that's my daughter's room. There's a small dining room as well; really it's just enough  
1956 room for a table and chairs – it's an 8 by 9, not enough room for a buffet or a hutch. So  
1957 the addition, what we're proposing, what we would like to do is increase the size of the  
1958 small bedroom and increase the size of the dining room, and we would also like to add  
1959 an additional bedroom, given that both my wife and I are not from Richmond, and it  
1960 would give any relatives a place to stay if they were to come to town. I've talked to my  
1961 neighbors about this, and they are fine with the proposed addition, in particular, if this  
1962 would have any impact, it would be the neighbor to my right. The property line where  
1963 we are proposing the addition, it's a Dr. Suter. I've talked to him about this, and he's  
1964 very understanding of our desire to add the space. He's actually added to his house 4  
1965 times, he has said, since he's been in it. The area between our houses, there is a  
1966 fence, and there are several trees there, so it's somewhat wooded, and his house  
1967 actually sits back roughly 30 feet from the property line. He did not have any real  
1968 problem with us adding this proposed addition. Through this process I did find that we  
1969 were in violation of side yard setback and total side yard setback. We did try to look at  
1970 all alternatives in terms of adding this space, and quite frankly, given the practical  
1971 nature of this in trying to keep it within practical reasons, we even thought about adding  
1972 a second floor or adding to the other side of the house, but it basically came down to  
1973 where we felt this was one of the few and best alternatives that we had in terms of  
1974 adding space to this property. So I'm here before you today to request this variance.

1975  
1976 Mr. Wright- What direction does the house, you say to the right of you, in  
1977 that little triangle between Sawmill Road and Arlington Circle, that's the house you're  
1978 concerned, you say it's to the right of you?

1979  
1980 Mr. Plack - To the right of me, that's Dr. Suter's house.

1981  
1982 Mr. Wright- Is that the rear of his house? Does his house face toward  
1983 the apex of that triangle?

1984  
1985 Mr. Plack - Yes sir, his house, our driveways are in the front of the  
1986 house, and his driveway moves up to the front of the house. Both of our entranceways  
1987 are in front of the house where Arlington Circle is, that's our front doors. He has a small  
1988 brick patio and a side door there, in between our houses. Again, my property actually  
1989 extends further to the right.

1990

1991 Mr. Kirkland - Any other questions? Anyone else wish to speak on this  
1992 case? That concludes the case.

1993  
1994 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
1995 McKinney, the Board **granted** your application **A-33-2001** for a variance to build an  
1996 addition at 831 Arlington Circle (University Heights) (Tax Parcel 101-10-A-J). The  
1997 Board granted the variance subject to the following condition:

1998  
1999 1. Only the improvements shown on the plan filed with the application may be  
2000 constructed pursuant to this approval. Any additional improvements shall comply with  
2001 the applicable regulations of the County Code.

2002  
2003 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2004 Negative: 0  
2005 Absent: 0

2006  
2007 The Board granted this request, as it found from the evidence presented that, due to the  
2008 unique circumstances of the subject property, strict application of the County Code  
2009 would produce undue hardship not generally shared by other properties in the area, and  
2010 authorizing this variance will neither cause a substantial detriment to adjacent property  
2011 nor materially impair the purpose of the zoning regulations.

2012  
2013 Mr. Kirkland - Next one, sir.

2014  
2015 **A - 34-2001** **AMBER D. SMITH** requests a variance from Sections 24-95(i)(2)(d)  
2016 and 24-95(c)(4) of Chapter 24 of the County Code to build a carport  
2017 and an addition to the porch at 2501 Burnley Avenue (Elmay Crest)  
2018 (Tax Parcel 83-11-G-1), zoned R-4, One-family Residence District  
2019 (Brookland). The accessory structure setback and front yard  
2020 setback are not met. The applicant has 15.55 feet front yard  
2021 setback and 2 feet accessory structure setback, where the Code  
2022 requires 35.00 feet front yard setback and 3 feet accessory  
2023 structure setback. The applicant requests variances of 19.45 feet  
2024 front yard setback and 1 foot accessory structure setback.

2025  
2026 Mr. Kirkland - Anyone else wish to speak on this case? If you would,  
2027 ma'am, raise your right hand and be sworn in.

2028  
2029 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2030 truth, the whole truth, and nothing but the truth, so help you God?

2031  
2032 Mr. Kirkland - State your name for the record. Have all your notices been  
2033 turned in, according to County Code? Okay, state your case.

2034  
2035 Ms. Smith - Amber D. Smith. Yes sir. I went to get a permit, and they  
2036 informed me that I didn't have enough setback for the original porch that was already

2037 there, and what I wanted to do was to get that cleared up, because they told me it could  
2038 create legal problems in the future. For my addition, I wanted to go to the left of the  
2039 house with a porch that's 8 feet wide and go all the way down the side to add on a  
2040 dining room. I'm going to tear down the little knock-out in the back. It's a small eat-in  
2041 kitchen, with the floor sloping in 2 different directions, and it wasn't feasible for me to try  
2042 to repair that. The utility room roof has a sag in the middle, so I want to tear down all of  
2043 that and add a new dining room and replace the utility. That little knock-out right there  
2044 is an oil tank on the right-hand side in the back; I'm going to enclose that area right  
2045 there for my heating units to go into. They are right now in the utility, and there's  
2046 radiator heat, and it smokes up and discolors the walls, so I'd like to get that out of the  
2047 utility and put it in that area. The wrap-around porch in that corner at the front doesn't  
2048 meet the setback. On the back of the house is an existing cinderblock garage, and it  
2049 measures across the front 20 feet 8 inches. At the very left-hand corner of the garage,  
2050 they told me it's about 2 feet off the line, and if you notice, the line tapers from the street  
2051 to the rear. What I would like to do is stay parallel with the garage, out for a carport. I'd  
2052 like to get my cars off the street and out of my front yard, because I now park one of my  
2053 vehicles in my yard. I'd like the carport in the back. I have a huge oak tree, and I have  
2054 no intention of removing that, and it's already a gravel drive.

2055  
2056 Mr. Kirkland - Ms. Smith, may I ask you a question. I notice when I looked  
2057 at this, that the gravel drive, as you call it, in front of the garage, had plenty of space to  
2058 park the cars now. Why do you need a carport?

2059  
2060 Ms. Smith - The oak tree drops sap real bad. I have a white van; if I  
2061 leave it back there a day, it looks like it's been totally sapped over.

2062  
2063 Mr. Kirkland - What's in the garage? Can you get a car in the garage?

2064  
2065 Ms. Smith - I moved from a 2,000 square foot house into a 1,000 square  
2066 foot house, and most of my furniture is in my garage. That's why I want to add onto my  
2067 house, so that I can take my furniture out of the garage and put it into the house. I have  
2068 a little red truck, a van, and I have a 4-Runner. I want the 4-Runner out of the front  
2069 yard, and I want all the vehicles in the rear. I leave my little red truck there; I rarely drive  
2070 it. I'm using it now to get sand and for hauling stuff or for taking debris from the yard,  
2071 but it stays back there most of the time, and if you get in it, you can't even drive it for the  
2072 sap from the oak tree, and I don't want to cut down the oak tree.

2073  
2074 Mr. Kirkland - I saw a foundation in the back yard; is this part of the project  
2075 that you've started?

2076  
2077 Ms. Smith - Yes sir. I already meet the setback in the back; the only  
2078 place where I don't meet the setback is where I want to do the wrap-around porch in the  
2079 corner. If you see the posts right there, to wrap it around right there, to connect the 2  
2080 porches, that's where it doesn't meet the setback. They told me that the front porch  
2081 now doesn't even meet the setback. The lady told me that if somebody ran into it and

2082 knocked it down, I couldn't even put it back up where it was, unless I had a variance to  
2083 do repair on it.

2084  
2085 Mr. Wright- Why do you want to extend the size of the porch?  
2086

2087 Ms. Smith - I'm not going to extend it out towards the street; I want to  
2088 block in that corner on the left, because I want to walk up the front as it is now and go to  
2089 the left, and go down into where my new dining room is. I want the porch to simply  
2090 wrap around the house. The front porch is going to stay the same, but it's going to  
2091 come over to the left-hand side, approximately 10 feet, because I'm coming off the  
2092 outside wall 8 feet. To get that corner, I've got to come over approximately 10 feet to  
2093 have that intersection there, that junction, to do a wrap-around. I'd like to be able to  
2094 leave the existing steps where they are now; I didn't want to do another set of steps  
2095 down the side of the house. What I wanted to do is simply come from the street if my  
2096 parents come, and get into the front right there, and if they want to come in, to go down  
2097 the side and come in the dining room right there, or they can still come in the front door,  
2098 but I wanted a wrap-around porch.

2099  
2100 Mr. Wright- Are you going to have another entrance from that side?  
2101

2102 Ms. Smith - You see where the air conditioner is, the double windows  
2103 right there? There's going to be an entrance; the back window is in the kitchen right  
2104 now. My addition is going to be right off the side of that window, and you'll be able to go  
2105 into a doorway right there. There's going to be an entry right there, where you can set  
2106 everything and take your shoes off and then go into the house.

2107  
2108 Mr. Wright- This diagram that we had with the materials does not show a  
2109 wrap-around porch; it just shows the porch extending out.

2110  
2111 Ms. Smith - They told me, see the dotted line, .....

2112  
2113 Mr. Wright- Is that going to be a porch, all along the dotted line?  
2114

2115 Ms. Smith - Yes, till you get to, you see where the hand is right now, if  
2116 you come back about 10 feet, there's going to be a doorway right there, and you'll be  
2117 able to go, it's not that far up.

2118  
2119 Mr. Blankinship - It'll be toward the front.  
2120

2121 Ms. Smith - Yes sir, off the back corner. I wanted a foyer entry right there  
2122 so that people could do whatever they had to do right there, taking shoes off, whatever,  
2123 and then come in, because the dining room's going to have oak flooring.

2124  
2125 Mr. Blankinship - So it'll be porch along the front, porch around the corner,  
2126 porch starting down the side, and then there will be a wall, and it'll become enclosed.  
2127

2128 Ms. Smith - Yes sir. The enclosure part is only going to be about 10 feet  
2129 off that back corner, see where it says 1 foot? It's going to come up that wall only 10  
2130 feet, and most of that will be a wrap-around porch.

2131  
2132 Mr. Blankinship - So you'll have 24 feet of porch and 10 feet of addition? And  
2133 what is the width of that construction? That's not labeled on here.

2134  
2135 Ms. Smith - The front porch is 7 feet. I want the side porch to be 8 feet  
2136 wide, and it's going to go down the side of the house about 26 feet down the side.

2137  
2138 Mr. Kirkland - And you said you were going to go around back and box that  
2139 in, but that doesn't have any setback problems?

2140  
2141 Ms. Smith - No sir, just a corner that, see the little lines right there, that's  
2142 the problem, and they also told me that the original porch is not properly setback either,  
2143 and they say that if 10 years down the road I want to sell it, they tell me that's going to  
2144 be a problem.

2145  
2146 Mr. Kirkland - I looked at this yesterday, it's a short 27 feet from the edge of  
2147 that road to the edge of the house.

2148  
2149 Ms. Smith - Yes, that's why I'd like to get my cars off the street and put  
2150 them under the carport in the back.

2151  
2152 Mr. Kirkland - If you do this renovation to the house, get your furniture out  
2153 the garage, can't you put a car in the garage?

2154  
2155 Ms. Smith - But I have 3 vehicles. I used to do woodworking, and my  
2156 shop is presently at my father's house, and I'd like to bring it. I just do it for my own; I  
2157 don't sell stuff or anything like that. I'd like to add, if you don't mind, that I've renovated  
2158 a house across the street from me, 3 houses up, and I turned it from a \$30,000  
2159 assessed value to a \$90,000 value. I increased the value; it looks great, and I informed  
2160 the owner that he'd be the second best-looking house when I finished mine.

2161  
2162 Mr. Kirkland - So when you do this one, are you going to move out of this  
2163 one?

2164  
2165 Ms. Smith - Oh no, I can't afford to leave. I inherited part of this house,  
2166 and I bought my brother out, and when I renovated the house across the street, that  
2167 allowed me money to – I'd like to stay here because I can't afford to leave; I can't afford  
2168 a \$100,000 mortgage payment.

2169  
2170 Mr. Wright - Mr. Blankinship, does that porch extended in that manner,  
2171 would that have any problem with sight approaching Lawrence Avenue from Burnley? It  
2172 goes about 3 feet beyond the edge of the house, is that what I've got?

2173



2174 Mr. Kirkland - It would be 8 feet out from the edge of the house, correct?  
2175  
2176 Ms. Smith - Yes, if you notice the corner right there of the house; it's  
2177 going to go from there out for 8 feet, and they've told me that I was still in my setback  
2178 right there.  
2179  
2180 Mr. Wright- So there's no problem with the side there?  
2181  
2182 Mr. Blankinship - No sir. Of course, being a porch, you would be able to see  
2183 under it anyway.  
2184  
2185 Ms. Smith - I'm going to put lattice.  
2186  
2187 Mr. Kirkland - Any other questions?  
2188  
2189 Ms. Smith - Can I make one more statement? The back of the garage,  
2190 right there in that corner is 2 feet, but because the property line is on the taper, when I  
2191 get out to the corner, I will be in my setback of 3 feet, but if I keep it parallel with the  
2192 garage, the line is on a slight taper, once I get to that corner, it's only off by only a foot.  
2193 I pulled lines from the stakes that are in the ground now, and it shows me only being off  
2194 a foot once I get to that corner of the garage.  
2195  
2196 Mr. Kirkland - Thank you. That concludes the case.  
2197  
2198 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
2199 Balfour, the Board **granted** your application **A-34-2001** for a variance to build a carport  
2200 and an addition to the porch at 2501 Burnley Avenue (Elmay Crest) (Tax Parcel 83-11-  
2201 G-1). The Board granted a variance of 19.45 feet from the front yard setback. The  
2202 Board did not grant a variance from the accessory structure setback. The Board  
2203 granted the variance subject to the following condition:  
2204  
2205 1. Only the improvements shown on the plan for an addition to the porch, as filed  
2206 with the application, may be constructed pursuant to this approval. No substantial  
2207 changes or additions to the layout may be made without the approval of the Board of  
2208 Zoning Appeals. Any additional improvements shall comply with the applicable  
2209 regulations of the County Code.  
2210  
2211 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2212 Negative: 0  
2213 Absent: 0  
2214  
2215 The Board granted this request, as it found from the evidence presented that, due to the  
2216 unique circumstances of the subject property, strict application of the County Code  
2217 would produce undue hardship not generally shared by other properties in the area, and  
2218 authorizing this variance will neither cause a substantial detriment to adjacent property  
2219 nor materially impair the purpose of the zoning regulations.

2220  
2221 **A - 35-2001** **SAMUEL T. DOWDY, JR.** requests a variance from Sections 24-  
2222 95(i)(2)(f) and 24-9 of Chapter 24 of the County Code to build a  
2223 single family home at 8286 Turner Road (Tax Parcel 250-A-33  
2224 (part)), zoned A-1, Agricultural District (Varina). The accessory  
2225 structure location requirement and public street frontage  
2226 requirement are not met. The applicant has 0.00 feet public road  
2227 frontage and a pool in the side yard, where the Code requires 50  
2228 feet public road frontage and allows a pool in the rear yard. The  
2229 applicant requests a variance of 50 feet public road frontage and an  
2230 accessory structure in the side yard.

2231  
2232 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,  
2233 sir, raise your right hand and be sworn in.

2234  
2235 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2236 truth, the whole truth, and nothing but the truth, so help you God?

2237  
2238 Mr. Kirkland - State your name for the record please. Have all your notices  
2239 been turned in, according to the County Code? We have them in the file. You could  
2240 probably speak for him.

2241  
2242 Mr. Dowdy - I do. Samuel T. Dowdy, Jr.

2243  
2244 Mr. McGaughay - I'm David McGaughay. My wife's his granddaughter, and we  
2245 would like to build a house behind his house. We have no road frontage, and he had  
2246 built a pool back in about 1970, and he built it away from his house. It's a park setting,  
2247 real nice, we've had church groups there for years. We would like to build a house right  
2248 next to the pool. The pool is in the side yard, so we would need a variance in that too.  
2249 We're going to put up a real nice fence around the pool. This is his house here.

2250  
2251 Mr. Wright- The pool is already there, in the ground?

2252  
2253 Mr. McGaughay - Yes sir, it's an in-ground pool; it's already there. At the  
2254 present time there's no fence around it; there will be a fence around it when I build the  
2255 house.

2256  
2257 Mr. Wright- What kind of access will you have to your property?

2258  
2259 Mr. McGaughay - About 2 or 3 years ago, he got together with the County, and  
2260 they let him put a secondary driveway that will drive straight along the property line and  
2261 go to the pool. I really don't know exactly what type of house I'm building yet; I'm going  
2262 to build a garage, that you just turn into the garage away from the house.

2263  
2264 Mr. Wright- What kind of legal right or access will you have; how will you  
2265 be protected legally? Will there be an easement or something of record? The

2266 conditions, if you'll notice, on this case require you to have legal access. If this is  
2267 approved, and you proceed to get your building permit, you have to satisfy the Planning  
2268 Office that you do have legal access to the property.

2269  
2270 Mr. McGaughay - That will be my next step, yes sir. He's willing to give me  
2271 legal rights; we kind of want to be there to help take care of him.

2272  
2273 Mr. Nunnally- You're going to build on the rear 2 acres of land, is that right?  
2274

2275 Mr. McGaughay - Yes sir, he has 3.1 acres, and he wants to give us 2 acres,  
2276 so we want to be on the back end. There's a set of power lines in the back, we've  
2277 already been approved for septic; we're going to put it underneath the power lines.  
2278 Veeco's already approved it.

2279  
2280 Mr. Kirkland - Any other questions? That concludes the case. Thank you  
2281 sir.

2282  
2283 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
2284 McKinney, the Board **granted** your application **A-35-2001** for a variance to build a  
2285 single family home at 8286 Turner Road (Tax Parcel 250-A-33 (part)). The Board  
2286 granted the variance subject to the following conditions:

2287  
2288 1. This variance applies only to the public street frontage requirement for the  
2289 dwelling, and location of the existing pool in the side yard. Any additional improvements  
2290 shall comply with the applicable regulations of the County Code.

2291  
2292 2. At the time of building permit application, the applicant shall submit the necessary  
2293 information to the Department of Public Works to ensure compliance with the  
2294 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
2295 water quality standards.

2296  
2297 3. At the time of building permit application the owner shall demonstrate that the  
2298 parcel created by this division has been conveyed to a member of the immediate family,  
2299 and the subdivision ordinance has not been circumvented. If this condition cannot be  
2300 met, the owner shall submit a subdivision plat for review and approval by the Planning  
2301 Office.

2302  
2303 4. Approval of this request does not imply that a building permit will be issued.  
2304 Building permit approval is contingent on Health Department requirements, including,  
2305 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval of  
2306 a well location.

2307  
2308 5. The applicant shall present proof with the building permit application that a legal  
2309 access to the property has been obtained. No new entrances shall be constructed onto  
2310 Turner Road. The owners of the property, and their heirs or assigns, shall accept  
2311 responsibility for maintaining access to the property until such a time as the access is

2312 improved to County standards and accepted into the County road system for  
2313 maintenance.

2314  
2315 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2316 Negative: 0  
2317 Absent: 0

2318  
2319 The Board granted this request, as it found from the evidence presented that, due to the  
2320 unique circumstances of the subject property, strict application of the County Code  
2321 would produce undue hardship not generally shared by other properties in the area, and  
2322 authorizing this variance will neither cause a substantial detriment to adjacent property  
2323 nor materially impair the purpose of the zoning regulations.

2324  
2325 **A - 36-2001**            **ROBERT DAVIS AND MARIA ANDERSON-DAVIS** request a  
2326 variance from Section 24-94 of Chapter 24 of the County Code to  
2327 build a single family home at 5130 Springfield Road (Tax Parcel 29-  
2328 A-4A), zoned A-1, Agricultural District (Three Chopt). The lot width  
2329 requirement, minimum side yard setback, and total side yard  
2330 setback are not met. The applicants have 118 feet lot width, 15.75  
2331 feet minimum side yard setback, and 31.55 feet total side yard  
2332 setback, where the Code requires 150 feet lot width, 20 feet  
2333 minimum side yard setback, and 50 feet total side yard setback.  
2334 The applicants request variances of 32 feet lot width, 4.25 feet  
2335 minimum side yard setback, and 18.45 feet total side yard setback.

2336  
2337 Mr. Kirkland -            Does anyone else wish to speak on this case? If you would,  
2338 sir, raise your right hand and be sworn in.

2339  
2340 Mr. Blankinship -        Do you swear that the testimony you are about to give is the  
2341 truth, the whole truth, and nothing but the truth, so help you God?

2342  
2343 Mr. Kirkland -            State your name for the record. Have all your notices been  
2344 turned in according to County Code? We have them in the file. Okay, proceed.

2345  
2346 Mr. Mister -              I do. Spud Mister. Yes they have. This is a variance case  
2347 that was approved in 1999 for lot width for Maria Davis and her husband, and they  
2348 intended to build a house. They had 1 year to do it, which was May 2000. For various  
2349 reasons, they did not get a building permit and start the house at that point in time. Now  
2350 they have picked a house that they want to build, and have a price and a builder lined  
2351 up, but they need to renew their variance, and now that we know the width of the house,  
2352 along with the lot width, they need a variance for minimum side yard setback and total  
2353 side yard setback. This is a 1-acre parcel that Maria was given by her parents, Mr. and  
2354 Mrs. Morse, who live in the existing house. The lot that was left there is 2.02 acres, so  
2355 they cut out 1 acre to give to Maria, which meets the ordinance under the A-1 zoning  
2356 that it is, and in order to get 1 acre, the rear lot line had to be set up like it is. The  
2357 reason that it goes out to Wintergreen Drive is that's where it will have access to the

2358 sewer connection; there is a manhole in Wintergreen Drive that she plans to extend  
2359 over to bring sewer to this house. What she's basically asking for is for the variance  
2360 that was granted in 1999 to be re-instituted so that she can build this house on the lot.

2361  
2362 Mr. Wright- Didn't you just say though, that you're asking for more than  
2363 just what we approved before, insofar as the side yard?

2364  
2365 Mr. Mister - Yes, when we did it before, we didn't know the width of the  
2366 house. They want to build a 62-foot wide house now, which doesn't add up to the  
2367 numbers that you see, but it's because the lot is skewed a little bit, and they do need the  
2368 total side yard variance of 18.45 feet to meet the Code. The reason that it's more is  
2369 because part of that is from the front corner of the house, and the other part is for the  
2370 rear corner of the house. They could have built a 54-foot house previously, and I think  
2371 you see it's stated they could build a 54 by 50-foot house, but that's a little bit unusual  
2372 configuration and not something I think we'd really want to force them to do.

2373  
2374 Mr. Wright- What's located on the side where you need the variance?

2375  
2376 Mr. Mister - The south side – the Jones family owns that, and there's  
2377 some wetland over there, not right on the property, but they have approached them  
2378 several times in the past, and they really are unwilling to sell any portion of the property  
2379 until they know how the whole property is going to be developed.

2380  
2381 Mr. Wright- That's undeveloped at this time?

2382  
2383 Mr. Mister - The 3 homes are. Yes, it's wooded land and there have  
2384 been several different developers, commercial and single-family, who have talked to  
2385 them over the last several years, and they haven't been able to work out any  
2386 arrangement with any of them at this point.

2387  
2388 Mr. Kirkland - Any other questions? Anyone else wish to speak? That  
2389 concludes the case. Thank you sir.

2390  
2391 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
2392 Nunnally, the Board **granted** your application **A-36-2001** for a variance to build a single  
2393 family home at 5130 Springfield Road (Tax Parcel 29-A-4A). The Board granted the  
2394 variance subject to the following conditions:

2395  
2396 1. Only the improvements shown on the plan filed with the application may be  
2397 constructed pursuant to this approval. No substantial changes or additions to the layout  
2398 may be made without the approval of the Board of Zoning Appeals. Any additional  
2399 improvements shall comply with the applicable regulations of the County Code.

2400  
2401 2. At the time of building permit application, the applicant shall submit the necessary  
2402 information to the Department of Public Works to ensure compliance with the

2403 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
2404 water quality standards.

2405  
2406 3. Connections shall be made to public water and sewer.

2407  
2408 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2409 Negative: 0  
2410 Absent: 0

2411  
2412 The Board granted this request, as it found from the evidence presented that, due to the  
2413 unique circumstances of the subject property, strict application of the County Code  
2414 would produce undue hardship not generally shared by other properties in the area, and  
2415 authorizing this variance will neither cause a substantial detriment to adjacent property  
2416 nor materially impair the purpose of the zoning regulations.

2417  
2418 **UP- 7-2001 GRACE COMMUNITY BAPTIST CHURCH** requests a temporary  
2419 conditional use permit pursuant to Section 24-116(c)(1) of Chapter  
2420 24 of the County Code to locate classroom trailers at 2400 Pump  
2421 Road (Tax Parcel 66-A-7A), zoned A-1, Agricultural District (Three  
2422 Chopt).

2423  
2424 Mr. Kirkland - Anyone else wish to speak on this case? Please stand and  
2425 be sworn in. Raise your right hand, please.

2426  
2427 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2428 truth, the whole truth, and nothing but the truth, so help you God?

2429  
2430 Mr. Kirkland - Would you state your name for the record sir. Have all your  
2431 notices been turned in according to the County Code? Okay, state your case.

2432  
2433 Mr. Moore - I do. George Moore. Yes sir. I'm here on behalf of Grace  
2434 Community Baptist Church. I do attend this church. Also here this morning is Tom  
2435 Clark, one of the pastors at Grace Community. We are here to request approval to set  
2436 up a temporary classroom facility at the rear of the existing building. This will be  
2437 composed of 6 trailers that will be attached together, that will provide us with 6  
2438 additional classrooms. The purpose of the trailers is to provide additional space. We've  
2439 experienced growth just like all of the West End has, and many of the other churches.  
2440 We've tried to accommodate this growth with the existing facility that we have. We've  
2441 gone to 2 worship services; presently we're using the Colombian Center, which is  
2442 adjacent to the existing building now, and we're also meeting in some of the members'  
2443 homes, which are in close proximity to the church. Even with that, we are still finding it's  
2444 difficult to have space to accommodate all the classrooms that we need. We've got a  
2445 large population of children, and with the children's Sunday School classes and the  
2446 adult Sunday School classes, we just don't have sufficient space. We've looked at  
2447 various locations around the site to locate the temporary classrooms. We've chosen the  
2448 location that's presented on the map that you have in the package. We've chosen that

2449 because we feel it has a minimal impact on the adjacent properties around the church.  
2450 It also functions well for us because right behind the trailers are the existing classrooms  
2451 and the building, and also there are bathrooms there, so they'll be able to walk directly  
2452 out of that building and into the existing building and have direct access to the  
2453 bathrooms. Also, handicapped accessibility has been an issue. We looked at a couple  
2454 of locations along the property lines, but in order to provide handicap access, there  
2455 would be some significant grading that would need to take place. Also the location that  
2456 we've chosen, we feel like, has minimal impact to adjacent neighbors. It's not visible  
2457 from public street frontage, Pump Road. It does have some impact to the homes in the  
2458 back, which is in the Stevenson Subdivision, and we have agreed and have talked to a  
2459 couple of the homeowners back there, about adding additional landscaping. There is a  
2460 35-foot natural buffer that's there now. The trailers are approximately 85 feet from the  
2461 property line. We're agreeable to adding additional landscaping and also to meeting  
2462 with them, to go over the landscape plan, to make sure that it is acceptable and  
2463 provides the screening that will help screen out the trailers.

2464  
2465 Mr. Wright- That would be one of the requirements, if you've seen the  
2466 proposed conditions, there would be a landscaping plan to be approved by the Planning  
2467 Office.

2468  
2469 Mr. Moore - This is all done in the context of kind of a bigger picture.  
2470 We've begun planning and have been talking about it over the past year, to do a  
2471 permanent addition to the building, which would be on the south side of the building.  
2472 We need the next 2 years to begin planning and trying to figure out exactly the size of  
2473 the addition that we're going to put on the building/ Within the next 2 years, we would  
2474 be filing an amended POD, that would allow for that addition. This is kind of an interim  
2475 measure at this time.

2476  
2477 Mr. Wright- You notice that this permit will expire on March 22 of 2003,  
2478 so you need to have something in place at that time.

2479  
2480 Mr. Moore - We feel that this request is consistent with the zoning  
2481 ordinance as it relates to the temporary conditional use permits, and we feel like it has  
2482 minimal impact to the surrounding neighbors.

2483  
2484 Mr. Kirkland - Any other questions? Sir, are you in opposition? If you  
2485 would sir, we'll let them speak, and then you can rebut any statements that they make.  
2486 Okay, come on down sir. If you would, state your name for the record.

2487  
2488 Mr. Downum - My name's Danny Downum, and I and Arthur Cairns are  
2489 neighbors in the Stevenson Subdivision; actually I'm in Sutton, which is just west of the  
2490 church, directly behind it. I guess I'm here specifically to oppose the placement of the  
2491 structure as to where it's going to be located directly behind our house. We just recently  
2492 added a screened in porch area, and that would be the first visible thing you would see  
2493 when you come into the back area. We feel it would be visually unappealing and would

2494 like to see possibly that it be moved to maybe the south or the north side of the  
2495 property, if at all possible.

2496  
2497 Mr. Balfour- When you say structure, are you referring to the trailers, or  
2498 the permanent building?

2499  
2500 Mr. Downum - Just the trailers.

2501  
2502 Mr. Balfour- And your suggestion is what?

2503  
2504 Mr. Downum - To possibly move it to the south or the west side of the  
2505 property. It seems apparent that the only people who are opposed are the neighbors  
2506 directly behind the church, and basically, all 3 of our homes are directly beside each  
2507 other. As far as affecting other neighbors, it doesn't appear that they would be affected  
2508 if we moved it to the south or the north side of the area.

2509  
2510 Mr. McKinney- How about if they put up a fence behind it to buffer it?

2511  
2512 Mr. Downum - We did have the opportunity to speak to Mr. Moore and Mr.  
2513 Clark a few minutes ago, and they made suggestions on placing landscaping back there  
2514 to possibly buffer it or camouflage it, and that might be acceptable for us to do  
2515 something like that.

2516  
2517 Mr. Wright- That's one of the conditions, if this is approved, that they  
2518 have to have landscaping provided that would be approved by the planning office. We  
2519 had that in mind. There are some trees there now, but you need more screening than  
2520 those trees provided; those trees are kind of high. I don't know if there's anywhere else  
2521 they could put this. If you put it on the north, it would be visible from the street, north or  
2522 south.

2523  
2524 Mr. Downum - If you put it on the north side of the church, there's a big  
2525 mound of dirt there, also with trees in the front and trees in the back of that area of the  
2526 church. I went down Pump Road, and you don't notice it just riding by. If you stop and  
2527 look, you'll see it.

2528  
2529 Mr. Wright- One of the things they need is access to the bathrooms, and  
2530 we can hear from Mr. Moore, but I take it they put it here because that would give the  
2531 children access to bathrooms directly.

2532  
2533 Mr. Downum - Are these temporary structures? Can they have bathrooms  
2534 installed within them?

2535  
2536 Mr. Wright- They could, except that if they have them accessible, it's  
2537 okay if they can get to them.

2538



2539 Mr. Downum - The only other thing that I'd like to add is that it not only  
2540 would be possibly visually unappealing, and I obviously haven't seen it yet, so I can just  
2541 speculate on that, but if we in fact, decide to sell within the 2 years that it's placed out  
2542 there, it may deter any future home owners from buying the property.  
2543  
2544 Mr. Wright- We'll ask Mr. Moore if he has any picture of what they  
2545 propose to put there.  
2546  
2547 Mr. Downum - I'd also like to speak to him about landscaping, because that  
2548 may help out quite a bit.  
2549  
2550 Mr. McKinney- Mr. Blankinship, what does this condition # 2 apply to? Does  
2551 it apply to the trailers?  
2552  
2553 Mr. Blankinship - Yes, this use permit is for the trailers. So we did want to see  
2554 some landscaping. We had not yet gotten to the point of determining what that should  
2555 be.  
2556  
2557 Mr. McKinney- Will they receive a building permit to put these temporary  
2558 trailers in?  
2559  
2560 Mr. Wright- It does appear that there is a hill behind the church. These  
2561 would be lower than that, so with some landscaping, it may screen the whole trailer from  
2562 view.  
2563  
2564 Mr. Downum - That would depend on what type of trailer they put up; if it's  
2565 an A-roof, it would be no higher than one with a flat roof.  
2566  
2567 Mr. Kirkland - Mr. Blankinship, let me ask you one question. These trailers  
2568 would be placed on the hard asphalt, so any landscaping that took place would be up  
2569 on the hill, correct?  
2570  
2571 Mr. Blankinship - Right, up on the hill would be much more effective.  
2572  
2573 Mr. Kirkland - Right, I mean they wouldn't be digging the asphalt up to plant  
2574 shrubs? So it would be away from, it would be a large distance from the trailer to the  
2575 landscaping.  
2576  
2577 Mr. Blankinship - Probably, but again, we'll iron that out when we see a plan.  
2578  
2579 Mr. Kirkland - Mr. Moore, would you like to answer any of those questions?  
2580  
2581 Mr. Moore - Yes sir, I would like to address them. I guess first let me say  
2582 that we are very concerned and want to be sensitive to our neighbors, so while we did  
2583 consider many locations for the trailers, we did feel like this was the best location. We  
2584 are open, though, if there's a huge objection to this, to possibly putting them on the

2585 north side of the building. We felt like, because of the accessibility with the restrooms  
2586 and handicapped issues, and the fact that there is a grade in the back of the building,  
2587 and adding landscaping, that we could minimize this impact of the trailers in their  
2588 present location. We do want to meet with these 2 gentlemen and will meet with them  
2589 to talk about landscaping plans, the type of trailers..... Unfortunately I don't  
2590 have a picture this morning of what the trailers would look like, but we're open to  
2591 discussing possible different colors, if they come in a tan instead of having a white. As  
2592 far as the roof goes, we don't have any particular preference about what type of roof.  
2593 Obviously, a roof that's going to be less objectionable to the neighbors is going to be out  
2594 preference.

2595  
2596 Mr. Kirkland - Any other questions of the Board members? Any other  
2597 questions, anybody in the audience? That concludes the case.

2598  
2599 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
2600 Nunnally, the Board **granted** your application **UP-7-2001** for a temporary conditional  
2601 use permit to locate classroom trailers at 2400 Pump Road (Tax Parcel 66-A-7A). The  
2602 Board granted the use permit subject to the following conditions:

- 2603  
2604 1. Only the improvements shown on the plan filed with the application may be  
2605 constructed pursuant to this approval. No substantial changes or additions to the layout  
2606 may be made without the approval of the Board of Zoning Appeals. Any additional  
2607 improvements shall comply with the applicable regulations of the County Code.  
2608  
2609 2. A detailed landscaping and lighting plan shall be submitted to the Planning Office  
2610 with the building permit for review and approval.  
2611  
2612 3. All landscaping shall be maintained in a healthy condition at all times. Dead  
2613 plant materials shall be removed within a reasonable time and replaced during the  
2614 normal planting season.  
2615  
2616 4. This permit shall expire on March 22, 2003, at which time the trailers shall be  
2617 removed from the site. This permit shall not be renewed.

2618  
2619 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2620 Negative: 0  
2621 Absent: 0

2622  
2623 **UP- 8-2001** **RCTC WHOLESALE CORP D/B/A ALLTEL** requests a temporary  
2624 conditional use permit pursuant to Section 24-116(c)(1) of Chapter  
2625 24 of the County Code to locate a "Cell on Wheels" at 625 East  
2626 Laburnum Avenue (Highland Gardens) (Tax Parcel 106-11-F-14),  
2627 zoned B-1, Business District (Fairfield).  
2628

2629 Mr. Kirkland - Is the applicant here for this? Come forward please.  
2630

2631 Mr. Blankinship - I have the receipts here; she gave them to me during the  
2632 break.

2633  
2634 Mr. Kirkland - Anyone else wish to speak on this case? If you would, raise  
2635 your right hand and be sworn in. State your name please.

2636  
2637 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2638 truth, the whole truth, and nothing but the truth, so help you God?

2639  
2640 Ms. Parker - I do. Good morning. My name is Heidi Parker, and you have  
2641 my receipts. I'm here this morning on behalf of Alltel. I don't know if you recall this; a  
2642 year ago I was here, asking for a nearly identical use permit. What's going on, is we are  
2643 in the process of constructing a tower site near the raceway. We just pulled the building  
2644 permit on Friday; we're just concerned that because of weather, or other unforeseeable  
2645 events, that tower site is not going to be operational in time for the first big race in May.  
2646 This is kind of a belt-and-suspenders type application on behalf of Alltel. They just  
2647 want to get this temporary conditional use permit in case that permanent site is not  
2648 ready. The reason why they're asking for a COW on this Laburnum Avenue site, rather  
2649 than on their permanent site, is because we've been here before, we haven't had any  
2650 complaints from the landowner or his neighbors from our use of his property in the past,  
2651 and we know that the County is familiar with this site and this temporary COW at this  
2652 site. That's about it; the staff report summarized everything quite well. The only thing  
2653 I'm concerned about is the suggested condition # 1, that says the COW shall not remain  
2654 on the site longer than 7 days at any time. When we've used the COW at this site in the  
2655 past, it's been there for 15 days. Normally what they do, is they go in, get it set up,  
2656 provide coverage during the week before the race, then the race, and then for a couple  
2657 of days afterward while everybody's leaving, and so it's a total of 15 days. Our only  
2658 request is that if the Board chooses to issue this permit, they change that condition to  
2659 read 15 days instead of 7.

2660  
2661 Mr. Blankinship - The staff has no problem with that, Mr. Chairman.

2662  
2663 Mr. Kirkland - Okay, thank you. Any questions of the applicant?

2664  
2665 Mr. Wright- Is that area that we have these pictures, showing trees and  
2666 bushes, etc., where it will be located? Where will it be located in relation to the  
2667 screening there?

2668  
2669 Ms. Parker - I'm sorry; I'm afraid I don't have the right file, that shows me  
2670 exactly where the COW will be located.

2671  
2672 Mr. Blankinship - Actually I think we photographed the wrong side of the site;  
2673 you're better off with the sketch than with the photograph.

2674  
2675 Mr. Wright- Do those bushes and trees extend along the entire rear of  
2676 that property?

2677  
2678 Ms. Parker - From what I understand, they do. I know we've never had  
2679 any complaints from neighbors about visibility of this COW. It's so wild in that area,  
2680 before, during and after a race, that nobody even notices what's going on. No, we  
2681 haven't had any problems there. I mean we have utilities there already, and the hook-  
2682 ups are already there, so that's why Alltel prefers this site.

2683  
2684 Mr. Kirkland - So you think you'll be on line for the fall race?

2685  
2686 Ms. Parker - Yes, that's why we only ask for 3 months on this permit. As  
2687 soon as the ground can get dry enough, they're going to start drilling, so they're just  
2688 hoping the weather cooperates. They hope they're ready to cover this race with the  
2689 permanent site, but we're just making sure they can provide coverage for this race.

2690  
2691 Mr. Kirkland - Any other questions by Board members? If not, that  
2692 concludes the case.

2693  
2694 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
2695 Nunnally, the Board **granted** your application **UP-8-2001** for a temporary conditional  
2696 use permit to locate a "Cell on Wheels" at 625 East Laburnum Avenue (Highland  
2697 Gardens) (Tax Parcel 106-11-F-14). The Board granted the use permit subject to the  
2698 following conditions:

2699  
2700 1. The Cell on Wheels shall not remain on the site longer than fifteen days at any  
2701 time.

2702  
2703 2. This permit shall expire on July 15, 2001.

2704  
2705 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2706 Negative: 0  
2707 Absent: 0

2708  
2709 **A - 37-2001** **STEPHEN PADRAIC BAXTER** requests a variance from Section  
2710 24-95(q)(5) of Chapter 24 of the County Code to build an attached  
2711 garage at 11417 Ivy Home Place (Windsor Place West) (Tax  
2712 Parcel 57-17-B-8), zoned R-3C, One-family Residence District  
2713 (Conditional) (Three Chopt). The rear yard setback is not met. The  
2714 applicant has 19 feet rear yard setback, where the Code requires  
2715 35 feet rear yard setback. The applicant requests a variance of 16  
2716 feet rear yard setback.

2717  
2718 Mr. Kirkland - Anyone else wish to speak on this case? If you would, sir,  
2719 raise your right hand and be sworn in. State your name please.

2720  
2721 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2722 truth, the whole truth, and nothing but the truth, so help you God?

2723  
2724 Mr. Baxter - I do. My name is Stephen Padraic Baxter.  
2725  
2726 Mr. Kirkland - Have all your notices been turned in? We have them in the  
2727 file. Okay, state your case.  
2728  
2729 Mr. Baxter - We have a single family home. When my wife and I moved  
2730 in 6 years ago, we never thought we would ever need more space. Unfortunately, the  
2731 first thing that happened when she graduated from the University of Richmond, she got  
2732 a job, and we had to put an office in the home, so we finished the attic. We thought that  
2733 would be the end of it. Now that we have 2 children, and much like a couple of folks in  
2734 front of me, they are starting to grow. Since then, we would like to finish off our current  
2735 garage for more space. Our application is to allow us to build an attached garage on  
2736 the property. It will actually sit right on top of the current driveway, so it won't go into the  
2737 grass area any more. What we are requesting is a variance of the rear yard setback of  
2738 16 feet. I believe the impact to the neighbors will be very minimal. Our side neighbors  
2739 have not had any objections, and our rear neighbor is either 500 feet or 500 yards  
2740 away, across the flood plain. We can't actually see our rear neighbors, so I don't think  
2741 there would be a problem there.  
2742  
2743 Mr. Wright- What's the size of this proposed garage?  
2744  
2745 Mr. Baxter - 32 by 23.  
2746  
2747 Mr. Wright- Is that 32 feet deep?  
2748  
2749 Mr. Baxter - 32 across the front, and 23. Because it will now be a side  
2750 entrance, we actually have to allow a little bit of turn radius around that corner that is  
2751 currently existing. Right now what we have is a paved driveway, and that will still be  
2752 there, and as you can see from this picture, you're in the back now. You'll come down  
2753 the driveway, if you're in the car, you would bear to the right, and you would park  
2754 heading into the deck. We're going to build right on top of that concrete as it is today,  
2755 so there wouldn't be any additional yard lost.  
2756  
2757 Mr. Kirkland - Any other questions? Any other questions by Board  
2758 members? Anyone else wish to speak? That closes the case.  
2759  
2760 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
2761 Balfour, the Board **granted** your application **A-37-2001** for a variance to build an  
2762 attached garage at 11417 Ivy Home Place (Windsor Place West) (Tax Parcel 57-17-B-  
2763 8). The Board granted the variance subject to the following condition:  
2764  
2765 1. Only the improvements shown on the plan filed with the application may be  
2766 constructed pursuant to this approval. Any additional improvements shall comply with  
2767 the applicable regulations of the County Code.  
2768

2769 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
 2770 Negative: 0  
 2771 Absent: 0

2772  
 2773 The Board granted this request, as it found from the evidence presented that, due to the  
 2774 unique circumstances of the subject property, strict application of the County Code  
 2775 would produce undue hardship not generally shared by other properties in the area, and  
 2776 authorizing this variance will neither cause a substantial detriment to adjacent property  
 2777 nor materially impair the purpose of the zoning regulations.

2778  
 2779 Mr. Blankinship - Mr. Chairman, the next 2 cases are companion cases; shall I  
 2780 call them together?

2781  
 2782 Mr. Kirkland - Yes please.

2783  
 2784 **A - 38-2001** **RICHARD AND LAURA POMFREY** request a variance from  
 2785 Section 24-95(b)(6) of Chapter 24 of the County Code to build a  
 2786 single family home at 2417 Irisdale Avenue (Hermitage Park) (Tax  
 2787 Parcel 83-18-13-1 (part)), zoned R-4, One-family Residence District  
 2788 (Brookland). The lot width requirement is not met. The applicant has  
 2789 47.87 feet lot width, where the Code requires 50 feet lot width. The  
 2790 applicant requests a variance of 2.13 feet lot width.

2791  
 2792 **A - 39-2001** **RICHARD AND LAURA POMFREY** request a variance from  
 2793 Section 24-95(c)(1) of Chapter 24 of the County Code to allow an  
 2794 existing home to remain at 2415 Irisdale Avenue (Hermitage Park)  
 2795 (Tax Parcel 83-18-13-1 (part)), zoned R-4, One-family Residence  
 2796 District (Brookland). The minimum side yard setback is not met. The  
 2797 applicant has 6.8 feet total side yard setback, where the Code  
 2798 requires 7 feet total side yard setback. The applicant requests a  
 2799 variance of 0.2 feet total side yard setback.

2800  
 2801 Mr. Kirkland - Anyone else wish to speak on this case? If you would,  
 2802 please raise your right hand and be sworn in.

2803  
 2804 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
 2805 truth, the whole truth, and nothing but the truth, so help you God?

2806  
 2807 Mr. Kirkland - State your name for the record please.

2808  
 2809 Ms. Pomfrey - Laura Pomfrey.

2810  
 2811 Mr. Pomfrey - Richard Pomfrey.

2812  
 2813 Mr. Kirkland - Have all your notices been turned in, according to the County  
 2814 Code.

2815  
2816 Mr. Balfour- We've got them, but this is a situation again where there  
2817 have got to be 2 notices. We have notices to both cases, so proceed with the case.  
2818

2819 Ms. Pomfrey - Back in 1994 my husband and I bought 2 lots on Irisdale  
2820 Avenue, lot 1 and lot 2. Lot 1, which is a lot we bought with the understanding that it  
2821 was a full building lot. We bought it with lot 2, which is where our house is, 2415  
2822 Irisdale. The house is 4 inches too close to the house next to it, not 4 inches too close  
2823 to our lot. It makes it look like it's too close to the actual lot. Lot 1 is lacking 2.13 feet of  
2824 the ordinance, we have to have 35 feet at the 50-foot setback. We are lacking 2 feet on  
2825 the lot to make it a full building lot, which we purchased and we've been paying taxes  
2826 on. The house actually is 4 inches too close to our neighbor on the east side. The  
2827 ordinance is 7 feet, and we have 6.8 feet. The house has been there since 1939. Sixty-  
2828 two years later, we find out about this. The house has been in his family; it has been  
2829 sold from family member to family member or inherited, and this is the first time this has  
2830 come up. That's the actual building lot that's in our deed, and we are assessed on 2  
2831 lots. So we assumed that it is a full building lot. That would be the side with the 4  
2832 inches; we are lacking 4 inches to the line where the house presently sits.  
2833

2834 Mr. Kirkland - So you're just doing this to clear up, clear the title.  
2835

2836 Ms. Pomfrey - Clear the title. It has not come up on anybody's title up until  
2837 us, and it hasn't come up with us. We just want to make sure that if we go to sell our  
2838 home at some point that we have a clear title, and whoever wants to buy it will have a  
2839 clear title.  
2840

2841 Mr. Kirkland - Do you plan on selling the lot next door?  
2842

2843 Ms. Pomfrey - That would be, as in the case earlier, if someone wants it, we  
2844 will give first option to the person who buys the house. Obviously, it is a pretty lot with  
2845 that house. If they didn't want it, then we have been approached by builders many  
2846 times. In that area, it's been very common, since we've been there 7 years, for any lot  
2847 in that area to be bought up and built on. We have 2 right across the street from us,  
2848 that were lots, and now are houses.  
2849

2850 Mr. Kirkland - Any other questions? Anyone else want to speak? If not,  
2851 that concludes the case.  
2852

2853 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
2854 Balfour, the Board **granted** your application **A-38-2001** for a variance to build a single  
2855 family home at 2417 Irisdale Avenue (Hermitage Park) (Tax Parcel 83-18-13-1 (part)).  
2856 The Board granted the variance subject to the following condition:  
2857

2858 1. This approval is for the lot width only. Any additional improvements shall comply  
2859 with the applicable regulations of the County Code.  
2860

2861 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
 2862 Negative: 0  
 2863 Absent: 0

2864  
 2865 The Board granted this request, as it found from the evidence presented that, due to the  
 2866 unique circumstances of the subject property, strict application of the County Code  
 2867 would produce undue hardship not generally shared by other properties in the area, and  
 2868 authorizing this variance will neither cause a substantial detriment to adjacent property  
 2869 nor materially impair the purpose of the zoning regulations.

2870  
 2871 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
 2872 Balfour, the Board **granted** your application **A-39-2001** for a variance to allow an  
 2873 existing home to remain at 2415 Irisdale Avenue (Hermitage Park) (Tax Parcel 83-18-  
 2874 13-1 (part)). The Board granted the variance subject to the following condition:

2875  
 2876 1. This approval is only for the minimum side yard setback of the existing dwelling.  
 2877 Any improvements to the property shall comply with the applicable regulations of the  
 2878 County Code.

2879  
 2880 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
 2881 Negative: 0  
 2882 Absent: 0

2883  
 2884 The Board granted this request, as it found from the evidence presented that, due to the  
 2885 unique circumstances of the subject property, strict application of the County Code  
 2886 would produce undue hardship not generally shared by other properties in the area, and  
 2887 authorizing this variance will neither cause a substantial detriment to adjacent property  
 2888 nor materially impair the purpose of the zoning regulations.

2889  
 2890 **A - 40-2001** **ANGELA HAMLETT** requests a variance from Section 24-95(c)(4)  
 2891 of Chapter 24 of the County Code to build an addition and allow a  
 2892 home to remain at 1 West Beal Street (Highland Springs) (Tax  
 2893 Parcel 148-7-C-1A), zoned R-4, One-family Residence District  
 2894 (Varina). The front yard setback is not met. The applicant has 14  
 2895 feet front yard setback, where the Code requires 35 feet front yard  
 2896 setback. The applicant requests a variance of 21 feet front yard  
 2897 setback.

2898  
 2899 Mr. Kirkland - Anyone else wish to speak on this case? If you would,  
 2900 ma'am, raise your right hand and be sworn in.

2901  
 2902 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
 2903 truth, the whole truth, and nothing but the truth, so help you God?

2904  
 2905 Mr. Kirkland - State your name please. Have all your notices been turned  
 2906 in? Okay, state your case.



2907  
2908 Ms. Hamlett - I do. Angela Hamlett. Yes. We just want to build an addition  
2909 in the corner of our house, and the front yard setback isn't met. Just put up 2 walls  
2910 there on that side. And also I learned that the porch doesn't meet the setback either,  
2911 the existing porch.  
2912  
2913 Mr. Wright- The porch already exists, does it not?  
2914  
2915 Ms. Hamlett - Yes, the porch is there, but just since we applied for the  
2916 variance, I found out that that's in violation.  
2917  
2918 Mr. Wright- Is this another one of those cases where when the porch was  
2919 put on, did it comply?  
2920  
2921 Mr. Blankinship - Yes sir.  
2922  
2923 Mr. Wright- It did? And then they changed the ordinance?  
2924  
2925 Mr. Nunnally- What is that addition, 20 by 12?  
2926  
2927 Ms. Hamlett - Yes sir. We've gained custody of another child since we  
2928 purchased the house, and we really need another bathroom and bedroom.  
2929  
2930 Mr. Kirkland- You're basically squaring the front of the house up?  
2931  
2932 Ms. Hamlett - Yes sir.  
2933  
2934 Mr. Wright- This will not extend any closer to your neighbor on that side  
2935 than your kitchen and your dining area already does?  
2936  
2937 Ms. Hamlett - Right. We don't want to move any further either way or to  
2938 the side, just filling in that hole.  
2939  
2940 Mr. Kirkland - Any other questions? Anyone else wish to speak? That  
2941 concludes the case ma'am.  
2942  
2943 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
2944 Wright, the Board **granted** your application **A-40-2001** for a variance to build an  
2945 addition and allow a home to remain at 1 West Beal Street (Highland Springs) (Tax  
2946 Parcel 148-7-C-1A). The Board granted the variance subject to the following condition:  
2947  
2948 1. The property shall be developed in substantial conformance with the plan filed  
2949 with the application. No substantial changes or additions to the layout may be made  
2950 without the approval of the Board of Zoning Appeals.  
2951  
2952 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2953 Negative: 0  
2954 Absent: 0  
2955

2956 The Board granted this request, as it found from the evidence presented that, due to the  
2957 unique circumstances of the subject property, strict application of the County Code  
2958 would produce undue hardship not generally shared by other properties in the area, and  
2959 authorizing this variance will neither cause a substantial detriment to adjacent property  
2960 nor materially impair the purpose of the zoning regulations.

2961  
2962 **UP- 9-2001**            **W. C. ENGLISH, INC.** requests a temporary conditional use permit  
2963 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code  
2964 to place 5 camping trailers in construction area at 1854 New Market  
2965 Road (Tax Parcel 214-A-79), zoned A-1, Agricultural District  
2966 (Varina).

2967  
2968 Mr. Blankinship -            I have Mr. Higginbotham's receipts right here.

2969  
2970 Mr. Kirkland -            Anyone else wish to speak. Please raise your right hand and  
2971 be sworn in.

2972  
2973 Mr. Blankinship -    Do you swear that the testimony you are about to give is the truth,  
2974 the whole truth, and nothing but the truth, so help you God?

2975  
2976 Mr. Kirkland -            Would you state your name for the record.

2977  
2978 Mr. Higginbotham -    I do. James Higginbotham, with W. C. English, Inc.

2979  
2980 Mr. Kirkland -            We have your notices. State your case.

2981  
2982 Mr. Higginbotham -    We are one of the major subcontractors building the 895  
2983 project; we currently have a field office trailer set up on this site. We have some  
2984 specialty skilled operators who we'd like to bring in from outside and put up in a  
2985 camping-type trailer right on this site here that we're currently using. It would be only for  
2986 working on the construction. As soon as the construction's complete, we would no  
2987 longer have the need to do his. I did make an error when I filled out the application, as  
2988 far as the time. The actual construction is anticipated to be complete in November of  
2989 '02, and I would like just a couple of months after that to be able to clean up the site and  
2990 clean everything out.

2991  
2992 Mr. McKinney-            January 2003?

2993  
2994 Mr. Higginbotham -    Yes sir, that would be fine.

2995  
2996 Mr. Nunnally-            How many trailers are you bringing in here?  
2997

2998 Mr. Higginbotham - We're asking for up to 5; we only anticipate 2 or 3, but I  
2999 wanted to be able to get up to 5 in case. We've got a lot of work to get completed.  
3000

3001 Mr. Nunnally- How many people are you going to have living in these  
3002 trailers? How many employees will you have coming?  
3003

3004 Mr. Higginbotham - Certainly no more than 2. We've got employees all over the  
3005 state in on different projects, and as they finish up, one operator might be finicky, and  
3006 he's only going to stay in a trailer by himself, but we would like to be able to bring in up  
3007 to 5 trailers to utilize for our employees.  
3008

3009 Mr. Nunnally- According the County paper here you have a house on that  
3010 property?  
3011

3012 Mr. Higginbotham - Well that's not correct. There was a house on the property; I  
3013 believe it was torn down during the right-of-way acquisition. We do have a field office  
3014 trailer which is currently there. It's a field office for that side of the river.  
3015

3016 Mr. Nunnally - Which size is that trailer?  
3017

3018 Mr. Higginbotham - That trailer's probably 12 feet wide by 30-35 feet long; it's an  
3019 office trailer with a desk at either end, and a copy machine and plans in the middle.  
3020

3021 Mr. Nunnally- And what size are the ones that you're talking about?  
3022

3023 Mr. Higginbotham - These would be probably a 20-foot trailer that you pull behind  
3024 a pick-up truck, or something of that nature.  
3025

3026 Mr. Nunnally- A pull-behind?  
3027

3028 Mr. Higginbotham - Yes sir.  
3029

3030 Mr. Nunnally- And you say you wouldn't have over 2 employees in any one  
3031 of those trailers?  
3032

3033 Mr. Higginbotham - Yes sir, that's the plan.  
3034

3035 Mr. Nunnally- And you're not sure you're going to need 5, but you want 5?  
3036 How about if we approved it, and we said we'll let you have 2 or 3 – that would give you  
3037 6 employees coming in there.  
3038

3039 Mr. Higginbotham - If that's the Board's pleasure.  
3040

3041 Mr. Nunnally- I'm not saying it's the Board's pleasure; I'm just talking.  
3042

3043 Mr. Higginbotham - I would like to have the flexibility to go up to 5. If we're going  
3044 to put the utilities in for 3, we can just as easily do it for 5.  
3045

3046 Mr. Nunnally- Then say if we put a clause in there that you couldn't have  
3047 over 10 employees?  
3048

3049 Mr. Higginbotham - That would be a total of 10 employees – I could live with that.  
3050

3051 Mr. McKinney- Trailer employees, I mean living in a trailer.  
3052

3053 Mr. Kirkland- You couldn't make any arrangements with any motels or  
3054 anything nearby?  
3055

3056 Mr. Higginbotham - We've got arrangements with several motels, and it's a big  
3057 job, it's a lot of people, and it's a lot of employees, and it's a lot of turnover, but we do  
3058 again, have our field office there, and we would have complete control on the site, and  
3059 the trailers would actually be owned by English. We've got them all over the state in  
3060 different projects; it's just that Henrico County requires us to go through this process  
3061 because of your zoning.  
3062

3063 Mr. Kirkland - What happens if this project runs longer?  
3064

3065 Mr. Higginbotham - 2003, and then that's it. January 2003 would be the end of it.  
3066 The last bit of added work is supposed to be completed in November of 2002. But I  
3067 understand that once this application runs out, that there is no renewal of it.  
3068

3069 Mr. Nunnally- Yes, that's stated in the condition, that it will not be renewed.  
3070 How far is this property located from the high school? Is the school close by there?  
3071

3072 Mr. Higginbotham - Unless there's a high school on Laburnum, I'm not aware of  
3073 one back.....  
3074

3075 Mr. Blankinship - That's where it is. It's on the opposite side of the interstate  
3076 right-of-way, all the construction projects, 1,000-2,000 feet.  
3077

3078 Mr. Kirkland - Any other questions?  
3079

3080 Mr. Nunnally- Has anything like this ever been approved before, Mr.  
3081 Blankinship?  
3082

3083 Mr. Blankinship - Not to my knowledge. We did a review last year, of the past  
3084 10 years of use permits, for an unrelated purpose, and I know that nothing like this has  
3085 been approved in 10 years. Prior to that, I haven't researched all the records, but no  
3086 one on the staff quite knew what to compare it to.  
3087

3088 Mr. Kirkland - When they built a lot of those buildings at Innsbrook, they  
3089 had them up there, and they were illegal, and they had them everywhere. But people  
3090 probably thought they were approved because they were all in nice little neat rows, but  
3091 they weren't approved.

3092  
3093 Mr. Higginbotham - When the project's over, we have no more use for ..... It  
3094 will be for English's benefit to help get the project completed, and just on a temporary  
3095 basis.

3096  
3097 Mr. Kirkland - And you're going to meet all the health department's  
3098 requirements as far as pumping them out?

3099  
3100 Mr. Nunnally- And you probably wouldn't have 5 in there at all times, they  
3101 come and go?

3102  
3103 Mr. Higginbotham - I'm just saying we might have a fine grade motor grader  
3104 operator, who we'd put in this trailer, he would stay there maybe for 3 months to get this  
3105 done, and then we might need another type person to come in. Basically, we plan on  
3106 putting them in there, and leaving them there until we complete the job, but I'm just  
3107 saying one of them might get pulled out and another come in, just because this air  
3108 stream trailer that a real good motor grader operator uses, that's kind of his, and he's a  
3109 skilled operator, but he's very particular about who he stays with and doesn't like  
3110 staying in motels.

3111  
3112 Mr. Kirkland - There are no campgrounds close enough to this project, are  
3113 there? To park 5 trailers on?

3114  
3115 Mr. Higginbotham - No sir.

3116  
3117 Mr. Kirkland - Any other questions?

3118  
3119 Mr. Nunnally - Will these trailers be seen from the.....

3120  
3121 Mr. Higginbotham - No sir.

3122  
3123 Mr. Kirkland - Ma'am, are you going to speak in opposition, or for? If you  
3124 would, come up to the microphone. State your name, so we can have it on the record.

3125  
3126 Ms. Kichta - I'm Theresa Kichta, and this is my area, and there are 2 high  
3127 schools; one is John Rolfe, one is Varina High School. I'm just wondering what it is,  
3128 what is the operation, what are you building?

3129  
3130 Mr. Higginbotham - We're building this proposed 895 connector that will connect  
3131 Chippenham over to 295.

3132

3133 Mr. Kirkland - Any other questions? No other questions, that concludes the  
3134 case.

3135  
3136 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
3137 Wright, the Board **granted** your application **UP-9-2001** for a temporary conditional use  
3138 permit to place 5 camping trailers in construction area at 1854 New Market Road (Tax  
3139 Parcel 214-A-79). The Board granted the use permit subject to the following conditions:

3140  
3141 1. The property shall be developed in substantial conformance with the plan filed  
3142 with the application. No substantial changes or additions to the layout may be made  
3143 without the approval of the Board of Zoning Appeals.

3144  
3145 2. Approval of this request does not imply that a building permit will be issued.  
3146 Building permit approval is contingent on Health Department requirements, including,  
3147 but not limited to, connection to an approved sewage disposal system.

3148  
3149 3. This permit shall expire on January 31, 2003, at which time the trailers shall be  
3150 removed. This permit shall not be renewed.

3151  
3152 4. No more than ten persons may stay on the site at any time.

3153  
3154 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
3155 Negative: 0  
3156 Absent: 0

3157  
3158 Mr. Kirkland - Last case.

3159  
3160 **A - 42-2001** **THERESA KICHTA** requests a variance from Section 24-9 of  
3161 Chapter 24 of the County Code to build a one family home at 7492  
3162 Doran Road (Tax Parcel 227-A-5B), zoned A-1, Agricultural District  
3163 (Varina). The public street frontage requirement is not met. The  
3164 applicant has 0 feet public street frontage, where the Code requires  
3165 50 feet public street frontage. The applicant requests a variance of  
3166 50 feet public street frontage.

3167  
3168 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,  
3169 please raise your right hand and be sworn in.

3170  
3171 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
3172 truth, the whole truth, and nothing but the truth, so help you God?

3173  
3174 Mr. Kirkland - State your name please. Have all your notices been turned  
3175 in? State your case.

3176

3177 Ms. Kichta - Theresa Cutright Kichta. Yes sir. We don't have the 50-foot  
3178 road frontage, and we are requesting a variance for the road frontage. We do have a  
3179 30-foot right-of-way. It is all family property; it was given to me by my grandmother.

3180  
3181 Mr. Wright- How are you going to get to this property?

3182  
3183 Ms. Kichta - The 30-foot easement comes straight back. If you notice up  
3184 there, it'll go all the way through.

3185  
3186 Mr. Blankinship - Following the existing drive that's there now?

3187  
3188 Ms. Kichta - Yes sir.

3189  
3190 Mr. Kirkland - I hope you have electricity back there.

3191  
3192 Ms. Kichta - We do, and we have been approved by Virginia Power; it's  
3193 all going to be underground.

3194  
3195 Mr. Kirkland - Any questions by Board members? If not, that concludes the  
3196 case.

3197  
3198 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
3199 McKinney, the Board **granted** your application **A-42-2001** for a variance to build a one  
3200 family home at 7492 Doran Road (Tax Parcel 227-A-5B). The Board granted the  
3201 variance subject to the following conditions:

3202  
3203 1. This variance applies only to the public street frontage requirement. Any  
3204 additional improvements shall comply with the applicable regulations of the County  
3205 Code.

3206  
3207 2. At the time of building permit application, the applicant shall submit the  
3208 necessary information to the Department of Public Works to ensure compliance with the  
3209 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
3210 water quality standards.

3211  
3212 3. At the time of building permit application the owner shall demonstrate that the  
3213 parcel created by this division has been conveyed to members of the immediate family,  
3214 and the subdivision ordinance has not been circumvented. If this condition cannot be  
3215 met, the owner shall submit a subdivision plat for review and approval by the Planning  
3216 Office.

3217  
3218 4. Approval of this request does not imply that a building permit will be issued.  
3219 Building permit approval is contingent on Health Department requirements, including,  
3220 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval  
3221 of a well location.

3222

3223 5. The applicant shall present proof with the building permit application that a legal  
3224 access to the property has been obtained. The owners of the property, and their heirs or  
3225 assigns, shall accept responsibility for maintaining access to the property until such a  
3226 time as the access is improved to County standards and accepted into the County road  
3227 system for maintenance.

3228  
3229 The Board granted this request, as it found from the evidence presented that, due to the  
3230 unique circumstances of the subject property, strict application of the County Code  
3231 would produce undue hardship not generally shared by other properties in the area, and  
3232 authorizing this variance will neither cause a substantial detriment to adjacent property  
3233 nor materially impair the purpose of the zoning regulations.

3234  
3235 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
3236 Negative: 0  
3237 Absent: 0

3238  
3239  
3240  
3241  
3242 On a motion by Mr. Nunnally, seconded by Mr. Wright, the Board **approved** the  
3243 Minutes of the October 26 and November 16, 2000, Henrico County Board of  
3244 Zoning Appeals meetings, and **approved as corrected**, the Minutes of the  
3245 December 14, 2000, Henrico County Board of Zoning Appeals meeting.

3246  
3247  
3248  
3249  
3250 There being no further business, and on a motion by Mr. Nunnally, seconded by  
3251 Mr. Wright, the Board adjourned until April 26, 2001, at 9:00 am.

3252  
3253  
3254  
3255  
3256 Richard Kirkland,  
3257 Chairman

3258  
3259  
3260 Benjamin Blankinship, AICP  
3261 Secretary

3262