

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 18,**  
4 **2001, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**  
5 **TIMES-DISPATCH ON OCTOBER 4 AND OCTOBER 11, 2001.**  
6

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

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

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

10  
11 Mr. Blankinship - Good morning Mr. Chairman, Members of the Board, ladies  
12 and gentlemen. The rules for this meeting are as follows. The Secretary, myself, will  
13 call each case. Then the applicant will come to the podium to present the case. At that  
14 time I'll ask all those who intend to speak, in favor or opposition, to stand, and they will  
15 be sworn in. The applicants will then present their testimony. When the applicant is  
16 finished, anyone else will be given an opportunity to speak. After everyone has spoken,  
17 the applicant, and only the applicant, will be given the opportunity for rebuttal. After  
18 hearing the case, and asking questions, the Board will take the matter under  
19 advisement. They will render a decision at the end of the meeting. If you wish to know  
20 what their decision is, you may stay until the end of the meeting, or you may call the  
21 Planning Office at the end of the day. This meeting is being tape recorded, so we will  
22 ask everyone who speaks, to speak directly into the microphone on the podium, and to  
23 state your name for the record. Out in the foyer, there are two binders, which have the  
24 staff reports for each case, including the conditions suggested by the staff. Mr.  
25 Chairman, we have one request for a withdrawal on the 9 o'clock agenda, A-140-2001.

26  
27 **A -140-2001:** **Mark W. Romers** requests a variance from Section 24-94 of  
28 Chapter 24 of the County Code to change the use of an office  
29 building at 20 West Williamsburg Road (Tax Parcel 164-1-6-11A),  
30 zoned B-3C, Business District (Conditional) (Varina). The number  
31 of parking spaces required is not met. The applicant has 26  
32 available parking spaces, where the Code requires 30 parking  
33 spaces. The applicant requests a variance of 4 parking spaces.  
34

35 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
36 McKinney, the Board **allowed withdrawal** of application **A-140-2001** for the above  
37 referenced variance. The Board granted withdrawal without prejudice because, based  
38 on an agreement to reserve unused building space, the County's parking requirements  
39 have now been met, and a variance is not required at this time.

40  
41 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
42 Negative: 0  
43 Absent: 0

44  
45 **A -134-2001:** **Jimmy F. and Deborah P. Cutright** request a variance from  
46 Section 24-9 of Chapter 24 of the County Code to build a single-  
47 family house at 7500 Doran Road (Tax Parcel 227-A-5D), zoned A-  
48 1, Agricultural District (Varina). The public street frontage  
49 requirement is not met. The applicants have 0.00 feet public road  
50 frontage, where the Code requires 50 feet public road frontage.  
51 The applicants request a variance of 50 feet public road frontage.  
52

53 Mr. Balfour - All who wish to speak on this case, please stand. Would you  
54 raise your right hand and be sworn in.

55  
56 Mr. Blankinship - Do you swear the testimony is the truth, the whole truth, and  
57 nothing but the truth so help you God?

58  
59 Ms. Kickta - My name is Teresa Kickta, and I am speaking on behalf of  
60 my aunt and uncle, Jimmy and Deborah Cutright. They are requesting a 50-foot right of  
61 way. I just built a home down there in March, and I had to go through the variance  
62 process also.

63  
64 Mr. Nunnally - They have a right of way into the property now, correct?

65  
66 Ms. Kickta - Yes sir.

67  
68 Mr. Balfour - Did every one get a copy of the new plot plan? Any other  
69 questions by Board Members? If not, then thank you.

70  
71 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
72 McKinney, the Board **granted** application **A-134-2001** for a variance to build a single-  
73 family house at 7500 Doran Road (Tax Parcel 227-A-5D). The Board granted the  
74 variance subject to the following conditions:

75  
76 1. This variance applies only to the public street frontage requirement. All other  
77 applicable regulations of the County Code shall remain in force.

78  
79 2. At the time of building permit application, the applicant shall submit the  
80 necessary information to the Department of Public Works to ensure compliance with the

81 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
82 water quality standards.

83  
84 3. At the time of building permit application, the owner shall demonstrate that the  
85 parcel created by this division has been conveyed to members of the immediate family,  
86 and the subdivision ordinance has not been circumvented.

87  
88 4. Approval of this request does not imply that a building permit will be issued.  
89 Building permit approval is contingent on Health Department requirements, including,  
90 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval  
91 of a well location.

92  
93 5. The applicant shall present proof with the building permit application that a legal  
94 access to the property has been obtained. The owners of the property, and their heirs  
95 or assigns, shall accept responsibility for maintaining access to the property until such a  
96 time as the access is improved to County standards and accepted into the County road  
97 system for maintenance.

98  
99 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
100 Negative: 0  
101 Absent: 0

102  
103 The Board granted this request, as it found from the evidence presented that, due to the  
104 unique circumstances of the subject property, strict application of the County Code  
105 would produce undue hardship not generally shared by other properties in the area, and  
106 authorizing this variance will neither cause a substantial detriment to adjacent property  
107 nor materially impair the purpose of the zoning regulations.

108  
109 **A -135-2001:** **Graham J. and Margaret A. Wilson** request a variance from  
110 Section 24-95 of Chapter 24 of the County Code to build a sunroom  
111 at 1225 Tree Ridge Road (Olde Colony Estates) (Tax Parcel 213-3-  
112 H-4), zoned R-3, One-family Residence District (Varina). The rear  
113 yard setback is not met. The applicants have 30 feet rear yard  
114 setback, where the Code requires 40 feet rear yard setback. The  
115 applicants request a variance of 10 feet rear yard setback.

116  
117 Mr. Balfour - All who wish to speak on this case, please stand. Would you  
118 raise your right hand and be sworn in.

119  
120 Mr. Blankinship - Do you swear the testimony that you are about to give is the  
121 truth, the whole truth, and nothing but the truth, so help you God?

122  
123 Ms. Wilson - I do.

124  
125 Mr. Blankinship - State your name please and present your case.

126

127 Ms. Wilson - Margaret A. Wilson. I am requesting a variance of 10 feet  
128 rear yard setback to build a sunroom onto an existing deck on my home.  
129  
130 Mr. Nunnally - What size is your deck?  
131  
132 Ms. Wilson - It is 10 x 20 feet.  
133  
134 Mr. Nunnally - You want to enclose half of it for a sunroom?  
135  
136 Ms. Wilson - Yes sir. I think that would be a 10 x 12 foot size room.  
137  
138 Mr. McKinney - The staff report says the deck is 12 x 20 feet.  
139  
140 Ms. Wilson - Let me ask my husband; I am not sure of the dimensions.  
141  
142 Mr. Balfour - If you will raise your right hand and be sworn in.  
143  
144 Mr. Blankinship - Do you swear the testimony that you are about to give is the  
145 truth, the whole truth, and nothing but the truth, so help you God?  
146  
147 Mr. Wilson - I do. My name is Graham Wilson. The deck is 10 x 12 feet;  
148 that is the section that we want the sunroom to enclose.  
149  
150 Mr. Blankinship - The whole deck is 12 x 20 feet?  
151  
152 Mr. Wilson - The deck is 10 x 20 feet.  
153  
154 Mr. Blankinship - You are enclosing 10 x 12 and you will have an 8 x 10 foot  
155 deck left.  
156  
157 Mr. Wilson - It will be 10 feet out from the house and 12 feet wide.  
158  
159 Mr. Blankinship - And what is uncovered will be 10 feet from the house and 8  
160 feet wide.  
161  
162 Mr. Wilson - From the house, the deck extends 10 feet and along the  
163 length of the house is 12 feet.  
164  
165 Mr. McKinney - Did the engineer or architect draw this on the plan?  
166  
167 Ms. Wilson - I think the engineer actually wrote that information down.  
168  
169 Mr. McKinney - If that is true, the enclosed part will be 10 x 12 feet, and the  
170 deck will be 10 x 12 feet. Which means the existing deck is 12 x 20 feet now.  
171  
172 Ms. Wilson - That is correct.

173  
174 Mr. McKinney - The reason I bring it up, is once it is done, if Building  
175 Inspections comes out and the measurement does not match the approved plans, you  
176 will have to get another variance.

177  
178 Mr. Balfour - Can you and Mr. Blankinship get the measurements correct?

179  
180 Ms. Wilson - Yes sir.

181  
182 Mr. Balfour - Are there any other questions of the Board? Thank you.

183  
184 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
185 Wright, the Board **granted** your application **A-135-2001** for a variance to build a  
186 sunroom at 1225 Tree Ridge Road (Olde Colony Estates) (Tax Parcel 213-3-H-4. The  
187 Board granted the variance subject to the following condition:

188  
189 1. Only the improvements shown on the plan filed with the application may be  
190 constructed pursuant to this approval. No substantial changes or additions to the layout  
191 may be made without the approval of the Board of Zoning Appeals. Any additional  
192 improvements shall comply with the applicable regulations of the County Code.

193  
194 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
195 Negative: 0  
196 Absent: 0

197  
198 The Board granted this request, as it found from the evidence presented that, due to the  
199 unique circumstances of the subject property, strict application of the County Code  
200 would produce undue hardship not generally shared by other properties in the area, and  
201 authorizing this variance will neither cause a substantial detriment to adjacent property  
202 nor materially impair the purpose of the zoning regulations.

203  
204 **A -136-2001:** **David and Gwendolyn Washington** request a variance from  
205 Section 24-94 of Chapter 24 of the County Code to build a  
206 screened porch at 203 Celona Drive (Three Fountains North) (Tax  
207 Parcel 74-5-B-15), zoned R-2A, One-family Residence District  
208 (Fairfield). The rear yard setback is not met. The applicants have  
209 33 feet rear yard setback, where the Code requires 45 feet rear  
210 yard setback. The applicants request a variance of 12 feet rear  
211 yard setback.

212  
213 Mr. Balfour - All who wish to speak on this case, please stand. Would you  
214 raise your right hand and be sworn in.

215  
216 Mr. Blankinship - Do you swear the testimony that you are about to give is the  
217 truth, the whole truth, and nothing but the truth, so help you God?

218

219 Mr. Washington - I do.  
 220  
 221 Mr. Balfour - State your name please, and then present your case.  
 222  
 223 Mr. Washington - David Washington. We are planning to build a sunroom on  
 224 the back of our home. We need 12 more feet to meet our setback.  
 225  
 226 Mr. Balfour - Your dimensions are 12 x 21 feet.  
 227  
 228 Mr. Washington - Yes sir, that is correct.  
 229  
 230 Mr. Balfour - Are there any other questions of Mr. Washington.  
 231  
 232 Mr. McKinney - Mr. Washington, is this to be built on top of what you already  
 233 have?  
 234  
 235 Mr. Washington - Yes it is.  
 236  
 237 Mr. McKinney - Underneath it, I presume that you will use that for storage?  
 238  
 239 Mr. Washington - Yes it would be used for storage.  
 240  
 241 Mr. McKinney - Ok, thank you.  
 242  
 243 Mr. Balfour - Any other questions? Thank you.  
 244

245 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
 246 Wright, the Board **granted** application **A-136-2001** for a variance to build a screened  
 247 porch at 203 Celona Drive (Three Fountains North) (Tax Parcel 74-5-B-15). The Board  
 248 granted the variance subject to the following condition:  
 249

250 1. Only the improvements shown on the plan filed with the application may be  
 251 constructed pursuant to this approval. No substantial changes or additions to the layout  
 252 may be made without the approval of the Board of Zoning Appeals. Any additional  
 253 improvements shall comply with the applicable regulations of the County Code.  
 254

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

258  
 259 The Board granted this request, as it found from the evidence presented that, due to the  
 260 unique circumstances of the subject property, strict application of the County Code  
 261 would produce undue hardship not generally shared by other properties in the area, and  
 262 authorizing this variance will neither cause a substantial detriment to adjacent property  
 263 nor materially impair the purpose of the zoning regulations.  
 264

265 **A -138-2001:** **Dr. Richard H. Villa** requests a variance from Section 24-94 of  
266 Chapter 24 of the County Code to build a screened porch over the  
267 existing deck at 12420 Lynwood Drive (Bradford Landing at  
268 Wyndham) (Tax Parcel 4-28-A-62), zoned R-3C, One-family  
269 Residence District (Conditional) (Three Chopt). The rear yard  
270 setback is not met. The applicant has 35.9 feet rear yard setback,  
271 where the Code requires 40 feet rear yard setback. The applicant  
272 requests a variance of 4.1 feet rear yard setback.  
273

274 Mr. Balfour - All who wish to speak on this case, please stand. Would you  
275 raise your right hand and be sworn in.  
276

277 Mr. Blankinship - Do you swear the testimony that you are about to give is the  
278 truth, the whole truth, and nothing but the truth, so help you God?  
279

280 Mr. Grieves - I do.  
281

282 Mr. Balfour - Please state your name and then present your case.  
283

284 Mr. Grieves - Jeffery Grieves representing Dr. Villa. When the house was  
285 originally built, Lynwood Drive was constructed as a temporary turnaround, which  
286 caused the house to be moved back 7 feet farther than the required setback. When the  
287 road goes through to the next property, the land will revert back to the owner. This still  
288 places the house farther back on the lot than needs to be. We only need 4.1 feet in the  
289 rear to put the porch on the existing deck.  
290

291 Mr. Balfour - Are you just putting the porch right on top of the deck?  
292

293 Mr. Grieves - Yes sir, which is 14 x 19 feet.  
294

295 Mr. Balfour - Any questions of Mr. Grieves?  
296

297 Mr. Wright - Is this on the rear of your house or the side?  
298

299 Mr. Grieves - It is on the rear of the house.  
300

301 Mr. Wright - The house fronts on Lynwood?  
302

303 Mr. Grieves - Yes sir.  
304

305 Mr. Wright - And the houses behind you are on Bradford Landing Court?  
306 They face the other way. So this would be to rear of those houses?  
307

308 Mr. Grieves - Yes sir. The houses face rear to rear.  
309

310 Mr. Wright - Thank you.

311  
312 Mr. Balfour - Any other questions? Thank you.

313  
314 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
315 McKinney, the Board **granted** application **A-138-2001** for a variance to build a screened  
316 porch over the existing deck at 12420 Lynwood Drive (Bradford Landing at Wyndham)  
317 (Tax Parcel 4-28-A-62). The Board granted the variance subject to the following  
318 conditions:

319  
320 1. Only the improvements shown on the plan filed with the application may be  
321 constructed pursuant to this approval. No substantial changes or additions to the layout  
322 may be made without the approval of the Board of Zoning Appeals. Any additional  
323 improvements shall comply with the applicable regulations of the County Code.

324  
325 2. A landscape plan must be submitted with the building permit illustrating the  
326 screening provided for the adjacent neighbors.

327  
328 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
329 Negative: 0  
330 Absent: 0

331  
332 The Board granted this request, as it found from the evidence presented that, due to the  
333 unique circumstances of the subject property, strict application of the County Code  
334 would produce undue hardship not generally shared by other properties in the area, and  
335 authorizing this variance will neither cause a substantial detriment to adjacent property  
336 nor materially impair the purpose of the zoning regulations.

337  
338 **A -139-2001:** **John Mardigian** requests a variance from Section 24-94 of  
339 Chapter 24 of the County Code to build an addition at 7338  
340 Hermitage Road (Quarles Heights) (Tax Parcel 72-12-B-3), zoned  
341 R-3, One-family Residence District (Brookland). The rear yard  
342 setback is not met. The applicant has 19 feet rear yard setback,  
343 where the Code requires 25 feet rear yard setback. The applicant  
344 requests a variance of 6 feet rear yard setback.

345  
346 Mr. Balfour - All who wish to speak on this case, please stand. Would you  
347 raise your right hand and be sworn in.

348  
349 Mr. Blankinship - Do you swear the testimony that you are about to give is the  
350 truth, the whole truth, and nothing but the truth, so help you God?

351  
352 Mr. Mardigian - I do. My name is John Mardigian, and I am requesting a  
353 variance of 6 feet to add a family room onto the rear of my house.

354  
355 Mr. Balfour - So you are asking for a 6-foot rear yard setback?

356



357 Mr. Mardigian - Yes sir.  
358  
359 Mr. Balfour - Is there a patio in the back yard where this is going?  
360  
361 Mr. Mardigian - It is coming off the back of the white portion of the house.  
362  
363 Mr. Balfour - So this would be flush with the house?  
364  
365 Mr. Mardigian - Yes sir.  
366  
367 Mr. Nunnally - It will be 16 x 16?  
368  
369 Mr. Mardigian - Yes sir.  
370  
371 Mr. Balfour - Are there any other questions for Mr. Mardigian? . Thank  
372 you. Next speaker.  
373  
374 Mr. Bartolotta - My name is Gerard Bartolotta. I would just like point out that  
375 the nature of the property and the way the house sits, the back corner of the house is  
376 almost at the setback as it sits now. And because of the angle of the property, any  
377 projection past that point requires that variance. Mr. Mardigian wanted to maintain a 16  
378 x 16 foot addition.  
379  
380 Mr. Balfour - It makes it flush with the house.  
381  
382 Mr. Bartolotta - Not on the back portion, but on the side.  
383  
384 Mr. Balfour - Thank you.  
385

386 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
387 Nunnally, the Board **granted** application **A-139-2001** for a variance to build an addition  
388 at 7338 Hermitage Road (Quarles Heights) (Tax Parcel 72-12-B-3). The Board granted  
389 the variance subject to the following condition:  
390

391 1. Only the improvements shown on the plan filed with the application may be  
392 constructed pursuant to this approval. No substantial changes or additions to the layout  
393 may be made without the approval of the Board of Zoning Appeals. Any additional  
394 improvements shall comply with the applicable regulations of the County Code.  
395

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

399  
400 The Board granted this request, as it found from the evidence presented that, due to the  
401 unique circumstances of the subject property, strict application of the County Code  
402 would produce undue hardship not generally shared by other properties in the area, and

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

405  
406 **UP- 26-2001:** **Misty M. Maiden** requests a conditional use permit pursuant to  
407 Section 24-12(e) of Chapter 24 of the County Code to keep more  
408 than three pets at 5015 Dollard Drive (Kildare Annex) (Tax Parcel  
409 93-4-A-5), zoned R-3, One-family Residence District (Brookland).

410  
411 Mr. Balfour - All who wish to speak on this case, please stand. Would you  
412 raise your right hand and be sworn in.

413  
414 Mr. Blankinship - Do you swear the testimony that you are about to give is the  
415 truth, the whole truth, and nothing but the truth, so help you God?

416  
417 Ms. Maiden - I do. I want to request a conditional use permit for a kennel  
418 license. I currently have 5 dogs and 2 cats at my house. One is a Doberman; the other  
419 4 are Miniature Pinschers. They stay in the house. Two of the Miniature Pinschers  
420 belong to my mother; they will be going back to Tennessee in November. I own three  
421 dogs and 2 cats. Before I got the third dog in April, I called Planning and Zoning and  
422 asked them if the cats were included in the 3-animal limit in Henrico. They told me they  
423 weren't included, so I got the third dog. Later on, I had a planning and zoning officer  
424 come out and give me the pamphlet that says it is 3 animals total.

425  
426 I am planning on buying a home in Goochland for my mother. She is moving to  
427 Goochland next summer. And I am looking for a house in Amelia. I will be renting this  
428 house out next year. This would only be for a year. I want to get into the new house  
429 before school starts. I will be moving out to the country.

430  
431 Mr. McKinney - So Ms. Maiden, what are you saying, if you are granted a  
432 permit, you'd be satisfied if it were only granted for one year?

433  
434 Ms. Maiden - Yes sir.

435  
436 Mr. McKinney - And by that time, you would have eliminated all the animals  
437 from this property or be within the scope of the law?

438  
439 Ms. Maiden - Yes sir. I have one of the dogs advertised for sale, the cats  
440 are old and neutered, and the Doberman is 7 years old.

441  
442 Mr. Balfour - Have you read these letters that we have received?

443  
444 Ms. Maiden - No sir.

445  
446 Mr. Balfour - The first letter, the one on top, mentioned something about  
447 run off from your yard to their yard, since you are up hill from them. I would like for you  
448 to take a minute to read the letter and respond to it.

449  
450 Mr. McKinney - When we get these letters at the last minute, I think we  
451 should throw them out or either pass this by and let the parties concerned read the  
452 material and then the Board come back to it. It is not right to give us this letter the  
453 morning of the meeting and try to read it amongst all the other stuff we have to read.  
454  
455 Mr. Balfour - Do you folks have time to stay a few minutes? Ms. Maiden,  
456 you have not seen the letters from either of your neighbors? Is that right?  
457  
458 Mr. McKinney - We can read the letter on our break.  
459  
460 Mr. Balfour - I was asking at the suggestion of Mr. McKinney, since we  
461 have not seen these letters before, we could pass this case by and take it up in about  
462 45 minutes, if you have time to wait.  
463  
464 Ms. Maiden - I have to go back to work.  
465  
466 Mr. Balfour - Why don't you read the letter while we hear from the  
467 Singletons, and we will proceed.  
468  
469 Mr. Singleton - My name is Harvey Singleton. I am opposed to this request  
470 because at the back of my fence where she has her kennel, it backs up to my privacy  
471 fence. She had one little dog when she first came there. I had a little fence along the  
472 back and dog kept getting out. So I put up the privacy fence. Since then, she has built  
473 a kennel backing up to my fence and using it as a side to her kennel. I don't want the  
474 runoff of the kennel coming onto my garden. There will be the smell, and it will be  
475 noisier if she gets a lot more dogs.  
476  
477 Mr. Balfour - Is the kennel a dirt floor or a cement slab?  
478  
479 Mr. Singleton - Right now it is just dirt.  
480  
481 Mr. Balfour - So you are saying it drains right under the fence.  
482  
483 Mr. Singleton - It will drain right through it. It is just a fence with salt treated  
484 boards standing straight up, so there cracks between them.  
485  
486 Mr. Kirkland - Mr. Singleton, which side of property line is the privacy  
487 fence?  
488  
489 Mr. Singleton - It is on my side.  
490  
491 Mr. Kirkland - And her chain link abuts your fence, using your fence as her  
492 4<sup>th</sup> side?  
493  
494 Mr. Singleton - Yes sir.

495  
496 Mr. Balfour - What are you asking, that you don't want her to have the  
497 dogs at all, or do you want her to improve .....

498  
499 Mr. Singleton - I would rather not have the dogs at all, because it will be a  
500 lot more smell and a lot more noise. And the way the drainage is, it would drain right off  
501 of her property, if it is not kept perfectly clean.  
502

503 Mr. Balfour - You did hear her say she will be leaving in about 9 months.  
504

505 Mr. Singleton - I understand what she wants to do, and I don't blame her.  
506 But I don't want the smell and the drain coming down on me.  
507

508 Mr. Kirkland - If we put a condition on the case that said that she would  
509 have to make the 4<sup>th</sup> side of her pen out of her own fence. And that the approval for this  
510 permit would only be for 1 year, and that was it, and we would have the County check  
511 on this on a regular basis to make sure there wasn't any run off or smell, and make her  
512 take care of that .....

513  
514 Mr. Singleton - I still wouldn't want it there as a kennel, I think it is too close.  
515

516 Mr. Balfour - You realize she can have 3 dogs now?  
517

518 Mr. Singleton - Yes. I have nothing against animals. I used to have bird  
519 dogs myself. But I never had more than that, and I had a pen on my own property. I  
520 just don't want the noise, or the smell.  
521

522 Mr. Balfour - Any other questions? Thank you.  
523

524 Ms. Singleton - I am Mary Singleton. I really don't want the dogs there  
525 either.  
526

527 Mr. Balfour - You do understand that she can have 3 dogs.  
528

529 Ms. Singleton - Yes. I knew she had the original dog. I am scared of dogs  
530 and it did get into my yard. I had my husband put up the privacy fence to keep them in  
531 their yard. When I go to hang clothes on the line, I can smell the odor of the droppings.  
532 I think the lots are too small to accommodate a lot of animals.  
533

534 Mr. Balfour - How big are these lots?  
535

536 Mr. Singleton - 60 x 150 feet.  
537

538 Ms. Singleton - That is not very big. And with the house sitting back from  
539 the road 40 feet, the back yard is not big.  
540

541 Mr. McKinney - Ms. Singleton, do you walk in the neighborhood?  
542

543 Ms. Singleton - I used to. I have bad knees now, so I can't.  
544

545 Mr. McKinney - Do these dogs get out and run free?  
546

547 Ms. Singleton - I have not seen them out of the fence. I did hear her call the  
548 small dogs that had gotten out and run down the street. They did not get into my yard.  
549

550 Mr. Balfour - You live in the rear of this house. Ms. Lightfoot lives in the  
551 house facing Libby Avenue, and Mr. Eagle's house faces Libby Avenue also. So all  
552 three of the residences are behind her. Any other questions for Ms. Singleton? Thank  
553 you. Ms. Maiden, have you had a chance to read the letters?  
554

555 Ms. Maiden - Where is the reference to Ms. Langford? I did build a  
556 privacy fence to address the problem of the dogs getting out. I just built confinement  
557 cages to keep them confined when I out cooking on the grill or something. They have  
558 yet to be in those. So I don't know how there can be run-off when they have never been  
559 in there. The Miniature Pinschers stay in the house except to go outside to do their  
560 business. The Doberman runs the backyard. They don't stay in the kennels, so there  
561 would be no run-off. I have an 11-year-old son who brings his friends over to play in the  
562 back yard, so I do keep it clean. Basically, when I take the 2 dogs back to my mother's  
563 in November, I will be at Henrico's 3-dog limit. So I am really getting the use permit for  
564 my two cats.  
565

566 Mr. Balfour - Do the cats stay inside?  
567

568 Ms. Maiden - They are outside and inside cats. They are neutered, and in  
569 the winter they stay in the house most of the time. They are 7 and 4 years old.  
570

571 Mr. Balfour - Can you put some sort of barrier below the bottom of the  
572 fence in the rear to prevent the drainage into the other yards?  
573

574 Ms. Maiden - The dogs do not stay in the kennels, so there is no run-off;  
575 the only run-off would be water from a rainstorm.  
576

577 Mr. Balfour - All three of these people complained about the odors, so  
578 there must be something back there that is concentrated. Any other questions of Ms.  
579 Maiden?  
580

581 Mr. McKinney - Do you put straw in the cages that they are in?  
582

583 Ms. Maiden - There is concrete in the Miniature Pinschers' pen, because  
584 they dig and climb out of stuff. The rest of them are grass that always needs to be cut  
585 because they are never in there.  
586

587 Mr. McKinney - Do you get their waste up, or do you leave it in the back  
588 yard?

589  
590 Ms. Maiden - I get it up.

591  
592 Mr. McKinney - Every day?

593  
594 Ms. Maiden - I go out there once a week. I clean up after the Doberman  
595 every day, and the mini-pins once a week.

596  
597 Mr. Balfour - Any other questions of Ms. Maiden? Thank you.

598  
599 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
600 McKinney, the Board **granted** application **UP-26-2001** for a conditional use permit to  
601 keep more than three pets at 5015 Dollard Drive (Kildare Annex) (Tax Parcel 93-4-A-5).  
602 The Board granted the use permit subject to the following conditions:

603  
604 1. This approval is only for the three dogs and two cats owned by the property  
605 owner. The approval is not for the boarding or breeding of dogs at any time.

606  
607 2. In addition to the five animals listed in condition #1, the applicant may keep two  
608 dogs owned by family members until November 30, 2001.

609  
610 3. No new or replacement animals may be added, so that the number of animals  
611 will be reduced by natural means to three, as allowed in a residential district.

612  
613 4. The applicant must maintain the property so that noise and odors are controlled.

614  
615 5. The kennels shall be confined to the applicants property, and may not be  
616 attached to any privacy fence belonging to the neighbors.

617  
618 6. This permit shall expire on October 18, 2002, after which time the number of  
619 animals on the property shall not exceed three.

620  
621 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
622 Negative: 0  
623 Absent: 0

624  
625 The Board granted the request because it found the proposed use will be in substantial  
626 accordance with the general purpose and objectives of Chapter 24 of the County Code.

627  
628 **A -141-2001:** **Janece C. Bibby** requests a variance from Section 24-95(i) of  
629 Chapter 24 of the County Code to build a gazebo at 9406 Ryan  
630 Road (Hungary Acres) (Tax Parcel 52-5-B-7), zoned R-3, One-  
631 family Residence District (Fairfield). The accessory structure  
632 location requirement is not met. The applicant wishes to build a

633 gazebo, without a 10-foot breezeway connection, in the side yard,  
634 where the Code permits accessory structures only in the rear yard.  
635 The applicant requests a variance in accessory structure location  
636 requirement.  
637

638 Mr. Balfour - All who wish to speak on this case, please stand. Would you  
639 raise your right hand and be sworn in.  
640

641 Mr. Blankinship - Do you swear the testimony that you are about to give is the  
642 truth, the whole truth, and nothing but the truth, so help you God?  
643

644 Ms. Bibby - I do.  
645

646 Mr. Balfour - Would you state your name and then your case.  
647

648 Ms. Bibby - My name is Janece Bibby, and I would like to build a gazebo  
649 in my side yard. This property is a lot that was left over once the development of the  
650 surrounding subdivisions were put in. This lot was originally a portion of the subdivision  
651 in the rear. We really couldn't think of any other way of using this land than to put a  
652 garden on it. We realize that we could put the gazebo in the back yard that would  
653 change the yard. We understand the reasoning for requiring accessory structures in  
654 the rear yard in a conventional neighborhood, but there is no passerby traffic and it is at  
655 the end of a street. It is actually screened from everyone else and the lady who lives  
656 across the street is looking forward to seeing it. In fact she is going to help plant the  
657 garden. The other neighbors gave signatures also. The breezeway that would have to  
658 be constructed to connect the house and the gazebo would have to go under the  
659 electric wires that feed the house. The power company said it could be done, but it  
660 would be a safety factor for the contractor. We understand all of this, but we feel that in  
661 doing the gazebo and the flower garden, it will enhance the neighborhood and optimize  
662 the use of the property.  
663

664 Mr. Blankinship - They do not want to build the breezeway. In order to  
665 put the accessory structure in the side yard, it has to be attached to the house. One of  
666 their options is to build a breezeway, 40 feet from the house to the gazebo going across  
667 the property line, power line and driveway. In our discussion with her, it did not seem  
668 like a reasonable solution.  
669

670 Mr. Balfour - Any questions of Ms. Bibby?  
671

672 Mr. Wright - Do you have any pictures of this gazebo?  
673

674 Ms. Bibby - No sir. I did not want to develop a plan before we obtained  
675 permission to build it. We had in mind a regular gazebo with screened sides, and we  
676 would plant flower gardens around it.  
677

678 Mr. Wright - Is that lot wooded?

679  
680 Ms. Bibby - This particular area is not wooded, but to the right of this is  
681 an acre of land that we also own, and that is wooded. The houses in Kennedy Station  
682 would be screened from the gazebo by the woods.  
683  
684 Mr. Wright - Do you have any idea how far back from the street this  
685 gazebo will be located?  
686  
687 Ms. Bibby - There is no frontage on this lot.  
688  
689 Mr. Kirkland - Back to the materials, is this going to be a Cedar gazebo or  
690 brick?  
691  
692 Ms. Bibby - The bottom part would be brick, and the sides would be  
693 wood. It would be octagonal in shape.  
694  
695 Mr. Balfour - Any other questions?  
696  
697 Mr. Wright - I see this diagram shows 20 feet from the property line.  
698  
699 Ms. Bibby - There is a sewer line through that property, between our  
700 house and the gazebo site, and we need to stay outside the easement.  
701  
702 Mr. Balfour - How large are you going to make it, 12 feet wide?  
703  
704 Ms. Bibby - That sounds good.  
705  
706 Mr. Balfour - Any other questions of Ms. Bibby? Thank you.  
707  
708 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
709 Nunnally, the Board **granted** application **A-141-2001** for a variance to build a gazebo at  
710 9406 Ryan Road (Hungary Acres) (Tax Parcel 52-5-B-7). The Board granted the  
711 variance subject to the following conditions:  
712  
713 1. Only the improvements shown on the plan filed with the application may be  
714 constructed pursuant to this approval. No substantial changes or additions to the layout  
715 may be made without the approval of the Board of Zoning Appeals. Any additional  
716 improvements shall comply with the applicable regulations of the County Code.  
717  
718 2. The structure shall not exceed 15 feet in length, width or diameter.  
719  
720 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
721 Negative: 0  
722 Absent: 0  
723



724 The Board granted this request, as it found from the evidence presented that, due to the  
725 unique circumstances of the subject property, strict application of the County Code  
726 would produce undue hardship not generally shared by other properties in the area, and  
727 authorizing this variance will neither cause a substantial detriment to adjacent property  
728 nor materially impair the purpose of the zoning regulations.  
729

730 **A -142-2001:**           **Teresa Marie Truda** requests a variance from Section 24-41(e) of  
731 Chapter 24 of the County Code to build a deck at 9407 Grassmount  
732 Lane (Lakeland Townes) (Tax Parcel 50-21-Y-2), zoned RTHC,  
733 Residential Townhouse District (Conditional) (Brookland). The rear  
734 yard setback is not met. The applicant has 14.57 feet rear yard  
735 setback, where the Code requires 20 feet rear yard setback. The  
736 applicant requests a variance of 5.43 feet rear yard setback.  
737

738 Mr. Balfour -                   All who wish to speak on this case, please stand. Would you  
739 raise your right hand and be sworn in.  
740

741 Mr. Blankinship -            Do you swear the testimony that you are about to give is the  
742 truth, the whole truth, and nothing but the truth, so help you God?  
743

744 Ms. Truda -                    I do.  
745

746 Mr. Balfour -                 Would you state your name please?  
747

748 Ms. Truda -                   Theresa Marie Truda. I moved into my new townhouse  
749 about a month ago, and I had prior permission to extend my rear deck 5.43 feet. I am  
750 requesting a variance for that amount. This is so I can keep my deck. It extends to my  
751 shed.  
752

753 Mr. Balfour -                 It says the County approved the building permit.  
754

755 Ms. Truda -                   Yes sir, and the day before closing, they said it was done in  
756 error.  
757

758 Mr. McKinney -              All that land behind you is in wetlands, correct?  
759

760 Ms. Truda -                   Yes sir.  
761

762 Mr. Wright -                 This deck doesn't extend from the ground very high. It is  
763 kind of hard to call it a deck.  
764

765 Mr. Truda -                   Yes sir.  
766

767 Mr. Balfour -                 Any other questions of Ms. Truda. Thank you.  
768

769 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
770 Wright, the Board **granted** application **A-142-2001** for a variance to build a deck at  
771 9407 Grassmount Lane (Lakeland Townes) (Tax Parcel 50-21-Y-2). The Board granted  
772 the variance subject to the following condition:

773  
774 1. Only the improvements shown on the plan filed with the application may be  
775 constructed pursuant to this approval. No substantial changes or additions to the layout  
776 may be made without the approval of the Board of Zoning Appeals. Any additional  
777 improvements shall comply with the applicable regulations of the County Code.

778  
779 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
780 Negative: 0  
781 Absent: 0

782  
783 The Board granted this request, as it found from the evidence presented that, due to the  
784 unique circumstances of the subject property, strict application of the County Code  
785 would produce undue hardship not generally shared by other properties in the area, and  
786 authorizing this variance will neither cause a substantial detriment to adjacent property  
787 nor materially impair the purpose of the zoning regulations.

788  
789 **A -143-2001:** **Rhonda Tyler** requests a variance from Section 24-9 of Chapter 24  
790 of the County Code to build a single family house at 1110 Oakland  
791 Road (Tax Parcel 180-A-90), zoned R-3, One-family Residence  
792 District (Varina). The public street frontage requirement is not met.  
793 The applicant has 0 feet public street frontage, where the Code  
794 requires 50 feet public street frontage. The applicant requests a  
795 variance of 50 feet public street frontage.

796  
797 Mr. Balfour - All who wish to speak on this case, please stand. Would you  
798 raise your right hand and be sworn in.

799  
800 Mr. Blankinship - Do you swear the testimony that you are about to give is the  
801 truth, the whole truth, and nothing but the truth, so help you God?

802  
803 Mr. Hodge - Yes I do. Previously we had been issued a variance on this  
804 piece of property. Mr. Madison's estate has decided to retain the 30 feet of right-of-way  
805 and not deed it to Ms. Tyler.

806  
807 Mr. Balfour - Have you read the conditions of the case?

808  
809 Mr. Hodge - Yes.

810  
811 Mr. Balfour - Are there any questions? Thank you.

812  
813 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
814 Kirkland, the Board **granted** application **A-143-2001** for a variance to build a single

815 family house at 1110 Oakland Road (Tax Parcel 180-A-90). The Board granted the  
816 variance subject to the following conditions:

817  
818 1. This variance applies only to the public street frontage requirement. All other  
819 applicable regulations of the County Code shall remain in force.

820  
821 2. At the time of building permit application, the applicant shall submit the  
822 necessary information to the Department of Public Works to ensure compliance with the  
823 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
824 water quality standards.

825  
826 3. Approval of this request does not imply that a building permit will be issued.  
827 Building permit approval is contingent on Health Department requirements, including,  
828 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval  
829 of a well location.

830  
831 4. The applicant shall present proof with the building permit application that a legal  
832 access to the property has been obtained.

833  
834 5. The owners of the property, and their heirs or assigns, shall accept responsibility  
835 for maintaining access to the property until such a time as the access is improved to  
836 County standards and accepted into the County road system for maintenance.

837  
838 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
839 Negative: 0  
840 Absent: 0

841  
842 The Board granted this request, as it found from the evidence presented that, due to the  
843 unique circumstances of the subject property, strict application of the County Code  
844 would produce undue hardship not generally shared by other properties in the area, and  
845 authorizing this variance will neither cause a substantial detriment to adjacent property  
846 nor materially impair the purpose of the zoning regulations.

847  
848 **A -144-2001:** **Richard Atack Construction** requests a variance from Sections  
849 24-95(b) and 24-9 of Chapter 24 of the County Code to build a  
850 single family dwelling at 5413 Edgefield Street (Chamberlayne  
851 Estates) (Tax Parcel 85-1-6-3), zoned R-4, One-family Residence  
852 District (Fairfield). The lot width requirement, public street frontage  
853 requirement, and total lot area requirement are not met. The  
854 applicant has 5,069 square feet lot area, 40 feet lot width and 40  
855 feet public street frontage, where the Code requires 6,000 square  
856 feet lot area, 50 feet lot width and 50 feet public street frontage.  
857 The applicant requests variances of 931 square feet lot area, 10  
858 feet lot width and 10 feet public street frontage.

859

860 Mr. Balfour - All who wish to speak on this case, please stand. Would you  
861 raise your right hand and be sworn in.

862  
863 Mr. Blankinship - Do you swear the testimony that you are about to give is the  
864 truth, the whole truth, and nothing but the truth, so help you God?  
865

866 Mr. Walker - I do. My name is Eric Walker; I am representing Richard  
867 Atack Construction and building a single family dwelling at 5413 Edgefield Street. You  
868 have a row of 4 undeveloped lots on Edgefield, and they are all approximately 40 feet  
869 wide. I am requesting a variance to build on these lots. There are some lots in this  
870 subdivision that are approximately 65 feet wide and others that are 40 feet wide. They  
871 are located on Edgefield and Tamiani.

872  
873 Mr. Balfour - The width of the lots vary from 40 feet to 65 feet?  
874

875 Mr. Walker - Yes. The requirement for this lot is 50 feet of width, and I  
876 am just trying to make this lot buildable.  
877

878 Mr. Wright - Have you attempted to acquire the property on either side of  
879 this lot?  
880

881 Mr. Walker - Yes sir. I attempted to acquire all 5 lots. The 2 adjacent lots  
882 do not have clear titles, so the property is not transferring.  
883

884 Mr. Balfour - Do you already own this lot or is it contingent on receiving  
885 the variance?  
886

887 Mr. Walker - It is contingent on getting the variance.  
888

889 Mr. McKinney - Is this part of the redistricting? Is this now part of Brookland  
890 District? He has a survey that states this property is in the Brookland District; it is in fact  
891 in the Fairfield District.  
892

893 Mr. Balfour - Any other questions?  
894

895 Ms. McCowen - My name is Gloria McCowen. I live at 519 North Road. The  
896 rear of my property abuts this lot. My concern is that we just received this notice  
897 yesterday, even though it was posted marked on October 2. I am able to get away from  
898 my job to come to this meeting. I polled my neighborhood, and several people had not  
899 received this notice. That is one of my concerns.  
900

901 Mr. Balfour - Do we get returned receipts on these notices?  
902

903 Mr. Blankinship - No we do not. When the county sends the notices, it is first  
904 class. When the applicant sends the notice, it must be certified.  
905

906 Mr. Balfour - Why are the standards different and the County is not  
907 required to send the notices certified?  
908  
909 Mr. Blankinship - The Code doesn't require it.  
910  
911 Mr. Kirkland - Because of all the mail problems in the world today, we need  
912 to make sure these notices get mailed in plenty of time.  
913  
914 Mr. Blankinship - She said it was postmarked the 2<sup>nd</sup> of October.  
915  
916 Mr. Balfour - You say you have neighbors that did not receive the notice?  
917  
918 Ms. McCowen - Yes sir.  
919  
920 Mr. Blankinship - They may not all have been adjoining property owners.  
921  
922 Ms. McCowen - Yes, one is. His property is located at Edgefield and Hickory  
923 Tree.  
924  
925 Mr. McKinney - If he hasn't gotten proper notice, I don't see how we can  
926 hear the case. Can you check the file?  
927  
928 Mr. Blankinship - I don't think there is an allegation that the notices weren't  
929 sent properly, I think the mail may have lost them.  
930  
931 Mr. Balfour - But if the landowner came in and said, "I didn't know about  
932 the case, and I didn't get a chance to speak to the Board," that would not look good.  
933  
934 Ms. McCowen - My other concern because in that area there is an  
935 abundance .....

936  
937 Mr. Balfour - Before we proceed, does the Board agree that we should  
938 defer this request because of the notices? I don't want anyone saying they did not get a  
939 chance to speak about this case.  
940  
941 Mr. Kirkland - That would give them 30 more days to receive their notices.  
942  
943 Mr. McKinney - Do you have a problem with that Mr. Walker, to make sure  
944 all the requirements have been satisfied?  
945  
946 Mr. Walker - I understand, but the time requirements on my contract  
947 would expire within that 30 days. If she would like to disclose which property owner did  
948 not received this notice, I have talked to the 2 adjacent property owners, so I know they  
949 are aware of the request. As far as Ms. Caddell and Mr. Garrison, there are two lots  
950 between this lot and her property. So the 2 adjacent property owners are aware of this.  
951

952 Mr. Balfour - You are talking about Edgefield Street owners, correct?  
953  
954 Mr. Walker - Yes sir.  
955  
956 Mr. Balfour - Those are the two lots you tried to buy?  
957  
958 Mr. Walker - Correct.  
959  
960 Mr. Balfour - Have you talked to the people across the street?  
961  
962 Mr. Walker - I have not. I have a list of people that the notices needed to  
963 be sent to. There are only 3 people that we do not know if they received the notice. But  
964 they are not abutting this property.  
965  
966 Mr. Wright - There are at least 2 people across the street that would be  
967 considered adjoining property owners.  
968  
969 Mr. Walker - Do you send notices to people across the street?  
970  
971 Mr. Wright - Yes sir. They are sent to all the property around this lot,  
972 across the street, behind the property.  
973  
974 Mr. Walker - There appears to be 3 other property owners that need to be  
975 notified, there is one on North Road and Edgefield.  
976  
977 Mr. Kirkland - Ms. McCowen, who was it that did not receive a notice?  
978  
979 Ms. McCowen - Mr. Robert Lee, and his property is on Hickory Tree and  
980 Edgefield. Across Edgefield, there are about 6 or 7 homes.  
981  
982 Mr. Kirkland - Mr. Lee does not abut the property, we only contact those  
983 that abut the property or across the street or alley way.  
984  
985 Mr. Balfour - Do we want to proceed with the case?  
986  
987 Mr. McKinney - How do we stand with these notices?  
988  
989 Mr. Blankinship - The County sends the notices by first class mail. In this  
990 case they were postmarked October 2. We changed the procedure from the applicant  
991 sending the notices, to the County sending the notices, because we could do it a lot  
992 quicker and we had so many applicants doing it incorrectly or not at all, we were having  
993 to defer many cases because of it.  
994  
995 Mr. McKinney - Mr. Blankinship, The Richmond Post Office was voted one of  
996 the worst post offices in the country and I don't think the County should depend on the

997 Post Office and first class mail to get these notices to the public. If it is registered mail,  
998 we know it gets to the property owners.  
999

1000 Mr. Kirkland - Can we sent them certified mail?  
1001

1002 Mr. Blankinship - We certainly can.  
1003

1004 Mr. Balfour - Why don't we discuss that when we discuss the minutes?  
1005 We need to decide if we are going to hear this case.  
1006

1007 Mr. Kirkland - If we pass this case over, can you make a phone call and  
1008 see if they would give you an extension?  
1009

1010 Mr. Walker - That is a possibility. As far as my time frame, it would be a  
1011 detriment to me. There are other things I have in the works; if I get this variance, it  
1012 would allow me to complete other things in a timely fashion. My preference is to get the  
1013 variance today.  
1014

1015 Mr. Balfour - We have not even voted on the case yet.  
1016

1017 Mr. Walker - Are we talking about abutting property owners or are we  
1018 talking about people in the neighborhood?  
1019

1020 Mr. Kirkland - Abutting property owners.  
1021

1022 Mr. Walker - If that is the case, how do we know who did not get their  
1023 notices?  
1024

1025 Mr. Kirkland - We don't know. We know that she got hers yesterday, and it  
1026 was mailed on the 2<sup>nd</sup> of October.  
1027

1028 Mr. Walker - Is it possible that before you decide, I can get some more  
1029 feedback from her.  
1030

1031 Mr. Balfour - Let's pass this by.  
1032

1033 **A -145-2001:** **Jeffrey D. Boyea** requests a variance from Section 24-94 of  
1034 Chapter 24 of the County Code to build a screened porch over the  
1035 existing deck at 10045 Woodbaron Way (Coles Way) (Tax Parcel  
1036 57-25-A-20), zoned R-3AC, One-family Residence District  
1037 (Conditional)(Three Chopt). The rear yard setback is not met. The  
1038 applicant has 30 feet rear yard setback, where the Code requires  
1039 35 feet rear yard setback. The applicant requests a variance of 5  
1040 feet rear yard setback.  
1041

1042 Mr. Balfour - All who wish to speak on this case, please stand. Would you  
1043 raise your right hand and be sworn in.

1044  
1045 Mr. Blankinship - Do you swear the testimony that you are about to give is the  
1046 truth, the whole truth, and nothing but the truth, so help you God?

1047  
1048 Mr. Boyea - I do. My name is Jeff Boyea, and I am requesting a 5-foot  
1049 variance setback to replace our existing deck with a screened porch.

1050  
1051 Mr. Wright - What is to the rear of your property?

1052  
1053 Mr. Boyea - Common Area.

1054  
1055 Mr. Wright - What is beyond that?

1056  
1057 Mr. Boyea - There is a new daycare center.

1058  
1059 Mr. Wright - Is there any open space back there?

1060  
1061 Mr. Boyea - It is wooded.

1062  
1063 Mr. Balfour - Any other questions of Mr. Boyea? Thank you.

1064  
1065 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
1066 McKinney, the Board **granted** application **A-145-2001** for a variance to build a screened  
1067 porch over the existing deck at 10045 Woodbaron Way (Coles Way) (Tax Parcel 57-25-  
1068 A-20). The Board granted the variance subject to the following condition:

1069  
1070 1. Only the improvements shown on the plan filed with the application may be  
1071 constructed pursuant to this approval. No substantial changes or additions to the layout  
1072 may be made without the approval of the Board of Zoning Appeals. Any additional  
1073 improvements shall comply with the applicable regulations of the County Code.

1074  
1075 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1076 Negative: 0

1077 Absent: 0

1078  
1079 The Board granted this request, as it found from the evidence presented that, due to the  
1080 unique circumstances of the subject property, strict application of the County Code  
1081 would produce undue hardship not generally shared by other properties in the area, and  
1082 authorizing this variance will neither cause a substantial detriment to adjacent property  
1083 nor materially impair the purpose of the zoning regulations.

1084  
1085 ***(Testimony resumed on A-144-01)***

1086  
1087 Mr. Balfour - Mr. Walker, what did you find out?



1088  
1089 Mr. Walker - I talked to the agent, and he is going to recommend that the  
1090 contract be extended, and Ms. McCowen and I discussed the plans for the new home  
1091 and she seems to be happy with them.  
1092  
1093 Mr. Balfour - You do have the right to extend the case for 30 days.  
1094  
1095 Mr. Walker - My preference would be to have the case decided today.  
1096  
1097 Mr. Balfour - What is the pleasure of the Board?  
1098  
1099 Mr. McKinney - Let's hear from Ms. McCowen first.  
1100  
1101 Ms. McCowen - In talking to him, it is ok.  
1102  
1103 Mr. Balfour - You no longer oppose the construction?  
1104  
1105 Ms. McCowen - No.  
1106  
1107 Mr. McKinney- I would like to hear the case, as we do comply with the law  
1108 as far as the Secretary is concerned.  
1109  
1110 Mr. Balfour - If no one objects, we will take this case up in a few minutes.  
1111  
1112 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
1113 Kirkland, the Board **granted** application **A-144-2001** for a variance to build a single  
1114 family dwelling at 5413 Edgefield Street (Chamberlayne Estates) (Tax Parcel 85-1-6-3).  
1115 The Board granted the variance subject to the following conditions:  
1116  
1117 1. Only the improvements shown on the plan filed with the application may be  
1118 constructed pursuant to this approval. No substantial changes or additions to the layout  
1119 may be made without the approval of the Board of Zoning Appeals. Any additional  
1120 improvements shall comply with the applicable regulations of the County Code.  
1121  
1122 2. At the time of building permit application, the applicant shall submit the  
1123 necessary information to the Department of Public Works to ensure compliance with the  
1124 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
1125 water quality standards.  
1126  
1127 3. Connections shall be made to public water and sewer.  
1128  
1129 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1130 Negative: 0  
1131 Absent: 0  
1132

1133 The Board granted this request, as it found from the evidence presented that, due to the  
1134 unique circumstances of the subject property, strict application of the County Code  
1135 would produce undue hardship not generally shared by other properties in the area, and  
1136 authorizing this variance will neither cause a substantial detriment to adjacent property  
1137 nor materially impair the purpose of the zoning regulations.  
1138

1139 **A -146-2001:** **Page Imports, LC** requests a variance from Section 24-104(l)(3) of  
1140 Chapter 24 of the County Code to add a detached sign and  
1141 additional square footage at 9001 West Broad St. (Tax Parcel 59-A-  
1142 28), zoned B-3C, Business District (Conditional) (Three Chopt).  
1143 The maximum sign area and number of freestanding signs are not  
1144 met. The applicant has two detached signs totaling 180 square  
1145 feet, where the Code permits one detached sign with a maximum  
1146 area of 150 square feet. The applicant requests a variance to add  
1147 an additional sign and 30 square feet of sign area.  
1148

1149 Mr. Blankinship - It has just been brought to my attention, that some of the  
1150 material submitted by the applicant was not included in your packet.  
1151

1152 Mr. Balfour - We got a package from Hirschler Fleischer is there  
1153 something more than that?  
1154

1155 Mr. Blankinship - So you did get everything.  
1156

1157 Mr. Balfour - All who wish to speak on this case, please stand. Would you  
1158 raise your right hand and be sworn in.  
1159

1160 Mr. Blankinship - Do you swear the testimony that you are about to give is the  
1161 truth, the whole truth, and nothing but the truth, so help you God?  
1162

1163 Mr. Moore - I do. My name is Glenn Moore, I am here this morning on  
1164 behalf of Page Imports, the owner of the property. I want to make sure that you did  
1165 receive a letter with several attachments? Ok, great. We are requesting 2 variances,  
1166 one with respect to the number of freestanding signs and one with respect to square  
1167 footage of the signs.  
1168

1169 Mr. Page operates a number of dealerships on West Broad Street. He would like to  
1170 establish a body shop in the building in the rear of the property. This would be a  
1171 separate business on the property. We feel that a separate business needs additional  
1172 signage to identify the business. The zoning ordinance contemplates 2 businesses on  
1173 the site and allows for both names to be on the sign if the square footage does not  
1174 exceed a total of 150 square feet. The problem we have in this case with respect to the  
1175 number of signs is that Mr. Page is going to be required by Volkswagen/Audi to have a  
1176 separate sign by the requirements of the franchise agreement. He is going to be taking  
1177 down the larger sign and replacing it with an Audi/Audi sign. We are asking for  
1178 permission to have the second sign for the Body Shop.

1179  
1180 I would submit to you that one reason for granting the variance request is the fact that  
1181 we are going to have 2 signs, we are going to reduce by 50 % the amount of  
1182 freestanding signage that is currently on the site. I think this is the goal of the Planning  
1183 Commission for West Broad Street. We are not reducing the number, but we are  
1184 reducing the amount of signage. I would also submit that Mr. Page acquired this  
1185 property in good faith and did not plan to have a separate business, The Body Shop. I  
1186 will happy to answer any questions that you have.

1187  
1188 Mr. Balfour - Any questions of Mr. Moore?  
1189

1190 Mr. Wright - Where is this second sign going to be?  
1191

1192 Mr. Moore - If you look at the site plan, on the right-hand side of the  
1193 entrance there is the existing sign; the new sign for the Body Shop will be located on the  
1194 left-hand side of the entrance. The conditions recommended by the Staff are fine.  
1195

1196 Mr. Wright - That sign will look like the copy included in your packet?  
1197

1198 Mr. Moore - Yes sir.  
1199

1200 Mr. Balfour - Any further questions for Mr. Moore? Thank you.  
1201

1202 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
1203 Kirkland, the Board **granted** application **A-146-2001** for a variance to add a detached  
1204 sign and additional square footage at 9001 West Broad St. (Tax Parcel 59-A-28). The  
1205 Board granted the variance subject to the following conditions:  
1206

1207 1. Only the signs shown on the plan filed with the application may be constructed  
1208 pursuant to this approval. No substantial changes or additions to the layout may be  
1209 made without the approval of the Board of Zoning Appeals. Any additional  
1210 improvements shall comply with the applicable regulations of the County Code.  
1211

1212 2. At the time the second sign is erected, the existing nonconforming sign shall be  
1213 replaced with a sign that conforms to the requirements of the County Code. The total  
1214 area of freestanding signs on the property shall not exceed 180 square feet.  
1215

1216 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1217 Negative: 0

1218 Absent: 0  
1219

1220 The Board granted this request, as it found from the evidence presented that, due to the  
1221 unique circumstances of the subject property, strict application of the County Code  
1222 would produce undue hardship not generally shared by other properties in the area, and  
1223 authorizing this variance will neither cause a substantial detriment to adjacent property  
1224 nor materially impair the purpose of the zoning regulations.

1225  
1226 On a motion by Mr. Kirkland, seconded by Mr. McKinney, the Board approved  
1227 the Minutes of the March 22, 2001, Henrico County Board of Zoning Appeals  
1228 meeting.

1229  
1230 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1231 Negative: 0  
1232 Absent: 0

1233  
1234 There being no further business, and on a motion by Mr. McKinney, seconded by  
1235 Mr. Kirkland, the Board adjourned until November 15, 2001, at 9:00 am.  
1236

1237 Daniel Balfour,

1238 Chairman

1239

1240 Benjamin Blankinship, AICP

1241 Secretary

1242