

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 27, 2003,**
4 **AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
5 **DISPATCH ON MARCH 6 AND 13, 2003.**
6

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

Also Present: Benjamin Blankinship, Secretary
Lee J. Tyson, County Planner
James F. Lehmann, County Planner
Priscilla M. Parker, Recording Secretary

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

11
12 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies and
13 gentlemen. The rules for this meeting are as follows. As Secretary, I will call each
14 case. Then at that time, while I'm speaking, the applicant should come to the podium.
15 I will ask everyone who intends to speak on that case, in favor or in opposition, to stand
16 and be sworn in. The applicants will then present their testimony. After the applicant
17 has spoken, the Board will ask them questions, and then anyone else who wishes to
18 speak will be given the opportunity. After everyone has spoken, the applicant, and only
19 the applicant, will be given the opportunity for rebuttal. After hearing the case, and
20 asking questions, the Board will take the matter under advisement. They will render all
21 of their decisions at the end of the meeting. If you wish to know their decision on a
22 specific case, you can either stay until the end of the meeting, or you can call the
23 Planning Office later this afternoon. This meeting is being tape recorded, so we will ask
24 everyone who speaks, to speak directly into the microphone on the podium, and to state
25 your name for the record, and to spell your last name. And finally, out in the foyer, there
26 are two binders, containing the staff report for each case, including the suggested
27 conditions. Mr. Chairman, I don't think we have any calls for deferrals or withdrawals,
28 but we do have one request for a rehearing.

29
30 Mr. Balfour - All right, Mr. Secretary, we'll hear within a short time frame,
31 the motion for a rehearing, if you'll come forward. We do have a regular docket, and in

32 fairness to the people who showed up on time for the docket, we ask that you move this
33 along.

34
35 Mr. Blankinship - Do you swear that the testimony you are about to give is the
36 truth, the whole truth, and nothing but the truth, so help you God?

37
38 Mr. Moore - I do. Mr. Balfour, members of the Board, my name is Glenn
39 Moore; I'm an attorney. I've set forth the reasons for the request for a rehearing in a
40 letter written to Mr. Blankinship, dated March 20. I'm hopeful that you received a copy
41 of that.

42
43 Mr. Balfour - We did, and for the record, would you identify which case
44 you are asking us to rehear.

45
46 Mr. Moore - It is case A-19-2003, from last month's meeting. My
47 understanding is that, in order for you to act favorably on a request for rehearing, there
48 needs to be presented evidence that wasn't reasonably available at the time of the initial
49 hearing that could be presented when the matter is reheard. I further understand that if
50 it is reheard, it would be reheard in another month, not today. The primary bit of
51 evidence that I'd like to present, is the fact that in 1992, a very similar request was
52 approved for, and it happened to be another Buddhist Temple on Hungary Road. That
53 bit of information was not available to Mr. Hulcher when he presented this case last
54 month, and my clients, although some of them were associated with that temple, were
55 not aware that a variance had been obtained to allow that temple to move forward, and
56 were not aware that in conjunction with approval of that variance, some conditions were
57 imposed. Bill Axselle represented the applicant in that case and suggested some
58 conditions to the Board, which were imposed in conjunction with approval of that
59 variance, that I think, takes a situation which may not be desirable, and makes it a
60 desirable situation because of the conditions that are put in place that require a POD,
61 limit uses, and things of that nature. What I have suggested in the letter that you
62 received, are conditions that are very similar, that will accomplish the same thing that
63 was done in 1992. I think if the Board had been aware that in 1992 there was a case
64 approved, primarily because of these conditions, I believe, and similar such conditions
65 could be imposed in conjunction with this particular request, that the Board would
66 perhaps have acted favorably, and I'd like the Board to reconsider this matter to see if
67 that isn't the case.

68
69 Mr. Balfour - So in essence what you're saying, is that among your new
70 evidence would be evidence of the restrictions that your clients are willing to accept,
71 which are considerably more restrictive than were imposed in the original application?

72
73 Mr. Moore - I think virtually no conditions were suggested in the original
74 application, and nobody really thought that they'd be necessary, particularly, but when
75 you go back and look at what was done in the past, and you think about why those
76 conditions might have been helpful, it's very apparent that they might be helpful.

77

78 Mr. Balfour - Do you have any evidence that we didn't hear before that
79 you think we should hear now?
80
81 Mr. Moore - Well, I think the evidence of the existence of that prior case,
82 which was not introduced at the last hearing, and the conditions that were imposed – I
83 think that's a precedent as well.
84
85 Mr. Balfour - Do members of the Board have questions?
86
87 Mr. McKinney - How much property did the temple have on Hungary Road
88 when they bought it in 1992? How much property did they sell off?
89
90 Mr. Moore - I don't know. Again, I don't know the answer.
91
92 Mr. McKinney - Quite a lot, wasn't it?
93
94 Mr. Moore - But this is not the same temple.
95
96 Mr. McKinney - I understand that; I understand that.
97
98 Mr. Wright - I don't understand that, what that case Each case
99 has to stand on its own merits. The situation's different; the location is different.
100
101 Mr. Moore - But the variance and uses requested are very similar.
102
103 Mr. Wright - The use is one thing, but the fact is that they had to get a
104 variance because they didn't have sufficient properties to conduct it on the land that
105 they had purchased.
106
107 Mr. Moore - That's true, but the people
108
109 Mr. Wright - The use wasn't the problem; it's the fact that they didn't have
110 sufficient land on which to conduct a church.
111
112 Mr. Moore - But you can somehow qualify the use or restrict the use in a
113 manner that would allow the lesser amount of land to be an acceptable location for a
114 church. That's what was done in 1992, and was not brought up at the last hearing and
115 which can be done again.
116
117 Mr. Wright - Mr. Blankinship, why do we have the restriction on churches
118 that they have to have that width with that much property?
119
120 Mr. Blankinship - I would think one of the main concerns, not the only one, but
121 the main concerns would be traffic. The wider each lot is, the fewer entrances you have
122 close together. Looking at that Hungary Road case, the properties on both sides of that
123 lot were not developed as intensely as the one that you looked at last month, where you

124 have the school on one side, and the townhouse development on the other, and a very
125 narrow piece of property between them. That was, as Mr. McKinney pointed out, a
126 much larger piece of property with narrow frontage, that widened out as it went back.
127

128 Mr. Wright - Each case stands on its own.
129

130 Mr. McKinney - I was under the impression that when that lot that was sold,
131 was the reason they bought this property, really for the administrative offices. Is that
132 true or not true?
133

134 Mr. Moore - That is not my understanding. This property has been
135 purchased to be used as a temple.
136

137 Mr. McKinney - From the same group on Hungary Road?
138

139 Mr. Moore - Some members of the congregation, if that's the correct
140 term, have broken away from that group. That group, as I understand it, has built a
141 larger temple there. These people actually want a smaller temple situation. In fact, one
142 of the conditions we would suggest would limit the size of any building use at this site.
143 Actually the owner of this property is not the temple itself at this time. It's three
144 individuals who are members of the temple, who would, if this variance is ultimately
145 reheard and approved, convey it to the temple. It's not currently owned by the temple.
146

147 Mr. Balfour - Any questions by the members of the Board? Do I hear a
148 motion that we rehear the matter? There not being a motion or a second, the request to
149 rehear is denied. I call the first cases, and I notice there are three cases that appear to
150 be by the same people, so I would suggest we call the three together, Mr. Secretary.
151

152 **A - 80-2000** **JOHN B. AND MARGARET E. SULLIVAN** request a variance from
153 Section 24-9 of Chapter 24 of the County Code to amend a
154 previous variance at 1550 Kimbrook Lane (Parcel 149-A-82), zoned
155 A-1, Agricultural District (Varina). The public street frontage
156 requirement is not met.
157

158 **A - 81-2000** **JOHN B. AND MARGARET E. SULLIVAN** request a variance from
159 Section 24-9 of Chapter 24 of the County Code to amend a
160 previous variance at 1590 Kimbrook Lane (Parcels 156-A-68, 69B
161 (part) and 81 (part)), zoned A-1, Agricultural District (Varina). The
162 public street frontage requirement is not met.
163

164 **A - 82-2000** **JOHN B. AND MARGARET E. SULLIVAN** request a variance from
165 Section 24-9 of Chapter 24 of the County Code to amend a
166 previous variance at 1600 Kimbrook Lane (Parcel 156-A-69B),
167 zoned A-1, Agricultural District (Varina). The public street frontage
168 requirement is not met.
169

170 Mr. Blankinship - Mr. Chairman, I call your attention to the letter that was
171 passed out with "Kimbroke Lane Residents" along the top.
172

173 Mr. Balfour - Do we have any others who intend to testify in this matter?
174 Would all of you who expect to testify, please stand and raise your right hand and be
175 sworn?
176

177 Mr. Blankinship - Do you swear that the testimony you are about to give is the
178 truth, the whole truth, and nothing but the truth, so help you God?
179

180 Mr. Harris - I do. My name is Bradley T. Harris. I'm here in behalf of Mr.
181 and Mrs. Sullivan. The case was deferred from our last meeting. This is Mr. Sullivan's
182 son, Rex.
183

184 Mr. Sullivan - My name is Rex Sullivan. I'm the son of John and Elizabeth
185 Sullivan. I had to run all the way.
186

187 Mr. Balfour - Are you going to testify sir?
188

189 Mr. Sullivan - If I need to.
190

191 Mr. Balfour - Okay, will you raise your right hand and be sworn.
192

193 Mr. Blankinship - Do you swear that the testimony you are about to give is the
194 truth, the whole truth, and nothing but the truth, so help you God?
195

196 Mr. Sullivan - I do.
197

198 Mr. Harris - In our last meeting, the Sullivans had requested that the
199 variance request that was made in 2000, they proffered 22 feet. At that time there was
200 a misunderstanding; as they went back to look at that, they discovered that their
201 understanding of it was different from that of the County, and they have come back to
202 ask that that be amended. In our last meeting, there was some public concern about
203 the maintenance of the road, and who owns the road. Since our meeting, the Sullivans
204 and the all the property owners on the road have come to an agreement to convey the
205 road to the owners. Everyone on Kimbrook Lane is in agreement to accept that road as
206 their own, and it is my understanding, based on the letter that you have before you, that
207 at this time there is no one in opposition who lives on the road, to this request to amend
208 this 22 feet to eliminate that part of their variance request. Mr. Sullivan has made an
209 attempt, he has spent \$4,000-\$5,000 to bring the road up. I believe, if you will look at
210 your report, the staff concurs that there are no known requirements by the Fire
211 Department or other entities that this 22 feet is a standard, and there has been another
212 variance request made in December, that this 22 feet was not imposed on that variance
213 request. We're not aware of any other private road in the County where this type of
214 request has been demanded.
215

216 Mr. Blankinship - Mr. Chairman, could I ask a question?
217
218 Mr. Balfour - Yes.
219
220 Mr. Blankinship - Mr. Harris, what is the shape of the final agreement? Is the
221 right-of-way of the road going to be conveyed to an association or a corporation, or are
222 you going to draw a new property line down the center of the road and attach the
223 property to each adjoining parcel?
224
225 Mr. Harris - I believe Mr. Sullivan is handing you the contract; it's a
226 transfer of property. All the property on this will extend their current frontage into the
227 road and accept a certain part of that. The right-of-way will be maintained for all
228 residents to get onto the property. That's the understanding, the contract that you have
229 there, between the parties, as well as a list of residents who've signed the document to
230 concur with what we're talking about.
231
232 Mr. Balfour - Any questions by Board members?
233
234 Mr. Nunnally - Mr. Harris, that property, has it been deeded to this
235 organization?
236
237 Mr. Harris - That's in the process, sir. It's in the attorney's hands, and
238 they're in the process of changing the lines right now.
239
240 Mr. Nunnally - So you wouldn't have a problem if we eliminate this clause
241 here, to widen the road, when this property is deeded to these people?
242
243 Mr. Harris - Yes sir.
244
245 Mr. Nunnally - I mean the contract and the deed are two different things; I
246 just wanted to make sure that it's in their names before we eliminate this clause.
247
248 Mr. Harris - They will have it deeded

249
250 Mr. Sullivan - Jim Chisholm, the lawyer for everybody involved, right now
251 is working on doing that. The contract was just signed this morning really early; it took a
252 while to get it all together. As far as I know, once we're out of this hearing, Jim will go
253 ahead and take care of whatever matters are needed. The residents have some say-so
254 in how it's deeded. Each one is going to go ahead and get their own individual parcel,
255 but I'm not certain whether they're going to set up a road maintenance agreement prior
256 to that, or just go ahead and deed it. Whichever way is fine. I just don't know how
257 speedy they'll get it done. I know Jim's working on it.
258
259 Mr. Balfour - Other questions by Board members? I think we have
260 someone else who wanted to speak. In case you have anything further at this point,
261 you'll have a chance to respond if he says something you don't agree with.

262
263 Mr. Leake - My name is Bill Leake. I'm going to back up what the
264 Sullivans have stated. We do have a contract drawn up to convey the road over to us.
265 As far as the 22 feet, Jim Chisholm has suggested that we eliminate the 22-foot
266 condition, but add the condition that he convey the road over to us. That way, once he
267 does convey the road over to us, the attorney can contact you, and they can release
268 that portion of the condition. We are also in the process of drawing up a road
269 maintenance agreement, and there is another piece of property that Mr. Sullivan is in
270 the process of selling to another landowner on Kimbrook Lane, and we're trying to do all
271 this at one time, so it'll be just one thing, and it'll all happen together. It should come
272 together within the next 2-3 weeks.

273
274 Mr. Balfour - Any questions by Board members? Thank you, Mr. Leake.
275 Anything further, Mr. Harris?

276
277 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
278 Wright, the Board **granted** application **A-80-2000**, variance request to amend a
279 previous variance at 1550 Kimbrook Lane (Parcel 149-A-82). The Board granted the
280 request subject to the following conditions:

281
282 1. The property shall be developed in substantial conformance with the plan filed
283 with the application. No changes or additions to the layout may be made without the
284 approval of the Board of Zoning Appeals.

285
286 2. If land disturbance will exceed 2,500 square feet, the requirements of Chapter 10
287 of the County Code apply. At the time of building permit application, the applicant shall
288 submit the necessary information to the Department of Public Works to ensure
289 compliance with the requirements of the Chesapeake Bay Preservation Act and the
290 code requirements for water quality standards.

291
292 3. Approval of this request does not imply that a building permit will be issued.
293 Building permit approval is contingent on Health Department requirements, including,
294 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
295 of a well location.

296
297 4. The owners of the property, and their heirs or assigns, shall accept responsibility
298 for maintaining access to the property until such a time as the access is improved to
299 County standards and accepted into the County road system for maintenance.

300
301 5. Any new well on the property shall be a drilled well, not a bored well.

302
303 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
304 Negative: 0
305 Absent: 0

306
307 The Board granted this amendment based on Mr. Sullivan's agreement to convey

308 Kimbrook Road to the residents whose property it adjoins. This amendment will be
309 effective when that conveyance has been recorded.

310
311 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
312 Wright, the Board **granted** application **A-81-2000**, variance request to amend a
313 previous variance at 1590 Kimbrook Lane (Parcels 156-A-68, 69B (part) and 81 (part)).
314 The Board granted the request subject to the following conditions:

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

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324 code requirements for water quality standards.

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343 effective when that conveyance has been recorded.

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346 Wright, the Board **granted** application **A-82-2000**, variance request to amend a
347 previous variance at 1600 Kimbrook Lane (Parcel 156-A-69B). The Board granted the
348 request subject to the following conditions:

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

353

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355 of the County Code apply. At the time of building permit application, the applicant shall
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357 compliance with the requirements of the Chesapeake Bay Preservation Act and the
358 code requirements for water quality standards.

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363 of a well location.

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367 County standards and accepted into the County road system for maintenance.

368
369 5. Any new well on the property shall be a drilled well, not a bored well.

370
371 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
372 Negative: 0
373 Absent: 0

374
375 The Board granted this amendment based on Mr. Sullivan's agreement to convey
376 Kimbrook Road to the residents whose property it adjoins. This amendment will be
377 effective when that conveyance has been recorded.

378
379 **A - 21-2003 COLONIAL FIRST PROPERTIES, LLC D/B/A GOLD CITY**
380 requests a variance from Section 24-117 of Chapter 24 of the
381 County Code to adult business at 7103 Brook Road (Club Court)
382 (Parcel 784-751-9627), zoned B-3, Business District (Fairfield).
383 The appeal is not met. Colonial First Properties, LLC d/b/a Gold
384 City appeals a decision of the Director of Planning pursuant to
385 Section 24-117 of the County Code concerning four notices of
386 violation at 7103 Brook Road (Club Court) (Parcel 784-751-9627),
387 zoned B-3, Business District (Fairfield).

388
389 Mr. Balfour - Is there anyone else to testify in this matter? Would you
390 three raise your right hands and be sworn please.

391
392 Mr. Blankinship - Do you swear that the testimony you are about to give is the
393 truth, the whole truth, and nothing but the truth, so help you God? Whoever's going to
394 speak first, would you state your name please.

395
396 Ms. White - I do. My name's Dianne White. First off, I'd like to state, our
397 lawyer hasn't shown up, Wayne Dawson.

398
399 Mr. Balfour - Are you asking us to pass it by for a few minutes?

400
401 Ms. White - If you wouldn't mind. He's supposed to be here, and he
402 should be here by now, but he hasn't shown up yet.

403
404 Mr. Balfour - All right, we'll pass it by. You go call him, and we'll take the
405 next case.

406
407 Ms. White - Thank you.

408
409 ***(Resumed at end of 9:00 o'clock docket.)***

410
411 Mr. Dawson - Good morning, gentlemen. Mr. Chairman, I want to
412 apologize for being late.

413
414 Mr. Balfour - I think the other two are still under oath, but you need to be
415 sworn in. No one else to testify?

416
417 Mr. Blankinship - Do you swear that the testimony you are about to give is the
418 truth, the whole truth, and nothing but the truth, so help you God?

419
420 Mr. Dawson - First of all, Mr. Chairman, I apologize for being late this
421 morning. I thought the matter was set for 10:00 o'clock, because the last time we were
422 here, it was specifically set for 10:00 o'clock, and that's what I had in my book. I was
423 not told that the time was any different, so that's why I wasn't here at 9:00 o'clock, and I
424 wanted to apologize to the Board.

425
426 First of all, the last time we were here, I think there was a misconception. After we had
427 the meeting last time, I went by the establishment to see just what they had in terms of
428 how they had the adult videos arranged in the place. I was under the impression from
429 Mr. White's testimony, that there was a separate room that had the adult videos in it,
430 and that was the question about whether or not it constituted a separate business from
431 the overall restaurant and entertainment establishment. What it is, when you go in the
432 back door, actually the front of the establishment, there is an L-shaped hallway. You go
433 down a certain distance, and then there's a counter where an employee, during the day
434 it's Ms. White who's the Manager, Diane White, who collects the admission fee and
435 checks ID and this sort of thing. There's an additional leg to the hallway on the L part,
436 that goes to the entrance to where the restaurant portion is. The videos are on the wall
437 to the left of the hallway. They're on two shelves approximately 10 feet in length. There
438 are currently 285 videos there. Gold City has made an inventory of the items. This is
439 numbers, not dollar value, but they've made an inventory of everything they have, beer,
440 food, wine, clothing, that they sell there on the establishment, T-shirts and things that
441 have the logo, and the inventory on the adult videos, the number comes to 285. The
442 DVD's are on two shelves about ten feet in length, to the left of the hallway. I wanted to
443 clarify that because I thought there was a misconception. At least I had last time that
444 there was a separate room that might be considered a separate business from the
445 restaurant, but it's on the hallway leading down into the restaurant portion of the

446 establishment.

447

448 Mr. White could not be here today; his wife is having severe complications from a
449 pregnancy. She's been under a doctor's care since just before Christmas, and recently,
450 she's been bedridden and he's having to take care of her, so he's in West Virginia and
451 could not be here today, because he's taken her to the hospital several times in the last
452 month, on a moment's notice. Dianna White is the Manager of the place; she's there
453 during the daytime, not at night. He was taking care of things for Donna White, who's
454 the actual President of the corporation, and his not being available in Richmond, has
455 slowed getting some things done that we'd planned to get done.

456

457 I also took a look at the fence that the violation notice said was not there. There is an
458 eight-foot fence on the back of the property. It looks like it's in need of some repair, but
459 that's not the question. I took from the notice that they were being cited because they
460 had no fence at all. There is a fence on the back of the property; it is an eight-foot
461 fence, but it does need to be replaced. My estimates from Dianna White and Mark
462 White are that it will take them another 30 days to get that accomplished. They have
463 contacted ADT about putting in the camera system. They've given an estimate of about
464 \$5,000 as a cost to do this. With Mr. White not being here to take care of some things,
465 they're going to need a little bit of additional time to get the money together to put that
466 out in a lump sum to have that. They would like about 90 days to get the security
467 cameras in place. I think there are security cameras inside the building, but not outside,
468 or are there? They don't have any security cameras at all right now; I think there's one
469 that could be attached.

470

471 Mr. Blankinship - That's what they agreed last month to do.

472

473 Mr. Dawson - We indicated last month that we would have that done in 30
474 days, and we did not anticipate that Mr. White would be taken away from Richmond and
475 not be able to come here and take care of some of these things. This is what has put a
476 handicap on our getting those things done. They do plan to get that. They have gotten
477 an estimate; they've called ADT to get an estimate of what it's going to cost and to get
478 the camera system installed. It's a matter then, of coming up with the money to get it
479 done, and he'd like some additional time to do that.

480

481 Mr. Balfour - Questions by the Board?

482

483 Mr. Blankinship - Let me just clarify that point. If we could go to the first of
484 those photos, Lee. The plan that was shown provided that the sort of fence that you
485 see on the left side there would be extended all the way across, replacing the other
486 fence, and if you would go to the fourth photo, Lee, it also included a dumpster
487 enclosure, which you see was not done. That was the requirement that they agreed last
488 month that they would meet before today's hearing, along with the security camera.

489

490 Mr. Balfour - And you're saying that neither one was done, due to the fact
491 that Mr. White has been ill?

492
493 Mr. Dawson - It's Mrs. White, his wife, she's under a doctor's care and is
494 bedridden now, pending the pregnancy. She's had to go to the hospital several times
495 from complications.
496
497 Mr. Balfour - And they're the only ones who can make decisions about
498 enclosing a dumpster and getting a security system put in?
499
500 Mr. Blankinship - They've known about these requirements for about a year
501 now.
502
503 Mr. Kirkland - What was the date of the requirement for the fence and the
504 dumpster. That was during the process of when they built the building, right?
505
506 Mr. Blankinship - I can't say when we first put that fence requirement on there.
507 That is to say, it's a very old requirement. I don't know when Colonial First Properties
508 was first made aware of that requirement, but the security camera requirement was
509 adopted by the Board a year and a half ago. John, (still under oath) do you know when
510 they were first notified of the fence requirement?
511
512 Mr. Short - I don't know the exact date, but it's been approximately eight
513 months since I went by there and talked to them about the fence and left a plan with Ms.
514 White, showing the fence and the dumpster screening.
515
516 Mr. Kirkland - 2002?
517
518 Mr. Short - Yes sir.
519
520 Mr. Balfour - Any other comments by you two?
521
522 Mr. Dawson - Ms. White, Dianna White, has indicated now that with Mr.
523 White not being there, she's taking over doing and getting those things done that he
524 was going to take care of. She's gotten authorization from his wife, Donna White, who's
525 the President of the corporation, I think the major stockholder of the corporation, to do
526 the things, to get the contractor lined up to do it. It's not as though there's no fence
527 back there. There is, it's just a matter of being not as aesthetically pleasing as the
528 portion of the fence on the left side. I think the purpose of having the fence was to block
529 it off from vision from anybody in the neighborhood on the other side. That's
530 accomplished; it's just a matter of it's not in the format that the County would like to
531 have with the wooden fence, and she has indicated now that in about 30 days it will be.
532
533 Mr. McKinney - What was that fence made out of back there?
534
535 Mr. Kirkland - Is it wood?
536
537 Mr. Balfour - I believe I'm hearing from unofficial third parties that it's a

538 plywood fence, covered in some sort of white material.
539
540 Mr. McKinney - So it's plywood, covered in a type of material?
541
542 Mr. Blankinship - Just painted white.
543
544 Mr. McKinney - In the original POD for this land, this fence or buffer, was it
545 specified what it was to be made out of?
546
547 Mr. Blankinship - That's why they've put up that one section. That section
548 complies with what was shown on the plan.
549
550 Mr. McKinney - In other words, the POD said that it would be a salt-treated,
551 six-foot whatever?
552
553 Mr. Blankinship - It's clearly drawn and delineated on the plan.
554
555 Mr. Kirkland - Mr. Short, do you have the plan?
556
557 Mr. Short - I have a copy of the plan that shows the requirement of the
558 fence.
559
560 Mr. Kirkland - It should have a date on it too.
561
562 Mr. Balfour - Mr. Short has just presented a plan that shows the
563 requirements.
564
565 Mr. McKinney - That's dated when, Mr. Kirkland?
566
567 Mr. Kirkland - This is an old plan.
568
569 Mr. Blankinship - This is from '77. Then the restaurant closed, went out of
570 business; it's gone back and forth through several hands.
571
572 Mr. McKinney - Originally it was the Celebrity Room. Then it burned down,
573 and they built it back.
574
575 Mr. Blankinship - It's dated 1977, and this is what they were given a copy of,
576 eight months ago.
577
578 Mr. McKinney - The requirements were the same, from 1977?
579
580 Mr. Blankinship - Yes.
581
582 Mr. Balfour - Any other questions by Board members?
583

584 Mr. McKinney - You got a copy of this plan eight months ago?
585
586 Ms. White - I didn't.
587
588 Mr. Dawson - I don't know whether, Mr. White's not here, he hasn't talked
589 to me, I haven't seen that myself as his attorney.
590
591 Mr. McKinney - Did you present them with a plan, Mr. Short? Who did you
592 present it to?
593
594 Mr. Short - Yes sir, I did. To Mrs. White, personally, myself.
595
596 Ms. White - To me?
597
598 Mr. Short - Yes, I did.
599
600 Ms. White - I honestly don't remember.
601
602 Mr. McKinney - You've got two Mrs. Whites; here's one, and there's another.
603
604 Mr. Short - Sir, this young lady here, was the one that I handed the plan
605 to.
606
607 Mr. McKinney - Thank you.
608
609 Mr. Dawson - Dianna White has indicated that the man who did the other
610 portion, is prepared to start on getting the additional portion done. It's just that she just
611 recently had the authority from the owners to go ahead and start doing that.
612
613 Mr. McKinney - So it'll be done in the next week?
614
615 Mr. Dawson - Can you start it within the next week?
616
617 Mr. McKinney - Be finished – it doesn't take long to put a fence up.
618
619 Ms. White - Can you give me two?
620
621 Mr. Dawson - Two weeks?
622
623 Ms. White - I just fell into this myself.
624
625 Mr. McKinney - How long have you worked there?
626
627 Ms. White - I've been there since day one, but I don't make the
628 decisions.
629

630 Mr. Blankinship - Are you one of the owners of the corporation?
631
632 Ms. White - Very small. I've got like 4.99, and the other ones got more
633 than me; I don't have any say in it.
634
635 Mr. Balfour - Any more questions by Board members? What about the
636 security system?
637
638 Mr. Dawson - They've talked to ADT; they've got to come up with the
639 money put the cameras in. That's why they've asked for about 90 days, but whatever
640 time period that you'll allow additional, they've got to come up with the money. They
641 have contacted about getting it done, and were quoted a price of \$5,000 to put it in.
642
643 Mr. Balfour - Any other questions of Board members? Thank you.
644
645 Upon a motion by Mr. McKinney, seconded by Mr. Wright, the Board **denied A-21-**
646 **2003**, appeal of a decision of the Director of Planning concerning four notices of
647 violation at 7103 Brook Road. The Board denied the appeal, as it found from the
648 evidence presented that the Director of Planning acted appropriately in enforcing the
649 County Code, and any question about the validity of the County Code is outside the
650 jurisdiction of the Board of Zoning Appeals.
651
652 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
653 Negative: 0
654 Absent: 0
655
656 **A - 20-2003** **RICK MARCUS** requests a variance from Section 24-94 of Chapter
657 24 of the County Code to build an addition at 4909 Fremont Court
658 (Glencrest at Wyndham) (Parcel 738-779-3335), zoned R-4C, One-
659 family Residence District (Conditional) (Three Chopt). The rear
660 yard setback is not met. The applicant proposes 26.7 feet rear yard
661 setback, where the Code requires 35 feet rear yard setback. The
662 applicant requests a variance of 9.3 feet rear yard setback.
663
664 Mr. Balfour - Anyone else expect to testify in this matter? Would you
665 raise your right hand and be sworn please.
666
667 Mr. Blankinship - Do you swear that the testimony you are about to give is the
668 truth, the whole truth, and nothing but the truth, so help you God?
669
670 Mr. Walker - I do. I'm Jim Walker; I'm the contractor involved. We're
671 proposing that a Florida/breakfast room expansion and lower level bedroom be added
672 to this residence.
673
674 Mr. Balfour - Any questions of Board members?
675

676 Mr. Wright - Tell us a little bit about what you want to do, the purpose of
677 it, how it would be configured with respect to the existing house.

678
679 Mr. Walker - Everything to your right of that structure, as you see it, is a
680 bedroom and bathroom on the lower level. Everything to the rear is a Florida room and
681 breakfast/kitchen expansion. One of the comments in your review of this indicated
682 some landscaping to the rear. The deck will come off, and the structure will actually
683 take the place of the deck. It doesn't extend past that. I don't know if there is anything
684 to the rear of these photographs. There are some landscape plantings that have been
685 provided, that will provide a little bit of screening between this home and the one to its
686 rear, and Mr. and Mrs. Marcus are interested in improving that planting if you find that it
687 is necessary.

688
689 Mr. Wright - Looks like you've got an odd-shaped lot there, doesn't it?
690

691 Mr. Walker - It's very restrictive in the rear. My experience in working in
692 Wyndham is that most of those homes are of shoehorn fit on those lots. It's very difficult
693 to do anything outside of the buildable areas.
694

695 Mr. Balfour - Any other questions of Board members? Apparently not,
696 thank you.
697

698 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
699 McKinney, the Board **granted** application **A-20-2003** for a variance to build an addition
700 at 4909 Fremont Court (Glencrest at Wyndham) (Parcel 738-779-3335). The Board
701 granted the variance subject to the following condition:
702

703 1. Only the improvements shown on the plan filed with the application may be
704 constructed pursuant to this approval. No substantial changes or additions to the layout
705 may be made without the approval of the Board of Zoning Appeals. Any additional
706 improvements shall comply with the applicable regulations of the County Code.
707

708 2. The new construction shall match the existing dwelling as nearly as practical.
709

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

713
714 The Board granted this request, as it found from the evidence presented that, due to the
715 unique circumstances of the subject property, strict application of the County Code
716 would produce undue hardship not generally shared by other properties in the area, and
717 authorizing this variance will neither cause a substantial detriment to adjacent property
718 nor materially impair the purpose of the zoning regulations.
719

720 **UP- 2-2003** **WEST END ASSEMBLY OF GOD** requests a temporary
721 conditional use permit pursuant to Section 24-116(c)(1) of Chapter

722 24 of the County Code to place two temporary storage trailers at
723 401 North Parham Road (Parcel 753-736-0655), zoned R-1, One-
724 family Residence District (Tuckahoe).
725

726 Mr. Balfour - Anyone else expect to testify in this matter? Would you
727 raise your right hand and be sworn please.
728

729 Mr. Blankinship - Do you swear that the testimony you are about to give is the
730 truth, the whole truth, and nothing but the truth, so help you God?
731

732 Ms. Johnson - Yes, I do. I'm Cynthia Johnson. We'd like to apply for a
733 conditional use permit in order to put two mobile trailers on the back of our lot. We've
734 done it for the last six years, to use to store yard sale merchandise that we have for a
735 sale on the first Saturday in May. They stay there for about a month and then leave
736 directly after the yard sale. To my knowledge, in the last six years, we've had no
737 complaints from our neighbors. They're not visible from Parham Road, or to our
738 neighbors because of a board fence and the woods behind it.
739

740 Mr. Nunnally - Is this the same operation it's been for the last six years?
741

742 Mr. Balfour - Same location too?
743

744 Ms. Johnson - Yes, yes sir.
745

746 Mr. Balfour - Any questions by Board members? You've read the
747 conditions?
748

749 Ms. Johnson - Yes sir, they're fine.
750

751 Mr. Balfour - All right, there being no questions, thank you.
752

753 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
754 Wright, the Board **granted** application **UP-2-2003** for a temporary conditional use permit
755 to place two temporary storage trailers at 401 North Parham Road (Parcel 753-736-
756 0655). The Board granted the use permit subject to the following conditions:
757

758 1. This approval is only for locating two storage trailers on the property from March
759 28, 2003 through May 7, 2003. The trailers shall be removed prior to May 11, 2003.
760

761 2. All material shall be kept in the trailers. There shall be no storage of any
762 merchandise outside the trailers.
763

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

765 Negative: 0

766 Absent: 0

767

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

770
771 **A - 22-2003** **BARBARA SANDVIG** requests a variance from Section 24-9 of
772 Chapter 24 of the County Code to build a one-family dwelling at
773 12241 Kain Road (Parcel 737-766-1095), zoned A-1, Agricultural
774 District (Three Chopt). The public street frontage requirement is
775 not met. The applicant has 0 feet public street frontage, where the
776 Code requires 50 feet public street frontage. The applicant
777 requests a variance of 50 feet public street frontage.

778
779 Mr. Balfour - Anyone else expect to testify in this matter? Would you
780 raise your right hand and be sworn please.

781
782 Mr. Blankinship - Do you swear that the testimony you are about to give is the
783 truth, the whole truth, and nothing but the truth, so help you God?

784
785 Ms. Sandvig - I do. I'm Barbara Sandvig. I wanted to get a 50-foot road
786 frontage given to me so that I can build a house back on the 5 acres that I own on Kain
787 Road.

788
789 Mr. Balfour - You have access to Kain Road, right?

790
791 Ms. Sandvig - I will, yes sir. I don't now, but if I get a variance, I will be able
792 to get a road access.

793
794 Mr. Wright - Mr. Blankinship, what's this business about the 1999
795 variance this Board granted on the condition that both parcels stay within the family.

796
797 Mr. Blankinship - If you read the paragraph before that, it came up in July.
798 There was an application, which we returned to the applicant because it would have
799 constituted an illegal subdivision. Then substantially the same application was brought
800 back a couple months later, with the major change that it was presented as a family
801 subdivision. You granted that variance, including the standard condition that it be
802 conveyed to a family member. Within a few months, before a building permit was
803 applied for, the frontage was conveyed outside of the family. That's why this parcel has
804 no road frontage, because the road frontage was cut off and sold.

805
806 Mr. Wright - It looks like to me that this violates the conditions that we
807 placed on it in 1999.

808
809 Mr. Blankinship - Of course that variance has expired now, since no action
810 was taken within a year.

811
812 Ms. Sandvig - I have a copy of when I went to get my building permit, and it
813 was before the house was sold. Can you give me the date that the house was sold?

814
815
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859

Mr. Blankinship - I've got May 2000.

Ms. Sandvig - I applied on April 17 for my building permit. I would have applied sooner, but my husband suffers various disabilities; he hasn't been able to work in two years, so I was not able to work on it. The contractor that I hired went out of business, and when I went for my building permit, I was my own contractor. It was at the point that I needed to do it, so I have my records showing that on May 17, I think it is. The other question that I have is, when Kelly went to ask for a division of the property, this property was willed to Donald Martin. He sold it to my daughter. I don't see where the parcel had been divided since 1987, so she thought, from her lawyer, she could have done what she did. All my research shows me that this property's been in one family's name since forever, until we took it over. That's what we don't understand, is why we weren't considered a family subdivision at the beginning. I'm not sure. I tried to find out, and all my research shows me and Donald Martin, and I tried to contact him, and he passed away in Alabama last week. I wanted to get a statement from him. I do have the will, where his parents left him this eight acres. He sold my daughter the house and eight acres. Then she gave me five acres. Since 1987, if I understand the readings, you can divide once since 1987. Am I right, or am I totally lost on this?

Mr. Blankinship - We went through all this 2 ½ years ago. I've got a file on it about three inches thick. You and I met with the Assistant Director, and this has all been thoroughly researched and thoroughly documented, and this is an unlawful subdivision. If the Board would like to go through all that evidence, I'll be happy to meet with you and take the time to do that.

Mr. Wright - What is the effect of this being an unlawful subdivision – that you can't get a building permit?

Mr. Blankinship - Yes sir.

Ms. Sandvig - That's what I wanted to clarify, because I want to make sure that this land – when we bought it, we went to a lawyer, we had no idea of road frontage, in fact my surveyor still tells me that I could have built. Downstairs where you get your records to show who owns the property, they also pulled up records from way back and showed me that it always belonged to the Martins, so I couldn't understand why it was not. I never got a satisfactory answer; let's put it that way. That was then; this is now. What I'd like to know is if I could possibly build a house on my five acres, because five acres in Henrico County, sitting there – it's a hardship to pay taxes on it and not be able to do anything with it. I don't see any way that anybody would be interested in it, other than my family, because it's a lot of wetlands in that area. No developer would want it.

Mr. Wright - I don't have any problem with that. If it's an illegal subdivision, I have a problem with it. That's what I want to clear up too, if you could

860 possibly tell me, because all my records show me, if it stays in the family, and a will
861 overrides and so forth, I can will it to somebody, and that doesn't go for a subdivision.

862
863 Mr. Wright - Would you want to continue this matter so you could look
864 into that?

865
866 Ms. Sandvig - Well if he can tell me right now, he says he knows.

867
868 Mr. Blankinship - We met about 2 years ago, you and I and the Assistant
869 Director of Planning, and we spent at least an hour going through all this paperwork.

870
871 Ms. Sandvig - Sir, I never got a satisfactory answer. When I left there, I
872 was in tears. I was in tears. I had no idea. You told me I asked for too much, and to be
873 happy with what I have.

874
875 Mr. Blankinship - I don't know how to give you any better answer than we
876 gave you at that meeting.

877
878 Ms. Sandvig - What was it please?

879
880 Mr. Blankinship - The files are still in my office, that it's an unlawful
881 subdivision. The property has been divided. The variance was granted, subject to it
882 being a family subdivision. It was not a family subdivision. You violated the terms of
883 the variance. The law was broken. You're welcome to go through all of my files. I still
884 have all of that paperwork still all compiled in my drawer.

885
886 Mr. Balfour - I suspect the answer is to seek a rezoning, is that right?

887
888 Ms. Sandvig - Sir, you make me cry, and I don't understand what you're
889 telling me, because if it always belonged to a Martin, and then a Martin sold it to a Carlo
890 in 1995, and that was not a subdivision then. That was still one piece of property, and
891 he got eight acres of land from his mother. He held onto it until 1995; then he sold it to
892 Kellie Carlo. Kellie Carlo in 1997, 1998, sold part of it and kept part of it and gave it to
893 me. Do you see?

894
895 Mr. Blankinship - That's not what happened, and I've got all the
896 documentation of what did happen.

897
898 Mr. McKinney - Mr. Blankinship, has this been subdivided? How many
899 times?

900
901 Mr. Blankinship - Yes sir. Out of the original '87 parcel, I don't have all the
902 research in front of me. I want to say there were about five parcels that were created,
903 some of which were family divisions and some of which were not. I've got all this from 2
904 ½ to 3 years ago still in my office, and I'd be happy to share it.

905

906 Mr. McKinney - I guess what I'm asking you is, did the original family
907 owners, they subdivided, correct? And then they did part of it and sold part of it off to
908 another family.
909

910 Mr. Blankinship - Right. They created this one parcel and sold it.
911

912 Mr. McKinney - So they "maxxed" out what they can subdivide this property,
913 as far as a family subdivision.
914

915 Mr. Blankinship - And as it says in the report, sir, in July of '99, when this
916 application first came before us, we explained this to the applicant, and we told them
917 that this variance would not help them because they had an unlawful subdivision. They
918 came back three months later with the family application.
919

920 Mr. McKinney - How can Ms. Sandvig get what she wants done? How can
921 we help her?
922

923 Mr. Blankinship - Someone would have to build a public road back into that
924 property, in order to subdivide.
925

926 Mr. McKinney - It's got to be a public road? How many houses are back
927 there? Do you know roughly?
928

929 Mr. Blankinship - I'd say five or six; I don't know off the top of my head.
930

931 Ms. Sandvig - Off what road sir?
932

933 Mr. Blankinship - Off of Kain Road, in that whole area back behind the
934 frontage of Kain Road.
935

936 Ms. Sandvig - The road that I'm going to be on has only two houses, my
937 daughter and my son. I'd be the third house.
938

939 Mr. Blankinship - On this one, right.
940

941 Ms. Sandvig - And that's all we're talking about. There's a family road, you
942 hit my son's house, you go up the road to my daughter's house, and then there's my
943 five acres. The original piece of property that Kellie owned, you couldn't put a road
944 there because there are two houses on that road. Even if she wanted to give me road
945 frontage, she couldn't because there are two houses there. You can't get through.
946

947 Mr. Balfour - Ms. Sandvig, we don't want to be arbitrary and tell you that
948 you can't do something, and it's a shame that you've got a lot back there that apparently
949 you can't build on at the moment. What we would suggest that you do, or what I
950 suggest, if the Board agrees, might cost you a little money. Go hire yourself a lawyer,
951 see if you can untangle this can of worms, find a solution to your problem. We can't

952 take an hour now to go through all of this from Mr. Blankinship and from you, when
953 we've got so many people on the docket. We'd like to help you out, but I don't think we
954 can be your lawyer for you at this point, and we can't untangle that can of worms at this
955 point.

956
957 Ms. Sandvig - No sir, I don't expect you to, but I was here at the last Board
958 hearing, with the Sullivan's case, and another one, and they spent a good 15-20
959 minutes. All I ask is that Mr. Blankinship, he told me he didn't have to explain to me
960 how it was an illegal subdivision.

961
962 Mr. Blankinship - I'd be happy to explain it to you.

963
964 Mr. Balfour - I think he just explained it to you a minute ago. We see your
965 problem. We can't give you a solution at this point.

966
967 Mr. Wright - Evidently you don't agree with him, and he says it is an
968 illegal subdivision, so you've got to do something if you want to prove otherwise to us.

969
970 Ms. Sandvig - That's why I came for the variance. Could you just hear me
971 one second? I'm sorry, I don't mean to be rude, but I really have been, but I want to ask
972 Mr. Blankinship to please put it in writing for me, because he also said that he went to
973 the District Attorney with this, and I have it on a little piece of paper where you wrote
974 that you did, you went to the Commonwealth Attorney, and I'm very nervous about this,
975 because it was a couple of years ago, and when I talk to him, honestly, and I talk to a
976 lawyer – my husband hasn't worked in two years. I don't have the money to hire a
977 lawyer. I've already spent \$300 on this variance. The property is not an illegal
978 subdivision. It was owned by the Martins; it cannot be an illegal subdivision if it went
979 from Martin to Carlo. Subdivision is three parts. There is not a third part on this part of
980 the land. The woman died and left A and B to two sons. I have part A. It was divided
981 between Kellie Carlo and me. While Kellie owned it, I have proof that I asked for my
982 building permit under the last variance; I have a date from the last building permit saying
983 May 17. I've got it right here.

984
985 Mr. Blankinship - I will be happy to provide you, in writing, and I will provide
986 copies to the Board members.

987
988 Mr. Wright - I think we ought to continue it until we get that information.

989
990 Ms. Sandvig - I'd like to have a continuance, rather than me hire a lawyer,
991 because, honestly, I don't have the money. I'm in a situation where I'm not able to work
992

993 Mr. Kirkland - I would recommend that you get a lawyer, because if it
994 comes back again, that there's an illegal subdivision, there's no way out for you, so you
995 need to hire a real professional.

996
997 Ms. Sandvig - I will, once he shows me what it is.

998
999 Mr. Kirkland - Mr. Blankinship did a real thorough job two years ago, but
1000 he'll be willing to go over it again with you.
1001
1002 Ms. Sandvig - I appreciate what he did, but he said to me if I went to the
1003 courthouse and pulled up their records, to show that the family owned this piece of
1004 property, then the County made a mistake. I went, and it was Charlene Rogken, and
1005 she is a Martin, and when I came back and showed him that, he suggested I ask for a
1006 rehearing. Yes, I have all my documents. And then he turns around and writes me a
1007 letter. So I'm having a real difficult time right now. All I'm asking is

1008
1009 Mr. Kirkland - So you would like deferral for 30 days?
1010
1011 Ms. Sandvig - Yes, I would, and then he can show me in writing, because
1012 ...
1013
1014 Mr. Blankinship - A month, not 30 days, to the next meeting.
1015
1016 Mr. Balfour - If you can find any way to get an attorney, you probably
1017 ought to do so.
1018
1019 Ms. Sandvig - I will, once I get his information, I will get an attorney.
1020

1021 Upon a motion by Mr. Wright, seconded by Mr. Kirkland, the Board **deferred** application
1022 **A-22-2003** for a variance to build a one-family dwelling at 12241 Kain Road (Parcel
1023 737-766-1095). The case was deferred from the March 27, 2003, until the April 24,
1024 2003, meeting, at the request of the applicant, to allow time for the applicant to meet
1025 with staff to review the history of the parcel in question.
1026

1027	Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
1028	Negative:		0
1029	Absent:		0

1030
1031 **A - 23-2003** **BEAUFORD AND BEVERLY KEETON** request a variance from
1032 Section 24-9 of Chapter 24 of the County Code to build a one-
1033 family dwelling at 11936 Old Washington Highway (Lakeview)
1034 (Parcel 773-778-8430), zoned A-1, Agricultural District (Brookland).
1035 The public street frontage requirement is not met. The applicants
1036 have 0 feet public road frontage, where the Code requires 50 feet
1037 public road frontage. The applicants request a variance of 50 feet
1038 public road frontage.
1039

1040 Mr. Blankinship - Mr. Chairman, I'm going to pass out copies of a letter from
1041 the Community Maintenance staff to someone representing the owner.
1042
1043 Mr. Balfour - Anyone else expect to testify in this matter? Would you

1044 raise your right hand and be sworn please.

1045

1046 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1047 truth, the whole truth, and nothing but the truth, so help you God?

1048

1049 Mr. Hall - I do. Earnest Hall – I'm a friend of the Keetons. I live in the
1050 community, and I'm a member of their civic and recreation association in Hunton, and
1051 we've adopted this family project to assist them with the subdivision of their property.
1052 They own approximately 4 acres. Incidentally, there is an error in the report. I think it
1053 refers to 2.82 acres, but there's 3.82 acres, almost 4 acres. First, I'd like to begin by
1054 saying that this is a hardship case. Mr. Keeton is approximately 70 years old; he's on
1055 disability. He also has a son who's about 35 years old; he is also on disability. They
1056 live off of Social Security only; that's the only income they have. They have an older
1057 son who is with us today, Jeff Keeton, and he wants to build a home on the property so
1058 that he can come and take care of his family. He would get approximately two acres of
1059 the property, for which we're requesting a variance of that 24 feet that currently exists
1060 for the easement and we're requesting a variance for the 50 feet that's required, so that
1061 we could subdivide the property and build a house. Results from the Planning Staff had
1062 indicated in the report that there was a lot of trash and debris there that had to be
1063 cleaned up, and they have recommended that it be deferred until this has been done.
1064 We are asking that you work with us. The civic association is helping in this project.
1065 You saw the letter that we just got from the county, Mr. Slough, and they have applied
1066 to the County for assistance. Community Maintenance has this project on the way, and
1067 they're going to help with the cleaning up.

1068

1069 Mr. Balfour - Are you asking for a deferral then?

1070

1071 Mr. Hall - No sir, we're not asking for a deferral. We're asking that you
1072 approve it so that we can go ahead and proceed, because the project is under way of
1073 getting the property cleaned up.

1074

1075 Mr. Balfour - On the way, has it actually been started?

1076

1077 Mr. Hall - Well, some of it's been started, just with friends around the
1078 neighborhood and cleaning up, people taking some of the old tractors and equipment off
1079 of the property, but the major clean-up is being organized by Mr. Slough of the
1080 Community Maintenance, and we hope that's going to be completed by June.

1081

1082 Mr. Kirkland - Mr. Blankinship, when were these photos taken of this
1083 property?

1084

1085 Mr. Blankinship - About three weeks ago, I guess.

1086

1087 Mr. Kirkland - Have you been back since?

1088

1089 Mr. Hall - What we would like is approval, so that we can proceed with

1090 soil works, surveying of the property, so that we wouldn't hold this project up. We
1091 certainly wouldn't want to go to the expense of doing those things before the variance is
1092 approved. So that's why we're asking that you approve this at this time.

1093
1094 Mr. Balfour - If we approve it, then you're saying that you have no
1095 problem with the conditions.

1096
1097 Mr. Hall - Yes sir, we would meet all of the conditions, and we would
1098 have it cleaned up before a building permit is obtained.

1099
1100 Mr. Kirkland - And we would have it inspected by the County of Henrico to
1101 make sure it is cleaned up properly.

1102
1103 Mr. Hall - That's fine with us.

1104
1105 Mr. Balfour - If we pass it, it would be with the amendment that it be
1106 cleaned up and inspected by the County prior to your taking any further steps, prior to
1107 applying for a building permit. Any questions of the Board members? Do you have
1108 anything you want to say sir?

1109
1110 Mr. Keeton - No, I'm just here if you wanted to ask me any questions. I'm
1111 the oldest son, Jeff Keeton.

1112
1113 Mr. Balfour - Thought you might be. Any other questions? Thank you.

1114
1115 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1116 Nunnally, the Board **granted** application **A-23-2003** for a variance to build a one-family
1117 dwelling at 11936 Old Washington Highway (Lakeview) (Parcel 773-778-8430). The
1118 Board granted the variance subject to the following conditions:

1119
1120 1. This variance applies only to the public street frontage requirement. All other
1121 applicable regulations of the County Code shall remain in force.

1122
1123 2. At the time of building permit application, the applicant shall submit the
1124 necessary information to the Department of Public Works to ensure compliance with the
1125 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1126 water quality standards.

1127
1128 3. At the time of building permit application, the owner shall demonstrate that the
1129 parcel created by this division has been conveyed to members of the immediate family,
1130 and the subdivision ordinance has not been circumvented.

1131
1132 4. Approval of this request does not imply that a building permit will be issued.
1133 Building permit approval is contingent on Health Department requirements, including,
1134 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1135 of a well location.

1136
1137 5. The applicant shall present proof with the building permit application that a legal
1138 access to the property has been obtained.

1139
1140 6. The owners of the property, and their heirs or assigns, shall accept responsibility
1141 for maintaining access to the property until such a time as the access is improved to
1142 County standards and accepted into the County road system for maintenance.

1143
1144 7. **[Amended]** The property shall be brought into compliance with the County Code
1145 prior to application for a building permit. This shall include removal of all trash and
1146 debris from the property.

1147
1148 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1149 Negative: 0
1150 Absent: 0

1151
1152 The Board granted this request, as it found from the evidence presented that, due to the
1153 unique circumstances of the subject property, strict application of the County Code
1154 would produce undue hardship not generally shared by other properties in the area, and
1155 authorizing this variance will neither cause a substantial detriment to adjacent property
1156 nor materially impair the purpose of the zoning regulations.

1157
1158 **UP- 3-2003 RYAN HOMES** requests a temporary conditional use permit
1159 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code
1160 to place a temporary sales trailer at 6280 Midview Road (Oakland
1161 Chase) (Parcel 807-705-5501), zoned R-3C, One-family Residence
1162 District (Conditional) (Varina).

1163
1164 Mr. Balfour - Anyone else expect to testify in this matter? Would you
1165 raise your right hand and be sworn please.

1166
1167 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1168 truth, the whole truth, and nothing but the truth, so help you God?

1169
1170 Mr. Bjelstrand - I do. I'm Kenneth Bjelstrand. Good morning. I'm here on
1171 behalf of the applicant, Ryan Homes and Tetra Company LLC, to request a temporary
1172 conditional use permit for the sales trailer for Oakland Chase, which is our new
1173 subdivision in Varina. As in my other requests, this would be identical, similar
1174 landscaping, all the right treatments, parking, landscaping, and lighting. It will be a
1175 brand new, forty-foot trailer. It is truly temporary; we will be building a model home in
1176 the subdivision. It's something like 78 homes, so I think we'll be there for a little while,
1177 we'll build a model, so the trailer will be truly temporary as the model gets built. Any
1178 questions?

1179
1180 Mr. Balfour - Have you read the conditions?
1181

1182 Mr. Bjelstrand - Yes sir. I have no problem with any of the conditions, except
1183 there may be some misunderstanding on the portable toilet. All the other trailers we
1184 have right now, currently have a porta-john. It's very well screened; you can't really see
1185 it. Thankfully, for the most part when people come to visit our sales trailers, they're not
1186 really looking, I guess they suppress the need while they're there. We will absolutely
1187 hook the bathroom in the trailer up as soon as we get water from the developer. That's
1188 not a problem, but for the first couple of months we're going to need to have some sort
1189 of facility outdoors.
1190
1191 Mr. Balfour - So you want to limit that restriction, is what you're saying.
1192
1193 Mr. Bjelstrand - Yes, we would be happy to hook it up as soon as the water
1194 gets there.
1195
1196 Mr. Wright - How long is that going to be? Do you have any idea?
1197
1198 Mr. Bjelstrand - With the development process today, who knows? I assume
1199 it would be the same as when we hook up our houses, that you'd have to have tentative
1200 acceptance of the utilities before we could hook in, which means they're going to have
1201 to do the water tests and all that stuff. That's towards the end of a development phase
1202 of the project.
1203
1204 Mr. Kirkland - In your model home, would you have water hooked up to
1205 that, so when you finish your model, about October 1, is that when you think about
1206 having the model home done. Hopefully, it would be there then.
1207
1208 Mr. Bjelstrand - I sure hope so. Once the water and sewer get there, we
1209 automatically hook up if we have tentative acceptance. If we don't, we can't, that's you
1210 guys telling us we can't.
1211
1212 Mr. McKinney - It's got to be removed October 1 of this year.
1213
1214 Mr. Kirkland - That's what I'm saying; if the model home is built by then,
1215 they should have water and sewer by October 1.
1216
1217 Mr. Bjelstrand - That's correct, assuming that the development phase goes
1218 faster than normal.
1219
1220 Mr. McKinney - Who's the developer on this?
1221
1222 Mr. Bjelstrand - His name is Gil Holt with the Tetra Company, LLC. From
1223 what I understand, there really aren't any issues out there, development-wise, so
1224 assuming the contractor, Ward + Stancil, gets rolling, we should be able to hit these
1225 dates, no problem, but you never really know. The point actually could be moot. If the
1226 model is built by the time the water and sewer get there anyway, the trailer will be going.
1227

1228 Mr. Wright - So you're asking us to take out condition # 3?
1229
1230 Mr. Bjelstrand - If you could just word it so that "until such time as water gets
1231 there," we could have the porta-john. I don't want to take away from your desire to have
1232 the working bathroom when it's working, that we use that instead of the porta-john.
1233 We'll gladly haul away the porta-john definitely.
1234
1235 Mr. Balfour - What you're saying is that you don't want us to put a
1236 restriction on there that you've got to have water by a certain day.
1237
1238 Mr. Bjelstrand - Right, because I don't know how long that will be.
1239
1240 Mr. Kirkland - On your trailer on Woodman Road, how long was it before
1241 you got water?
1242
1243 Mr. Bjelstrand - I don't remember. When was I here for that one? We
1244 probably just got tentative around that time, because we just started closing houses in
1245 there last month.
1246
1247 Mr. Kirkland - Mr. Blankinship, it's been about eight months since we did
1248 Woodman?
1249
1250 Mr. Bjelstrand - That's probably about right, because that was before we did
1251 the Magnolia Pointe one.
1252
1253 Mr. Balfour - You want us to say that this trailer should have a sanitary
1254 system approved by the Health Department as soon as possible, something to that
1255 extent?
1256
1257 Mr. Kirkland - And that a portable toilet will be used in the meantime.
1258
1259 Mr. Bjelstrand - Yes, if you want to restrict it, and have language saying that
1260 the portable toilet will be gone when we get water, that's fine.
1261
1262 Mr. Balfour - Any other questions or comments? Thank you.
1263
1264 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1265 Kirkland, the Board **granted** application **UP-3-2003** for a temporary conditional use
1266 permit to place a temporary sales trailer at 6280 Midview Road (Oakland Chase)
1267 (Parcel 807-705-5501). The Board granted the use permit subject to the following
1268 conditions:
1269
1270 1. Only the trailer, landscaping and parking shown on the plan filed with the
1271 application may be constructed pursuant to this approval. No substantial changes or
1272 additions to the layout may be made without the approval of the Board of Zoning

1273 Appeals. Any additional improvements shall comply with the applicable regulations of
1274 the County Code.

1275
1276 2. The landscaping and off-street parking spaces shown on the plan shall be
1277 provided before the trailer is occupied.

1278
1279 3. **[Amended]** The trailer shall be served by a sanitary system approved by the
1280 Health Department. A portable toilet may be located as shown on the plan until water
1281 and sewer service are available, but in no case later than October 1, 2003.

1282
1283 4. The hours of operation for the sales trailer shall be from 11 am to 7 pm.

1284
1285 5. The trailer shall be removed from the site by October 1, 2003, at which time this
1286 permit shall expire.

1287
1288 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1289 Negative: 0
1290 Absent: 0

1291
1292 The Board granted the request because it found the proposed use will be in
1293 substantial accordance with the general purpose and objectives of Chapter 24 of
1294 the County Code.

1295
1296 **UP- 4-2003 WEST BROAD HONDA** requests a temporary conditional use
1297 permit pursuant to Section 24-116(c)(1) of Chapter 24 of the
1298 County Code to place a temporary sales trailer at 7014 West Broad
1299 Street (Parcel 767-747-2250), zoned B-3, Business District
1300 (Brookland).

1301
1302 Mr. Balfour - Anyone else expect to testify in this matter? Would you
1303 raise your right hand and be sworn please.

1304
1305 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1306 truth, the whole truth, and nothing but the truth, so help you God?

1307
1308 Mr. Moody - I do. David Moody. We're expanding the showroom,
1309 renovating in the customer lounge. We need a trailer to operate the sales department.
1310 It's pretty far off Broad Street, really shouldn't have any problem with parking, any
1311 problem with activity on Broad Street, and on here, we shouldn't have any problem with
1312 having it done by the first part of July. We're basically gutting the showroom and the
1313 customer lounge, and we need a place to operate the business for 2-2 1/2 months.

1314
1315 Mr. Balfour - Any questions by Board members?

1316
1317 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1318 Nunnally, the Board **granted** application **UP-4-2003** for a temporary conditional use

1319 permit to place a temporary sales trailer at 7014 West Broad Street (Parcel 767-747-
1320 2250). The Board granted the use permit subject to the following conditions:

- 1321
- 1322 1. Only the improvements shown on the plan filed with the application may be
1323 constructed pursuant to this approval. Any additional improvements shall comply with
1324 the applicable regulations of the County Code.
 - 1325
 - 1326 2. The parking lot, driveways, and loading areas shall be subject to the
1327 requirements of Section 24-98 of Chapter 24 of the County Code.
 - 1328
 - 1329 3. The temporary building shall be removed no later than July 5, 2003.
 - 1330
 - 1331 4. Sufficient, effectively usable parking spaces shall be provided for customers and
1332 employees.
 - 1333

1334 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
1335 Negative:		0
1336 Absent:		0

1337

1338 The Board granted the request because it found the proposed use will be in substantial
1339 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1340

1341 **A - 24-2003** **PHILLIP K. CHRISTOPHER** requests a variance from Section 24-
1342 95(i)(2) of Chapter 24 of the County Code to build an addition at
1343 8304 St. Charles Road (Wildwood) (Parcel 789-756-1242), zoned
1344 R-2A, One-family Residence District (Fairfield). The accessory
1345 structure location requirement is not met. The applicant proposes
1346 to build an addition, which will place an existing accessory structure
1347 in the side yard, where the Code allows accessory structures in the
1348 rear yard. The applicant requests a variance to allow the existing
1349 accessory structure in the side yard.

1350

1351 Mr. Balfour - Anyone else expect to testify in this matter? Would you
1352 raise your right hand and be sworn please.

1353

1354 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1355 truth, the whole truth, and nothing but the truth, so help you God?

1356

1357 Mr. Christopher - I do. I'm Phillip Christopher. Basically, I'm proposing to put
1358 a room addition in back of my house, and I didn't realize when I drew my plans up and
1359 got everything worked out with all my subs and people like that, that I was out of
1360 compliance with the County Code. I've got an existing shed that's been there since I
1361 purchased the house, and my room addition is going to go 4 feet past the actual room
1362 addition, so I think that puts the structure to what the County considers the side of my
1363 yard. I'm asking for a variance so I can be allowed to build the addition.

1364

1365 Mr. Balfour - It's going to go right out there by those trashcans and a little
1366 beyond that, right?
1367
1368 Mr. Christopher - Yes sir, it's going to start at this corner, this end of the
1369 house, and go in that direction, and there's actually, from where my addition stops, to
1370 that shed (I measured it this morning), in excess of 13 feet from the foundation of the
1371 shed that's there to the addition that I propose.
1372
1373 Mr. Kirkland - What is the size of your room addition?
1374
1375 Mr. Christopher - It's 28 by 28. Actually, I didn't mean to mislead you there,
1376 actually the County considers it a little more than that because there's an overhang. So
1377 from foundation to foundation, but it's got a little bit of an overhang on each side, so it
1378 might look a little different now.
1379
1380 Mr. Nunnally - You have 30' by 32' in the report.
1381
1382 Mr. Christopher - Yes sir, I think it is. I just noticed that this morning. But I
1383 thought it was, I was looking at foundation to foundation.
1384
1385 Mr. Balfour - How big is your house, how many square feet?
1386
1387 Mr. Christopher - It's approximately 1300 square-foot rancher. My wife is
1388 getting ready to have a baby any second, and I just basically needed to enlarge my
1389 house to have room for the additional baby and stuff.
1390
1391 Mr. McKinney - It looks like the adjoining house has an addition on it, is that
1392 correct?
1393
1394 Mr. Christopher - Yes sir, that is correct. That was built about five years ago.
1395
1396 Mr. Balfour - But you're putting up an addition that's about a third of the
1397 size of your house, it looks like, maybe more.
1398
1399 Mr. Christopher - Yes sir, it's actually two-story with a barn roof. The upstairs
1400 I'm not going to finish any time soon; I just figured while I was putting the foundation in,
1401 I'd just use the space up there instead of just a regular roof, I'd put a barn roof and give
1402 myself the ability at a later date, if I needed to do anything up there. I'm just going to
1403 use it for storage in the meantime.
1404
1405 Mr. Balfour - But you need the other house in the yard for storage too, I
1406 guess?
1407
1408 Mr. Christopher - It could be that some day I would get rid of that. Right now
1409 it's my work shed. I store stuff in there, that I'm using for the room addition and things
1410 like that, but it's got a cement foundation. It was a slab poured, so it's not an easy thing

1411 to get out of there or remove. So I may or may not change that situation, I'm not sure.
1412
1413 Mr. McKinney - You say it's going to be a two-story, Mr. Christopher?
1414
1415 Mr. Christopher - Well, the way it's written up, it's got a barn roof; it's really
1416 one story, and the second story is in a barn roof situation. One of my neighbors has the
1417 same type of addition, about two blocks away from me, and you can't see it from the
1418 street, so I thought that instead of just having a roof and wasting the space, I'd give
1419 myself the ability of using that in the future. I've got a drawing of it if you'd like to see it.
1420
1421 Mr. McKinney - We don't have any copies of any elevations. What's it going
1422 to be built out of?
1423
1424 Mr. Christopher - I've got some elevations here if you would like to see them. I
1425 don't think the County had any problem with that.
1426
1427 Mr. McKinney - Is it going to be brick like your existing house?
1428
1429 Mr. Christopher - No sir. On the front end of my house, I've also got a little
1430 area that juts out that's got vinyl siding on it. It is a brick rancher, but it's got one little
1431 section of vinyl siding, and the addition would be vinyl siding until the end of the first
1432 floor, and then the second floor is basically shingled, because it's a barn roof type
1433 configuration.
1434
1435 Mr. McKinney - I'd like to see your elevation of it.
1436
1437 Mr. Kirkland - Will the second floor extend above the existing house? Will
1438 the new roof be higher than the existing?
1439
1440 Mr. Christopher - It could, but I don't think it's going to be much. I haven't
1441 exactly figured how much.
1442
1443 Mr. McKinney - Does your elevation show that? Mr. Blankinship, can we get
1444 that on the screen?
1445
1446 Mr. Balfour - Mr. Blankinship, I gather that otherwise he meets his
1447 setbacks and side restrictions okay?
1448
1449 Mr. Blankinship - Yes. ***(Assembles documents for overhead viewing)***
1450
1451 Mr. McKinney - Is that the side elevation?
1452
1453 Mr. Christopher - Yes sir, that's correct.
1454
1455 Mr. Kirkland - This would be a rear elevation?
1456

1457 Mr. Christopher - Yes sir, that's correct?
1458
1459 Mr. Kirkland - So this roof is higher than the existing house?
1460
1461 Mr. Christopher - I haven't exactly perfectly figured that, but it could be that it's
1462 going to be just a little higher than the front of the house.
1463
1464 Mr. Blankinship - About three feet maybe?
1465
1466 Mr. Christopher - Something in that neighborhood. If it was higher, it would be
1467 in the neighborhood of a couple, three feet.
1468
1469 Mr. Balfour - Let me see the side elevation again.
1470
1471 Mr. McKinney - What's this to be used for, Mr. Christopher?
1472
1473 Mr. Christopher - Downstairs I'm going to have a family room and a dining
1474 room, because I don't really have a dining room on the house I've got now. The
1475 upstairs is going to be unfinished, possibly for future bedrooms. I do have a daughter
1476 now, and I'm getting ready to have a son soon.
1477
1478 Mr. Balfour - Any other questions from Board members. All right sir, we're
1479 going to hear from these other people, and you'll have a chance to respond if you like.
1480
1481 Mr. Johnson - Good morning. My name is Lawrence Johnson. I live at
1482 8305 St. Charles Road. I live in front of Mr. Christopher. I'm happy to know he's having
1483 a new addition to his family, and I want him to have a new addition to his house, but I
1484 want to know how it affects the integrity of the neighborhood. One of the questions I
1485 heard while he was up here testifying, was what it was going to be built out of. All of our
1486 little houses are brick houses. I heard him say he was going to put some shingles on
1487 the side. I want my investment to go up, and I want to try to keep the neighborhood in
1488 order. I called and spoke to Mr. Blankinship earlier about what was going on, when I
1489 first got his notice, and I thought at that time that it was coming from the other side of his
1490 house. The side of his house that it's coming from, the distance, the width, I have no
1491 problem with that. If it's going to be higher, three feet higher, that's going to knock out
1492 my satellite, because it goes that way right now, over top of his house. There's trees
1493 and a house on the other side of him that are going to change the elevation on that, so
1494 right now I can see things are changing with this structure being higher than the original
1495 frames of the houses. I don't know; I need some guidance. I need some direction,
1496 because I'm not a builder.
1497
1498 Mr. Balfour - 8305 is your house? And you've got an addition – is your
1499 addition brick, same height as the front?
1500
1501 Mr. Johnson - Yes it is.
1502

1503 Mr. Balfour - And that's true of your neighbors too?
1504
1505 Mr. Johnson - My next-door neighbor doesn't have an addition.
1506
1507 Mr. Balfour - I'm talking about people you say who do, all brick?
1508
1509 Mr. McKinney - Mr. Johnson, if you come down your street, cross Diane,
1510 right on the corner, there's a frame house there.
1511
1512 Mr. Johnson - That house has been there since before, they built those
1513 houses in 1957.
1514
1515 Mr. McKinney - Sir, this house was built in 2000.
1516
1517 Mr. Johnson - Around the corner, the little yellow house.
1518
1519 Mr. McKinney - Right, right on the corner of Diane and St. Charles. Are you
1520 familiar with that?
1521
1522 Mr. Johnson - Okay, yes.
1523
1524 Mr. McKinney - It's a little Cape Cod, and it was built in 2001, and that's all
1525 frame. I think if you go down a little, the older two-story house is frame.
1526
1527 Mr. Johnson - That house was built in the '30's, but when it came into
1528 1957, the other houses, they kind of built them uniform.
1529
1530 Mr. Balfour - Your concern is, you say, you'd like for them to be uniform
1531 and not decrease the value.
1532
1533 Mr. Johnson - No, I'm not laying out any guidelines as to how it should be.
1534 I just want to know, how does it affect the integrity of the houses already there.
1535
1536 Mr. Balfour - Have you checked to see if the appraisals of any of the
1537 homes that have had additions, have they gone up or down?
1538
1539 Mr. Johnson - No I haven't, because until today I didn't know what was
1540 going on. I spoke to Mr. Christopher on Sunday, and he told me that he was going to
1541 build an addition to his house, and that he was having a new baby. Until then we didn't
1542 talk about what kind of materials were going to be used. I found out today that it was
1543 going to be a lower floor and an upper floor; I found that out sitting over there in that
1544 chair. I didn't have any particulars on it, so I couldn't form an opinion.
1545
1546 Mr. McKinney - More than likely, it will make your values go up.
1547
1548 Mr. Balfour - I know you hope so.

1549
1550 Mr. Johnson - I do, I really do.
1551
1552 Mr. McKinney - They've been going up enough lately over there.
1553
1554 Mr. Balfour - Ms. Johnson, do you want to say anything?
1555
1556 Ms. Hunt - Good morning, my name is Ruth Hunt, and I live at 8306 St.
1557 Charles Road, beside Mr. Christopher. I would like to congratulate Mr. Christopher
1558 also, on his new planning. The house that you saw in the picture is my house, and I
1559 have done an addition. I would be kind of sorry that my view from my deck to Diane
1560 Lane is going to be blocked, but I guess I could live with that. I do kind of question the
1561 second story, as the other additions in the area do not have second stories. My
1562 addition, you cannot see it from the back, so I chose to not do it in brick, and it is just a
1563 frame addition.
1564
1565 Mr. Balfour - Your addition is the same one story, the same height as the
1566 roof of your house.
1567
1568 Mr. Kirkland - Do you have approximately the square footage of your
1569 addition?
1570
1571 Ms. Hunt - It's probably 12 by 26; it's a family room and bathroom
1572 extension.
1573
1574 Mr. Balfour - The real question for us, one of them, is the fact that it's
1575 going to be putting his house that's already there that we see, out of compliance. Does
1576 that bother you that it's close to that shed that he's got sitting out there?
1577
1578 Ms. Hunt - Now that I've seen the picture and I understand what it is,
1579 no, that does not really bother me. I can see where the variance is. I was concerned
1580 about it, and also, may I add at this point, his other neighbor, Daphne Johnson, at 8302
1581 St. Charles Road, was concerned, and she wrote a notarized letter expressing her
1582 concern, if I may share that with the Board.
1583
1584 Mr. Balfour - What's her concern?
1585
1586 Ms. Hunt - I think she was not aware of exactly what the variance was,
1587 and I think she thought that the variance was actually in the side yard adjacent to her
1588 property.
1589
1590 Mr. Blankinship - It sounds like she didn't want it coming any closer to her
1591 house. It's on the same side, but it's just going straight back.
1592
1593 Mr. Wright - Mr. Blankinship, but for the fact of that little shed right there,
1594 he could build this, could he not?

1595
1596 Mr. Blankinship - Yes sir.
1597
1598 Mr. Wright - So there's nothing this Board could do. He wouldn't have
1599 had to come for any information but for the shed. He could have built just what he's
1600 asking to build, I take it.
1601
1602 Mr. McKinney - The concern really is the accessory shed.
1603
1604 Mr. Balfour - Any questions by Board members of Ms. Hunt? Any
1605 comments?
1606
1607 Mr. Christopher - Yes sir, if you don't mind. If you look at Diane Lane, and go
1608 up to 905, where Bowers and Diane Lane intersect, you'll notice that that structure does
1609 not, it kind of looks like an addition or something has been put on the back. That is the
1610 same addition, basically, that I'm proposing. It's a two-story, barn roof on the second
1611 floor, and basically that's where I got the idea from. It's a block from my house.
1612
1613 Mr. Balfour - Does the rear roof exceed the

1614
1615 Mr. Christopher - No, he put his on a slab. I tend to like foundations more than
1616 I do slabs, and that's the only reason I'm bringing mine up. I'm in the building business,
1617 and I like a foundation.
1618
1619 Mr. Balfour - How high are the ceilings of this addition, both floors?
1620
1621 Mr. Christopher - Of mine?
1622
1623 Mr. Balfour - Of the one you would like to put up.
1624
1625 Mr. Christopher - Eight feet – I'm not doing anything fancy. It's just a basic
1626 thing. Also, one of my neighbors was worried about the integrity of the neighborhood.
1627 Directly across the street from me is a house also, that was built, I guess in the last ten
1628 or twelve years, that is not brick, and it's his next-door neighbor. It's totally a hardboard
1629 siding house.
1630
1631 Mr. Balfour - I think that his concern, if I may paraphrase what Mr.
1632 Johnson was concerned about, I think he'd probably agree that perhaps his value may
1633 go up with your addition, as taxes go up, but I think that he was equally concerned
1634 about the height of your addition. Maybe some of the other neighbors are too, when
1635 they realize that the height is going to exceed by about three feet, the current height of
1636 your house. You're going to knock off his satellite direction for one thing.
1637
1638 Mr. Christopher - Yes sir, I wasn't aware, once again, as one of your Board
1639 members had pointed out, that that was what was in question today, but I thought that
1640 the County was okay with that. I didn't even know I was going to be addressing that

1641 today. I wasn't trying to hide this from anybody or anything. They told me that the only
1642 reason I was out of compliance, it had nothing to do with that. It had to do with the shed
1643 that was back there.

1644
1645 Mr. Balfour - Well you're correct in that regard. You meet all the other
1646 requirements apparently. Any other questions? Thank you.

1647
1648 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1649 Wright, the Board **granted** application **A-24-2003** for a variance to build an addition at
1650 8304 St. Charles Road (Wildwood) (Parcel 789-756-1242). The Board granted the
1651 variance subject to the following conditions:

1652
1653 1. Only the improvements shown on the plan filed with the application may be
1654 constructed pursuant to this approval. No substantial changes or additions to the layout
1655 may be made without the approval of the Board of Zoning Appeals. Any additional
1656 improvements shall comply with the applicable regulations of the County Code.

1657
1658 2. The new construction shall match the existing dwelling as nearly as practical.

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

1663
1664 The Board granted this request, as it found from the evidence presented that, due to the
1665 unique circumstances of the subject property, strict application of the County Code
1666 would produce undue hardship not generally shared by other properties in the area, and
1667 authorizing this variance will neither cause a substantial detriment to adjacent property
1668 nor materially impair the purpose of the zoning regulations.

1669
1670 **A - 25-2003** **KELLY AND DOUG POWELL** request a variance from Section 24-
1671 94 of Chapter 24 of the County Code to build an addition at 2515
1672 Cedar Cone Drive (Cedar Chase) (Parcel 746-755-1860), zoned R-
1673 3, One-family Residence District (Three Chopt). The rear yard
1674 setback is not met. The applicants propose rear yard setbacks of
1675 25 feet for the dwelling and 21 feet for the deck, where the Code
1676 requires rear yard setbacks of 40 feet for the dwelling and 30 feet
1677 for the deck. The applicants request a variance of 15 feet for the
1678 dwelling and 9 feet for the deck.

1679
1680 Mr. Balfour - Anyone else expect to testify in this matter? Would you
1681 raise your right hand and be sworn please.

1682
1683 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1684 truth, the whole truth, and nothing but the truth, so help you God?

1685
1686 Ms. Powell - I do. Kelly Powell. We would like to add an addition to our

1687 house. My husband and I have been there for 14 years, and since then we have added
1688 three children and a golden retriever, and everybody's getting really big. We'd like to
1689 expand our kitchen and add an extra bedroom and bathroom. I guess our hardship is
1690 that our lot is close to the end of a cul-de-sac and slopes in really far at one side. We're
1691 75 feet deeper on one side than we are on the other. We couldn't add on to the other
1692 side where we would not require a variance because we would lose our windows in our
1693 kitchen and in our other bedrooms. Basically, by the time you get to the opposite end of
1694 our proposed addition, we're almost back at the required setback. We're back at 37
1695 feet, so where we really require the setback, I guess, is we're already at our 40-foot
1696 setback at the corner of our garage, and we'd like to put the addition behind our garage.
1697 We've got a large privacy fence that separates our property from our neighbor in the
1698 back, and we're very private back there. We've talked to all of our neighbors and
1699 explained what we want to do, and they're all in favor of it, and nobody would see it,
1700 none of our adjoining neighbors.

1701
1702 Mr. Wright - It seems to be heavily wooded also.

1703
1704 Ms. Powell - Very wooded.

1705
1706 Mr. Wright - Is that a house right on the rear property line, just behind?

1707
1708 Ms. Powell - No, it's actually a shed. There are a bunch of outbuildings.
1709 It's a one-acre parcel of land; it's an older home, and that's an outbuilding that they
1710 store tractors and things like that in, and there are several outbuildings on that property,
1711 and that's what's behind us.

1712
1713 Mr. Balfour - Looks like a lot of things like that are stuck back there.

1714
1715 Ms. Powell - Yes, there are a lot of things like that stuck back there.

1716
1717 Mr. Balfour - Any other questions by Board members? Thank you.

1718
1719 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1720 McKinney, the Board **granted** application **A-25-2003** for a variance to build an addition
1721 at 2515 Cedar Cone Drive (Cedar Chase) (Parcel 746-755-1860). The Board granted
1722 the variance subject to the following conditions:

1723
1724 1. Only the improvements shown on the plan filed with the application may be
1725 constructed pursuant to this approval. No substantial changes or additions to the layout
1726 may be made without the approval of the Board of Zoning Appeals. Any additional
1727 improvements shall comply with the applicable regulations of the County Code.

1728
1729 2. The new construction shall match the existing dwelling as nearly as
1730 practical.

1731
1732 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1733 Negative: 0
1734 Absent: 0

1735
1736 The Board granted this request, as it found from the evidence presented that, due to the
1737 unique circumstances of the subject property, strict application of the County Code
1738 would produce undue hardship not generally shared by other properties in the area, and
1739 authorizing this variance will neither cause a substantial detriment to adjacent property
1740 nor materially impair the purpose of the zoning regulations.

1741
1742 **A - 26-2003** **C. BRENT GIBSON** requests a variance from Section 24-43(a) of
1743 Chapter 24 of the County Code to build a screened porch at 3607
1744 Jewel Park Lane (Northbrooke) (Parcel 730-758-0506), zoned
1745 RTH, Residential Townhouse District (Three Chopt). The rear yard
1746 setback is not met. The applicant proposes 30.3 feet rear yard
1747 setback, where the Code requires 40 feet rear yard setback. The
1748 applicant requests a variance of 9.7 feet rear yard

1749
1750 Mr. Balfour - Anyone else expect to testify in this matter? Would you
1751 raise your right hand and be sworn please.

1752
1753 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1754 truth, the whole truth, and nothing but the truth, so help you God?

1755
1756 Mr. Hardy - I do. My name is Michael Hardy, and I'm representing the
1757 Gibsons; I'm the contractor. We propose to build a screened porch on the right side of
1758 the existing home, and we don't meet that setback. As you'll notice in the diagram here,
1759 the property is kind of a weird shape, and the Gibsons are actually a referral from the
1760 Oehlers, who are their rear neighbors, directly behind them at 3607 Gaylin Ridge. I
1761 brought a picture of the screened porch we did for those people, because one of the
1762 requirements, if you do grant this variance, is that it look as close to the property as
1763 possible. I brought some pictures of some work that we have done.

1764
1765 As you can see from the earlier picture, if you'll open the packet to the picture that
1766 shows the rear of the property, they already have a deck that's on the backside. If we
1767 were to put the screened porch in that area, architecturally speaking, it's going to make
1768 the house off center, because of the bay window outcropping and an extension to the
1769 family room, so placing the screened porch on the right side of the property and cutting
1770 a French door into those double windows, will actually center the property. With the
1771 trees, no neighbors are really going to be able to see that area anyway.

1772
1773 Mr. Balfour - Any questions by Board members? I see what you mean
1774 about the trees. In other words, it would be on the opposite end, away from the closest
1775 house.

1776
1777 Mr. Hardy - Yes sir. So the only neighbor who might even be able to see
1778 it is the one you see directly through on that side. The structure will be painted, and it

1779 will look just as the house does now. There won't be any difference matching the vinyl
1780 siding. All the wood structure will be painted, and everything will be finished off.

1781
1782 Mr. Balfour - Any questions by Board members? Thank you. Do you
1783 (**Gibsons**) have anything to add that he hasn't said?

1784
1785 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1786 McKinney, the Board **granted** application **A-26-2003** for a variance to build a screened
1787 porch at 3607 Jewel Park Lane (Northbrooke) (Parcel 730-758-0506). The Board
1788 granted the variance subject to the following conditions:

1789
1790 1. Only the improvements shown on the plan filed with the application may be
1791 constructed pursuant to this approval. No substantial changes or additions to the layout
1792 may be made without the approval of the Board of Zoning Appeals. Any additional
1793 improvements shall comply with the applicable regulations of the County Code.

1794
1795 2. The new construction shall match the existing dwelling as nearly as practical.

1796
1797 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1798 Negative: 0
1799 Absent: 0

1800
1801 The Board granted this request, as it found from the evidence presented that, due to the
1802 unique circumstances of the subject property, strict application of the County Code
1803 would produce undue hardship not generally shared by other properties in the area, and
1804 authorizing this variance will neither cause a substantial detriment to adjacent property
1805 nor materially impair the purpose of the zoning regulations.

1806
1807 **A - 27-2003 HENRY A. SHIELD** requests a variance from Section 24-94 of
1808 Chapter 24 of the County Code to build a one-family dwelling at
1809 9504 Gaslight Court (Gaslight) (Parcel 745-739-0596), zoned R-2C,
1810 One-family Residence District (Conditional) (Tuckahoe). The lot
1811 width requirement is not met. The applicant has 78 feet lot width,
1812 where the Code requires 100 feet lot width. The applicant requests
1813 a variance of 22 feet lot width.

1814
1815 Mr. Balfour - Anyone else to talk in this matter? Would you raise your
1816 right hand and be sworn please.

1817
1818 Mr. Wright - Mr. Chairman, I disqualify myself on this case.

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

1822
1823 Mr. Shield - I do. My name's Andy Shield. I own this lot, and it is in the
1824 Gaslight Subdivision. I have a petition to give Mr. Blankinship. In all seven of the

1825 closest lots to this, I've met with the homeowners, and they all have no objection to this
1826 variance request.

1827
1828 Mr. Balfour - Any battlefield property there?

1829
1830 Mr. Shield - What this is, is a situation where this pie-shaped lot restricts
1831 the setbacks with regard to buildable area, and all I'm asking is to move it to a front line
1832 which is normally 45 feet in this R-2 zoning situation. The 100-foot line would be further
1833 back under the constriction of the pie-shaped area of the lot itself, and this is a situation
1834 where, if we built back there, this house would be set back behind the other houses in
1835 the cul-de-sac. It would look sort of out of place. Obviously, it does restrict the amount
1836 of size of the house that can be built there, quite frankly, because of the constriction of
1837 that small of a buildable area. I think in keeping with the situation, it would be more
1838 attractive and increase property values by having a house that's compatible to that. If
1839 you look at our request, we would be over 45 feet from the front line and have it in
1840 context with the other houses in the subdivision. So you understand this is not
1841 something I'm just asking, I just recently filed a building permit for lot 29 in the same
1842 subdivision, where we had a pie-shaped lot, and we are going back to the 100-foot line.
1843 Actually, that house would be 131 feet from the street. So this lot really isn't buildable
1844 with the way it is. Another lot in the subdivision, which I have, lot 29, as I suggested, we
1845 did conform with the 100-foot setback at a very deep place, because that lot afforded us
1846 the opportunity to do that. This is somewhat the last lot in here that has this type of
1847 configuration. It's the only lot for which we've asked for this type of variance in this
1848 subdivision, on this case. It would keep the continuity of the houses as set forth in the
1849 presentation of the houses to the street front.

1850
1851 Mr. Balfour - You don't have the same problem with 9500, I guess,
1852 because you worked out your 50 feet each way, or 100 feet.

1853
1854 Mr. Shield - There's no problem there, no sir. The side yards and rear
1855 yard would be the same per the requirements. All I'm asking you for, is really the width
1856 situation, to come up to a standard 45-foot front line, as opposed to the 100-foot line
1857 that would be built upon. You see this diagram right here; it's a perfect example. The
1858 100-foot line is back at 67 feet, and the normal 45-foot line would enable us to build a
1859 house as planned.

1860
1861 Mr. Balfour - Any questions of Board members?

1862
1863 Mr. Nunnally - I'm looking at your list of "no objections," and it looks like lots
1864 1 and 3 are included as not objecting, is that right.

1865
1866 Mr. Shield - One, three, four, five, six and thirty-eight and thirty-seven,
1867 which are on Gaslight Drive, all seven of those landowners have been shown this, and
1868 they've all accepted it. They have no objections to it.

1869
1870 Mr. Blankinship - I spoke to the owner of lot one, and once I explained the

1871 nature of the request, they were fine with it.

1872

1873 Mr. Balfour - Any other questions? Thank you, Mr. Shield.

1874

1875 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1876 Kirkland, the Board **granted** application **A-27-2003** for a variance to build a one-family
1877 dwelling at 9504 Gaslight Court (Gaslight) (Parcel 745-739-0596). The Board granted
1878 the variance subject to the following condition:

1879

1880 1. This variance applies only to the lot width requirement. All other applicable
1881 regulations of the County Code shall remain in force.

1882

1883 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4

1884 Negative: 0

1885 Absent: 0

1886 Abstain: Wright 1

1887

1888 The Board granted this request, as it found from the evidence presented that, due to the
1889 unique circumstances of the subject property, strict application of the County Code
1890 would produce undue hardship not generally shared by other properties in the area, and
1891 authorizing this variance will neither cause a substantial detriment to adjacent property
1892 nor materially impair the purpose of the zoning regulations.

1893

1894 **A - 28-2003** **ERIC AND DIANA CANTOR** request a variance from Section 24-
1895 94 of Chapter 24 of the County Code to build an addition at 6004
1896 Oxbury Court (Cherry Hill at Wyndham) (Parcel 743-780-8623),
1897 zoned R-3, One-family Residence District (Three Chopt). The rear
1898 yard setback is not met. The applicants propose 32.8 feet rear yard
1899 setback, where the Code requires 40 feet rear yard setback. The
1900 applicants request a variance of 7.2 feet rear yard setback.

1901

1902 Mr. Balfour - Anyone else expect to testify in this matter? Would you
1903 raise your right hand and be sworn please.

1904

1905 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1906 truth, the whole truth, and nothing but the truth, so help you God?

1907

1908 Mr. Hugo - I do. My name is Jay Hugo. I'm with Grace Street
1909 Residential Design Systems, on behalf of the Cantors. We're the architects on the
1910 project. They are requesting a variance for an addition on the rear of the house that is
1911 informal family living space. The location of the addition is placed in that corner of the
1912 house to relate to the existing interior living space, and the kitchen. There's not much
1913 room to build back there, relative to the required setback and an existing floodplain on
1914 the east side of the property. The hope is to actually hold as much of the addition
1915 behind the house as possible, to keep it unseen from the end of the cul-de-sac and
1916 other property. The addition is modest in scale to a one-story addition, and we're

1917 proposing to use materials and details that are sympathetic with the existing materials
1918 on the house. Both of the adjacent property owners have been spoken with, and we
1919 understand that they support the request and hope that you can grant it.

1920
1921 Mr. Balfour - Are there any questions from Board members?

1922
1923 Mr. Wright - What is to the rear of this residence?

1924
1925 Mr. Hugo - It is wooded, and then the golf course is beyond the woods.

1926
1927 Mr. Wright - On the north side, it appears to be just open area, wooded
1928 land, is that correct?

1929
1930 Mr. Hugo - On the north side it is wooded.

1931
1932 Mr. Wright - So the only two residences are around in front of the
1933 residence, and this would be shielded from them.

1934
1935 Mr. Hugo - The Cantors have two children and a mother-in-law, who just
1936 moved in, and they're just trying to increase the living space.

1937
1938 Mr. Balfour - They've got some protection from flying golf balls, I guess?
1939 Are there any other questions from Board members? I think we've got someone else to
1940 speak, and then you've got a chance to respond.

1941
1942 Mr. Hugo - He was a reserve.

1943
1944 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1945 McKinney, the Board **granted** application **A-28-2003** for a variance to build an addition
1946 at 6004 Oxbury Court (Cherry Hill at Wyndham) (Parcel 743-780-8623). The Board
1947 granted the variance subject to the following conditions:

1948
1949 1. Only the improvements shown on the plan filed with the application may be
1950 constructed pursuant to this approval. No substantial changes or additions to the layout
1951 may be made without the approval of the Board of Zoning Appeals. Any additional
1952 improvements shall comply with the applicable regulations of the County Code.

1953
1954 2. The new construction shall match the existing dwelling as nearly as practical.

1955
1956 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1957 Negative: 0

1958 Absent: 0

1959
1960 The Board granted this request, as it found from the evidence presented that, due to the
1961 unique circumstances of the subject property, strict application of the County Code
1962 would produce undue hardship not generally shared by other properties in the area, and

1963 authorizing this variance will neither cause a substantial detriment to adjacent property
1964 nor materially impair the purpose of the zoning regulations.

1965
1966 Mr. Balfour - We had one case we passed by. Mr. Dawson (A-21-2003),
1967 are you all ready? **(Return to complete A-21-2003)**

1968
1969 **(After a brief break following the 9:00 o'clock agenda)**

1970
1971 **A - 29-2003** **STACEY NELSON** requests a variance from Section 24-9 of
1972 Chapter 24 of the County Code to build a one-family dwelling at
1973 7131 Hughes Road (Parcel 861-695-9377 (part)), zoned A-1,
1974 Agricultural District (Varina). The public street frontage requirement
1975 is not met. The applicant has 0 feet public street frontage, where
1976 the Code requires 50 feet public street frontage. The applicant
1977 requests a variance of 50 feet public street frontage.

1978
1979 Mr. Blankinship - Mr. Chairman, I'm going to pass out a copy of a plat.

1980
1981 Mr. Balfour - Anyone else expect to testify in this matter? Would you
1982 raise your right hand and be sworn please.

1983
1984 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1985 truth, the whole truth, and nothing but the truth, so help you God?

1986
1987 Mr. Fleming - Yes sir. My name is Scott Fleming. I'm the owner of the
1988 property next to this adjoining property. We're requesting a variance from Chapter 24,
1989 Section 24-9. We have no road frontage; we're asking for an easement of 50 feet. We
1990 have a 50-foot deeded easement from the property that we're hoping to build a dwelling
1991 on to Hughes Road. Ms. Nelson has contracted my company to build her a new
1992 dwelling. The house with the land appraises for a little over \$300,000, so it wouldn't be
1993 any eyesore or anything. Basically, you're really not even going to see the property; as
1994 you can see on the screen there, the property is approximately 450 feet off the front
1995 property line and 150 feet on each side. The closest house is probably about 450 feet.
1996 The house would not be seen by anyone. A couple of things that I would like you to
1997 take a look at, that I would like to address, if we could pass those down. There were a
1998 couple of calls made concerning the road entrance, egress, etc. I disagree with that.
1999 As you can see in those pictures, it's well graveled, it's well maintained by myself and
2000 Mr. Knight, who is present, and also Ms. Nelson's father, and also another gentleman,
2001 Mr. Sawyer. I don't see a problem. You've already got the pictures. In other regards to
2002 an inaccuracy in the letter, someone had evidently called in and said that there were
2003 approximately 15 houses on this road. There's actually nine. Any questions? I guess
2004 the desire to sell a lot for development is more a matter of special privilege than a
2005 hardship. I guess the only hardship that we would have in this case would be that Ms.
2006 Nelson's sister lives next to me, who is my next-door neighbor, and her parents live right
2007 on the same dirt road, which would be 29 C I think.

2008

2009 Mr. Wright - How many times have you divided this?
2010
2011 Mr. Fleming - Only once. I haven't divided it any.
2012
2013 Mr. Wright - Only once?
2014
2015 Mr. Fleming - Yes, just for my personal residence. What we did on the left-
2016 hand side of me is, her sister, we vacated the property line, not this piece, but the piece
2017 to the north, and we adjoined that piece of property with hers.
2018
2019 Mr. Blankinship - What's shown on there is the L-shaped, six-acre parcel.
2020
2021 Mr. Fleming - We actually just adjoined that to her sister's piece.
2022
2023 Mr. Blankinship - That's going to be combined with the three-acre parcel that it
2024 wraps around?
2025
2026 Mr. Fleming - Correct. That's actually already been done and recorded.
2027 The six-acre piece that is in question, is the piece to the right, that's actually on the
2028 screen now.
2029
2030 Mr. Wright - Sir, have you read the conditions proposed for this case?
2031
2032 Mr. Fleming - Yes sir, I've already had the health permit applied for; all the
2033 soil work is being done. No problem.
2034
2035 Mr. Wright - You notice that # 5 provides that the owners of the property
2036 shall accept responsibility for maintaining access to the property, and that's a condition,
2037 and if this were approved, it's the responsibility of the owner to do that, and if the owner
2038 didn't do it, the owner could be called back in before this Board.
2039
2040 Mr. Fleming - Sure. I'm sure that Ms. Nelson wouldn't have a problem with
2041 that.
2042
2043 Mr. Wright - I just wanted to point out for anybody, for persons who've
2044 called in, that this is a responsibility of the owner, and it must be done.
2045
2046 Mr. Fleming - Correct. In regards to that, like I said, there's nine of us back
2047 there, and there's only three of us who actually take care of the road.
2048
2049 Mr. Wright - Whatever, just so it gets taken care of.
2050
2051 Mr. Blankinship - Do you intend to extend this into your property in Charles
2052 City County and divide that property for houses?
2053
2054 Mr. Fleming - I have a piece in Charles City that actually Engineering

2055 Design is working on. I don't know that it can actually be accessed from Henrico
2056 County at this time. That's where we stand right now. There's been no approval either
2057 way.

2058
2059 Mr. Blankinship - I think there are some lingering concerns still about the
2060 number of dwellings – we've had a couple of cases already this morning where we've
2061 got into the issues that arise from the number of dwellings on a private road. It is
2062 fifteen; I counted that on our map. That does count building permits that are under
2063 construction but starting at the end of the County maintenance of the road, there are
2064 fifteen houses served by that road now, and if this is extended into the 22 acres in
2065 Charles City County, I'm not familiar with their requirements. It seems to me that you
2066 could end up with twenty or thirty houses served by this private road.

2067
2068 Mr. Fleming - Well, actually, I have two pieces in Charles City, and I can
2069 show you that if need be. There's two pieces there, and I could do more. There's
2070 another way that I could get in. I could put eight houses back there because I have two
2071 parcels, and the way the Charles City Planning Office works, you can actually divide it
2072 into four per parcel, but that's not the case here. I'm only going two pieces, in respect to
2073 the neighbors that I live with. That's about all I can say right now, because I can't say
2074 which way it's going go, whether they're even going to approve it or not.

2075
2076 Mr. Blankinship - There's no formal written maintenance agreement for this
2077 road?

2078
2079 Mr. Fleming - No sir. I've tried on several occasions, but Mr. Cheek
2080 actually owns a portion of it, Eddie and Rita Cheek. We've always divided all the gravel
2081 up amongst ourselves, and for seven or eight years that I've lived back there, he's been
2082 reluctant to put any money towards the gravel, because he pays the tax on the road, so
2083 we've had no problem with that.

2084
2085 Mr. Blankinship - They do have legal rights-of-way across it.

2086
2087 Mr. Fleming - Right, it's a perpetual right-of-way across it, deeded access.
2088 Should there be a road maintenance agreement? I agree, there should have been.
2089 There should have been years ago, when Ball Lumber Company sold the pieces back
2090 there.

2091
2092 Mr. Balfour - Any other questions by Board members?

2093
2094 Mr. Nunnally - Mr. Fleming, you say it's been divided off once, who was that
2095 to?

2096
2097 Mr. Fleming - That was to her sister. I didn't divide it off and sell it. Did I
2098 sell it, yes. But I divided it to the left-hand side – you had a picture of it. What we did
2099 was vacate her property line and add it to her property. Instead of three acres, she now
2100 owns a little over nine acres.

2101
2102 Mr. Nunnally - Didn't somebody by the name of Grange or Gifford or
2103 somebody live there? Didn't you divide it off of there for him?
2104
2105 Mr. Fleming - That was never done. That was a total separate piece. That
2106 was not a piece of this property.
2107
2108 Mr. Nunnally - And now Stacy Nelson wants to

2109
2110 Mr. Fleming - Yes sir. That's the six acres that you see on the screen
2111 there, that she has contracted to purchase, and for me to also build her a house.
2112
2113 Mr. Nunnally - Does Stacy Nelson's sister live back there?
2114
2115
2116 Mr. Fleming - Yes sir, and her parents.
2117
2118 Mr. Nunnally - So you didn't divide it off of them?
2119
2120 Mr. Fleming - No sir.
2121
2122 Mr. Balfour - Any other questions by Board members? Thank you. Do
2123 you have something you'd like to say, Ms. Nelson.
2124
2125 Ms. Nelson - If the concern is maintaining the road, I pay to maintain the
2126 road now, because I live at 7251 Hughes Road, so if that's the problem, I will pay to
2127 maintain the road. I can't drive a tractor, or I'd get out there and do it myself, but all I
2128 can do is write a check for those neighbors who will contribute and use their equipment.
2129
2130 Mr. Balfour - You are Ms. Nelson, the applicant?
2131
2132 Ms. Nelson - Yes.
2133
2134 Upon a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **denied**
2135 application **A-29-2003** for a variance to build a one-family dwelling at 7131 Hughes
2136 Road (Parcel 861-695-9377 (part)). The Board denied your request as it found from the
2137 evidence presented that authorizing this variance would be of substantial detriment to
2138 adjacent property and would materially impair the purpose of the zoning and subdivision
2139 regulations.
2140
2141 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2142 Negative: 0
2143 Absent: 0
2144
2145 **A - 30-2003** **PIERCE AND BARBARA JENSEN** request a variance from
2146 Section 24-94 of Chapter 24 of the County Code to allow an

2147 existing dwelling to remain at 1915 Bridgewater Drive (Parcel 776-
2148 759-3225 (part)), zoned R-3, One-family Residence District
2149 (Fairfield). The front yard setback is not met. The applicants have
2150 23 feet front yard setback, where the Code requires 40 feet front
2151 yard setback. The applicants request a variance of 17 feet front
2152 yard setback.
2153

2154 Mr. Balfour - Anyone else expect to testify in this matter? Would you
2155 raise your right hand and be sworn please.
2156

2157 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2158 truth, the whole truth, and nothing but the truth, so help you God?
2159

2160 Mr. Jensen - I do. My name is Pierce Jensen, with my wife Barbara, and
2161 what we are requesting is to be able to split our property. I live at 1938 Hungary Road,
2162 and this property is actually a two-acre lot that splits between Hungary Road and
2163 Bridgewater. I have the house on Bridgewater that I would like to be able to split so that
2164 I could sell that house. My understanding is that it is a 40-foot requirement to the front
2165 of the house, actually the side of the house, and we only have 23 feet. That house was
2166 there long before the road was ever put in, so it seems to me that whoever built the road
2167 is the one who missed the 40-foot requirement.
2168

2169 Mr. Balfour - Any questions of the Board members?
2170

2171 Mr. McKinney - What you intend to put up, Mr. Jensen, is that going to be in
2172 line with the other houses?
2173

2174 Mr. Jensen - Sir, I'm not putting anything up. We're not adding or taking
2175 anything away from the house.
2176

2177 Mr. McKinney - But you're dividing the lot? Do you intend to build on the
2178 other lot?
2179

2180 Mr. Jensen - No sir.
2181

2182 Mr. Blankinship - There are already houses on both the lots.
2183

2184 Mr. Jensen - We're not doing anything except dividing, and we'd like to be
2185 able to divide it, so that we could sell one.
2186

2187 Mr. Balfour - So you want to divide it so that you can sell one and not the
2188 other?
2189

2190 Mr. Jensen - Yes sir.
2191

2192 Mr. Balfour - Any other questions by Board members? Okay, thank you.

2193
2194 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
2195 Wright, the Board **granted** application **A-30-2003** for a variance to allow an existing
2196 dwelling to remain at 1915 Bridgewater Drive (Parcel 776-759-3225 (part)). The Board
2197 granted the variance subject to the following condition:

2198
2199 1. This variance applies only to the front yard setback requirement. All other
2200 applicable regulations of the County Code shall remain in force.

2201
2202 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2203 Negative: 0
2204 Absent: 0

2205
2206 The Board granted this request, as it found from the evidence presented that, due to the
2207 unique circumstances of the subject property, strict application of the County Code
2208 would produce undue hardship not generally shared by other properties in the area, and
2209 authorizing this variance will neither cause a substantial detriment to adjacent property
2210 nor materially impair the purpose of the zoning regulations.

2211
2212 **UP- 5-2003 AMUSEMENT PROMOTIONS, INC.** requests a temporary
2213 conditional use permit pursuant to Section 24-63 of Chapter 24 of
2214 the County Code to locate a carnival event in the mall parking lot at
2215 10101 Brook Road (Parcel 785-771-0111), zoned B-3C, Business
2216 District (Conditional) (Fairfield).

2217
2218 Mr. Balfour - Anyone else expect to testify in this matter? Would you
2219 raise your right hand and be sworn please.

2220
2221 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2222 truth, the whole truth, and nothing but the truth, so help you God?

2223
2224 Mr. Stephenson - Yes sir. I'm John J. Stephenson. I'm here to get a permit so
2225 I can operate a temporary carnival. I made sure that it's far enough away from housing.
2226 I don't believe that I read any information, like with decibels and music for the volume,
2227 we're not going to put a rock and roll concert on there. We're going to have rides that
2228 have music, and they stay within seven or eight decibels, and we turn the music off at
2229 10:00 o'clock weekdays every night and 11:00 o'clock on weekends. It's not enough to
2230 make anybody upset. There's enough traffic on Route 1 that it wouldn't go up to the
2231 apartments behind the other shopping center anyway. That would be the only thing I'd
2232 be concerned with, and we would turn the music, speakers, toward the shopping center
2233 itself and aim them right at Dillards, so you really wouldn't hear any noise at all.

2234
2235 Mr. Balfour - Have you read the restrictions that are suggested?
2236 Conditions on the staff report?

2237
2238 Mr. Stephenson - No, I wasn't given that.

2239
2240 Mr. Blankinship - They're out front in a binder. A copy should have been
2241 mailed to you.
2242
2243 Mr. Kirkland - You didn't get one in the mail?
2244
2245 Mr. Stephenson - One went to Mr. Richard Relthoffer, down in Florida.
2246
2247 Mr. Balfour - Mr. Blankinship, you want to hand him one to look at?
2248
2249 Mr. Kirkland - Are you going to have any animals?
2250
2251 Mr. Stephenson - No.
2252
2253 Mr. McKinney - Mr. Stephenson, you say your hours of operation are till
2254 10:00 o'clock pm, Monday through Friday.
2255
2256 Mr. Stephenson - Monday through Friday it would be 11:00 o'clock, but the
2257 music would be turned off at 10:00 o'clock. That's just a show policy. Monday through
2258 Thursday it's 5:00 pm till 11:00 pm; Friday it's 5:00 pm till midnight; Saturday it would be
2259 noon till midnight; Sunday it would be 1:00 pm to 11:00 pm.
2260
2261 Mr. Balfour - Do you mind if we put those restrictions in there then?
2262
2263 Mr. Stephenson - That would be fine. If you grant the permit, I'm amenable to
2264 whatever you desire.
2265
2266 Mr. Balfour - Take a look at the other conditions.
2267
2268 Mr. Stephenson - I have the police on standby.
2269
2270 Mr. Blankinship - Have you had a meeting with police or with fire?
2271
2272 Mr. Stephenson - No, they sent me some information, and I have to go over
2273 now and drop it off to them. I have not met with the fire department.
2274
2275 Mr. Kirkland - You've got until next week.
2276
2277 Mr. Blankinship - I requested an operations plan from someone in your
2278 company. I don't have it with me and have no idea who I spoke to, and we never
2279 received that.
2280
2281 Mr. Stephenson - You sent it to Richard Relthoffer, because I didn't speak to
2282 anybody, and he told me to attend this meeting, and I said okay. I put his address down
2283 in Florida, and that's where all the correspondence went.
2284

2285 Mr. Blankinship - As far as I know, police has not seen an operations plan; fire
2286 has not seen a plan.

2287
2288 Mr. Balfour - You have to meet the requirements before April 3, as you
2289 can see under requirement # 2.

2290
2291 Mr. Stephenson - Yes sir. And I have the police who I'm going to go see this
2292 afternoon, and then I'll contact the fire department. I was up getting permits in
2293 Delaware, and I apologize for being up there, but I had to go through the same
2294 requirements up there.

2295
2296 Mr. Balfour - All right; you see the requirements about the tents, and you
2297 know we're going to change the hours in # 4, if we approve it, and you'll be operating
2298 ten days.

2299
2300 Mr. Stephenson - Yes sir. Actually it'll be eleven days. It's ten calendar days,
2301 but it's eleven days of operation, inclusive. I just didn't want you to think I was trying to
2302 pull a fast one on you.

2303
2304 Mr. Balfour - Any other questions by Board members? Thank you.

2305
2306 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
2307 Nunnally, the Board **granted** application **UP-5-2003** for a temporary conditional use
2308 permit to locate a carnival event in mall parking lot at 10101 Brook Road (Parcel 785-
2309 771-01111). The Board granted the use permit subject to the following conditions:

2310
2311 1. This approval is only for a carnival at the shopping center on April 3-13, 2003.

2312
2313 2. The applicant shall satisfy all requirements of the Henrico County Division of
2314 Police concerning the security of the site and the patrons of the event.

2315
2316 3. The applicant shall satisfy all requirements of the Henrico County Department of
2317 Health and the Henrico County Department of Building Inspections.

2318
2319 4. **[Amended]** Hours of operation shall be limited to 5:00 PM to 11:00 PM Monday
2320 through Thursday and 12:00 Noon to 12:00 Midnight Friday through Sunday. Amplified
2321 music shall not be played after 10:00 PM.

2322
2323 5. All tents and accessory structures shall be removed from the site by April 19,
2324 2003, at which time this permit shall expire.

2325
2326 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2327 Negative: 0

2328 Absent: 0

2329

2330 The Board granted the request because it found the proposed use will be in substantial
2331 accordance with the general purpose and objectives of Chapter 24 of the County Code.

2332
2333 **A - 31-2003** **BETTYE T. BALES** requests a variance from Section 24-94 of
2334 Chapter 24 of the County Code to build a one-family dwelling at
2335 8900 Minna Drive (Westbriar) (Parcel 755-752-3881), zoned R-3,
2336 One-family Residence District (Tuckahoe). The lot width
2337 requirement, total lot area requirement, and total side yard setback,
2338 are not met. The applicant has 7,130 square feet total area, 58.55
2339 feet lot width, and 16.9 feet total side yard setback, where the Code
2340 requires 8,000 square feet total area, 65 feet lot width, and 17.6
2341 total side yard setback. The applicant requests a variance of 870
2342 square feet total area, 6.45 feet lot width, and .69 feet total side
2343 yard setback.

2344
2345 Mr. Balfour - Anyone else expect to testify in this matter? Would you
2346 raise your right hand and be sworn please.

2347
2348 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2349 truth, the whole truth, and nothing but the truth, so help you God?

2350
2351 Mr. Walker - I do. Good morning gentlemen. My name is Eric Walker,
2352 and I'm here representing the late Wayne Bales and his wife, Bettye Bales. We're
2353 proposing to build a single family dwelling at 8900 Minna Drive. The square footage of
2354 the proposed home is approximately 2,000 square feet, two-story Colonial, four
2355 bedrooms, two and a half baths. There are a couple of points that I want to address,
2356 and I'll sit down. The average lot width in this subdivision (when I say average, this
2357 subdivision, I would assume, encompasses approximately 80 to 90 homes) averages
2358 about 80 to 90 linear feet. At the road, the width of this lot is approximately 64.86 feet.
2359 When I initially applied for the variance, I was under the understanding that this fell
2360 under the exception standards of R-3. Later on, I was told by Mr. Blankinship, that it
2361 does not fall under the exception standards, but it falls under the current R-3 standards,
2362 so therefore the dimensions and setbacks and total yard square footage has changed
2363 as far as what I needed for the variance. In regards to the house and the neighboring
2364 homes, ranches and mostly tri-levels, which range in the square footage of
2365 approximately 1500 to 1600 square feet. What I'm proposing is somewhat larger than
2366 that. This property is currently owned by Mrs. Bales. She owned the home next door to
2367 it. Her idea was to build an addition to the home next door. She never did that. She's
2368 currently living in Florida, and I contacted her about purchasing it. Actually she forgot
2369 about it, and she always thought that it was a buildable lot. She never had the
2370 understanding that it wasn't.

2371
2372 Mr. Balfour - You don't own the lot now, is that right?

2373
2374 Mr. Walker - I'm the contact purchaser.

2375

2376 Mr. Balfour - So she lives in Florida; she owns the lot next door.
2377
2378 Mr. Walker - She owned the lot next door, and she sold it, and someone
2379 else owns it right now.
2380
2381 Mr. Balfour - Did you read the report stating that your request didn't
2382 include the minimum side yard setback variance?
2383
2384 Mr. Walker - As I stated earlier, when I initially applied for the variance, I
2385 had the understanding that it was an exception zoning, so what I did was based on that
2386 exception standard. Mr. Blankinship has indicated to me that it doesn't fall under the
2387 exception, but the current R-3 standards, which would change what I propose to do as
2388 far as what I need for the variance.
2389
2390 Mr. Balfour - Mr. Blankinship, your position is that it needs to be
2391 continued?
2392
2393 Mr. Blankinship - The problem is that when this was subdivided, this little sliver
2394 of land was not shown as a lot; it was shown as a "reserved area." I'm trying to bring up
2395 the plat on my computer.
2396
2397 Mr. Balfour - I understand.
2398
2399 Mr. Nunnally - What is that area next to it, east of it?
2400
2401 Mr. Blankinship - That is outside of the subdivision; it's a separate parcel that
2402 was not part of the Westbriar Subdivision.
2403
2404 Mr. Wright - That could not be acquired to make this lot bigger?
2405
2406 Mr. Balfour - We're talking about 2600.
2407
2408 Mr. Walker - Starwood, correct. I've contacted the owner of that. It was
2409 owned by Grandis and Guminick, which is now under the control of Guminick
2410 Properties, They are in the position that at some point in the future, they may develop
2411 that subdivision and build that out, so they did not want to part with that parcel.
2412
2413 Mr. Balfour - What subdivision?
2414
2415 Mr. Walker - I think it's called Parham Estates. If you look at the map it's
2416 on now, it shows 8809, 8805 Minna, that subdivision was never built out. It's just a
2417 paper subdivision.
2418
2419 Mr. Kirkland - Would 2600 be a buildable lot?
2420
2421 Mr. Blankinship - By itself, I don't believe so. Combined with this, I think the

2422 two would be, one buildable lot.
2423
2424 Mr. Walker - Potentially what they could do is to vacate that right-of-way
2425 there on the other side of Starwood and potentially have a buildable lot there. They
2426 could just reconfigure the whole thing.
2427
2428 Mr. Balfour - That's what they must plan to do, because I don't
2429 understand about developing some other subdivision, what that has to do with it.
2430
2431 Mr. Walker - I think at some point that they're probably going to redesign
2432 that subdivision and build it out.
2433
2434 Mr. Balfour - Where 8809 is, you mean?
2435
2436 Mr. Walker - Where 2600 Starwood is.
2437
2438 Mr. Nunnally - That's outside of this particular

2439
2440 Mr. Walker - Outside of Westbriar Subdivision. I think it was brought up
2441 potentially to say, maybe if I bought that, I wouldn't be here. Essentially, I've contacted
2442 them, and their plans are to someday do something with it.
2443
2444 Mr. Balfour - Maybe to buy you out.
2445
2446 Mr. Walker - He didn't mention that.
2447
2448 Mr. Balfour - Any comments or questions by the Board? Mr. Secretary,
2449 are we in the position where we've got to continue it in any case?
2450
2451 Mr. Blankinship - You cannot approve the plans that Mr. Walker submitted,
2452 because they also show a minimum side yard violation. You could grant what's in front
2453 of you today, or whatever action the Board feels it's appropriate to take, but if you were
2454 to approve what he's applied for, he could not build the house as shown on this plan.
2455
2456 Mr. Walker - Say that again, Mr. Blankinship.
2457
2458 Mr. Blankinship - If the variance you requested were approved, you could not
2459 build the house shown on this plan.
2460
2461 Mr. Walker - Why is that?
2462
2463 Mr. Blankinship - Because it also shows a minimum side yard setback
2464 violation, which was not part of the original request.
2465
2466 Mr. Walker - But essentially if they take what's shown in front of them and
2467 grant the variance based on that, then I can build that dwelling?

2468
2469 Mr. Blankinship - They can't grant a minimum side yard setback variance
2470 today, because that was not advertised, because it was not on the original application,
2471 because of the confusion over the status of the lot.
2472
2473 Mr. Walker - Essentially, and I just want the Board to understand, that
2474 when I applied for this variance, I was told by a person in the planning office that it fell
2475 under the exception, so I just went with what I was told.
2476
2477 Mr. Blankinship - The subdivision is subject to the exception standards, but
2478 because this was not a lot in the subdivision, this piece of property is not covered by the
2479 exception standards.
2480
2481 Mr. Balfour - You're the contractor; you don't own the land, is that right?
2482
2483 Mr. Walker - I'm the contract purchaser and contractor. I don't currently
2484 own the land.
2485
2486 Mr. Balfour - You're subject to the exception before you buy it, is that what
2487 you're saying?
2488
2489 Mr. Walker - Yes sir. And again, Mrs. Wells has and had the feeling,
2490 when she had the house next door, that potentially this could be a buildable lot.
2491
2492 Mr. Blankinship - If anybody wants to look at it, I've got the subdivision plat on
2493 my computer. I don't believe we can show my computer on the other screens.
2494
2495 Mr. Walker - I've got a plat also.
2496
2497 Mr. Balfour - I think what the Board can do, either we could take a vote,
2498 up or down, as it stands now. If we turn it down, that ends it; if we approve it, you're
2499 going to have to come back. Does the Board understand that?
2500
2501 Mr. Blankinship - Or redesign the house.
2502
2503 Mr. Nunnally - Or continue it – would you like to continue it? I can't
2504 guarantee we're going to approve it, one way or the other. We're just saying that you're
2505 going to have to come twice if we approve it. If we turn it down today, that ends it
2506 anyway.
2507
2508 Mr. Kirkland - It would have to be re-advertised to include the variance you
2509 want for the side yard.
2510
2511 Mr. Walker - I wouldn't be opposed to that; I'm not in any big rush.
2512
2513 Mr. Balfour - All right, do I hear a motion that we continue it until the next

2514 meeting?

2515

2516 After an advertised public hearing, there was a motion by Mr. McKinney, to **defer** the
2517 hearing of application **A-31-2003** for a variance to build a one-family dwelling at 8900
2518 Minna Drive (Westbriar) (Parcel 755-752-3881). Upon receiving no second to the
2519 motion for a continuance until the next meeting, the Board determined that a decision
2520 would be made on the case today.

2521

2522 Upon a motion by Mr. Wright, seconded by Mr. Kirkland, the Board **denied** application
2523 **A-31-2003** for a variance to build a one-family dwelling at 8900 Minna Drive (Westbriar)
2524 (Parcel 755-752-3881). The Board denied your request as it found from the evidence
2525 presented that authorizing this variance would be of substantial detriment to adjacent
2526 property or would materially impair the purpose of the zoning regulations.

2527

2528 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2529 Negative: 0

2530 Absent: 0

2531

2532 **UP- 6-2003** **KATHLEEN KURTZ** requests a temporary conditional use permit
2533 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code
2534 to occupy a manufactured home during construction at 7091
2535 Mosswood Road (Parcel 815-696-6231), zoned A-1, Agricultural
2536 District (Varina).

2537

2538 Mr. Balfour - Anyone else expect to testify in this matter? Would you
2539 raise your right hand and be sworn please.

2540

2541 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2542 truth, the whole truth, and nothing but the truth, so help you God?

2543

2544 Mr. Balfour - Let me make a comment before we start. We'll hear the
2545 applicant; then anyone who's opposed or has a different viewpoint gets to speak. We
2546 have rules that say we don't hear somebody say the sky is blue, and then the second
2547 person also says the sky is blue. We don't need repetitive testimony; we need new
2548 testimony by people who are going to say something different and in addition to what's
2549 been said before, so we don't have to listen to ten people say the same thing. We don't
2550 want to cut you off; we will ask you to please not repeat what someone else has said,
2551 and also to collect your thoughts so we can move along. Would you state your name
2552 please.

2553

2554 Ms. Kurtz - I do. I'm Kathleen Kurtz. I'm just here to request a
2555 temporary use permit so that I can live in a manufactured home until I can get my house
2556 built. I'm currently working with an architect to draw up house plans to get a building
2557 permit so I can move forward on getting the actual house built, but I would like to have
2558 the temporary home so that I can work on my house, because I do like to do a lot of the
2559 finish work myself.

2560
2561 Mr. Wright - This manufactured home is already on the property?
2562
2563 Ms. Kurtz - Yes it is.
2564
2565 Mr. Wright - How did that happen without approval of the County?
2566
2567 Ms. Kurtz - Originally I didn't know that I needed the approval. When I
2568 talked to the people who moved the mobile home, I asked them what I needed, and
2569 they said, "Give me a check," and they moved it.
2570
2571 Mr. Wright - In the County this is not permitted. We granted a variance to
2572 build a house on it, but we did not give you permission to put a mobile home on the
2573 property.
2574
2575 Mr. Blankinship - Am I recalling correctly that you applied for a building permit
2576 for the mobile home, and that building permit was rejected?
2577
2578 Ms. Kurtz - Right. Because it was five feet too short. Also, there wasn't
2579 a permanent foundation.
2580
2581 Mr. Kirkland - How long do you think this mobile home would be on the
2582 site? How long has it been there already?
2583
2584 Ms. Kurtz - It was put in last June. Hopefully, I can get started building
2585 sometime this summer.
2586
2587 Mr. Kirkland - How long do you think it will take you to finish?
2588
2589 Ms. Kurtz - I guess depending on weather and that kind of thing, maybe
2590 a year.
2591
2592 Mr. Kirkland - 2005?
2593
2594 Ms. Kurtz - I would hope sooner than that, but I'm still waiting to get a
2595 septic system put in. It's been held up because of the weather. As you can see, the
2596 water there, you can't even get in there with equipment to do anything right now.
2597
2598 Mr. McKinney - Will this property perk?
2599
2600 Ms. Kurtz - I have a septic permit. It has to be a specialized type of
2601 system because of the soil.
2602
2603 Mr. McKinney - Pureflow or Vantak?
2604
2605 Ms. Kurtz - It's a Vantak.

2606
2607 Mr. McKinney - But it will work with that?
2608
2609 Ms. Kurtz - That's what they tell me. Hopefully it will work.
2610
2611 Mr. McKinney - What are you using for a septic system now?
2612
2613 Ms. Kurtz - I'm not living there. It's just the trailer there.
2614
2615 Mr. McKinney - Is anyone living there?
2616
2617 Ms. Kurtz - No.
2618
2619 Mr. McKinney - How much land do you have there?
2620
2621 Ms. Kurtz - 9.49 acres.
2622
2623 Mr. Balfour - Have you read the suggested conditions? That's the paper
2624 that was out front relating to this matter.
2625
2626 Ms. Kurtz - No, I just walked right in; I didn't realize there was anything
2627 out there.
2628
2629 Mr. Blankinship - Should have been mailed to you.
2630
2631 Mr. Kirkland - You didn't get anything in the mail that looked like this, a
2632 packet telling you about all the information?
2633
2634 Mr. McKinney - Mr. Blankinship, can't you have a manufactured home on
2635 one acre of land in A-1 district?
2636
2637 Mr. Blankinship - If it has 900 square feet of floor area, and it's put on a
2638 permanent foundation, subject to a building permit, yes.
2639
2640 Mr. Kirkland - And what do you do about the waste?
2641
2642 Mr. Blankinship - You won't get the building permit until after you get the drain
2643 field in place. You don't put the home there until after all that's done.
2644
2645 Mr. Balfour - What you may wish to do is step outside and pick up, or
2646 either from Mr. Blankinship, and read those conditions, and unless the other Board
2647 members have a question right now, we'll hear from some of those other people.
2648
2649 Mr. McKinney - I think the applicant is going to want to hear from those other
2650 people also.
2651

2652 Mr. Balfour - She can read those conditions while they're talking. Who
2653 wants to go first over there?

2654
2655 Mr. Williamson - My name is Ray Williamson. I originally owned the property,
2656 or have owned it since 1983. It was passed on by my father. We had paid taxes on it
2657 for a number of years and decided that we probably would not build on that piece of
2658 property. My sister, who has an adjoining piece, built a house on it a number of years
2659 ago. When we sold the property, it was our understanding by the real estate agent that
2660 Ms. Kurtz would build a house on it in about five years. That was the reasoning that we
2661 took a five-year balloon note, that she would be able to incorporate that in the mortgage
2662 when she went to build a house. All of a sudden this mobile home showed up on the
2663 land, that is completely visible from my sister's house, and I feel like it detracts from that
2664 neighborhood. We would not have sold the property had we known what was going to
2665 happen. We are against the mobile home on it. I have some up-to-date pictures, if you
2666 need them, which are basically what you had up here, but they were taken about
2667 quarter after seven this morning.

2668
2669 Mr. Balfour - Not much difference you're saying? If there's not much
2670 difference, we don't need to see them. If you give them to us, we've got to keep them.

2671
2672 Mr. Williamson - There's not a whole lot of difference in them, other than that
2673 she has got gravel up in there; the water is not standing like it was at that time.

2674
2675 Mr. Balfour - Okay, we've got them now. If you don't mind giving them up,
2676 hand them to Mr. Blankinship.

2677
2678 Mr. Williamson - I've also got a picture of my sister's house, which sits quite
2679 close to the mobile home, that's all very visible.

2680
2681 Mr. Balfour - Any questions? Thank you sir. Next person. Anyone else
2682 wish to speak? One at a time, and the one to go next will need to come to the
2683 microphone and identify themselves.

2684
2685 Mr. Liggan - My name is Joe Liggan, and I'm on the adjacent property.
2686 I've been in code enforcement for thirty years, and I don't know of a contractor or trailer
2687 company around, that doesn't know that you just can't take a trailer and set it up on a
2688 piece of property without approval from building officials office. It has been allowed to
2689 stay there, even though we've lodged a lot of complaints about it. As far as the septic
2690 tank drain field system, it's not an exact science. With the new technology and new
2691 systems that they allow to go in, it's to be proven whether or not it's going to work in that
2692 area. We're definitely against the trailer. It depreciates your property, but I don't think
2693 our taxes that we're paying on it are going to drop any. It's kind of unfair.

2694
2695 Mr. Balfour - Do I understand that you can see this house from the trailer,
2696 and vice versa?
2697

2698 Mr. Liggan - Yes sir.
2699
2700 Mr. Balfour - But that's a closer view of the house than you can see from
2701 the trailer, right?
2702
2703 Mr. Liggan - That's correct sir. If we decided to sell, and we take people
2704 up there to look at our property, and they see that thing up there, it's going to cut us all
2705 to pieces.
2706
2707 Mr. Balfour - Even if it were the right size, and correctly installed, and
2708 cleaned up, you don't want it there at all, is that right?
2709
2710 Mr. Liggan - We wouldn't have gone along with that, no sir.
2711
2712 Mr. Balfour - It's empty now, is that your understanding?
2713
2714 Mr. Liggan - That's correct, sir. It's obvious; they don't have a septic tank
2715 or drain field, no water. They can't occupy it.
2716
2717 Mr. Balfour - How long has it been there?
2718
2719 Mr. Liggan - Since June, eight months unoccupied as far as I know. I
2720 understand that cars have been in and out of there, and that they've been there for
2721 some time.
2722
2723 Mr. Balfour - Any questions by Board members? Thank you, sir. Anyone
2724 else wish to speak, who's going to add something?
2725
2726 Ms. Burley - I'm Mary Ellen Burley. I live in the house that you have a
2727 picture of right there. This is all clearly visible from my house. We would be using a
2728 common road, which is fine. Their property abuts the road. This is a sister, a brother,
2729 and this is a brother who sold the property. If a house is built there, that will be fine, but
2730 I cannot exist with that trailer and the trash that is attendant, indefinitely. I don't think I
2731 should have to cope with that. I'm ashamed to have anybody come to visit me, because
2732 of the pile of mess that's over there. You come down the road, which is a common
2733 road, which I have maintained because I was the only house back there, and that was
2734 sensible to me, and I don't know what's expected. My husband is on my deed, but he's
2735 deceased.
2736
2737 Mr. Balfour - Thank you Ms. Burley. Do we have some new comments
2738 from anybody? Ms. Kurtz, would you like to respond?
2739
2740 Ms. Kurtz - As I said earlier, I am working with an architect. I do want to
2741 build a house; that's been my intention from the beginning.
2742
2743 Mr. Balfour - Where are you living now if you're not living in the trailer?

2744
2745 Ms. Kurtz - I'm living in the Lakeside area right at the moment.
2746
2747 Mr. Balfour - Why do you need the trailer if you're living somewhere else?
2748
2749 Ms. Kurtz - Because I'm with my husband, and we're planning to
2750 separate. That's part of the legal ramifications to get a building loan, I have to be legally
2751 separated, so that's why I need somewhere else to go.
2752
2753 Mr. Balfour - Any questions of Ms. Kurtz?
2754
2755 Mr. Nunnally - When are you planning on building a house there?
2756
2757 Ms. Kurtz - I was hoping to get started sometime this summer, because
2758 I'll have to get money together, and a loan put together, and of course, building permits
2759 and that sort of thing, because it does seem to take a while to get all that kind of thing
2760 going, so I'm hoping.
2761
2762 Mr. McKinney - Have you already been pre-qualified for a loan?
2763
2764 Ms. Kurtz - No, not yet.
2765
2766 Mr. McKinney - So you don't know if you'll get one or not?
2767
2768 Ms. Kurtz - I've talked to some folks, but I haven't actually gone through
2769 paperwork.
2770
2771 Mr. McKinney - Have you talked to any contractors?
2772
2773 Ms. Kurtz - No. I have some different folks who are contractors who
2774 would be I want to act as my own general contractor, and then I have
2775 some subcontractors whom I have talked to about doing work for me.
2776
2777 Mr. Nunnally - Who owns that home where you live now?
2778
2779 Ms. Kurtz - It's in my husband's and my name.
2780
2781 Mr. Nunnally - Do you have children?
2782
2783 Ms. Kurtz - Yes, I have two.
2784
2785 Mr. Balfour - If this turns out, you might make him be the one who moves.
2786 Any other questions by Board members? No other questions. Thank you, Ms. Kurtz.
2787
2788 Upon a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **denied**
2789 application **UP-6-2003** for a temporary conditional use permit to occupy a manufactured

2790 home during construction at 7091 Mosswood Road (Parcel 815-696-6231). The Board
2791 denied your request as it found from the evidence presented that approving the permit
2792 would be of substantial detriment to adjacent property or would materially impair the
2793 purpose of the zoning regulations.

2794
2795 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2796 Negative: 0
2797 Absent: 0

2798
2799
2800 There being no further business, and on a motion by Mr. Wright, seconded by
2801 Mr. Kirkland, the Board adjourned until **April 24, 2003**, at 9:00 am.

2802
2803

2804 Daniel T. Balfour,

2805 Chairman

2806

2807 Benjamin Blankinship, AICP

2808 Secretary

2809