

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, OCTOBER 26,**
4 **2000, AT 9:00 A.M. NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**
5 **TIMES-DISPATCH ON OCTOBER 5 AND 12, 2000.**
6

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

Also Present: Benjamin Blankinship, Secretary
Susan W. Blackburn, County Planner II
Priscilla M. Parker, Recording Secretary

7
8 Mr. Kirkland - Good morning, ladies and gentlemen, and welcome to the
9 October Board of Zoning Appeals meeting. Before we get started I will have the
10 Secretary, Ben Blankinship, read the rules.

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

26
27 Mr. Kirkland - Mr. Secretary, are there any requests for withdrawals or
28 deferrals on the 9:00 a.m. agenda?

29
30 Mr. Blankinship - Not on the 9:00 a.m. agenda.

31
32 Mr. Kirkland - OK. If you would, sir, call the first case.

33
34 Mr. Blankinship - The first three cases are all continuous properties and
35 essentially the same request. Would you like for me to call all three of them together?

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36
37 Mr. Kirkland - Yes, please. Let's do that.
38
39 **A - 80-2000 JOHN B. AND MARGARET E. SULLIVAN** request a variance from
40 Section 24-9 of Chapter 24 of the County Code to build a
41 single-family dwelling at 1550 Kimbrook Lane (Tax Parcel
42 149-A-82), zoned A-1, Agricultural District (Varina). The
43 public street frontage requirement is not met. The applicant
44 has 0 feet public street frontage, where the Code requires 50
45 feet public street frontage. The applicant requests a
46 variance of 50 feet public street frontage.

47 **A - 81-2000 JOHN B. AND MARGARET E. SULLIVAN** request a
48 variance from Section 24-9 of Chapter 24 of the County
49 Code to build a single-family dwelling at 1590 Kimbrook
50 Lane (Tax Parcels 156-A-68, 69B (part) and 81 (part)),
51 zoned A-1, Agricultural District (Varina). The public street
52 frontage requirement is not met. The applicant has 0 feet
53 public street frontage, where the Code requires 50 feet
54 public street frontage. The applicant requests a variance of
55 50 feet public street frontage.
56

57 **A - 82-2000 JOHN B. AND MARGARET E. SULLIVAN** request a
58 variance from Section 24-9 of Chapter 24 of the County
59 Code to build a single-family dwelling at 1600 Kimbrook
60 Lane (Tax Parcel 156-A-69B (part)), zoned A-1, Agricultural
61 District (Varina). The public street frontage requirement is
62 not met. The applicant has 0 feet public street frontage,
63 where the Code requires 50 feet public street frontage. The
64 applicant requests a variance of 50 feet public street
65 frontage.
66

67 Mr. Kirkland - Is the applicant here? Does anyone else wish to speak on
68 this case? Would you all raise your right hand and be sworn in by the Secretary,
69 please?
70

71 Mr. Blankinship - Do you swear the testimony you are about to give is the
72 truth, the whole truth, and nothing but the truth, so help you God?
73

74 Mr. Kirkland - This gentleman did not get sworn in. You need to raise your
75 hand.
76

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

79
80 Mr. Felts - Yes, sir.
81
82 Mr. Kirkland - Have all of your notices been turned in?
83
84 Mr. Felts - Yes, sir.
85
86 Mr. Kirkland - Do we have them in the file? If you would, state your name
87 for the record.
88
89 Mr. Felts - I am Everett A. Felts, attorney, representing Mr. and Mrs.
90 Sullivan in this matter. The reason why we are here is that the variance was granted
91 and as a condition of that variance the Board suggested we pave 30 feet, not pave it. I
92 am sorry, sir, gravel 30 feet of the road and we are here asking that we are submitting
93 an appeal from that that you reduce that to 22 feet, the basis being that, for instance, in
94 my neighborhood, with the 16 lots being served by the road, and the paved area of the
95 road in there and that, of course, is a paved area, is 22 feet wide. I measured that on
96 Traverse Drive in my neighborhood. Kimbrook Lane here would serve about six lots.
97 Kimbrook Lane is a private road that we are talking about, and there was a variance on
98 it initially with the condition that has been placed upon us of 30 feet. I have some
99 pictures here of Kimbrook Lane as it has been for years, and we had some pictures
100 before, and the portion you see here in the pictures is about 15 feet of gravel road
101 width, so 22 feet would increase that by 7 feet, 3-1/2 feet on each side. We believe that
102 is a reasonable risk to travel in and out of there to travel in and out of there, especially
103 since the County road, Traverse Drive, in my neighborhood, is a paved 22 foot width
104 from the pavement, and therefore we would ask that you reduce the 30 feet to 20 feet of
105 gravel area from the ditch to the ditch on Kimbrook Lane, which is a private road, and
106 serves this area. Of course, the Sullivans still own that and they would be graveling the
107 road, bringing it up to conditions the County would require at the time of building there
108 on the three lots that we got the variance on. Any questions?
109
110 Mr. Kirkland - Are there any questions?
111
112 Mr. Nunnally - I notice my street in my neighborhood, too, Mr. Felts, is about
113 22 feet.
114
115 Mr. Felts- And that is curbing to curbing.
116
117 Mr. Wright- May I ask the Secretary a question, Mr. Chairman?
118
119 Mr. Kirkland - Sure.
120
121 Mr. Wright - Would 22 feet enable two automobiles to pass?
122
123 Mr. Blankinship - Yes, sir. A typical travel lane is 11 feet, 10 or 11 feet.
124

125 Mr. Kirkland - Any other questions? Anyone else wish to speak in favor of
126 this case?
127
128 Mr. McKinney - Why did 30 feet come up?
129
130 Mr. Felts - We don't know, sir.
131
132 Mr. McKinney - Was that a staff's suggestion?
133
134 Mr. Kirkland - That was a Mr. McKinney suggestion, wasn't it?
135
136 Mr. McKinney - Could have been. I don't know.
137
138 Mr. Kirkland - I think we just put it in the case.
139
140 Mr. McKinney - Somebody else said that! I don't think anybody remembers.
141
142 Mr. Kirkland - Yes, sir.
143
144 Mr. Bill Leake - Good morning. My name is Bill Leake and I am one of the
145 residents of Kimbrook Lane. My understanding is that once they proceed to build these
146 houses on Kimbrook that they are going to turn the road over to the residents of
147 Kimbrook Lane, and there are four down there now, and one without a house, so that
148 would be five landowners, and the other three lots would be eight people. After they
149 bring the road up to 22 ft., we have to maintain it, and I do feel like once it is turned over
150 to us, 22 ft. would be easier for us to maintain than the 30 foot.
151
152 Mr. Kirkland - OK, thank you. Are there any questions? Does anyone else
153 wish to speak? If you would, sir, speak into the mike and state your name as we are
154 recording this. You can pull the mike closer to you.
155
156 Mr. Rick Sullivan - I am Rick Sullivan and I am the son of John B. and Margaret
157 Sullivan and we have no intentions of turning the road over to the residents down there.
158 We haven't even talked about it, and he has been misinformed. I don't know where he
159 got that from.
160
161 Mr. Kirkland - So you all will maintain it all of the time.
162
163 Mr. Sullivan - No, sir. We've got a road maintenance agreement presently,
164 and the people, there should be three other lots, and we are not certain what we are
165 going to do with the road as of yet, but those people would be required to join the road
166 maintenance agreement, along with everyone else on the road.
167
168 Mr. Wright - I think that is what he was referring to. You're bound to have
169 an agreement to keep the road up, and everybody who is a party has to pitch in.
170
171 Mr. Sullivan - Yes, sir. We have a road-maintenance agreement.

172
173 Mr. Wright- It the road is 22 feet, it costs less to maintain than if it is 30
174 feet. I think that is what the gentleman was referring to.

175
176 Mr. Sullivan - I just didn't want anybody to be misinformed about who was
177 going to own the road.

178
179 Mr. Kirkland - Thank you very much. Any rebuttal, sir? Anyone else? OK.
180 Any other questions? That concludes the case. Thank you.

181
182 Upon a motion by Mr. Nunnally, seconded by Mr. McKinney, the Board of Zoning
183 Appeals **granted** your request for the above-referenced variance subject to the
184 following revised conditions:

185
186 1. The property shall be developed in substantial conformance with the plan filed with
187 the application. No changes or additions to the layout may be made without the
188 approval of the Board of Zoning Appeals.

189
190 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
191 the County Code apply. At the time of building permit application, the applicant shall
192 submit the necessary information to the Department of Public Works to ensure
193 compliance with the requirements of the Chesapeake Bay Preservation Act and the
194 code requirements for water quality standards.

195
196 3. Approval of this request does not imply that a building permit will be issued. Building
197 permit approval is contingent on Health Department requirements, including, but not
198 limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well
199 location.

200
201 4. The owners of the property, and their heirs or assigns, shall accept responsibility for
202 maintaining access to the property until such a time as the access is improved to
203 County standards and accepted into the County road system for maintenance.

204
205 5. Any new well on the property shall be a drilled well, not a bored well.

206
207 6. Before a certificate of occupancy is issued, Kimbrook Lane shall be widened to 22' of
208 gravel over an appropriate base material.

209
210 The Board **granted** this request, as it found from the evidence presented, that
211 authorizing this variance will not be of substantial detriment to adjacent property and will
212 not materially impair the purpose of the zoning regulations.

213
214 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
215 Negative: 0
216 Absent: 0

217

218 **UP- 31-2000** **VIKTOR NIKULIN** requests a conditional use permit pursuant to
219 Section 24-12(d) of Chapter 24 of the County Code to build a pigeon
220 loft at 9207 Crystalwood Lane (West End Manor) (Tax Parcel 49-2-H-
221 10), zoned R-3, One-family Residence District (Brookland).
222

223 Mr. Kirkland - Does anyone else wish to speak on this case? If you all
224 would, raise your right hand and be sworn in by the Secretary.
225

226 Mr. Blankinship - Do you swear that the testimony you are about to give is the
227 truth, the whole truth and nothing but the truth so help you God?
228

229 The People
230 in Unison - I do.
231

232 Mr. Kirkland - Would you state your name for the record, sir.
233

234 Mr. Nikulin - My name is Viktor Nikulin.
235

236 Mr. Kirkland - Have all of your notices been turned in according to the
237 County Code? We have them in the file. OK. Would you proceed with your case.
238

239 Mr. Nikulin - Someone else will present my case.
240

241 Mr. Kirkland - Mr. Blankinship, before we get started, get that microphone.
242 I don't know if the sound is up or what. Try it now. Is someone going to speak for you?
243

244 Mr. Nikulin - Yes.
245

246 Mr. Kirkland - If you would, come forward, sir. Would you state your name
247 for the record.
248

249 Mr. Howard Tess - I am Howard Tess and I am a member of the National
250 Pigeon Association and I am speaking in favor of granting the permit. Now, we
251 understand that all of the requests, all of the requests for a building to keep pigeons
252 have been entered and requested of you. He should be able to build a building and
253 keep pigeons. It is a noted fact, state and federal, that pigeons are different from ducks,
254 geese and turkeys. They are not classified as poultry. They are classified as pets. He
255 intends to keep a unique type of pigeon. As you see, he is from Czechoslovakia or
256 Russia, and he keeps a pigeon, Ukraine Skycutters. They fly up vertical. Now why is
257 this important? It is important because he is a reputable pigeon keeper, not someone
258 that is just going to keep birds out in the backyard, let them fly on somebody else's roof.
259 There is really no reason that I can see to deny a request to keep pigeons as long as
260 the building is in compliance and it will be compliant, being approximately 160 sq. ft.,
261 which would be 10 x 16. Cats or rats can't get at it. Anything detrimental is eliminated
262 by the fact that he is a responsible pigeon keeper. You turn the pigeons loose in the
263 morning before they are fed or in the early afternoon, again before they are fed. They

264 don't even nest on other people's property when they fly over. They normally eat and
265 defecate after they eat. They wouldn't even be messing on people's property. You do
266 own the property that you live on, but you certainly don't own the air above it, and these
267 pigeons flying over this air are not detrimental. It has been established throughout the
268 United States for racing homers. It is just inconceivable that they should be denied. He
269 belongs to a pigeon club, the Virginia Pigeon and Dove Association. As I say, he has
270 been a responsible member, responsible pigeon owner. There are pigeons in various
271 areas. It has not any bearing whatsoever on home values, things of this nature if they
272 are properly kept.

273
274 Mr. Nunnally - How many pigeons are we talking about?

275
276 Mr. Tess - Well, 160 sq. ft., according to federal law, would allow 160
277 pigeons. That is far more that he would probably ever have, although I can conceivably
278 expect 50 or 60 during the fall of the year. Your normally breed from February until
279 June, and in the fall of the year you have an abundance of youngsters. Prior to sale of
280 these youngsters or disposal of them, not all of them will, of course, make the grade,
281 just like breeding any animal. Not all of them develop into specimens that you intend to
282 breed from in further years, but at the same time, at the very most, I would say 50 or 75.

283
284 Mr. Kirkland - He will raise these and sell off the youngsters, is that what
285 you are saying?

286
287 Mr. Tess - I would think that, yes, sir.

288
289 Mr. Kirkland - OK. Does he have pigeons now?

290
291 Mr. Tess - Yes, sir.

292
293 Mr. Kirkland - Where are they located? Does he live somewhere else right
294 now?

295
296 Mr. Tess - They are located in his house on Holland Road and he had a
297 permit. We came before the Board and got a permit for that law at that time.

298
299 Mr. Kirkland - Have we had any complaints, Mr. Secretary?

300
301 Mr. Blankinship - Not that I am aware of.

302
303 Mr. McKinney - What size is that loft, Mr. Tess?

304
305 Mr. Tess - It is 100 feet.

306
307 Mr. McKinney - That was 100 sq. ft. at the old location.

308

309 Mr. Tess - Now, 160 feet is your County requirement and it would
310 certainly meet all of the requirements as to the 2-1/2 feet off the ground, two feet off the
311 ground, so that dogs and cats can get underneath, the setback from the property line
312 and, of course, an attractive loft. You don't want to put a loft up in the back of
313 somebody's yard that looks like a pile of trash, but a decent looking loft. This would be
314 totally new construction, painted and landscaped in accordance with the décor of the
315 yard, and I know of no reason, if these pigeons land on somebody else's roof or bother
316 somebody else, he is not a responsible pigeon owner. And, it is totally against what he
317 is trying to teach these birds to do. When you turn them loose, you certainly don't want
318 them to sit on somebody else's roof or bother some other neighbor. You want them to
319 fly and come back in when you (unintelligible) and come back in and eat, and that is
320 exactly what they would do.

321
322 Mr. McKinney - What happens to where he is located now? Is he
323 relocating?

324
325 Mr. Tess - He has purchased a new home on Castle.

326
327 Mr. McKinney - What is going to happen to the old one? Is he going to
328 continue to keep that or is that going to be disbanded?

329
330 Mr. Tess - That would be disbanded, I am certain.

331
332 Mr. McKinney - OK.

333
334 Mr. Wright- Mr. Tess, describe with a little more particularity to what
335 happens in one day in the life of these pigeons, how are they handled, when are they
336 released, how long are they permitted to fly, and how often are they permitted to fly?
337 And where do they go when they fly.

338
339 Mr. Tess - Well, what happens in the life of these pigeons? In the
340 morning, you would never release the pigeons, and this is, I am reading from a book.
341 "All pigeons will be confined to a loft except for limited periods." Now, obviously, you
342 are not going to turn these pigeons loose in the morning. I mean, this man works just
343 like all the rest of us or some of the rest of us. But, on a morning that you would turn
344 these pigeons loose and release them to fly. First of all, they are sporting pigeons.
345 Let's define a sporting pigeon. Specifically, a sporting pigeon means a pigeon which
346 through select past breeding has developed the ability to fly in a distinctive manner.
347 That is the pigeons specific, such as Rollers, Tippers, Ukraine Skycutters, that is what
348 these particular pigeons are called. Now, they would be released prior to feeding in the
349 morning.

350 Mr. Wright - What time would that be?

351
352 Mr. Tess - Roughly, 8, 9 or 10:00 a.m. It could be earlier, but they
353 would not be feed before they were released.
354

355 Mr. Wright - All of them would be released at one time?
356

357 Mr. Tess - Not necessarily. These pigeons are tossed into the air.
358 They are held in the hand and they are tossed. When they reach the end of the
359 propellant that you have provided, they spread their wings and fly straight up
360 supposedly. No horizontal movement is the unique characteristic of this particular
361 breed. They should fly straight up like a helicopter and straight down. Now, obviously,
362 not all of them will. Obviously, some will attempt on their first releases, young birds,
363 some will attempt to land on the house or in trees, but if they land on somebody else's
364 house or somebody's else tree, it is not going to be long before those pigeons will not
365 be released again because they are not performing properly. And, you would not be
366 breeding from these particular birds. When he comes home from work in the afternoon,
367 again, prior to feeding he would release the birds, and this will probably be more apt to
368 be a release time than in the morning, for him, because he works. I would say that after
369 work in the evening would be probably more apt to have birds being released.
370

371 Mr. Wright - What time would that be?
372

373 Mr. Tess - Somewhere around 3 or 4:00 p.m. I would say. Maybe up to
374 5:00 p.m. What particular bearing does this have on, why would it make any difference
375 as to when they were released? I don't understand your thinking.
376

377 Mr. Wright - We just want the particulars. We have to understand all of
378 the facts involved. Are they released only twice a day most of the time?
379

380 Mr. Tess - I don't know. I would say probably more apt to be once a
381 day, twice a day would probably be at most.
382

383 Mr. Wright - Are they released every day?
384

385 Mr. Tess - Not everyday, I don't think so. Again, people do work. He
386 can't be out playing with the pigeons.
387

388 Mr. Wright - How long do they stay aloft when they are released?
389

390 Mr. Tess- A half hour and at the most 45 minutes.
391

392 Mr. Wright - They go straight up and they fly around.
393

394 Mr. Tess - They fly around; stay up and fly, and then when he puts a
395 dropper, a dropper being like a white pigeon that doesn't fly much, or he could also use
396 various other methods. They fly off the top of his loft and put it in the loft and put it
397 away, something to keep them up would be like a flag on the loft. Something to call
398 them down would be removing the flag, taking a feed dish, shaking it where they can
399 hear the feed, something to make them immediately come in. They come in through the
400 trap and, of course, get fed.
401

402 Mr. Wright - Now, you say they go straight up and that is where they stay.
403
404 Mr. Tess - They don't fly around. They have very, very little horizontal
405 movement. They flutter. That is the whole idea.
406
407 Mr. Wright - They stay up there for half an hour?
408
409 Mr. Tess - Yes. Tipplers hang up for something like 17 hours. Yes.
410
411 Mr. Wright - How high do they go?
412
413 Mr. Nikulin - I am sure you cannot see, until they are a little tiny dot.
414
415 Mr. Wright - They go out of sight.
416
417 Mr. Tess - Yes, they can.
418
419 Mr. McKinney- And they can hear you shake the food.
420 \
421 Mr. Tess - They may not hear you shake but they can see. They would
422 be trained and it is hard to explain, because I don't really do it. He does it. They are
423 trained to keep their eye on the loft, pretty much, and when he puts a dropper out or
424 when he takes the flag down, whichever they are trained to, they would immediately
425 descend and come on into his loft and, of course, get fed.
426
427 Mr. McKinney - The pigeons that do not perform the way they are supposed
428 to, what happens to them, the ones that are culled? What happens to them? Do you
429 eat them?
430
431 Mr. Tess - Well, I see pigeons to eat, a whole lot of them. He wouldn't
432 be eating his.
433
434 Mr. McKinney - He what?
435
436 Mr. Tess - He would not be eating them, no. They would be humanely
437 destroyed.
438
439 Mr. McKinney - What does that mean? What do you mean humanely
440 destroyed?
441
442 Mr. Tess - Cut their head off.
443
444 Mr. McKinney - That is humanely destroyed?
445
446 Mr. Tess - Yes. How would you butcher pigeons now? There are
447 pigeons that are bred solely to eat. I have quite a few of them, and how are they
448 butchered? You cut their head off.

449
450 Mr. McKinney - Are they sold on the outside?
451
452 Mr. Tess - I don't think he would sell these.
453
454 Mr. McKinney - So you don't know.
455
456 Mr. Tess - I wouldn't eat them. They are too small.
457
458 Mr. McKinney - But you don't know whether he sells them or not. Can he tell
459 you that?
460
461 Mr. Tess - No, I am sure they would not be sold as squabs, not anyway,
462 shape or form. A squab is a pigeon that is 30 days old. These pigeons have already
463 begun to fly. They are no longer fit to eat. They would just be killed and destroyed.
464
465 Mr. McKinney - How long does it take for a pigeon to get to the age to fly?
466
467 Mr. Tess - About a month, six weeks at the most.
468
469 Mr. McKinney - Thirty days.
470
471 Mr. Tess - Yes.
472
473 Mr. McKinney - So in 30 days they grow up, and they don't do what they are
474 supposed to do and they come back and they are a 30-day old bird, so they are ready
475 to eat.
476
477 Mr. Tess - Well, not really. They are a different breed of birds; totally
478 different.
479
480 Mr. McKinney - Are they different in weight or size?
481
482 Mr. Tess - There is a difference in weight and size. These pigeons
483 weigh about 8 or 10 ounces, where my Texan Pioneers, which are an eating bird,
484 weighs 2 lbs. Totally different.
485
486 Mr. Wright - How big are they?
487
488 Mr. Tess - I would says that these are 10 to 14 ounces.
489
490 Mr. Kirkland - Do they fit in your hand?
491
492 Mr. Tess - Yes. They are about the size of a pigeon that you see on
493 the street. That is just about the size of these - like a Roller or a Homer. Not a real
494 large pigeon, not a real small one. Now, he has complied with all of your Henrico
495 County Ordinances.

496
497 Mr. Kirkland - Do we have a building permit on file for this, Mr. Blankinship.
498
499 Mr. Blankinship - Not that I know of. Have you filed for a building permit?
500
501 Mr. McKinney - He would not need one for 150 square feet.
502
503 Mr. Blankinship - We would just hold it up pending the use permit anyway if it
504 is over 150 square feet.
505
506 Mr. Wright - Do these pigeons make any noise?
507
508 Mr. Tess - When they fly.
509
510 Mr. Wright - Do they make any noise in the loft?
511
512 Mr. Tess - Yes, as normal pigeons. Again, that is hard to describe if you
513 are not familiar with it. How loud? Not anything like a rooster crowing. I mean, they
514 certainly would not disturb the neighbors, I don't think. If they did they would almost
515 have to be within 10 or 15 feet of the loft. I don't think that noise would be any concern
516 whatsoever. It does not even come up.
517
518 Mr. McKinney - Mr. Tess, you stated that Mr. Nikulin would have anywhere
519 from 50 to 60 birds at a time.
520
521 Mr. Tess - Yes.
522
523 Mr. McKinney - That is a maximum.
524
525 Mr. Tess - He gets it, like 40 is enough. The maximum would certainly
526 be 50 or 60.
527
528 Mr. McKinney - Well, why not 50 or 60 square feet? You said that the
529 federal government requires a square foot per bird, so why do you want 160 square feet
530 if you are not going to utilize it?
531
532 Mr. Tess - Obviously, just like anything else, if you give them a little
533 more room it is a whole lot easier to keep them clean and a whole lot better if they are
534 not crowded. I would certainly recommend 160 feet for 50 or 60 birds. I have much
535 more for mine.
536
537 Mr. McKinney - Well, you don't have any problem with the condition of no
538 more than 60 birds?
539
540 Mr. Tess - That is correct.
541
542 Mr. McKinney - OK.

543
544 Mr. Tess - Some of the things that the National Pigeon Association
545 recommends and I recommend and fully stand behind it, one of the things that they
546 would have in an ordinance, pigeons will not be released for flying which have been fed
547 within four hours previous to this release. I would agree with that.
548
549 Mr. Balfour - In other words, they can't fly within four hours of feeding.
550
551 Mr. Tess - Right. In other words, I would certainly agree with that. And
552 the right of entry and inspection. An animal control officer can come and inspect this
553 place at any time, and I have confidence enough in his ability to keep the loft reasonably
554 clean and reasonably in good shape to where I would certainly go along with that. Let
555 the animal control officer come and look. Look in my loft or his loft or any loft.
556
557 Mr. McKinney - Which animal control officer is that?
558
559 Mr. Tess - I don't know. One lives down...
560
561 Mr. McKinney - Is it federal, state, local, or what?
562
563 Mr. Tess - Local. It would be your local animal control officer. He could
564 come and look at it at any time.
565
566 Mr. McKinney - Do we have any inspectors to inspect pigeon coups?
567
568 Mr. Blankinship - Not routinely. We do have an animal control officer on call if
569 somebody filed a complaint of some sort, they would go.
570
571 Mr. Tess - If somebody files a complaint, they come.
572
573 Mr. McKinney - Let me ask you, Mr. Tess. Where do you live?
574
575 Mr. Tess - Hanover County, Old Church area,
576
577 Mr. McKinney - Old Church. How much land do you have?
578
579 Mr. Tess - Two acres.
580
581 Mr. McKinney - Two acres. You are not in the middle of a subdivision.
582
583 Mr. Tess - No, sir.
584
585 Mr. McKinney - OK. Thank you.
586
587 Mr. Kirkland - All right, let's move along here. Any other questions?
588 Anyone else in favor of this case? OK, anyone opposed to this case that would like to

589 speak? OK. Mr. Tess, you will be given time to rebut any testimony made by the
590 opposition. If you would sir, state your name for the record.

591
592 Mr. Donald Trainum - My name is Donald Trainum. I live at 9206 Woodlake Drive,
593 which is directly behind the house on Crystalwood Drive. My property line is
594 approximately 40 feet and my backdoor from the back of the property line is 40 feet.
595 This building that he proposes to build is about 3 or 4 feet from that, so you are talking
596 about within 43 or 44 feet from my back door, and I thought we could only have a
597 maximum of 3 pets in your neighborhood. You can see in that little block up there, I
598 don't know how many houses, but there are a lot of houses there. I submitted a petition
599 to Mr. Blankinship earlier of 24 people that live in this neighborhood. Most of them are
600 in that little block that are against this proposal. There are about nine people here today
601 that are against this. Some more would have come, but, you know, people do have to
602 work and the other lady is sick. Now, I am concerned about this because of the odor,
603 noise, bringing in insects probably, rodents, and I just don't want 160 pigeons in my
604 backyard. That is about all I've got to say.

605
606 Mr. McKinney - You don't want 160 pigeons?

607
608 Mr. Trainum - I don't want all of them pigeons right close to my backyard.

609
610 Mr. McKinney - Sixty pigeons.

611
612 Mr. Trainum - Right. I don't know how many, but he has had pigeons
613 before, and he has a loft that he had them in. I've seen pictures.

614
615 Mr. Kirkland - We will have to keep those pictures, sir, for 30 days.

616
617 Mr. Trainum - Any other questions for me?

618
619 Mr. McKinney - Your concern is noise, odor, the insects, rodents.

620
621 Mr. Trainum - I am not a pigeon expert, so I don't know what they are
622 going to bring, but I do know that when you have that many animals in your backyard,
623 they are going to bring something.

624
625 Mr. Kirkland - Mr. Blankinship, may I ask you a question? Do you have
626 any drawings or anything with the location of where this shed is going to be? It can't be
627 within three feet of the property line, can it?

628
629 Mr. Blankinship - They did not submit that.

630
631 Mr. Blankinship - It must be at least three feet away.

632
633 Mr. Wright- What are these pictures that you just gave us?

634

635 Mr. Trainum - That's buildings that he built earlier.
636
637 Mr. Wright - On this property at 9207?
638
639 Mr. Trainum - Correct.
640
641 Mr. Wright - So this construction has begun?
642
643 Mr. Trainum - There it is and there is the building that is already there. And
644 he had pigeons before and that didn't bother me, but this number of pigeons is a
645 concern.
646
647 Mr. Wright - So when you said pigeons, I thought this was a new house,
648 that he had just purchased it.
649
650 Mr. Trainum - No. This house has been here 30 some years.
651
652 Mr. Wright - I know the house has, but I thought that he had just
653 purchased it.
654
655 Mr. Trainum - About a year or two years ago.
656
657 Mr. Kirkland - They already had pigeons there before? Have they got
658 pigeons there now?
659
660 Mr. Trainum - Not to my knowledge.
661
662 Mr. Balfour- You said a few pigeons wouldn't bother you, what is a few?
663
664 Mr. Trainum I don't know how many he would have, but three or four
665 would not bother me, but this number would. I am thinking you can have three pets, so
666 that does not bother me. That is the law.
667
668 Mr. McKinney - That is why he is here because he is asking for more than
669 three.
670
671 Mr. Trainum - Yes. I understand that.
672
673 Mr. Kirkland - Any other questions? All right. The next person who wishes
674 to speak. Did I see somebody else's hand go up? Good morning.
675
676 Ms. Althea P. Minor - Good morning. My name is Althea P. Minor and I live at
677 9209 Crystalwood Lane. I have lived there since 1963 when the house was built, and at
678 this time it was very particular what we could do on our property, and it was based on
679 an adjustor, and now there are pigeons coming in that are going to deface the property
680 for my house. If I wanted to sell my house, who wants to buy one with a pigeon farm

681 next to me, because this is a residential area and not a farm, so I want you to consider
682 this, because I am very upset. I am very disturbed about the whole situation because it
683 is residential. That is the main focus there. Do we want to get (unintelligible), because
684 we could have something else come up. I feel like I have nothing against the people,
685 but I think if they want something done like this, then they should live in the country and
686 not in residential. That is the main thing. Thank you very much.

687
688 Mr. Kirkland - Thank you, ma'am. Mr. Blankinship, may I ask you another
689 question? The sale of pigeons, if he is raising them for sale, is that getting involved with
690 some zoning situation?

691
692 Mr. Blankinship - It certainly could. Essentially, I would call that agriculture.

693
694 Mr. Kirkland - OK. Thanks. Let me hear from the last person and you get
695 one time to talk and maybe you will bring it up in your rebuttal. Does anyone else wish
696 to speak over there? Any more opposition? OK. If you would sir, would you like to
697 come and rebut. First, can I ask you a question. Does he plan on selling these
698 pigeons, the young ones that are born every year?

699
700 Mr. Tess - Not as a profit-making hobby, just like you would sell a dog.
701 If you had two dogs and had a litter of good puppies, certainly you would sell some. He
702 would probably do the same thing. I don't think. He is not in the business of selling. I
703 will put it that way.

704
705 Mr. Kirkland - I just want to know.

706
707 Mr. Tess - I gave Mr. Blankinship a diagram of where the loft would be.
708 It meets all of the requirements of Henrico County, and I would really like to just...

709
710 Mr. McKinney - Let me say something to you. It does not meet any
711 requirements of Henrico County. That is the reason you are here. For the Board to
712 decide whether to grant or deny this application. If you met all of the requirements of
713 Henrico County, you would not be here.

714
715 Mr. Tess - No. I understand that. I mean the building would meet the
716 requirements of Henrico County as to the setback from the property line, the distance
717 off the ground to dispel the fear of rats and vermin, if it is two feet off the ground, cats
718 and dogs can get underneath. This is a Henrico County requirement for pigeon lofts.

719
720 Mr. McKinney - And you obtained this from the Building Inspector's Office?

721
722 Mr. Tess - Not from the Building Inspector's office. I have a cousin who
723 lives in Sleepy Hollow who had to get a building permit for a pigeon loft.

724
725 Mr. McKinney - How long ago?

726

727 Mr. Tess - Quite some years?
728
729 Mr. McKinney - How do you know the Code hasn't changed since then?
730
731 Mr. Tess - I don't.
732
733 Mr. McKinney - So what you are saying is irrelevant.
734
735 Mr. Tess - Essentially, probably. But, I would like to dispel their fears of
736 odor. Unlike chickens, pigeons do not have an odor in a properly maintained and kept
737 pigeon loft. None whatsoever. Shouldn't have.
738
739 Mr. Kirkland - That word is a tricky one.
740
741 Mr. Tess - Well, that is correct. All of these things are kind of tricky. I
742 mean, if you keep three dogs, which is allowed, supposedly, and these dogs bark like
743 crazy, and nobody cleans the dog lot, you have a terrible situation and you have to call
744 the animal control and have this rectified. Well, here you are not even willing to give
745 this man the opportunity to have more than three pigeons. Three pigeons is just not
746 normal pigeon keeping. You would normally keep a flock of pigeons as opposed to
747 three, and little kids go to the Fair, and they see a pony and they want it. Everybody
748 thinks of pigeons exactly like you do; they're dirty, nasty things. Well, this is just not so.
749 It is an established fact there are people like myself, I figure I am as good as anybody
750 and I keep pigeons, and they are not dirty and nasty, and he keeps his for his own
751 pleasure. You can keep dogs. Why should he be denied to keep more than three
752 pigeons?
753
754 Mr. Kirkland - Well, we will straighten that out. We will vote on that and get
755 it squared away. Any other new testimony you might have?
756
757 Mr. McKinney - One question of Mr. Tess. Mr. Tess, this drawing that you
758 submitted. What is this 72 square foot structure that is in the corner?
759
760 Mr. Nikulin - That is a small shed. I have five feet, and also they have
761 cars, and people like tools for cars.
762
763 Mr. McKinney - So it is a storage shed?
764
765 Mr. Nikulin - It is not a storage shed. I keep like two pigeons and I keep
766 like maybe 3 months and they didn't bother nobody and no neighbor's property, and
767 after two months an animal control officer investigates and I told him I keep just two
768 pigeons, and I thought somebody told me three pets are allowed in Henrico County, and
769 I said I have just two. And I opened the pigeons' loft and showed him the two pigeons
770 and he said, "This is OK." And then later, maybe next day, she called me and said that
771 two pigeons are not allowed, and I like moved the pigeons away, and if you saw a
772 picture, I try to build like nice pigeon lofts and make top very nice, and once again,
773 people thought maybe pigeons will fly on neighbor's property or make noise, like at

774 evening time they don't make any noise. And it is my hobby and I never sell pigeons. If
775 I don't like pigeons, I just give to somebody else for free, and it is like my hobby. I clean
776 my pigeon walks twice a day and it is why I want 160 pigeons because I am not even
777 going, every day, to let them loose. If there is rain or I don't like to let pigeons loose,
778 they will (unintelligible) and even I would complain if I go back inside and see if my
779 pigeons (unintelligible), when they fly they keep real quiet and when they fly 10 feet, I
780 saw a different performance, and even I can make decisions; this young pigeon would
781 and this wouldn't.

782
783 Mr. McKinney - This pigeon loft, I am presuming, is 10 foot by 16 foot long?
784

785 Mr. Nikulin - The size is (unintelligible) I cannot like make bigger than,
786 keep pigeons more healthy, and better. (Unintelligible)
787

788 Mr. McKinney - What I am trying to arrive at is, we don't have a detail of it,
789 the footprint. It could be 10 by 16, it could be 5 by 32, to be 32 foot long. How long is it
790 going to be, how deep is it going to be, and how high is it going to be?
791

792 Mr. Nikulin - I am going to build two feet off the ground or eight foot
793 (unintelligible).
794

795 Mr. McKinney - So it would be 10 foot and it will have an A roof on it? An A
796 roof or a flat roof?
797

798 Mr. Nikulin - I have not decided yet. I can build like these or I can build
799 like (unintelligible).
800

801 Mr. McKinney - For your information, I have talked with some people that
802 were raised in this country that spoke English a lot worse than you do. So you are
803 doing OK.
804

805 Mr. Nikulin - (Unintelligible) two days ago, like not to take pigeon
806 (unintelligible) with me, but people like pigeons (unintelligible).
807

808 Mr. Blankinship - Just for the record, Mr. Chairman, we don't need to keep
809 these pictures.
810

811 Mr. Kirkland - I can understand that. All right, if there are no other
812 questions and there is no other one to speak who has not already spoken before, that
813 will conclude the case. That is it.
814

815 Upon a motion by Mr. McKinney, seconded by Mr. Nunnally, the Board of Zoning
816 Appeals **granted** your request for the above-referenced use permit subject to the
817 following conditions:
818

819 1. Only the pigeon loft described in the application may be constructed pursuant to this
820 approval. Any additional uses or improvements shall comply with the applicable

821 regulations of the County Code. The loft shall not exceed 50 square feet in area or 6
822 feet in height.

823
824 2. The number of birds kept on the property shall not exceed 40 at any time.

825
826 3. The loft shall be kept in a manner to prevent odors, vermin, or disease from affecting
827 surrounding properties.

828
829 The Board **granted** this request, as it found from the evidence presented, that
830 authorizing this use permit will not be of substantial detriment to adjacent property and
831 will not materially impair the purpose of the zoning regulations.

832
833 Affirmative: Balfour, Kirkland, McKinney, Nunnally, 4
834 Negative: Wright 1
835 Absent: 0

836
837 **A -102-2000 FDS MANAGEMENT** requests a variance from Section 24-94 of 5144
838 Carters Pond Court (Myers Estates) (Tax Parcel 171-15-A-12), zoned
839 R-4, One-family Residence District (Varina). The front yard setback is
840 not met. The applicant has 32 feet front yard setback, where the Code
841 requires 35 feet front yard setback. The applicant requests a variance
842 of 3 feet front yard setback.

843
844 Mr. Gene Davis -Good morning, gentlemen. My name is Gene Davis.

845
846 Mr. Kirkland - If you would, first raise your right hand and be sworn in. Is
847 anyone else going to speak on this case?

848
849 Mr. Blankinship - Sir, do you swear that the testimony you are about to give is
850 the truth, the whole truth and nothing but the truth, so help you God?

851
852 Mr. Kirkland - Have all of your notices been turned in?

853
854 Mr. Davis - Yes, sir. They have.

855
856 Mr. Kirkland - We have them in the file.

857
858 Mr. Gene Davis - Yes. Myers Estates is a one-road subdivision that cul-de-
859 sacs off of Williamsburg Road that you can see by your map is composed of 23 building
860 lots. The one thing left off of your little drawing here is the BMP, and there it is between
861 the subject property and the next house that you see. Before final approval was given
862 to this subdivision, we had to enlarge the BMP and it encroached upon this lot. I would
863 like to give you a couple of little pictures that are taken from Williamsburg Road as you
864 look down Carters Pond Court. This subdivision is composed primarily of starter
865 homes, and when I say starter homes, every one of them has been sold to a first-time
866 homebuyer. As you can see by the pictures that are given to you, you can see that they
867 are 1,000 to 1,050 square feet. ranchers. I would like to build a house on this remaining

868 lot that is compatible to what I have in the neighborhood, 1,000 square feet The
869 encroachment as stated by your staff report will not affect the sight line or the line of the
870 house. It will not affect the real setback, which affects people on Eanes Lane, so I
871 would urge you to consider granting this request, and if you have any questions, I would
872 be happy to try to answer them.

873
874 Mr. Kirkland - Any questions? Does anyone else wish to speak on this
875 case? If not sir, that concludes the case. Thank you. Next case, sir.

876
877 Upon a motion by Mr. Nunnally, seconded by Mr. Wright, the Board of Zoning Appeals
878 **granted** your request for the above-referenced variance subject to the following
879 conditions:

880
881 1. Only the improvements shown on the plan filed with the application may be
882 constructed pursuant to this approval. Any additional improvements shall comply with
883 the applicable regulations of the County Code.

884
885 The Board granted this request, as it found from the evidence presented, that
886 authorizing this variance will not be of substantial detriment to adjacent property and will
887 not materially impair the purpose of the zoning regulations.

888
889 The Board **granted** this request, as it found from the evidence presented, that
890 authorizing this variance will not be of substantial detriment to adjacent property and will
891 not materially impair the purpose of the zoning regulations.

892
893 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
894 Negative: 0
895 Absent: 0

896
897 **A -103-2000 JAMESTOWNE BUILDERS, INC.** requests a variance from Section
898 24-95(k) of Chapter 24 of the County Code to complete a dwelling
899 under construction at 1600 Fawcett Lane (Varina Station) (Tax Parcel
900 192-10-E-16), zoned R-3C, One-family Residence District (Conditional)
901 (Varina). The minimum side yard setback is not met. The applicant has
902 17.8 feet minimum side yard setback, where the Code requires 25.0
903 feet minimum side yard setback, The applicant requests a variance of
904 7.2 feet minimum side yard setback.

905
906 Mr. Kirkland - Does anyone else wish to speak on this case? If not, sir,
907 raise your right hand and be sworn in.

908
909 Mr. Blankinship - Do you swear that the testimony you are about to give is the
910 truth, the whole truth, and nothing but the truth so help you God?

911
912 Mr. Kirkland - Have all of your notices been turned in?
913

914 Mr. Tim Inge - Yes sir. My name is Tim Inge and I am with Jamestowne
915 Builders, Inc. Just like you said, we applied for a permit for this new construction
916 residence and it was approved and it was being constructed until we found out the
917 required site setback had not been met, and I guess that is where we are at this point.

918
919 Mr. Wright - So, you actually have a building permit that was approved by
920 the Planning Office?

921
922 Mr. Inge - Yes, sir.

923
924 Mr. Wright - How did that happen, Mr. Blankinship?

925
926 Mr. Blankinship - It is a reverse corner lot and the person reviewing it did not
927 understand that.

928
929 Mr. Wright - At what stage is the house now?

930
931 Mr. Blankinship - I believe it is near completion.

932
933 Mr. Kirkland - Any other questions? No other questions. Anyone else wish
934 to speak? That concludes the case, sir.

935
936 Upon a motion by Mr. Nunnally, seconded by Mr. Wright, the Board of Zoning Appeals
937 **granted** your request for the above-referenced variance subject to the following
938 conditions:

939
940 1. Only the improvements shown on the plan filed with the application may be
941 constructed pursuant to this approval. Any additional improvements shall comply with
942 the applicable regulations of the County Code.

943
944 The Board **granted** this request, as it found from the evidence presented, that
945 authorizing this variance will not be of substantial detriment to adjacent property and will
946 not materially impair the purpose of the zoning regulations.

947
948 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
949 Negative: 0
950 Absent: 0

951
A-105-2000 **DOLORES A. COX** requests a variance from Section 24-95(c)(2)
of Chapter 24 of the County Code to build an addition at 104
North Fern Avenue (Highland Springs) (Tax Parcel 148-11-F-6),
zoned R-4, One-Family Residence District (Varina). The rear
yard setback is not met. The applicant has 23.5 feet rear yard
setback where the Code requires 25.0 feet rear yard setback.
The applicant requests a variance of 1.5 feet rear yard setback.

952

953 Mr. Kirkland - Does anyone else wish to speak on this case? If you would
954 sir, raise your right hand and be sworn in.
955

956 Mr. Blankinship - Do you swear that the testimony you are about to give is the
957 truth, the whole truth, and nothing but the truth so help you God?
958

959 Mr. Rennick Yes, sir.
960

961 Mr. Blankinship - Have your notices been turned in according to County
962 Code?
963

964 Mr. Rennick - Yes, sir.
965

966 Mr. Kirkland - State your name for the record.
967

968 Mr. Mark Rennick - I am Mark Rennick and I will be the general contractor.
969

970 Mr. Kirkland - OK. State your case.
971

972 Mr. Rennick - The Coxes would just like to add a 12-foot addition on the
973 rear of their home. Right now there is a 12-foot deck located in the same area. The
974 required setback on the zoning is 25 feet. With the proposed 12-foot addition, it will
975 meet a 23.5-foot setback, so we are requesting a 1.6-foot extension to the setback. The
976 new room will only be 12 feet wide, also. I believe the application states 24 feet, and 12
977 feet of that would be a deck; 12 feet of room, both extending 12 feet past the rear of the
978 house. Same construction style. Basically, the new room will just be taking place of the
979 existing deck. It is a very small home and the people want to locate their washer and
980 dryer there. That 12 feet leaves us 11 ft. 8 inches inside to work with, and that is why
981 they are requesting a variance.
982

983 Mr. Nunnally - So, you are going to move the deck and put this addition on
984 there. Is that it?
985

986 Mr. Rennick - Yes, sir, and the deck will really be located adjacent to the
987 new room, not extending back further, just the underline of the house. And I think from
988 the drawing on the plat that got picked up as a 12 foot by 24 foot addition. Actually, it
989 will be a 12 foot by 12 foot addition with a 12 foot by 12 foot deck located adjacent to it.
990

991 Mr. Kirkland - Any other questions by Board members? Any one else wish
992 to speak? That concludes the case, sir.
993

994 Mr. Rennick - Thank you.
995

996 Upon a motion by Mr. Nunnally, seconded by Mr. Wright, the Board of Zoning Appeals
997 **granted** your request for the above-referenced variance subject to the following
998 conditions:
999

1000 1. Only the improvements shown on the plan filed with the application may be
1001 constructed pursuant to this approval. Any additional improvements shall comply with
1002 the applicable regulations of the County Code.

1003
1004 The Board **granted** this request, as it found from the evidence presented, that
1005 authorizing this variance will not be of substantial detriment to adjacent property and will
1006 not materially impair the purpose of the zoning regulations.

1007
1008 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1009 Negative: 0
1010 Absent: 0

1011
1012

A-106-2000

DURBIN WILLIAMS AND BARBARA MEYER request a variance from Section 24-94 of Chapter 24 of the County Code to enclose an existing deck at 4425 Yorkminster Drive (Sadler Woods) (Tax Parcel 37-3-B-30), zoned R-3AC, One-family Residence District (Conditional) (Three Chopt). The rear yard setback is not met. The applicants have 25 feet rear yard setback, where the Code requires 35 feet rear yard setback. The applicants request a variance of 10 feet rear yard setback.

1013

1014 Mr. Kirkland - Does anyone else wish to speak on this case? If not, would
1015 you all raise your right hand and be sworn in?

1016

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

1019

1020 Mr. Durbin Williams - Yes.

1021

1022 Mr. Kirkland - State your name for the record please.

1023

1024 Mr. Williams - Durbin Williams.

1025

1026 Ms. Meyer - My name is Barbara Meyer.

1027

1028 Mr. Kirkland - Have all of your notices been turned in according to Code?

1029

1030 Mr. Williams - We believe so.

1031

1032 Mr. Kirkland - State your case.

1033

1034 Mr. Williams - We purchased a lot in Sadler Woods, a subdivision off of
1035 Sadler Road right behind the Innsbrook Corporate Office Park area, and we proceeded
1036 to build a house. At the time, we signed the contract and got under construction we did
1037 not realize that the wood line behind our house and subdivision and also the condition
1038 of the land where the house is located. The short answer to what our concern is that

1039 there is a lot of standing water around the area and we have a deck. What we would
1040 like to do is screen in the deck. We don't want to enclose it. We just want to screen it in
1041 to protect ourselves. We were not able to use that deck at all this past summer
1042 because of bugs and mosquitoes and other infestation and we were driven off of it. We
1043 were bitten I don't know how many times. We have had some reactions to bites. For
1044 another bite I was on medication this summer and antibiotics. I don't know whether
1045 there is any truth to the West Nile virus or not, but there may be. We'd like to be able
1046 to enjoy the deck as we originally anticipated we might be able to, when we built the
1047 house. We didn't realize how much of a bug population there was in this neighborhood
1048 at the time we bought the property. I realize we undertook the risk and it is our
1049 responsibility, but we didn't realize how much there was. In essence, that is what our
1050 case is.

1051
1052 Mr. Wright - What is located to the rear of your property, sir?

1053
1054 Mr. Williams - Immediately to the rear of the property there is a wood line,
1055 and I would estimate that it might be between 50 and 75 feet in depth, and beyond that
1056 is an older residence that has been there for a number of years, as has the other
1057 properties along that rear road. This was formerly, as I was told, farm land.

1058
1059 Mr. Wright - Is there any screening to the rear of your property and that
1060 property?

1061
1062 Mr. Williams - Any screening? No, we have this fence that you can see.

1063
1064 Mr. Wright - How about the wood line? Does that provide you some
1065 screen, trees, etc.?

1066
1067 Mr. Williams - Yes, oh yes. And when in the summer and spring with the
1068 foliage, it is reasonably dense. The folks to our immediate left as you are facing our
1069 property do have a screened in porch. Their house doesn't extend back as far as ours
1070 does, because they have a two-story and we have a ranch house, but there is one
1071 screen porch right next to us.

1072
1073 Mr. Kirkland - Any other questions of Mr. Williams? That is it.

1074
1075 Mr. Williams - It is a screened porch and we are not asking to enclose it or
1076 winterize it or anything like that. This is just a request for a screened in porch.

1077
1078 Mr. Kirkland - Is there any opposition on this case? OK. That concludes
1079 the case.

1080
1081 Upon a motion by Mr. Wright, seconded by Mr. Balfour, the Board of Zoning Appeals
1082 **granted** your request for the above-referenced variance subject to the following
1083 conditions:

1084

1085 1. Only the improvements shown on the plan filed with the application may be
1086 constructed pursuant to this approval. Any additional improvements shall comply with
1087 the applicable regulations of the County Code.
1088

1089 The Board **granted** this request, as it found from the evidence presented, that
1090 authorizing this variance will not be of substantial detriment to adjacent property and will
1091 not materially impair the purpose of the zoning regulations.
1092

1093	Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
1094	Negative:		0
1095	Absent:		0

1096 **A-107-2000** **STEPHEN AND LAURIE KERSHNER** request a variance from
Section 24-94 of chapter 24 of the County Code to enclose an
existing deck at 3104 Chestnut Grove Court (Stratford Glen at
Wellesley) (Tax Parcel 46-6-A-3), zoned R-2AC, One-family
Residence District (Conditional) (Three Chopt). The rear yard
setback is not met. The applicants have 38 feet rear yard
setback, where the Code requires a 45 feet rear yard setback.
The applicants request a variance of 7 feet rear yard setback.

1097
1098 Mr. Kirkland - Does anyone else wish to speak on this case? If not, raise
1099 your right hand and be sworn in.
1100

1101 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1102 truth, the whole truth and nothing but the truth so help you God?
1103

1104 Ms. Kershner - Yes, I do. I am Laurie Kershner.
1105

1106 Mr. Kirkland - Have all of your notices been turned in according to County
1107 Code?
1108

1109 Ms. Kershner - Yes, they have.
1110

1111 Mr. Kirkland - State your case.
1112

1113 Ms. Kershner - And I would like to also screen in my existing deck on my
1114 house. I have a western exposure on my deck and all summer long I have the sun
1115 beating on it constantly and I cannot use my deck. It is just hot all of the time from the
1116 sun in the summer, and I have no shade on it from trees, because 35 feet back I have
1117 the 10 to 12 foot Photinia hedge which protects my yard from other neighbors. I can't
1118 put trees up there, too, because it would just actually detract from my landscaping. So,
1119 I want to put a screened-in porch in and I have had skin cancer twice on my nose and
1120 have had to have reconstructive surgery on my face and I cannot be out there to sit on
1121 my deck and enjoy it, because I am not supposed to be in the sun anymore. I do have
1122 a sheet from my doctor, from the dermatologist, where I go every six months to get
1123 checked for cancer. But I would like to – it would not encroach upon my neighbors and

1124 as you can see my backyard is pretty well private, and then since I am on a cul-de-sac
1125 and I am on a corner lot, the house adjacent to me, right next door, actually tilts out the
1126 other way, so their backyard would not; it actually tilts this way, instead of being right
1127 beside us, and due to my being on a cul-de-sac and a corner lot, and our house is kind
1128 of tilted a little funny, and that is why I don't meet that rear setback on that one corner
1129 and they made the front look really nice, my setback from the cul-de-sac is on the front.
1130 So, I think I lost out on that rear setback in order to put in a deck because of the way
1131 they set up my house to begin with.

1132
1133 Mr. Kirkland - Any questions? Does anyone else wish to speak on this
1134 case? That concludes the case.

1135
1136 Upon a motion by Mr. Wright, seconded by Mr. Nunnally, the Board of Zoning Appeals
1137 **granted** your request for the above-referenced variance subject to the following
1138 conditions:

1139
1140 1. Only the improvements shown on the plan filed with the application may be
1141 constructed pursuant to this approval. Any additional improvements shall comply with
1142 the applicable regulations of the County Code.

1143
1144 The Board **granted** this request, as it found from the evidence presented, that
1145 authorizing this variance will not be of substantial detriment to adjacent property and will
1146 not materially impair the purpose of the zoning regulations.

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

1151
1152 Mr. Kirkland - Before we proceed with this case, since it is after 10:00, can
1153 you call from any deferrals or withdrawals?

1154
1155 Mr. Blankinship - There is one of each.

1156
1157 Mr. Kirkland - On the 10:00 a.m. agenda? Just in case someone is here.

1158
1159 Mr. Blankinship - A-116-2000, Virginia Lab Supply. Actually, it is not even on
1160 your agenda because we had already received their request for a withdrawal, and A-
1161 117-2000, The Oaks at Gayton. They have requested a deferral until next month.

1162

A-117-2000

THE OAKS AT GAYTON request a variance from Section 24-104(e)(1)b.2 of Chapter 24 of the County Code to build a second sign at 12520 Gayton Road (The Oaks at Gayton) (Tax Parcel 65-A-11), zoned R-5, General Residence District (Three Chopt). The required distance between freestanding signs is not met. The applicant has 350 feet between freestanding signs, where the Code requires 500 feet between freestanding signs. The applicant requests a variance of 150 feet between freestanding signs.

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Mr. Balfour - I move that we defer that case.

Upon a motion by Mr. Balfour, seconded by Mr. McKinney, the Board of Zoning Appeals **granted** your request for the above-referenced variance to be **deferred to the November 2000 meeting**

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

Mr. Kirkland - OK. Proceed with the case.

A-108-2000

THOMAS M. SHAW requests a variance from Section 24-94 of Chapter 24 of the County Code to build an addition at 5212 Scotsglen Drive (Scotsglen) (Tax Parcel 18-3-B-49), zoned R-4AC, One-Family Residence District (Conditional (Three Chopt). The minimum side yard setback and total side yard setback are not met. The applicant has 5.84 feet minimum side yard setback and 19.37 feet total side yard setback, where the Code requires 8.00 feet minimum side yard setback and 20.00 feet total side yard setback. The applicant requests variances of 2.16 feet minimum side yard setback and 0.63 feet total side yard setback.

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

Mr. Thomas Shaw - Yes, I do.

Mr. Kirkland - Does anyone else wish to speak on this case? State your name for the record, please.

Mr. Shaw - Yes, my name is Thomas Shaw.

1188 Mr. Kirkland - Have all of your notices been turned in according to County
1189 Code?
1190
1191 Mr. Shaw - Yes, sir.
1192
1193 Mr. Kirkland - OK. State your case.
1194
1195 Mr. Shaw - Yes, we purchased our home in Twin Hickory last July, and I
1196 have a father-in-law who is in the final stages of heart disease, and it has affected both
1197 his heart and his kidneys. As part of his current health condition, he is not able to
1198 maneuver stairs, to ascend stairs in a residence. We are making plans to have his
1199 moved into our residence and, unfortunately, all of our bedrooms and baths, etc. are on
1200 the upper levels of our home. I am requesting to build an addition on the left side of our
1201 property. In talking with our builder, Austin Davidson, who also builds other homes in
1202 our neighborhood, he has offered to build the actual addition onto our home, and
1203 advised that we needed to apply for a variance of 2.16 foot minimum side yard setback
1204 and .63 foot total side yard setback.
1205
1206 Mr. Kirkland - What is the proposed size of this addition?
1207
1208 Mr. Shaw - It is 23 and a half feet long and it is 12 feet wide, and it
1209 would include a bedroom, a small bath, and a closet.
1210
1211 Mr. Wright - You could not make it much smaller than 12 feet, which is
1212 about the minimum?
1213
1214 Mr. Shaw - Correct. The actual addition on our home. We do have
1215 homes in our neighborhood that do have the exact same additions on their property.
1216 We happened to have purchased the model home and it was already constructed at the
1217 time we bought it. It would be consistent with homes in our neighborhood and built by
1218 the actual builder, who built our property.
1219
1220 Mr. Wright - Did you say that the construction would be conformed to the
1221 construction of your present home?
1222
1223 Mr. Shaw - Yes, sir. After the addition is built on. We have other homes
1224 in our neighborhood who have the exact same width in front with the same exact
1225 addition, so it would be consistent with homes in the neighborhood.
1226
1227 Mr. Kirkland - Is this single-story or double?
1228
1229 Mr. Shaw - It is a three level home. The addition is one level.
1230
1231 Mr. Wright - Thank you. Do you know what is located on the side that
1232 you would construct this addition, on your neighbor's house? Do you know what is
1233 there?

1234
1235 Mr. Shaw - Let's see.
1236
1237 Ms. Shaw - Hi. I am Melissa Shaw. Our house is a former model and
1238 the house next door is also a former model, and their model room or that would have
1239 been a garage is actually a playroom for their children.
1240
1241 Mr. Wright - What is that little area that sticks out there on their house?
1242
1243 Ms. Shaw - On their house? It is actually just a decorative holder for
1244 their trash can. It is just lattice that has been painted white and it holds their trash can.
1245
1246 Mr. McKinney - The other is the fireplace?
1247
1248 Mr. Kirkland - The other thing sticking out is the fireplace?
1249
1250 Ms. Shaw - Yes, that back room is their family room. That is their
1251 fireplace.
1252
1253 Mr. Kirkland - Any other questions? Does anyone else wish to speak on
1254 this case?
1255
1256 Ms. Shaw - I just want to add that obviously the neighbors to that side of
1257 us would be the ones most directly affected by the addition, and they have no problem
1258 with it, and before we even applied for the variance we discussed it with them and we
1259 showed them pictures of what it would look like, and they signed some paper work
1260 saying that they saw all of the plans and had no problem with it, and we sent that to you
1261 as well as all of the other stuff that you requested.
1262
1263 Mr. Kirkland - Is that in the file? OK. Thank you very much. Next case,
1264 sir.
1265
1266 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board of Zoning Appeals
1267 **granted** your request for the above-referenced variance subject to the following
1268 conditions:
1269
1270 1. Only the improvements shown on the plan filed with the application may be
1271 constructed pursuant to this approval. Any additional improvements shall comply with
1272 the applicable regulations of the County Code.
1273
1274 2. A detailed landscape plan shall be included with the building permit for Planning
1275 Office review and approval.
1276
1277 The Board **granted** this request, as it found from the evidence presented, that
1278 authorizing this variance will not be of substantial detriment to adjacent property and will
1279 not materially impair the purpose of the zoning regulations.
1280

1281	Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
1282	Negative:		0
1283	Absent:		0
1284			
1285			

UP-36-2000

HELEN RENE DOSH requests a conditional use permit pursuant to Section 24-52(g) of Chapter 24 of the County Code to operate a boarding stable and riding academy at 10915 Opaca Lane (Tax Parcel 19-A-14), zoned A-1, Agricultural District (Three Chopt).

1286

1287 Mr. Kirkland - Does anyone else wish to speak on this case? Stand up
1288 and raise your right hand.

1289

1290 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1291 truth, the whole truth, and nothing but the truth, so help you God?

1292

1293 Ms. Dosh - I do.

1294

1295 Mr. Kirkland - OK. If you would, state your name for the record, ma'am.

1296

1297 Ms. Dosh - OK. My name is Helen Rene Dosh.

1298

1299 Mr. Kirkland - And have all of your notices been turned in according to
1300 County Code?

1301

1302 Ms. Dosh - Yes, sir.

1303

1304 Mr. Blankinship - We have them in the file.

1305

1306 Mr. Kirkland - OK. State your case.

1307

1308 Ms. Dosh - OK. I am Helen Rene Dosh and I am the daughter of Ben
1309 and Mabel Holloway, and Mabel Holloway is the owner of the property that I am
1310 currently leasing from to board the horses. And the purpose for this is basically just a
1311 change in the manager. There won't be anything changing to the current situation that
1312 exists. It is just a matter of new management.

1313

1314 Mr. Wright - We have already approved two use permits, I think, for the
1315 former owner.

1316

1317 Ms. Dosh - That is correct.

1318

1319 Mr. Kirkland - Have there been any complaints, Mr. Blankinship?
1320

1321 Mr. Blankinship - No. It is a very good site for this use. It is really secluded
1322 and well developed.

1323
1324 Mr. Kirkland - Any other questions? Does anyone else wish to speak?
1325 That concludes the case, ma'am. Thank you.

1326
1327 Upon a motion by Mr. Wright, seconded by Mr. Nunnally, the Board of Zoning Appeals
1328 **granted** your request for the above-referenced use permit subject to the following
1329 conditions:

1330
1331 1. The applicant shall maintain the property so that odors or vermin are controlled and
1332 do not pose a threat to adjacent property owners.

1333
1334 2. The horses shall be confined to the property at all times and not allowed to run at
1335 large.

1336
1337 3. The hours of operation shall be limited to daylight hours. After dark, riding shall be
1338 limited to the lighted ring.

1339
1340 4. The applicant shall obtain a building permit for any improvements on the property.
1341 At the time of building permit application, the applicant shall submit the necessary
1342 information to the Department of Public Works to ensure compliance with the
1343 requirements of the Chesapeake Bay Preservation Act and County water quality
1344 standards.

1345
1346 The Board **granted** this request, as it found from the evidence presented, that
1347 authorizing this use permit will not be of substantial detriment to adjacent property and
1348 will not materially impair the purpose of the zoning regulations.

1349
1350 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1351 Negative: 0
1352 Absent: 0

1353
1354
A-109-2000 **ASBERRY HARRISON, JR.** requests a variance from
Section 24-9 of Chapter 24 of the County Code to build a
dwelling at 2271 New Market Road (Tax Parcel 237-A-16F),
zoned A-1, Agricultural District (Varina). The public street
frontage requirement is not met. The applicant has 0.00
feet public road frontage, where the Code requires 50 feet
public road frontage. The applicant requests a variance of
50 feet public road frontage.

1355
1356 Mr. Kirkland - Does anyone else wish to speak on this case? Would you
1357 raise your right hand and be sworn in?
1358

1359 Mr. Blankinship - Do you swear the testimony you are about to give is the
1360 truth, the whole truth, and nothing but the truth, so help you God?
1361
1362 Ms. Isaac - I do.
1363
1364 Mr. Kirkland - State your name for the record, please.
1365
1366 Ms. Isaac - Laraine Isaac.
1367
1368 Mr. Kirkland - And have all of your notices been turned in?
1369
1370 Ms. Isaac - Yes, sir.
1371
1372 Mr. Kirkland - We have them in the file. State your case.
1373
1374 Ms. Isaac - Mr. Harrison has purchased a piece of property from his
1375 sister and wishes to build a dwelling on it. His sister is a widow and would like to have a
1376 family member living close to her to help take care of her, and so this request for a
1377 variance is needed in order for her brother to build on this property. They need access
1378 easement to the property of about 50 feet. They simply lack road frontage. I really
1379 don't have anything else to say. I will be happy to answer any questions.
1380
1381 Mr. Kirkland - Have you read the conditions, Ms. Isaac?
1382
1383 Ms. Isaac - Yes, and I have no problems with them. In fact, they already
1384 have permits for their septic tank and well location. This was caught through the
1385 building permit process. Everything was in order except they found out he didn't have
1386 road frontage.
1387
1388 Mr. Nunnally - How is that easement going to work? It looks like to me that
1389 there are some buildings there where I would expect it to go.
1390
1391 Ms. Isaac - Yes. I noticed that, too. I think that is something that, one of
1392 them is very small, and I think that will have to be torn down or they may have to
1393 reconfigure the easement. The easement actually is on the sister's property, so I think if
1394 there is anything that they have to do it would not affect a third party if they had to do
1395 some reconfiguration back there.
1396
1397 Mr. Kirkland - Any other questions? Any one else wish to speak? That
1398 concludes the case. Thank you, ma'am.
1399
1400 Ms. Isaac - Thank you.
1401
1402 Upon a motion by Mr. Nunnally, seconded by Mr. Wright, the Board of Zoning Appeals
1403 **granted** your request for the above-referenced use permit. The Board granted the
1404 variance subject to the following revised conditions:

1443
1444 Mr. Kirkland - Does your wife want to say her name?
1445
1446 Ms. Harvey - My name is Betty L. Harvey.
1447
1448 Mr. Kirkland - Have all of your notices been turned in according to County
1449 Code?
1450
1451 Mr. Harvey - Yes, sir.
1452
1453 Mr. Kirkland - OK. Proceed.
1454
1455 Mr. Harvey - My wife inherited this acre of land in front of her mother and
1456 father's house here, and we wish to build a house on that acre of land. We have
1457 already filed to have the sewerage done that we had to go to Pure-Flow Systems with it,
1458 and we have already had that drawn up and taken care of, and we have gone through
1459 all of the processes and the builder filed for a building permit and it came up that we
1460 were taking the road frontage away from the original dwelling, which is 3434, and we
1461 talked with the Commission and everything, and they said we could either give the land
1462 back to the home place or try for a variance, and that was the only thing we could do in
1463 order to build a home there.
1464
1465 Mr. Nunnally - Have you read the conditions, Mr. Harvey, on this, and do
1466 you agree with those?
1467
1468 Mr. Harvey - Yes, sir. It is already existing, a road, or a path or driveway
1469 going to these other two homes to 3434 and the one in the back that was just recently
1470 built. There is already a driveway going back to them, which is actually road frontage
1471 for them, because there is a way for them to get to it. If you notice in the drawing there,
1472 you see the checked line. That is the driveway going to the other two homes.
1473
1474 Mr. Kirkland - Any other questions? Anyone else wish to speak? That
1475 concludes the case. Thank you.
1476
1477 Upon a motion by Mr. Nunnally, seconded by Mr. Wright, the Board of Zoning Appeals
1478 **granted** your request for the above-referenced use permit. The Board granted the
1479 variance subject to the following revised conditions:
1480
1481 1. Only the improvements shown on the plan filed with the application may be
1482 constructed pursuant to this approval. Any additional improvements shall comply with
1483 the applicable regulations of the County Code.
1484
1485 2. Approval of this request does not imply that a building permit will be issued. Building
1486 permit approval is contingent on Health Department requirements, including, but not
1487 limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well
1488 location.

1535 Mr. Kirkland - Have all of your notices been turned in according to County
1536 Code?
1537
1538 Mr. Zeidman - Yes, sir. OK
1539
1540 Mr. Kirkland - OK. Proceed with your case.
1541
1542 Mr. Zeidman - Thank you. We seek a variance of setback requirement in
1543 order to construct a sunroom and screen porch on the back of our home. The addition
1544 will match the existing architecture and be the same size as other existing rooms in our
1545 house, and we have two children and a growing family and just need more room out
1546 there. Due to the shape of the lot, as you can see, and through the write-up from the
1547 County, we have some unusable locations and building places because of the corner
1548 lot. So, the place where we have our house has constrained our ability to put it on there
1549 without getting this variance. In fact, the area of the addition that we are seeking this
1550 variance for is actually on a triangular corner of the entire addition that exceeds the 35
1551 foot setback, which is just 3 feet by 4 feet triangularly in the corner by the road is all that
1552 we seek. We have the approval from the Church Run Homeowners Association already
1553 and are prepared to begin at any point.
1554
1555 Mr. Kirkland - Any questions by Board members?
1556
1557 Mr. Balfour - What will happen to the existing deck? Will that be
1558 removed?
1559
1560 Mr. Zeidman - Yes. The existing deck will be taken down and we will be
1561 putting up the addition and the screen porch over that area.
1562
1563 Mr. Wright - The point is that is just the corner of the addition, of that
1564 room, violates the setback. Is that correct?
1565
1566 Mr. Zeidman - Yes, sir. And actually when we were, when I was actually
1567 filing just a three foot variance, Steve Tugwell of the Planning Office, through some of
1568 his measurements, suggested to me that we may have to have four feet just in case we
1569 get out there are actually doing it and we don't want to adjust it to 3-1/2 feet and have to
1570 come back before you guys, so we have done that. It is just that small corner on the
1571 road side that extends, because of the way the house is turned on the lot, when we go
1572 back, and adding it from the existing side wall of the structure, in order to make it look
1573 like an existing part of the structure as opposed to an addition, to keep it along that line
1574 it does protrude three to four feet into the variance area.
1575
1576 Mr. Wright - What is located to the rear of your house? Does that house
1577 front, it fronts on what, River Chase Court?
1578
1579 Mr. Zeidman - Yes, sir.
1580

1581 Mr. Wright - So that would be to the rear of their house?
1582
1583 Mr. Zeidman - Yes, sir. Actually, you can look at the plot plans that we
1584 were given, I guess. Our house is actually, because of the shape of our lot and the way
1585 it turns, it is not directly, they are not symmetrically opposite of each other.
1586
1587 Mr. Wright - Is there any screening between the rear of your house and
1588 the rear of the house to the rear of you there?
1589
1590 Mr. Zeidman - At this time there are just a couple of trees that will remain
1591 and if screening becomes an issue with our neighbors, obviously that can be solved
1592 with landscaping.
1593
1594 Mr. Wright - OK.
1595
1596 Mr. Kirkland - Any other questions? Let's see. Are you opposed? OK.
1597 You can rebut the comments after he finishes. OK, sir. Come on down.
1598
1599 Mr. French - Yes, I am Bruce French. I am the neighbor that lives behind
1600 the Zeidmans. I don't have a problem with the addition. The problem that I have with
1601 doing this is crossing the 35 foot rear setback. You know, the County Code provides
1602 that as a protection for neighbors, and I personally don't want it violated. The
1603 neighborhood is a really nice neighborhood, but the problem is you've got houses on
1604 postage stamp lots, and so, therefore, you know, I want to have the rear setback for
1605 privacy reasons, and my yard does not have a whole lot of trees in it, because when I
1606 bought the house it was one of the last houses built in the neighborhood, and it really
1607 was where the builder was throwing all of his back fill and materials, so I had to
1608 landscape the yard over a five-year period. So, the bottom line is, I want a 35 foot rear
1609 yard setback according to the County Code.
1610
1611 Mr. Balfour - What kind of screening is back there now?
1612
1613 Mr. French - All I have done is put in small type trees, like Red Maples
1614 and stuff that grows. The lot when I bought it had no trees in the back.
1615
1616 Mr. Balfour - Is that on your property?
1617
1618 Mr. French - On my property. I have no objections to the addition.
1619 I just don't want it crossing the rear setback.
1620
1621 Mr. McKinney - Mr. French, would you have a problem if there was a buffer
1622 of trees put back there where you couldn't see.
1623
1624 Mr. French - I just don't want it to cross the 35 foot rear yard setback. So,
1625 my answer would be I would have a problem with that. I just want the addition to
1626 respect the County Code.

1627
1628 Mr. Wright- Do you realize that only a very small portion of the addition
1629 violates the Code?
1630
1631 Mr. French - Yes, sir. I am very aware of that. I looked at it before I came
1632 in here this morning. And, of course, I took time off from work to come out here, and I
1633 want to say that my neighbors are very, very nice people and I enjoy living by them, but
1634 I just don't want the 35 feet setback violated.
1635
1636 Mr. Kirkland - Thank you very much. Do you have any comments, sir, on
1637 his comments?
1638
1639 Mr. Zeidman - Yes, the reason we have located the addition the way we
1640 have on that exterior wall, as an extension at that particular place, is in order to make it
1641 appear as original construction so that it will increase the property value, not only of my
1642 home, but hopefully everybody's home around me. And if the builders had, eight years
1643 ago when they built our house, thought about this and moved our home three feet
1644 further forward, although there is a large area of unusable space, we wouldn't be in this
1645 situation. We are just trying to maintain the architectural integrity of our community and
1646 of our home, and have this addition appear as originally constructed and not as
1647 something we have added to the rear. So, aesthetically and architecturally are the main
1648 reasons we'd like to do that. If there is, again, if he has a concern about the viewing –
1649 which I know you had brought up – that is something, again, that can be dealt with
1650 through landscaping. If you look at the layout of the two homes, our homes are not
1651 directly backing each other, and according to your, to the County's investigation, even
1652 with our addition, there will be about 100 feet of difference between the addition and
1653 Bruce's home, so we feel like we are just trying to do what we think is in the best
1654 interest of ourselves, our neighbors and the community that we live in, in order to
1655 maintain the aesthetics and the beauty of our area.
1656
1657 Mr. Balfour - Does his house face River Chase Court or does it face River
1658 Chase Drive?
1659
1660 Mr. Zeidman - His house faces River Chase Court. That is in the back of
1661 his house and faces part of the back of our house.
1662
1663 Mr. Balfour - How many feet either way does your corner stick over into
1664 the setback?
1665
1666 Mr. Zeidman - At this point, three feet.
1667
1668 Mrs. Zeidman - Three feet; remember that triangle...
1669
1670 Mr. Zeidman - The way we are building, yes, it would be three feet into the
1671 variance and going along the 20 foot back of the thing, approximately four feet is where

1672 we would hit the 35 foot. I was trying to figure our the hypotenuse myself and I don't
1673 remember that. Do you have a calculator up there to do that?

1674
1675 Mr. Balfour - There is no way to move that architecturally so that you
1676 would not have that?

1677
1678 Mr. Zeidman - Well, if we were to move it...

1679
1680 Mr. Wright - You could have made it 16 feet rather than 20 and brought it
1681 in further.

1682
1683 Mr. Zeidman - That would be moving it away from us. I brought that other
1684 picture up of the end of our house. We are trying to stay on that end wall where...

1685
1686 Mr. Wright - It would be the side of the house but it would be four feet in
1687 from that. You could build it then without a variance.

1688
1689 Mr. Zeidman - We could do that and we'd then lose four feet of our screen
1690 porch because there is a window in the kitchen there that we are trying not to invade the
1691 screen porch in order to allow sunlight into the kitchen.

1692
1693 Mr. Wright - The screen porch is on the other side from that.

1694
1695 Mr. Zeidman - Exactly. The screen porch is next to the addition, so if we
1696 move four feet over, then that moves everything down four feet.

1697
1698 Mr. Wright - I was just going to say to cut four feet off of it.

1699
1700 Mr. Zeidman - Well, again, and that is certainly an option, but we are trying
1701 to maintain the aesthetics of that line of architecture with the side wall of the house so it
1702 did not appear, once construction was finished, that it did not appear as an addition and
1703 the entire house was clean and had clean lines.

1704
1705 Mrs. Zeidman - It would make the room and the house look chopped up
1706 when you drive by it.

1707
1708 Mr. Kirkland - Any other questions? No other questions. That concludes
1709 the case. Thank you. Next case.

1710
1711 Upon a motion by Mr. Balfour, seconded by Mr. Wright, the Board of Zoning Appeals
1712 **granted** your request for the above-referenced variance. The Board granted the
1713 variance subject to the following revised conditions:

1714
1715 1. Only the improvements shown on the plan filed with the application may be
1716 constructed pursuant to this approval. Any additional improvements shall comply with
1717 the applicable regulations of the County Code.

1718
1719 The Board granted this request, as it found from the evidence presented, that
1720 authorizing this variance will not be of substantial detriment to adjacent property and will
1721 not materially impair the purpose of the zoning regulations.

1722
1723 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1724 Negative: 0
1725 Absent: 0

1726
1727 **A-112-2000** **JEFF AND JAN WHEELER** request a variance from Section
1728 24-94 of Chapter 24 of the County Code to build a screened
1729 porch at 9913 Edel Court (Tall Timbers) (Tax Parcel 40-4-G-
1730 15), zoned R-2, One-family Residence District (Brookland).
1731 The rear yard setback is not met. The applicants have 33
1732 feet rear yard setback, where the Code requires 45 feet rear
1733 yard setback. The applicants request a variance of 12 feet
1734 rear yard setback.

1735
1736 Mr. Kirkland - Is anyone else here to speak on this case? OK, if you
1737 would, raise your right hand and be sworn in.

1738
1739 Mr. Blankinship - Do you swear the testimony you are about to give is the
1740 truth, the whole truth, and nothing but the truth so help you God?

1741
1742 Mr. and Mrs. Wheeler - I do.

1743
1744 Mr. Kirkland State your name for the record, please.

1745
1746 Mrs. Wheeler - Jan Wheeler.

1747
1748 Mr. Wheeler - Jeff Wheeler.

1749
1750 Mr. Blankinship - Have all adjacent land owners been contacted according to
1751 the County Code? OK. We've got them in the file. State your case.

1752
1753 Mrs. Wheeler - We had always planned when we bought this house that we
1754 would build a screened porch and we really enjoy being outside a lot, and have two
1755 small children, and the bees near our house, and I guess everywhere around here have
1756 been awful, as well as mosquitoes, and that type of thing, and we have several
1757 neighborhood kids that like to come over and play, and we just like to be able to eat
1758 outside and spend time outside without having to worry about all of the bugs and bees
1759 and other things. We told our neighbors prior to applying for the variance, and they
1760 were all excited about the screened porch, saying they'd come over and spend time on
1761 it, as well. As you can, what is happening, because we have a cul-de-sac lot, it is sort in
1762 that pie-shape, and the way that our house is set on the lot, part of the deck is not going
1763 to be invading that variance area, but then whenever you extend it, it will. We are not

1764 going to be going out any further, we are just going along side the house, so it is going
1765 to be like a 16 x 20, and that is where, I guess, we are with that variance area.

1766
1767 Mr. Wheeler - The screened porch can only be built on that side of the
1768 house because there is a rear-loading garage, so there is no other options, I guess, to
1769 put it on the back of the house. When we exit the back of the house, we want to go
1770 right into the screened porch, and that is kind of why we decided to locate it. This deck
1771 will be taken off and replaced with a screened porch and then extended, like she said,
1772 to the end of the house. The total size is 16 x 20.

1773
1774 Ms. Wheeler - It is not going out any further past those trees. It is just
1775 going to be extended along the house, so it is definitely not a problem with any of the
1776 neighbors. They re all supportive of that and will enjoy it with us.

1777
1778 Mr. Balfour - What is to the rear of your property?

1779
1780 Mrs. Wheeler - Yes, there is a house right there. They recently built a two-
1781 car garage and that fence there is the neighbor's fence, and that is a little bit of area,
1782 and there is another house sort of catty-cornered.

1783
1784 Mr. Kirkland - Any other questions? Anyone else wish to speak? That
1785 concludes the case.

1786
1787 Mrs. Wheeler - Thank you.

1788
1789 Upon a motion by Mr. McKinney, seconded by Mr. Wright, the Board of Zoning Appeals
1790 **granted** your request for the above-referenced use permit. The Board granted the
1791 variance subject to the following revised conditions:

1792
1793 1. Only the improvements shown on the plan filed with the application may be
1794 constructed pursuant to this approval. Any additional improvements shall comply with
1795 the applicable regulations of the County Code.

1796
1797 The Board granted this request, as it found from the evidence presented, that
1798 authorizing this variance will not be of substantial detriment to adjacent property and will
1799 not materially impair the purpose of the zoning regulations.

1800
1801 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1802 Negative: 0
1803 Absent: 0

1804
1805 **A-113-2000** **ROBERT M. AND NANCY R. BULLOCK** request a variance
1806 from Section 24-95(q)(5) of Chapter 24 of the County Code
1807 to build an attached garage at 11204 Riverchase Drive
1808 (Church Run) (Tax Parcel 57-12-B-7), zoned R-3C, One-
1809 family Residence District (Conditional) (Three Chopt). The

1810 minimum side yard setback and total side yard setback are
1811 not met. The applicants have 6.49 feet minimum side yard
1812 setback and 16.49 feet total side yard setback, where the
1813 Code requires 8 feet minimum side yard setback and 20 feet
1814 total side yard setback. The applicants request variances of
1815 1.51 feet minimum side yard setback and 3.51 feet total side
1816 yard setback.
1817

1818 Mr. Kirkland - Anyone else wish to speak on this case? If you would, raise
1819 your right hand and be sworn in. Do you swear that the testimony you are about to give
1820 is the truth, the whole truth, and nothing but the truth, so help you God?
1821

1822 Mr. And Ms. Bullock -I do.
1823

1824 Mr. Kirkland - Have all of your notices been turned in according to the
1825 County Code?
1826

1827 Ms. Bullock - Yes, they have.
1828

1829 Mr. Kirkland - State your name for the record, please.
1830

1831 Ms. Bullock - Nancy R. Bullock.
1832

1833 Mr. Bullock - Robert Bullock.
1834

1835 Mr. Kirkland - OK. State your case.
1836

1837 Ms. Bullock- We would like to build an attached garage, size 16 x 28. It
1838 would be similar in style and structure of our existing house. As was pointed out by
1839 Henrico County's Evaluation on Controlled Density Development, the lots are smaller
1840 than standard R-3 lots and the small lots do make it difficult to site a garage. The lots
1841 on our street and ours is one of the narrowest, they range from 80 feet to 129 feet in
1842 width, and ours is 80 feet, and, in addition, many of the lots stand out, which allow more
1843 width on either side of the garage. But ours is a narrow straight back rectangular lot. In
1844 addition, we would like to have the garage for our own protection from the elements of
1845 the weather. We would like to stay in this house through our senior years and we
1846 bought this house when we were younger, but now we are getting older and we would
1847 like to not have to go to another location but to continue here, and this would make it
1848 better for us to enter and exit the house in a – not affected by the weather. Our
1849 neighbor to the left, which house you can see in the picture, is not opposed. We
1850 approached him previous to our even considering or contacting anyone concerning the
1851 structure, and he has no opposition to it. All of the other houses in this geographic area
1852 of the subdivision do have front-loading garages, so this is not an affect on the
1853 appearance to the neighbors in front of us or up and down the street beside us. We do
1854 have a need to put it on this site, because it is where our driveway is and allows us
1855 entrance into the house into our kitchen. We considered a detached garage, but that

1856 would more affect our neighbors because it would require tearing down a lot of trees
1857 and it would be more exposed to our neighbors. This actually provides more privacy
1858 from our neighbors to the left, because they would not see us going in and out, and the
1859 protection of our equipment, not only car but our furnace and other yard equipment
1860 would be not exposed to our neighbor. And, we have contacted all of the neighbors
1861 including the homeowner's association, which in the rear of our house, that is common
1862 property, and this notice has been sent to the Church Run Homeowner's Association.
1863 They met a couple of weeks ago and there was no opposition to it.

1864
1865 Mr. Wright - This is a single-car garage?
1866

1867 Ms. Wheeler - Unfortunately, yes. We would love to have a double-car
1868 garage, but there is not enough room, so we are going for like a 1-1/2. It is going to
1869 allow us some storage. We would like to move our furnace and things that are
1870 underneath the house now, to make it more accessible to us, as we get older, to change
1871 the filters and do other on-going maintenance that needs to be done to the gas furnace.
1872 That is another reason we would like to have it.

1873
1874 Mr. Wright - Those trees look like they are adjacent, right there next to
1875 your automobile in this picture. Do they go all the way along the side of...

1876
1877 Ms. Wheeler - These Crape Myrtles go, there are four of them, and they go
1878 to our mailbox. The Crape Myrtles would come down, and that hedge would come out,
1879 too, because we do need double parking. And we plan to put an aggregate driveway on
1880 the front of the garage, which would make it more appealing to our neighbors. In front
1881 of us, all of the neighbors have aggregate driveways to the right, and we are interested
1882 in the appeal for our house as much as we are interested in our neighbors not looking at
1883 something that is not appealing to them.

1884
1885 Mr. Wright - You are not far from the case against her, are you?

1886
1887 Ms. Wheeler - We are close to theirs.

1888
1889 Mr. Wright - I looked at the map and the maps look like.

1890
1891 Ms. Wheeler - You are right. They are just up a street from us. I guess we
1892 have been there long enough that we are now looking at, do we want to move or do we
1893 want to enjoy our house because we really like the neighborhood. We like the location.
1894 We like the common area behind our house for privacy, and the other choices, and we
1895 would rather not move.

1896
1897 Mr. Kirkland - Any other questions? Anyone else wish to speak? That
1898 concludes the case.
1899

1900 Upon a motion by Mr. Wright, seconded by Mr. Balfour, the Board of Zoning Appeals
1901 **granted** your request for the above-referenced use permit. The Board granted the
1902 variance subject to the following revised conditions:

1903
1904 1. Only the improvements shown on the plan filed with the application may be
1905 constructed pursuant to this approval. Any additional improvements shall comply with
1906 the applicable regulations of the County Code.

1907
1908 The Board **granted** this request, as it found from the evidence presented, that
1909 authorizing this variance will not be of substantial detriment to adjacent property and will
1910 not materially impair the purpose of the zoning regulations.

1911
1912 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1913 Negative: 0
1914 Absent: 0

1915
1916 **A-114-2000** **RAYMOND 20MHZ,LLC** requests a variance from Section
1917 24-95(a)(4)c of Chapter 24 of the County Code to place an
1918 antenna on the roof t 8011 Villa Park Drive (Villa Park) (Tax
1919 Parcel 63-16-A-1), zoned O/SC, Office Service District
1920 (Conditional) (Brookland). The antenna height limitation is
1921 not met. The applicant has 37.0 feet antenna height, where
1922 the Code permits 27.4 feet antenna height. The applicant
1923 requests a variance of 9.6 feet height exception.

1924
1925 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,
1926 raise your right hand and be sworn in?

1927
1928 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1929 truth, the whole truth, and nothing but the truth so help you God?

1930
1931 Ms. Freye - I do.

1932
1933 Mr. Kirkland - Have all of your notices been turned in?

1934
1935 Ms. Freye - Yes, they have. Good morning, my name is Gloria Freye. I
1936 am an attorney here on behalf of the applicant, Richmond 20MHZ, LLC, which trades as
1937 N Teleos, which was formerly Prime Co, to kind of give you a background as to who the
1938 applicant is. N Telos needs to have antennas for its telecommunication services in the
1939 Villa Park area. In keeping with the County's policy of trying to locate antennas on tall
1940 structures that already exist, as opposed to building a new tower somewhere, they
1941 approached the Bank of America, which is an eight-story building in the park. The bank
1942 was agreeable to having, to lease space to N Telos on the roof. The difficulty we ran
1943 into is that while this is permitted by right, the Code restricts the height on this particular
1944 building to 27.4 feet above the roof top. Nextel, another wireless carrier, already has
1945 antennas planned to be installed on the roof at a pent house structure on the roof. They

1946 were able to utilize that pent house and get their antennas situated so that they could
1947 operate at that height without a variance. Because of their height, we have to be taller.
1948 There has to be a certain amount of distance and separation between the antennas,
1949 which meant we had to go taller. When we filed the application, the information that we
1950 had, our engineers were telling us that we needed a 9.6 foot variance. Since then,
1951 Nextel has finalized its plan, so they have final plans and exact measurements. We
1952 were able to take our engineers back out to this property and determine we can reduce
1953 our height by 6 feet than what we were originally considering. So, the variance that we
1954 need now is 3.6 feet. The other thing, and I have passed out revised plans to show 3.6
1955 foot variance as opposed to the earlier plan that was filed with the application. The
1956 other thing that we did and sent our notices out to our adjacent landowners and we sent
1957 information on the sketch out, as well, so that people could see what we were doing.
1958 We did get one response, and that was from the representative of Childress-Klein that
1959 has several properties in Villa Park. They had questions about the design of the
1960 antennas and the spacing. Again, the engineers were out at the property looking at the
1961 line of sight that these antennas need, and how we could possibly mitigate the visibility
1962 of the antennas, as much as we can, and determined that we should make the
1963 antennas more narrow instead of 11 foot spacing between the antennas, we can reduce
1964 that to six feet spacing. That was the agreement that we worked out with Childress Klein
1965 late yesterday afternoon, and that is why you can see on your map a handwritten note
1966 that says "Six foot antenna spacing" on it. So, what we would ask is that you grant a
1967 variance of 3.6 subject to the condition that staff has proposed, but to amend the
1968 condition that says pursuant to the plan dated October 25, and that would cover basic
1969 reduction in height, the shorter variance, and the spacing that we worked out with
1970 Childress Klein. We feel that all of the additional requirements that you need to grant
1971 the variance have been met. Section 24-95(a)4e. simply grants the Board the power to
1972 give special exceptions to height regulations. It is because of the unusual situation of
1973 Nextel already being located there and the fact that we do have a flat roof, and a unique
1974 opportunity that this building offers by having the height and the structural integrity that
1975 is needed to support the equipment in this location right where they need it. It is a
1976 unique situation that we have. The variance is within the spirit and intent of the
1977 ordinance. There are several sections in the ordinance that do allow rooftop features to
1978 be taller than the roof of the building. The variance would promote the County's policies
1979 of co-location, using existing structures and new towers, and for those reasons we ask
1980 that you grant the requested variance, and we will be glad to respond to any questions
1981 that you might have.

1982
1983 Mr. McKinney - What color is this going to be?
1984

1985 Ms. Freye - It is going to be a gray anodized steel that does not need to
1986 be painted, so that it would blend in to the atmosphere better than something that is
1987 painted a different color.
1988

1989 Mr. McKinney - Would there be a light on it?
1990

1991 Ms. Freye - No, sir. It is not required to be lighted.

1992
1993 Mr. Wright - Ms. Freye, if this antenna were built as freestanding
1994 antenna, would it have to be this tall?
1995
1996 Ms. Freye - No. It would not have to be that tall. It would be
1997 freestanding. It would be more visible, more obtrusive to people on the ground than it
1998 would be in this location though.
1999
2000 Mr. Wright - The only reason for having to make it this tall is because it
2001 has to clear the other antennas, wouldn't it?
2002
2003 Ms. Freye - Yes, sir. Thank you very much.
2004
2005 Mr. McKinney - One other question. Suppose it was shorter than the other
2006 antenna?
2007
2008 Ms. Freye - Mr. McKinney, we looked at that possibility. We actually
2009 talked to the Bank of America twice about letting us put the antennas actually on the
2010 building, the site of the building at the top, sort of a flush-mounted thing to make it
2011 appear to disappear. We weren't able, even on the second attempt in talking with the
2012 Bank about doing that, to get the landowner to sign off on that. They were concerned
2013 about the visibility. There were concerned about the integrity of the side of the building,
2014 and we did explore that, because we could have avoided asking for the variance
2015 altogether that way.
2016
2017 Mr. Kirkland - Any other questions? Anyone else wish to speak on this
2018 case? That concludes the case.
2019
2020 Upon a motion by Mr. Nunnally, seconded by Mr. McKinney, the Board of Zoning
2021 Appeals **granted** your request for the above-referenced use permit. The Board granted
2022 the variance subject to the following revised conditions:
2023
2024 1. Only the antenna and support structure shown on the plan dated October 25, 2000
2025 may be constructed pursuant to this approval. Any additional improvements shall
2026 comply with the applicable regulations of the County Code.
2027
2028 The Board **granted** this request, as it found from the evidence presented, that
2029 authorizing this variance will not be of substantial detriment to adjacent property and will
2030 not materially impair the purpose of the zoning regulations.
2031
2032 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2033 Negative: 0
2034 Absent: 0
2035
2036 **A-115-2000** **KENNETH AND VICKI DOUSTOUT** request a variance from
2037 Sections 24-94 and 24-9 of Chapter 24 of the County Code
2038 to build a dwelling at 4710 Charles City Road (Tax Parcel

2039 207-A-36), zoned A-1, Agricultural District (Varina). The lot
2040 width requirement and public street frontage requirement are
2041 not met. The applicants have 25 feet lot width and 25 feet
2042 public street frontage, where the Code requires 150 feet lot
2043 width and 50 feet public street frontage. The applicants
2044 request a variance of 125 feet lot width and 25 feet public
2045 street frontage
2046
2047 Mr. Kirkland - Does anyone else wish to speak on this case? Have your
2048 notices been turned in? Do we have them here?
2049
2050 Mr. Blankinship - No. Actually, I have a message to ask for them.
2051
2052 Mr. Kirkland - OK. Did you notify the adjoining property owners? Did you
2053 get a signed receipt? Well, we can't hear the case. Did you receive the packet stating
2054 what to do and all of the rules and information about sending the letters?
2055
2056 Mr. Doustout- I received this stuff here, but it wasn't anything in there about
2057 getting any signatures or anything.
2058
2059 Mr. Kirkland - You didn't get a letter stating the procedures?
2060
2061 Mr. Doustout - She told me when I talked to her that if I needed that, that
2062 she would send me a packet, but being it was just for my family...
2063
2064 Mr. Kirkland - Who did you talk to?
2065
2066 Mr. Doustout - Mrs. Blackburn.
2067
2068 Mr. Kirkland - Well, because we don't have the notices, we can't hear the
2069 case. We will have to defer it until next month. I am sorry. When you leave here, go
2070 upstairs to the Planning Office and make sure you get a packet.
2071
2072 Mr. Blankinship - We will have to develop a new one, because the date will be
2073 different. We will mail it to you at the same address we sent those to.
2074
2075 Mr. Doustout - Can I clarify a couple of things to you that you did have
2076 wrong on the original?
2077
2078 Mr. Kirkland - What you will do when you go upstairs and talk to them, you
2079 clarify that, so that when it is advertised that it is advertised correctly. So, we can't
2080 really hear the case at all. So, do I have a motion to defer the case.
2081
2082 Mr. Nunnally - So moved.
2083
2084 Mr. Wright - Second.
2085

2086 Mr. Kirkland - Moved and seconded. All those in favor say aye. All
2087 opposed say no. The motion passes. We will see you next month.

2088
2089 Mr. Blankinship - And the last case is already deferred.

2090
2091 There being no further business and on a motion by Mr. Nunnally, seconded by Mr.
2092 Balfour, the Board adjourned until November 16, 2000.

2093

2094

2095 Richard Kirkland,

2096 Chairman

2097

2098

2099

2100 Benjamin Blankinship, AICP

2101 Secretary

2102

2103