

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**  
2 **APPEALS OF HENRICO COUNTY HELD IN THE COUNTY ADMINISTRATION**  
3 **BUILDING IN THE HENRICO COUNTY GOVERNMENT COMPLEX ON**  
4 **THURSDAY, OCTOBER 28, 1999 AT 9:00 A.M. NOTICE HAVING BEEN**  
5 **PUBLISHED IN THE RICHMOND TIMES DISPATCH ON OCTOBER 7, 1999,**  
6 **AND OCTOBER 14 , 1999.**

7  
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 Parker, Recording Secretary

8  
9 Mr. Kirkland - All right, before we get started this morning I'll have  
10 the Secretary read the rules, and we will get started with that.

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

28  
29 Mr. Kirkland - Mr. Secretary, do we have any requests for any  
30 deferrals or withdrawals on the nine o'clock Agenda?

31  
32 Mr. Blankinship - None that I know of.

33  
34 Mr. Kirkland - OK. If you would, call the first case.

35  
36 **UP- 35-1999** Linda M. Caldwell requests a use permit pursuant to Section  
37 24-52(g) of Chapter 24 of the County Code to operate a

38 riding stable at 10915 Opaca Lane (Tax Parcel 19-A-14),  
39 zoned A-1, Agricultural District (Three Chopt).

40

41 Mr. Kirkland - Does anyone wish to speak against, also, or opposed,  
42 or anyone else wish to speak on this case? If you would, raise your right hand,  
43 and have the Secretary swear you in.

44

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

48

49 Ms. Caldwell - Yes, sir, I have.

50

51 Mr. Blankinship - Yes, we have them.

52

53 Mr. Kirkland - OK, state your case.

54

55 Ms. Caldwell - Good morning, I'm Linda Caldwell. I recently leased a  
56 farm at 10915 Opaca Lane. On this farm was an existing horse barn, fenced in  
57 pastures, and a riding bridle ring. The previous tenants were granted a  
58 conditional use permit for a riding stable in 1996. I would like to continue the  
59 operation. I would also respectfully request that our hours not be limited to just  
60 daylight hours. In the summer it is often too hot to ride until 6:00 pm when the  
61 sun goes down, and when we finish it might be 8:30 or 9:00 pm, and there may  
62 be chores still to do. In the winter it gets dark around 5:00 pm, and there are  
63 chores to do in the evening. Because we have a lighted riding ring, I request  
64 summer hours to be extended to 11:00 pm, and in winter to 10:00 pm if  
65 necessary. Thank you for your consideration.

66

67 Mr. Wright- Ms. Caldwell, where will this riding take place, all  
68 within the confines of your property?

69

70 Ms. Caldwell - Yes, sir. Occasionally we go up the power lines in the  
71 back of the property, but everything is right there on the property.

72

73 Mr. Wright- Are there any residences near your property?

74

75 Ms. Caldwell - By the power lines there are, but not near the riding  
76 ring.

77

78 Mr. Wright- When you say riding, how many horses are involved  
79 in this riding?

80

81 Ms. Caldwell - Right now there are eight horses there.

82

83 Mr. Wright- But when you ride at night, you say you go out riding,  
84 would all eight horses be involved in....  
85  
86 Ms. Caldwell - Oh, no, sir. It would just be if someone who couldn't  
87 get there until after they finished work at 5:00 pm, and wanted to take a ride in  
88 the riding ring, and wanted to put up their horse. I just didn't want them to be  
89 stuck there and it still be night time, and get in trouble because they'd been gone  
90 too long.  
91  
92 Mr. Wright- So you would ask them to change the condition  
93 number 3? What would be your request? It says here the hours of operation  
94 shall be limited to daylight hours; what would be your request?  
95  
96 Ms. Caldwell - Yes, sir, I suggested that perhaps we could do  
97 summer hours up to, and not to exceed 11:00 pm, and not to exceed 10:00 pm in  
98 the winter.  
99  
100 Mr. Wright- Is there any noise involved in this operation or this  
101 riding that....  
102  
103 Ms. Caldwell - An occasional "neigh," I suppose....  
104  
105 Mr. Wright- You don't have any barking dogs or anything?  
106  
107 Ms. Caldwell - No.  
108  
109 Mr. Kirkland- Any other questions from the Board members?  
110  
111 Mr. McKinney- Ms. Caldwell, the way the staff has this condition, is  
112 daylight hours – sometimes it doesn't get dark till 9:00. When they are riding,  
113 where will they be riding?  
114  
115 Ms. Caldwell - In the lighted riding ring. If it's coming to dusk, then  
116 they're in the riding ring; we're not out. But it is a lighted riding ring.  
117  
118 Mr. McKinney- And this is confined just to the ring.  
119  
120 Ms. Caldwell - Yes, sir, once it gets dark, we are not out in the fields  
121 or anything; we're in the ring because that's where the light is.  
122  
123 Mr. McKinney So you won't have any problem with the provision  
124 stating that after daylight hours, you will be only in the ring?  
125  
126 Ms. Caldwell - I don't have any problem with that.  
127

128 Mr. McKinney But other than that, during the daylight hours they can  
129 ride the whole range.  
130  
131 Ms. Caldwell - Yes, sir.  
132  
133 Mr. McKinney Right, OK.  
134  
135 Mr. Blankinship And you want to be able to do chores and so forth....  
136  
137 Ms. Caldwell - Yes, because once we put the horses, when it  
138 becomes dark, we put them up, and we have chores still to do.  
139  
140 Mr. Kirkland- Any other questions?  
141  
142 Mr. Kirkland - I'll ask one more time – anyone else wishing to speak  
143 on this case? Would you stand and be sworn in, please? You need to be sworn  
144 in first, by the Secretary.  
145  
146 Mr. Blankinship - Come to the podium, please. Raise your right hand.  
147 Do you swear that the testimony you are about to give is the truth, the whole  
148 truth, and nothing but the truth, so help you God?  
149  
150 Mr. Holloway - I do.  
151  
152 Mr. Blankinship - State your name, please.  
153  
154 Mr. Holloway- Ben Holloway, one of the owners of the subject  
155 property, to which Ms. Caldwell refers. I just wanted to add that this is  
156 agricultural zoning, and that the closest house to her riding ring and the barn,  
157 perhaps, is going back away, about half a mile away, perhaps, a quarter of a  
158 mile. That's all I wanted to add. Thank you.  
159  
160 Mr. Kirkland - Any questions of Mr. Holloway? Thank you, sir. No  
161 further testimony; that concludes the case, and you can get your answer later on.  
162 You can wait till the end, which will be a while, or you can get it this afternoon by  
163 calling the Planning Office. Call the next case, please.  
164  
165 After an advertised public hearing and on a motion by Mr. Wright, seconded by  
166 Mr. Nunnally, the Board **granted** the case.  
167  
168 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
169 Negative: 0  
170 Absent: 0  
171

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

175

- 176 1. The applicant shall maintain the property so that odors or vermin are  
177 controlled and do not pose a threat to adjacent property owners.
- 178
- 179 2. The horses shall be confined to the property at all times and not allowed to  
180 run at large.
- 181
- 182 3. The hours of operation shall be limited to daylight hours. After dark, riding  
183 shall be limited to the lighted ring.
- 184
- 185 4. The applicant shall obtain a building permit for any improvements on the  
186 property. At the time of building permit application, the applicant shall  
187 submit the necessary information to the Department of Public Works to  
188 ensure compliance with the requirements of the Chesapeake Bay  
189 Preservation Act and County water quality standards.
- 190
- 191 5. This approval is not transferable except that the holder of the first mortgage  
192 on the property may assume responsibility, after notification of the Board of  
193 Zoning Appeals.
- 194

195 **A -129-1999**                    **Melani Brothers, Inc.** requests a variance from Section 24-  
196 95(k) of Chapter 24 of the County Code to enclose an  
197 existing porch into a sunroom at 6106 Hermitage Road (Tax  
198 Parcel 83-A-103), zoned R-4, One-family Residence District  
199 (Brookland). The reverse corner side yard is not met. The  
200 applicant has 12 feet reverse corner side yard where the  
201 Code requires 25 feet reverse corner side yard. The  
202 applicant requests a variance of 13 feet reverse corner side  
203 yard.

204

205 Mr. Kirkland -                    Would you raise your right hand? Anyone else  
206 wishing to speak, please stand and be sworn in at this time by the Secretary.  
207 OK.

208

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

211

212 Mr. Ferrell -                      I do.

213

214 Mr. Blankinship -                Would you state your name.

215

216 Mr. Ferrell -                      Terry Ferrell

217  
218 Mr. Kirkland - Have all your notices been turned in, according to the  
219 County Code? Turn them in to the Secretary, please. Right, sir, state your case.  
220  
221 Mr. Ferrell - What we're going to do, we're going to put a sunroom  
222 on a pre-existing structure, which, if I may approach -- give you a scenario here.  
223 (Approaches podium)  
224  
225 Mr. Kirkland- We keep those for thirty days once you turn them in.  
226  
227 Mr. Ferrell - That will be fine.  
228  
229 Mr. Kirkland- OK.  
230  
231 Mr. Ferrell - All right; it's a pre-existing screened porch. Basically  
232 what we're going to do is enclose it so they can use it year-round, and, basically,  
233 what it's going to do is really enhance the appearance of the home.  
234  
235 Mr. Kirkland- Any questions from Board members?  
236  
237 Mr. Wright- What is this picture that we have here now -- is that  
238 the existing -- well it's pretty well closed in now.  
239  
240 Mr. Ferrell - That one is a scenario -- what it's basically going to  
241 look like.  
242  
243 Mr. Blankinship- Oh, that's existing there; this is, what exactly are you  
244 changing?  
245  
246 Mr. Ferrell - Basically what we're going to do is tear the walls out,  
247 and install the porch windows and the knee wall.  
248  
249 Mr. McKinney- Which house is this, Mr. Ferrell? Which house is this,  
250 that we see now?  
251  
252 Mr. Ferrell- That's just one of my pictures that I have, to give you  
253 some kind of idea what it's going to look like.  
254  
255 Mr. McKinney- Do you have a picture of the residence that you're  
256 going to do the improvements on?  
257  
258 Mr. Ferrell - Yes, sir. You have that one.  
259  
260 Mr. McKinney This is the house? Look up on the screen.  
261  
262 Mr. Ferrell - This is the house, yes.

263  
264 Mr. Wright- Is that it, like it is now?  
265  
266 Mr. Ferrell - Yes ,sir.  
267  
268 Mr. Kirkland- So you're going to knock the windows out of that little  
269 addition?  
270  
271 Mr. Ferrell - Yes, sir.  
272  
273 Mr. Wright- OK. You're going to do it on the same – not going to  
274 enlarge it at all, just do what's there?  
275  
276 Mr. Ferrell – Yes. sir. Roof's going to stay the same; foundation's  
277 going to stay the same.  
278  
279 Mr. Wright- That looks like that's closed in now....  
280  
281 Mr. Ferrell - It's in pretty bad shape right now, inside the house.  
282  
283 Mr. McKinney- So, all you're going to do is change the existing walls?  
284  
285 Mr. Ferrell - Yes, sir.  
286  
287 Mr. McKinney So, as it stands right now – it's not in compliance  
288 now?  
289  
290 Mr. Ferrell - Excuse me?  
291  
292 Mr. McKinney It's not in compliance now?  
293  
294 Mr. Ferrell - I understand that, yes.  
295  
296 Mr. McKinney Is it a home that you just purchased to renovate, or....  
297  
298 Mr. Ferrell - No, sir. I'm General Sales Manager for Melani  
299 Brothers Sunrooms.  
300  
301 Mr. McKinney- OK. So you'll leave the same roof and so forth? So  
302 what you showed us on this picture is what you'll change. I don't know if the  
303 other members of the Board have seen this picture. Yes, we've seen it.  
304  
305 Mr. Kirkland - Any further questions? Anyone else wish to speak on  
306 this case? If not, that concludes the case.  
307  
308 Mr. Ferrell - Thank you. Call the next case, Mr. Secretary.

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After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr. Wright, the Board **granted** the case.

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

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

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

**A-130-1999 Sarah Abell-Moore** request for a variance from Section 24-9 of Chapter 24 of the County Code, to build a single-family dwelling at 1863 Mill Road (part of Tax Parcel 247-A-44) zoned A-1, Agricultural district in the Varina magisterial district. The public street frontage is not met. The applicant has 0 feet public street frontage where the Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet public street frontage.

Mr. Kirkland - Anyone else wish to speak on this case. If not, would you raise your right hand and be sworn in, please.

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. Kirkland- Have your notices been turned in according to the....

Ms. Moore - I have them right here.

Mr. Kirkland- You would turn them in to the Secretary. And state your name.

Ms. Moore - My name is Sarah Abell-Moore. We were given a piece of property, approximately 1.08 acres, from my husband's grandfather, and we don't have the current amount of road front footage for our house. Our house is approximately 500 feet from Mill Road, so we are requesting a variance.

Mr. Nunnally- Do you have a legal access to the property? Do you have a legal right of way to the property? Have you read the conditions on the back of your case?



356 Mr. Moore - I thought this is what the variance is – for the County  
357 to give us the right of way.  
358  
359 Mr. McKinney- No. What is your name sir?  
360  
361 Mr. Moore - I'm Barrett Moore.  
362  
363 Mr. Wright- The County doesn't give you any right of way; you  
364 have to have your own right of way; all this does....  
365  
366 Mr. Moore - Oh, it's a right of way there.  
367  
368 Mr. Wright- Well, it's got to be a legal right of way, and all the  
369 County does is agree for you to build a house or give you a building permit to  
370 build a house on the property, because it doesn't front on a public road.  
371  
372 Mr. Moore - Well there's a right of way there that the house is  
373 there on, that's shared with other homes along that road.  
374  
375 Ms. Moore - They're family members.  
376  
377 Mr. Balfour- What he's asking you to do is look at page 2, and  
378 you'll see some conditions down there, and you need to read those and see if  
379 you agree with them. You've got good access; you got to maintain that access.  
380  
381 Mr. Moore- Yes, we have the health permit and everything.  
382  
383 Mr. Balfour- OK, you'll have to go get all of those if we approve  
384 this, is what he's saying. But you can't stick your wife in a revolving door and  
385 stop it.  
386  
387 Ms. Moore - This is the first time we've ever had to do this. Can  
388 you guys help us out and tell us where we need to get that form?  
389  
390 Mr. Kirkland- Yes, if the variance is approved, you can call the  
391 Planning Office, and Mr. Blankinship there will give you that information you need  
392 to proceed on from this point.  
393  
394 Ms. Moore - Have we given you everything that you need for this  
395 variance?  
396  
397 Mr. Kirkland- Yes, you're fine at that point.  
398  
399 Mr. Blankinship- Have you been given the property, or is that...In the  
400 deed to the property, it should say that you have the right to cross the previous  
401 owner's property to get to yours – that's the right of way we're talking about.

402 That's the access – OK? And you'll just need to bring a copy of that deed when  
403 you apply for your building permit, so that we see that you have one.

404

405 Mr. Kirkland- When you come to get the permit, you have to meet  
406 these conditions, if the case is approved. OK? Any other questions? Anyone  
407 else wishing to speak on this case? If not, that concludes the case. You can  
408 stick around for a while or you can call back to the Planning Office, probably after  
409 2:00 to get your answer.

410

411 Ms. Moore - Thank you.

412

413 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
414 Mr. Wright, the Board **granted** the case.

415

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

417 Negative: 0

418 Absent: 0

419

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

423

424 1. Approval of this request does not imply that a building permit will be issued.  
425 Building permit approval is contingent on Health Department requirements,  
426 including, but not limited to, soil evaluation for a septic drainfield and reserve  
427 area, and approval of a well location.

428

429 2. The applicant must present proof with the building permit application that a  
430 legal access to the property has been obtained.

431

432 3. The owners of the property, and their heirs or assigns, shall accept  
433 responsibility for maintaining access to the property until such a time as the  
434 access is improved to County standards and accepted into the County road  
435 system for maintenance.

436

437 4. At the time of building permit application, the applicant shall submit the  
438 necessary information to the Department of Public Works to ensure  
439 compliance with the requirements of the Chesapeake Bay Preservation Act  
440 and the code requirements for water quality standards.

441

442 Mr. Kirkland- Next case, sir.

443

444 **A-131-1999** **W. Earl Harding** request for a variance from Section 24-9 of  
445 Chapter 24 of the County Code to build a single-family dwelling  
446 at 7214 Yahley Mill Road (part of Tax Parcel 218-A-22 ), zoned  
447 A-1, Agricultural district in the Varina magisterial district. The

448 public street frontage is not met. The applicant has 0 feet public  
449 street frontage where the Code requires 50 feet public street  
450 frontage. The applicant requests a variance of 50 feet public  
451 street frontage.

452  
453 Mr. Kirkland - Anyone else wish to speak on this case? If you would  
454 sir, raise your right hand, and be sworn in.

455  
456 Mr. Blankinship - Do you swear that the testimony you are about to give  
457 is the truth, the whole truth, and nothing but the truth, so help you God?

458  
459 Mr. Kirkland - Have all your notices been turned in according to the  
460 County Code?

461  
462 Mr. Blankinship - Yes, sir – we’ve got them.

463  
464 Mr. Kirkland - Proceed with the case.

465  
466 Mr. Harding - I’m Earl Harding. My father gave us approximately  
467 5.7 acres off of the open road, and we would like to build a home, and we  
468 request a variance, because we have no road front, but we do have lifetime  
469 rights to a 50-foot easement.

470  
471 Mr. Nunnally- Have you read the conditions on the case?

472  
473 Mr. Harding- Yes, sir.

474  
475 Mr. Nunnally- Are you agreeable with them?

476  
477 Mr. Kirkland- Any other questions, Mr. Harding? Anyone else wish  
478 to speak on this case? If not, this concludes the case, and you can get your  
479 answer later, after 2:00 this afternoon. Next case, sir.

480  
481 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
482 Mr. Wright, the Board **granted** the case.

483  
484 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
485 Negative: 0  
486 Absent: 0

487  
488 The Board **granted** this request as it found from the evidence presented that  
489 authorizing this use permit will not be of substantial detriment to adjacent  
490 property and will not materially impair the purpose of the zoning regulations.

491  
492 1. Only the improvements shown on the plan filed with the application may be  
493 constructed pursuant to this approval. Any additional improvements shall  
494 comply with the applicable regulations of the County Code.

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2. At the time of building permit application, the applicant shall submit the necessary information to the Department of Public Works to ensure compliance with the requirements of the Chesapeake Bay Preservation Act and the code requirements for water quality standards.
3. Approval of this request does not imply that a building permit will be issued. Building permit approval is contingent on Health Department requirements, including, but not limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well location.
4. The applicant must present proof with the building permit application that a legal access to the property has been obtained.

**A-132-1999**      **Thomas W. Simmons** request for a variance from Section 24-95(i)(2)d of Chapter 24 of the County Code to build a carport at 1807 Hungary Road (Tax Parcel 52-A-10), zoned R-3, One-family residence district in the Brookland magisterial district. The minimum side yard setback is not met. The applicant has 1.7 feet minimum side yard setback where the Code requires 3.0 feet minimum side yard setback. The applicant requests a variance of 1.3 feet minimum side yard setback.

Mr. McDonald -                      Mr. Chairman, members of the Board, good morning – my name is Chris McDonald; I’m an attorney here, and this is Mr. Simmons.

Mr. Kirkland-                      Would you raise your right hand, and anyone else wishing to speak raise their right hand and be sworn in.

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

Mr. McDonald -                      I do. Mr. Chairman, does the Board prefer that I present the case, or that Mr. Simmons present the case?

Mr. Kirkland -                      We don’t care as long as one of you do it.

Mr. Wright-                      How about the notices?

Mr. Kirkland -                      Have you turned in all your notices?

Mr. McDonald -                      Yes, sir, we have.

Mr. Kirkland-                      We’ve got them. OK, proceed.

540 Mr. McDonald - Mr. Chairman, members of the Board, Mr. Simmons  
541 purchased this piece of property in June of 1998. At that time there was an  
542 existing garage that was on the property. It is our understanding that that garage  
543 was in existence from approximately 1974, late 1974, early 1975. Here the  
544 Board can see a picture of the garage. It is a frame garage built on a concrete  
545 slab, which is approximately 10 inches thick. Directly in front of the garage you  
546 can see a mature holly tree. I think the next picture that the Board has, if you  
547 look at the bottom right-hand corner, you can see where the concrete slab is  
548 angled off; that slab is actually angled off so the slab could be built avoiding the  
549 holly tree that is there.

550

551 If you go back to the previous slide, the holly tree is a very mature holly tree; it's  
552 a little bit different from most of the hollies that you might see in the area in that it  
553 has a base in excess of about 20 inches in diameter, so it is a very old and  
554 mature tree. We believe that is the reason the garage was built in the location  
555 that it was.

556

557 If you move the garage over to the left in that picture, obviously, you'd be  
558 blocking the entrance to that garage. The garage was constructed 1.7 feet away  
559 from the property line; the County ordinance requires 3 feet. As such, we are  
560 requesting a variance of approximately 16 inches, 1.3 feet.

561

562 In the same picture, you can see to the right of the garage there is a large  
563 hedgerow which commences or starts a little bit before you get to the back side  
564 of the garage and continues back for some distance, and is about 15 feet or so  
565 thick. That hedgerow is approximately on the property line between Rev.  
566 Simmons property and the adjoining property. As such, there is no need or loss  
567 of use of that property back there that is already being used for that hedgerow.

568

569 When Rev. Simmons purchased the property, he was unaware that the garage  
570 was within the setback; he did have a survey prepared as part of his closing. The  
571 survey shows the garage there; we have penciled in the carport, which is being  
572 added to it. It is being placed to the left side of the garage, actually being built  
573 further away from the adjoining property. He did not realize at the time it was  
574 being constructed that the garage was within the setback.

575

576 In order to comply with the County requirements, he would have to either request  
577 a variance or have the garage comply, in order to build a relatively simple carport  
578 on the edge of it. In order to comply with the County ordinance, again we are  
579 requesting a variance of approximately 16 inches. On the other hand, it would  
580 require the removal of the garage or removal of 1.3 feet from the side of that  
581 garage, both of which would necessitate unreasonable economic waste. Again,  
582 the concrete slab there is probably in excess of 10 inches thick, and you're  
583 probably looking at easily \$10,000 or \$15,000 to remove that garage and  
584 reconstruct it elsewhere.

585

586 In addition, Rev. Simmons has a woodworking shop set up in that garage, and  
587 during the time that the existing garage would have to be removed, you'd have  
588 storage problems for his equipment that is in there now. The garage obviously  
589 added value to the property. When he bought it; he did pay for it because there  
590 was an existing garage on the property. As I've stated earlier, the garage is  
591 located all on Mr. Simmons' property; it does not adversely affect the property  
592 owned by the Lucks, who are the adjoining landowners to the right of the garage  
593 as you are facing it. In fact, I have spoken with four of the landowners around  
594 the area - the landowners on each side of Rev. Simmons, plus two landowners  
595 across the street, and none of them have voiced any objection. They've all  
596 indicated that they have no problem with the variance for the carport as it has  
597 been put up. In fact, some of them expressed surprise that Mr. Simmons has had  
598 to go through this in order to get the carport up there, but that's what the County  
599 ordinance requires, and we are happy to be here today. The variance, if it's  
600 granted, will not affect the other property owners in the area, and other property  
601 in the area does not have the same problem as is being experienced on Mr.  
602 Simmons' property. As such, there is no hardship being shared by the properties  
603 in the area. I believe it might be possible to remove 1.3 feet off the side of the  
604 garage, but again, it would make it a very impractical hardship and very  
605 unreasonable. At this time, I will be happy to answer any questions that the  
606 Chairman and you might have.

607

608 Mr. Kirkland- The picture we are looking at, we looked at earlier  
609 with the package – is that the same one we're getting the variance for?

610

611 Mr. McDonald - Yes, sir. The garage is what's causing the problem.  
612 The garage was within the setback. If you go back to the picture showing the  
613 front of the garage – that's it – the garage is all on Mr. Simmons' property; it's  
614 within that setback. Over to the left, further onto Mr. Simmons' property away  
615 from the left property is the carport that Mr. Simmons constructed, again not  
616 realizing that a building permit was required. When he did learn of that  
617 requirement, he went down to acquire the building permit, and that's when he  
618 learned for the first time that there was a problem with the location of the garage.

619

620 Mr. Kirkland- OK.

621

622 Mr. McDonald - If the garage complied with the County ordinance,  
623 there'd be no problem with the carport.

624

625 Mr. Kirkland- He would still need to have gotten a building permit.  
626 Seems like he got pretty far along before he got the building permit application.

627

628 Mr. McDonald - Right. He didn't realize it until he was there. As you  
629 can see, he complained to me, "Why did the County take that picture with the  
630 cover on my car. Why couldn't we have taken the cover off of it?" He has a  
631 collectable automobile that he wants to have some coverage and protection for.

632

633 Mr. Kirkland- What kind of woodworking business do you run in  
634 that....  
635  
636 Rev. Simmons - Well it's not really a business, sir – it's mostly just  
637 making cabinets, furniture, gifts, and projects for myself and others, mostly  
638 cabinets.  
639  
640 Mr. Balfour- For yourself? Whatever your wife wants, I guess.  
641  
642 Rev. Simmons - Yes, myself, and a honey-do list.  
643  
644 Mr. McKinney- Mr. McDonald – if you look at that picture that you  
645 have before us now – the only storage between the garage and the car – looks  
646 like that's about four feet of outside storage there – why can't that material go  
647 inside the garage? That you have to store it outside?  
648  
649 Rev. Simmons - Sir, the inside of the garage is filled with a table saw,  
650 various saws and woodworking machines that – it's fairly tight on the inside.  
651  
652 Mr. McKinney- What is this that you have stored out there – I see a  
653 ladder, two ladders.  
654  
655 Rev. Simmons - The large box right next to the door there is a cabinet  
656 for my air compressor, and I have...  
657  
658 Mr. McKinney- Well, let me inject before you go any further, couldn't  
659 that go to the rear of this garage?  
660  
661 Rev. Simmons - Out back under the weather I assume.  
662  
663 Mr. McKinney- Well, you've got it in a cabinet, your compressor,  
664 couldn't that go to the rear of the garage?  
665  
666 Rev. Simmons - I could modify that box, put some shingles and  
667 weatherproofing on it, but as it exists now it wouldn't stand up to the weather very  
668 well.  
669  
670 Mr. McKinney- And the other materials that you have there?  
671  
672 Rev. Simmons - I have, illuminated by the sun at the back of the  
673 carport is a shelf, and I have a couple of, leaning against the box in front of the  
674 carport, those are a couple of jigs that I use for my saws to facilitate cutting large  
675 pieces of wood, and I simply have them temporarily leaned there because I had  
676 been using them for a Habitat for Humanity project the weekend before this  
677 picture was taken, and I will put them back into my garage.  
678

679 Mr. McKinney- The automobile that you have there, that's covered  
680 up, is a what?  
681  
682 Rev. Simmons - It's a 1970 Oldsmobile 442.  
683  
684 Mr. McKinney- Do you have it titled, with insurance and tags on it,  
685 that you keep covered up?  
686  
687 Rev. Simmons - Yes, sir, the cover's to protect the paint job. It's a  
688 show car.  
689  
690 Mr. McDonald - Mr. McKinney, if I could direct your attention to the  
691 other picture that we have of the garage, I don't think the concern was mainly the  
692 storage area underneath the carport. As you can see, this picture was taken  
693 from the driveway adjoining the landowners to the right of where we're standing  
694 to take this picture. As you can see, there is no view of the storage area there.  
695 What we're looking at is the right side of the garage being only 16 inches from  
696 the property line. That's the side of the garage that we're concerned about,  
697 whether or not it is reasonable, or whether it creates unreasonable financial loss  
698 and waste to have to move that wall 16 inches, which is less distance than the  
699 collar of my shirt, you know, over to the left. If you look at the survey of the  
700 property, it's a relatively large tract of land. The garage has set there in the  
701 middle of the land, and as such, I don't think it presents any eyesore to any of the  
702 neighbors  
703  
704 Mr. McKinney- What are you telling us, you wear a size 17 shirt, but  
705 that's around you neck, not all over?  
706  
707 Mr. McDonald - That's the collar. Other than that, it's a little bit bigger,  
708 sir.  
709  
710 Mr. Wright - Do you know when this garage was built?  
711  
712 Mr. McDonald- According to the tax records, Mr. Wright, it was late  
713 1974, early 1975. I have obtained a copy of the tax sheet from the tax  
714 assessor's office. The first notation that's on here says the garage, and in  
715 parentheses, it has 1975. On the other side where it shows the building permits,  
716 it appears to me there was a building permit applied for or issued in November of  
717 1974. There's a permit number next to that, which I have spoken to the Building  
718 Inspector's office. They cannot ascertain whether or not that was an old permit  
719 number; their records don't go back until 1974, so I was told. I was planning on  
720 submitting it to the Board, if the Board would like to take a look.  
721  
722 Mr. Wright- I just wanted to ask you that question. Is there  
723 anything in the records show that a building permit was issued for construction of  
724 this building?  
725



726 Mr. Blankinship - I don't believe we found anything.  
727  
728 Mr. McKinney - Well, the records before 1974 are in the archives.  
729  
730 Mr. McDonald- Right.  
731  
732 Mr. Wright- It appears from what was said that there was a  
733 building permit granted for the building of the garage.  
734  
735 Mr. McDonald - If I am reading this correctly sir, that would be my  
736 understanding. I'll be happy to share this with the Board. Again, I only have one  
737 copy.  
738  
739 Mr. Wright- We ought to have that in the records somewhere, the  
740 County records, I would say.  
741  
742 Mr. Blankinship- We can return a photo copy to you.  
743  
744 Mr. McKinney- Requiring a building permit doesn't necessarily mean  
745 it was going to be built according to the setback requirement and zoning  
746 ordinance.  
747  
748 Mr. Wright- I understand. What is the size of the garage?  
749  
750 Mr. McDonald - The width of the garage is 20 foot by 24 foot. It's 20  
751 foot on the face, 24 foot in depth.  
752  
753 Mr. Wright- Thank you.  
754  
755 Mr. McDonald - I believe that having come into the property, having  
756 bought in good faith, not knowing that the garage wasn't placed within the  
757 required setback, and given the financial agreement that would be entailed in  
758 having to move the garage or having to move the wall in, 1.3 feet, that is an  
759 unreasonable hardship. I believe all the other elements on the request for  
760 variance have been satisfied as well. As such, we respectfully request for Board  
761 approval of the three foot variance to allow the garage to be in compliance.  
762 Once the garage is in compliance, a building permit will need to be issued for the  
763 additional carport.  
764  
765 Mr. McDonald - Now that I've got the survey, will they insure it?  
766  
767 Mr. Kirkland- Not unless they had a survey done. Was it surveyed?  
768  
769 Mr. McDonald - Yes, sir.  
770  
771 Mr. McKinney- Yes, here's the survey, right here.  
772

773 Mr. Blankinship - That's a recent survey.  
774  
775 Mr. Wright- Was the title policy insured against survey errors?  
776 Now that it's surveyed, do you know?  
777  
778 Mr. McKinney- Maybe you can get the title policy to pay for your  
779 application fee.  
780  
781 Mr. McDonald - That would be a wonderful relief. Hopefully we won't  
782 have to ask them to pay for cost of removal of the garage or reconstruction of the  
783 carport.  
784  
785 Mr. Kirkland- Any other questions? Anyone else wish to speak on  
786 this case? If not, sir, that concludes this case, and you can find out after 2:00, or  
787 you can hang around for a while, whichever comes first. Next case.  
788  
789 After an advertised public hearing and on a motion by Mr. McKinney, seconded  
790 by Mr. Wright, the Board **granted** the case.  
791  
792 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
793 Negative: 0  
794 Absent: 0  
795  
796 The Board **granted** this request as it found from the evidence presented that  
797 authorizing this use permit will not be of substantial detriment to adjacent  
798 property and will not materially impair the purpose of the zoning regulations.  
799  
800 1. Only the improvements shown on the plan filed with the application may be  
801 constructed pursuant to this approval. Any additional improvements shall  
802 comply with the applicable regulations of the County Code.

803 A -133-1999 **Andrew P. Radvany** requests a variance from Sections 24-  
804 95(b)(8) and 24-94 of Chapter 24 of the County Code to build  
805 a single-family dwelling at 7884 Battlefield Park Road (Tax  
806 Parcel 236-A-9), zoned A-1, Agricultural District (Varina). The  
807 lot width, minimum side yard setback, and total side yard  
808 setback are not met. The applicant has 70 feet lot width, 10  
809 feet minimum side yard setback and 30 feet total side yard  
810 setback where the Code requires 150 feet lot width, 20 feet  
811 minimum side yard setback and 50 feet total side yard  
812 setback. The applicant requests a variance of 80 feet lot  
813 width, 10 feet minimum side yard setback and 20 feet total  
814 side yard setback.  
815

816 Mr. Kirkland - Does anyone else wish to speak on this case? Please  
817 raise your right hand and be sworn in, please.  
818  
819 Mr. Blankinship - Do you swear the testimony you are about to give is  
820 the truth, the whole truth, and nothing but the truth, so help you God? State your  
821 name, sir.  
822  
823 Mr. Radvany - Andrew P. Radvany.  
824  
825 Mr. Blankinship - Have your notices been turned in?  
826  
827 Mr. Radvany - Yes, sir.  
828  
829 Mr. Kirkland We have them. Proceed with the case.  
830  
831 Mr. Radvany - Back in June 1999 we purchased a piece of property  
832 in Battlefield Park. In doing so, purchasing the property, I had Mr. Stringer of the  
833 County come out and approve the well and septic system, which it was  
834 approved. I have the permit for that. When I started to evaluate the value of the  
835 house, when I started tearing down the walls, block walls inside the house, I  
836 found cracks in the walls, looks beyond repair, so I came to the County for a  
837 request for a variance to put up a new house rather than repair it.  
838  
839 Mr. Nunnally Mr. Radvany, are you going to live in this house  
840 yourself?  
841  
842 Mr. Radvany - Yes, sir.  
843  
844 Mr. Nunnally And you say you purchased it in June of this year?  
845  
846 Mr. Radvany - Yes, sir.  
847  
848 Mr. Wright- Is this picture a picture of the house that is there now?  
849 And that will be torn down. And the house will be constructed further back on the  
850 lot, is that what you're telling us? What is the size of the proposed house?  
851  
852 Mr. Radvany - It's 40 foot by 42 foot.  
853  
854 Mr. Nunnally- Forty by what?  
855  
856 Mr. Radvany - Forty by forty-two....  
857  
858 Mr. Wright- That's forty wide by forty-two feet deep?  
859  
860 Mr. Radvany - Yes, sir.  
861  
862 Mr. Wright- Is it a single, a one-story house?

863  
864 Mr. Radvany - It's a story and a half.  
865  
866 Mr. Wright- A story and a half.  
867  
868 Mr. McKinney- What size is the existing house that's there now?  
869  
870 Mr. Radvany - It's 708 square foot; it's 30 feet wide by, I think it's 24  
871 feet long.  
872  
873 Mr. Kirkland - Any other questions?  
874  
875 Mr. Nunnally- There's no property available there for you to  
876 purchase beside your house, is there?  
877  
878 Mr. Radvany - The lady next door to me, to the left in the picture, she  
879 has less than an acre – she said she would sell me a little bit of land in the back,  
880 but I don't know if that would be approved or not, by the County or not.  
881  
882 Mr. Nunnally - In the back part of it?  
883  
884 Mr. Radvany - Yes, sir. When we bought it, the house only had 70  
885 foot road frontage, and that's an unusual lot, 70 foot long by 545 foot wide. I  
886 mean, it's 70 foot wide by 500 foot deep.  
887  
888 Mr. McKinney What do you intend to construct your house out of?  
889 Siding, brick?  
890  
891 Mr. Radvany - It would be siding, vinyl siding.  
892  
893 Mr. McKinney- I notice the one to the right of your property is made  
894 of brick, and that's set further back. Are you going to line up with that house, or  
895 are just going to split the difference?  
896  
897 Mr. Radvany - It would probably line up close to that house; an  
898 engineer can design and draw up the blueprints as far as how much far back it  
899 would be....  
900  
901 Mr. Kirkland - Any other questions of the Board members? Is  
902 anyone in opposition to this case? If no further questions, that concludes the  
903 case. Thank you, sir.  
904  
905 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
906 Mr. McKinney, the Board **granted** the case.  
907  
908 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

909 Negative: 0  
910 Absent: 0

911

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

915

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

919

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

924

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

929

930 4. The applicant must present proof with the building permit application that a  
931 legal access to the property has been obtained.

932

933 **A-134-1999 Katherine B. & Hunter W. Elliott** requests a variance from  
934 Sections 24-95(q)(5) of Chapter 24 of the County Code to  
935 add a sunroom and new kitchen at 507 Greene Ridge Road  
936 (Whitehall) (Tax Parcel 112-15-B-14), zoned R-3, One-  
937 family Residence District (Tuckahoe).The minimum side yard  
938 setback and total side yard setback are not met. The  
939 applicant has 3 feet minimum side yard setback and 16.51  
940 feet total side yard setback where the Code requires 8 feet  
941 minimum side yard setback and 20.00 feet total side yard  
942 setback. The applicant requests a variance of 5 feet  
943 minimum side yard setback and 3.49 feet total side yard  
944 setback.

945

946 Mr. Kirkland - Yes, sir, would you raise your right hand and be  
947 sworn in. Anyone else wishing to speak on this case, stand and be sworn in at  
948 this time. If not, Mr. Secretary....

949

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

952

953 Mr. Elliott - I do.

954

955 Mr. Kirkland - Have all adjacent landowners been contacted  
956 according to the County Code?  
957  
958 Mr. Elliott - Yes, they have.  
959  
960 Mr. Kirkland - We have the notices in the file. If you would, state  
961 your case.  
962  
963 Mr. Elliott - I'm sorry; I'm a little hard of hearing. I think it's too  
964 many M-60's.  
965  
966 Mr. Kirkland- If you would, state your name and start your case.  
967  
968 Mr. Elliott - Certainly. My name is Hunter Elliott. I'm here this  
969 morning on behalf of my wife and myself. We bought the house and the property  
970 in June of 1996; our family has grown a little bit; therefore, activities in the house  
971 have grown a little bit as well....small children. We are proposing to build onto  
972 our existing home, off of the existing kitchen and the existing dining room, a  
973 combination sunroom and new kitchen. We'll be. in essence. moving the kitchen  
974 back into what would be the southeast corner of the house. The property line, as  
975 you can see on the survey, it converges back to the – our house is on the inside  
976 of a curved road – the property lines converge back into what I call a pie shape,  
977 or a piece of pie- shaped property, and the way they converge back, especially  
978 on the south side of the lot, or I guess that would be the east side of the lot, right  
979 there where the indicator is. If we come off of our existing home, to that corner is  
980 three feet from the side yard setback, and the County Code requires eight feet.  
981 Existing is a little over a half a foot of minimum side yard setback, so if we come  
982 straight back off the side of our house, it converges to, it's five and a half feet  
983 more than what we have right now.  
984  
985 Mr. Kirkland- Any questions?  
986  
987 Mr. Wright- How close would this addition be to the house which  
988 would be adjacent on the lot on that side of the construction?  
989  
990 Mr. Elliott - We only have three feet to the fence that divides our  
991 homes, and from that corner, which I guess is the point of emphasis, if you will,  
992 from the other side of the fence to my neighbor's yard, he would have to have a  
993 minimum side yard, so I guess it would be 11 feet total from that corner, if he has  
994 more than eight foot there.  
995  
996 Mr. Wright- Is this picture that we have showing this automobile?  
997  
998 Mr. Elliott - That's my neighbor's automobile.  
999

1000 Mr. Wright- That's your neighbor's. Are these trees between your  
1001 neighbor's house and your house, bushes, belong to – let's see if we can throw  
1002 that one up there – that's not it – there it is. Does that run all the way back?  
1003  
1004 Mr. Elliott - Those bushes run all the way to the front of his  
1005 house.  
1006  
1007 Mr. Wright- How about extending to the back of his house? Does  
1008 that run along the lot line all the way back – how far back?  
1009  
1010 Mr. Elliott - They stop where the front of his house is. The  
1011 previous owner of our house and our neighbor planted those bushes, and just as  
1012 a, for wind protection, and they don't go back much further than where his car is  
1013 parked.  
1014  
1015 Mr. Wright- So the rear, the addition would be visible from his  
1016 house?  
1017  
1018 Mr. Elliott - Yes, his back yard. And my, the back of the house  
1019 now is seen from his house as well.  
1020  
1021 Mr. Kirkland- Any other questions? Anyone else wishing to speak  
1022 on this case?  
1023  
1024 Mr. Wright- Let me ask one more question. Have you explored  
1025 the possibility of bringing the side of the proposed addition it so that it would  
1026 satisfy the zoning requirements, so that it would be eight feet from the property  
1027 line? You'd lose five feet of it. Have you explored that possibility?  
1028  
1029 Mr. Elliott - I have explored it. I have submitted a drawing when I  
1030 applied for this variance, of the proposed plans, and the corner that I'm asking for  
1031 is going to be three feet, you can see, this drawing will show just inside of that  
1032 corner that is between where you can see the "three foot" written and the arrow  
1033 coming in, where it says "proposed sunroom," there is a window right there  
1034 where that hand is, that is off of the dining room. What we want to do is turn that  
1035 window into a doorway that goes from the dining room into where the kitchen is  
1036 going to be. The one thing we have thought of is to maybe angle, not come at a  
1037 right angle, but maybe come at more of a 45° angle if the County sees fit for us to  
1038 do that.  
1039  
1040 Mr. Wright- If you did that, you probably wouldn't need a variance,  
1041 would you?  
1042  
1043 Mr. Elliott - Yes, sir, I would, because right now I'm at 8.63 feet.  
1044  
1045 Mr. Wright- That's OK at that point though.

1046

1047 Mr. Elliott - Yes, sir.

1048

1049 Mr. Wright- And if you angle this back so that you maintain eight  
1050 feet from the side line, you would not need a variance, would you?

1051

1052 Mr. Elliott - I would not need to be here this morning. To come  
1053 out from the corner of the house, if you come in a little bit, I guess it would be  
1054 north, if you will, and come out from there...

1055

1056 Mr. Wright- I was just wondering if you'd explored that possibility.  
1057 Did your architect prepare this plan for you?

1058

1059 Mr. Elliott - The builder did.

1060

1061 Mr. Kirkland- Any further questions? If not, next case please.

1062

1063 Mr. Blankinship - Mr. Chairman, Ms. Blackburn pointed out that the  
1064 "suggested conditions" did not print on the staff report. I apologize for that. The  
1065 staff would recommend the standard condition that only the improvements shown  
1066 on the plans submitted with the case would be allowed, and any changes would  
1067 have to come back before you.

1068

1069 Mr. Elliott - Does that pertain to my case?

1070

1071 Mr. Blankinship Yes.

1072

1073 Mr. Elliott - Could you repeat that?

1074

1075 Mr. Blankinship - It's a standard condition. Let me just read it to you  
1076 from the previous case. And this is just a suggestion by the staff, that the Board  
1077 may or may not approve. But it says, "Only the improvements shown on the plan  
1078 filed with the application may be constructed pursuant to this approval. Any  
1079 additional improvements shall comply with the applicable regulations of the  
1080 County Code."

1081

1082 Mr. Kirkland- Is that OK with you? All right, that concludes the  
1083 case. Next case, sir.

1084

1085 After an advertised public hearing and on a motion by Mr. Balfour, seconded by  
1086 Mr. McKinney, the Board **granted** the case.

1087

1088 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1089 Negative: 0  
1090 Absent: 0

1091



1092 The Board **granted** this request as it found from the evidence presented that  
1093 authorizing this use permit will not be of substantial detriment to adjacent  
1094 property and will not materially impair the purpose of the zoning regulations.

1095

1096 1. Only the improvements shown on the plan filed with the application may be  
1097 constructed pursuant to this approval. Any additional improvements shall  
1098 comply with the applicable regulations of the County Code.

1099

1100 **A-135-1999**                    **Leonard E. Armstrong** requests a variance from Sections  
1101 24-94 and 24-9 of Chapter 24 of the County Code to build a  
1102 single family dwelling at 7260 Willson Road (Tax Parcel 215-  
1103 A-15B (part)), zoned A-1, Agricultural District (Varina). The  
1104 lot width, public street frontage, and total lot area are not  
1105 met. The applicant has 0.907 acre total lot area, 148 feet lot  
1106 width and 0 feet public street frontage where the Code  
1107                                        requires 1.0 acre total lot area, 150 feet lot width and  
1108 50 feet public street frontage. The applicant requests a  
1109 variance of 0.093 acre total lot area, 2 feet lot width and 50  
1110 feet public street frontage.

1111

1112 Mr. Kirkland -                    Anyone else who wishes to speak on this case? If  
1113 not, sir, please raise your right hand.

1114

1115 Mr. Blankinship -                Do you swear that the testimony you are about to give  
1116 is the truth, the whole truth, and nothing but the truth, so help you God? State  
1117 your name for the record.

1118

1119 Mr. Armstrong -                My name is Leonard Armstrong.

1120

1121 Mr. Kirkland -                Have you turned in all your notices?

1122

1123 Mr. Armstrong -                Yes, sir.

1124

1125 Mr. Blankinship -                We've got them in the file.

1126

1127 Mr. Kirkland -                OK. Proceed with the case.

1128

1129 Mr. Armstrong -                I have 1.907 acres, and I'm proposing to build a  
1130 single-family structure in the open area between my sister-in-law's house, who's  
1131 up front, sister and brother-in-law's house, and my house that's in the back of the  
1132 property, hopefully for my daughter's (she's adopted a little boy), and Grandpa  
1133 would like to have the kids close.

1134

1135 Mr. Kirkland- Any questions?  
1136  
1137 Mr. Nunnally You say you have 1.907 acres of land there?  
1138  
1139 Mr. Armstrong - Yes, sir.  
1140  
1141 Mr. Nunnally You say you're going to build a house on 0.907 acres.  
1142 And you say your family members live out there now?  
1143  
1144 Mr. Armstrong - They live around on all sides of the property and to  
1145 the south as well.  
1146  
1147 Mr. Nunnally- And you've read your conditions on your case?  
1148  
1149 Mr. Armstrong - There are no conditions.  
1150  
1151 Mr. Blankinship - That's the same mistake again. Mr. Chairman, I  
1152 apologize. There should be the one standard condition there.  
1153  
1154 Mr. Kirkland- This one's going to have the septic and everything on  
1155 it also, right?  
1156  
1157 Mr. Wright- I think they ought to read the conditions.  
1158  
1159 Mr. Blankinship - Let me go back to 130 and read that one.  
1160  
1161 Condition 1. Approval of this request does not imply that a building permit will be  
1162 issued. Building permit approval is contingent on Health Department  
1163 requirements, including, but not limited to, soil evaluation for a septic drainfield  
1164 and reserve area, and approval of a well location.  
1165  
1166 Condition 2. The applicant must present proof with the building permit  
1167 application that a legal access to the property has been obtained.  
1168  
1169 Condition 3. The owners of the property, and their heirs or assigns, shall accept  
1170 responsibility for maintaining access to the property until such a time as the  
1171 access is improved to County standards and accepted into the County road  
1172 system for maintenance.  
1173  
1174 Condition 4. At the time of building permit application, the applicant shall submit  
1175 the necessary information to the Department of Public Works to ensure  
1176 compliance with the requirements of the Chesapeake Bay Preservation Act and  
1177 the code requirements for water quality standards.  
1178  
1179 Mr. Kirkland- Do you understand this?  
1180

1181 Mr. Armstrong - Yes, sir.

1182

1183 Mr. Kirkland- Anyone else wish to speak on this case. If not, that  
1184 concludes your case; you can get your response this afternoon. All right, the  
1185 next case and the one after that are companion, aren't they? Do you want to  
1186 handle these both at the same time, or go one on one?

1187

1188 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
1189 Mr. Wright, the Board **granted** the case.

1190

1191 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1192 Negative: 0

1193 Absent: 0

1194

1195 The Board **granted** this request as it found from the evidence presented that  
1196 authorizing this use permit will not be of substantial detriment to adjacent  
1197 property and will not materially impair the purpose of the zoning regulations.

1198

1199 1. Only the improvements shown on the plan filed with the application may be  
1200 constructed pursuant to this approval. Any additional improvements shall  
1201 comply with the applicable regulations of the County Code.

1202

1203 2. At the time of building permit application, the applicant shall submit the  
1204 necessary information to the Department of Public Works to ensure  
1205 compliance with the requirements of the Chesapeake Bay Preservation Act  
1206 and the code requirements for water quality standards.

1207

1208 3. Approval of this request does not imply that a building permit will be issued.  
1209 Building permit approval is contingent on Health Department requirements,  
1210 including, but not limited to, soil evaluation for a septic drainfield and reserve  
1211 area, and approval of a well location.

1212

1213 4. The applicant must present proof with the building permit application that a  
1214 legal access to the property has been obtained.

1215

1216 Mr. Balfour- I move we handle them both at the same time.

1217

1218 Mr. Kirkland- OK, read them both then.

1219

1220 **UP -39-1999** **Officers Club of Virginia** request for a use permit pursuant  
1221 to Section 24-12(b) of Chapter 24 of the County Code to  
1222 expand the swim and tennis club at 6200 West Club Lane  
1223 (Westwood, Westwood Manor) (Tax Parcels 103-4-22-2,  
1224 103-5-C-1, -2, -3, -4, -5, -6, -7, -8 and 103-A-20), zoned R-3,  
1225 One-family residence district in the Three Chopt magisterial  
1226 district,

1227

1228 **A-136-1999** **Officers Club of Virginia** request for a variance from  
1229 Section 24-94 of Chapter 24 of the County Code to expand  
1230 recreational facilities at 6200 West Club Lane on the same  
1231 property. The rear yard setback is not met. The applicant  
1232 has 27 feet rear yard setback where the Code requires 40  
1233 feet rear yard setback. The applicant requests a variance of  
1234 13 feet rear yard setback.

1235  
1236 Mr. Kirkland - OK, anyone else wishing to speak on this case,  
1237 please stand and be sworn in by the Secretary. OK, if you would, raise your right  
1238 hand.

1239  
1240 Mr. Blankinship - Do you swear that the testimony you are about to give  
1241 is the truth, the whole truth, and nothing but the truth, so help you God?

1242  
1243 Mr. Fauls - It is.

1244  
1245 Mr. Blankinship - Would you state your name for the record sir.

1246  
1247 Mr. Fauls - Yes, my name is Ted Fauls – I'm President of the  
1248 Officers Club, also known as the Westwood Club.

1249  
1250 Mr. Kirkland - Have all of the adjacent landowners been contacted,  
1251 according to the County Code?

1252  
1253 Mr. Fauls - Yes they have. Yes, that's correct. Good morning,  
1254 my name is Ted Fauls. I'm the President of the Officers Club of Virginia, also  
1255 known as the Westwood Club. I'm here before you this morning to present two  
1256 requests, and first being to apply for a conditional use permit to expand the  
1257 existing facility that we have....in a residential neighborhood, where we've been  
1258 neighbors, we've been good neighbors, for more than 50 years.

1259  
1260 We've also applied for a variance for a rear yard setback, by expanding the  
1261 existing facility we will be changing the orientation of the yards.

1262  
1263 About five years ago, the Board of Directors decided that it was important for the  
1264 Club to remain a viable recreational facility, which emphasizes tennis and  
1265 swimming only. We needed to look at where our future was, how we could best  
1266 serve our existing members, and after five years of study, and certain surveys,  
1267 extensive work with architects, engineers, and also very closely working with the  
1268 Planning Commission, we determined it was important that we expand our  
1269 existing facility, the actual clubhouse, and relocate some of our tennis courts to  
1270 be able to expand our existing facility somewhat.

1271  
1272 We wanted to make sure that whatever plan we put together would be  
1273 consistent, not only with what our members were looking for, but we also have a

1274 number of civic groups, including the Westwood Civic Association, which means  
1275 that our Club on a regular basis would remain ready to accommodate their needs  
1276 as well.

1277

1278 Approximately a year and a half ago, we had a series of meetings with the  
1279 Planning staff to make sure that we were anticipating exactly what the Planning  
1280 staff were interested in, and making sure that we could anticipate those needs,  
1281 as well as meet the needs of our neighbors. We had a series of formal, as well  
1282 as informal meetings, with our neighbors, in order to keep them informed of our  
1283 progress, and solicit their input. The culmination of our formal meetings with our  
1284 neighbors occurred on July 14, which is when we invited the Westwood Civic  
1285 Association, which is a very active and vital civic association. In addition to them,  
1286 we also invited all the neighbors within a two-block radius, to come to the Club, to  
1287 show them the Master plan we'd put together and submitted with the report, and  
1288 to describe to them what our plans were, solicit their input, and make sure that  
1289 they were comfortable with the proposal we had.

1290

1291 Just on a personal note, I'm very committed to making sure that the Club, that  
1292 I've been a member of since I was four years old, continues to keep its  
1293 residential character and remain consistent with the surrounding residential  
1294 community. At that meeting we listened to a number of the issues that our  
1295 neighbors had. They were very interested in making sure that we would continue  
1296 to be a good neighbor. There were comments about how well we kept up the  
1297 property....how we had enhanced the value of their property, and how we  
1298 continue to be, and I hope we continue to be, good neighbors. On an internal  
1299 basis, our Club Manager, Chris Park, continues to meet with the Westwood Civic  
1300 Association, which holds its meetings at the Club, and to keep them informed of  
1301 our progress. On the 7<sup>th</sup> of this month, as you know, we mailed out the notices  
1302 that were required. To date we have not received any negative responses; all we  
1303 have received have been positive responses, and people in the neighborhood  
1304 have told us they are excited about the prospect, and we hope that we will  
1305 continue to meet their expectations.

1306

1307 With respect to the conditional use permit, we are doing our expanding of the  
1308 building out towards the north. We've been there for approximately 50 years, we  
1309 are operating under a conditional use program right now; no additional use is  
1310 planned; what we're simply looking at doing, is expanding out a little, you can see  
1311 the fenced area, expanding that area. We've also provided for additional parking  
1312 spaces. That was one of the issues that our neighbors had, as well as our  
1313 members have had, and we have increased the net number of parking spaces for  
1314 membership, in terms of what we can handle with the additional use of our  
1315 facility. We have also made arrangements for overflow parking when we have  
1316 three or four swim meets a year, as well as a couple of other large events, to  
1317 order make sure we're in a position to continue to keep it in the locality....satisfy  
1318 the conditions, we are hopeful that it will have no adverse impact on the resident  
1319 or the existing property owners, and we think it's important also to them that,

1320 because we are a landlocked facility, ....over 50 years ago, much of the land was  
1321 sectioned to be a golf course, if you can believe that – it was a nine-hole course,  
1322 but because we are landlocked, we have had to configure differently the tennis  
1323 courts, and the expansion we are hoping for will naturally be fit within the area we  
1324 have. What we're hoping to do is to make sure that there is as little impact as  
1325 there can be on our existing neighbors in fact by virtue of moving these tennis  
1326 courts, the courts will actually be farther away from the adjacent property lines.  
1327 The bubble that we currently have over our courts will be moved to that back  
1328 area. We will keep the same number of outdoor tennis courts. We are simply  
1329 moving them.

1330  
1331 When we spoke to the Planning Commission, they were clear with us that we  
1332 keep our neighbors happy, as they also told us, and we knew, and the Club has  
1333 been embarked on a 25 year effort to be able to purchase this property on the  
1334 south side of Pollard Drive. We were successful in doing that approximately a  
1335 year ago. It was important to us that we have the opportunity to expand our  
1336 facility to be consistent with the neighborhood.

1337  
1338 To the extent that we would not be able gain approval of the variance and  
1339 conditional use permit, the Club would suffer from a real demonstrative hardship.  
1340 It would lose the use of our courts, and would not have the ability to meet our  
1341 existing members' needs, and we are concerned about the long term viability of  
1342 the Club.

1343  
1344 We continue to be a strong economic entity, the members are for looking at  
1345 enhancing the value of the facility, and hence the value of the property around it.  
1346 Our property is unique, and we recognize the fact that there really is a limited  
1347 number of different ways to configure this and we believe having worked closely  
1348 with the Arch. we've done everything we can. As a matter of fact, our tennis pros  
1349 have assured me that there is no way we can make tennis courts any smaller;  
1350 they've just got to be that size. So with that in mind, we have set this up the only  
1351 way that we think is logical. We respectfully request that the Board approve both  
1352 the conditional use permit, as well as the request for variance. I'll be happy to  
1353 answer any questions you may have.

1354  
1355 Mr. Wright- What you're saying is that the variance, I'm  
1356 concerned with the variance more than anything else, would require you to give  
1357 up one tennis court. Right? Looks like to me that – aren't there two tennis courts  
1358 back there in that area?

1359  
1360 Mr. Fauls - Yes, sir, the problem would be, we currently have two  
1361 now, which are in the hatched area. Moving them back to that area we would  
1362 only be able to have one. We have recently purchased the bubble at substantial  
1363 cost to cover two courts. The bubble could not be modified without substantial  
1364 cost to cover the one.

1365

1366 Mr. Wright- So those two courts will be covered?  
1367  
1368 Mr. Fauls - They'll be covered only five months of the year.  
1369  
1370 Mr. Wright- In the winter?  
1371  
1372 Mr. Fauls - Correct, from November on.  
1373  
1374 Mr. Wright- What's located across the street from that point?  
1375  
1376 Mr. Fauls - Directly across the street on Pollard Drive is a  
1377 residence....  
1378  
1379 Mr. Wright- Looks like two residences would be impacted by that.  
1380  
1381 Mr. Fauls - That's correct.  
1382  
1383 Mr. Wright- And how wide, the drive is 60 feet wide, Pollard Drive  
1384 is 60 feet wide, looks like on your plan. Is there any area between the right of  
1385 way and your property that's there? Looks like we might have some area there  
1386 that would give you a little more distance between that and the house across the  
1387 street. Is this a picture of Pollard Drive that's on the screen?  
1388  
1389 Mr. Fauls - Yes it is. Basically, that right side is the south side,  
1390 which is the, that's the properties of the Club, either previously owned or now just  
1391 purchased. We now own the entire south side of Pollard Drive.  
1392  
1393 Mr. Wright- Is there any screening between these proposed  
1394 courts and the neighbors across the street?  
1395  
1396 Mr. Fauls - Absolutely. This particular view, this is a view looking  
1397 west, there is an easement right there presently; all it is, as you can see, are  
1398 trees and foliage which is mature. To the right of that, or directly behind that, if  
1399 you would, would be where the new courts are; we've worked with the architect  
1400 extensively to be sure that there will be sufficient landscaping and screening.  
1401 Again, .we will have it fenced up all the time, and when we have our new  
1402 structure up we will have screening up and foliage up year round. We will have it  
1403 fenced up when the air structure is not up.  
1404  
1405 Mr. Wright- Going back to the picture which we just had on the  
1406 screen, you're saying that the tennis courts would be built in the area where that  
1407 parking was, is that correct, where these cars are parked.  
1408  
1409 Mr. Fauls - If this picture view was taken from the Medical Park,  
1410 this is showing this is not our facility here. If you would walk approximately 50  
1411 feet or so, through those trees, you would get to the area which is clearly

1412 occupied by a house, which house will be town down and replaced with the new  
1413 tennis court.  
1414  
1415 Mr. Blankinship- It's very difficult to photograph because all you can  
1416 see out there is trees.  
1417  
1418 Mr. Wright- What I'm trying to determine is, will there be  
1419 screening between the new tennis courts and the bubble and the property across  
1420 the street. And do we have a picture that would show what that would look like  
1421 from some of the vantage points of the property across the street.  
1422  
1423 Mr. Fauls - Unfortunately, this picture would be, as you look on  
1424 the right side, it would be about where that last car is, that blue car, I guess, from  
1425 the far end. This street was modified probably about 15 years ago, and now  
1426 Pollard Drive curves back to the left, and going to the left, it is not a dead end.  
1427  
1428 Mr. Wright- Well you have, it looks like, a grassy area there  
1429 between the curb and the location of where you would build these courts, is that  
1430 correct?  
1431  
1432 Mr. Fauls - Yes, right, there's currently a house there that will be  
1433 knocked down.  
1434  
1435 Mr. Wright- And you're going to knock that down?  
1436  
1437 Mr. Fauls - Yes, we are.  
1438  
1439 Mr. Wright- And the trees would remain?  
1440  
1441 Mr. Fauls - Yes, well, we intend for the new parking area will be  
1442 based on the planned filed, the new parking area, look down there....you can see  
1443 where Pollard Drive is on the left side .... it would be graded, as well as parking  
1444 down the left side. There will be extensive screening, and foliage would be put  
1445 up right there in order to insure screening from the new structures and the  
1446 houses across the street.  
1447  
1448 Mr. Wright- Will there be any lights put on these courts?  
1449  
1450 Mr. Fauls - Yes, we have requested; we don't have money in the  
1451 budget now, but we have requested as part of the site plan for lights, yes.  
1452  
1453 Mr. Wright- When the bubble is up, I guess you could not see the  
1454 lights anywhere outside, could you?  
1455  
1456 Mr. Fauls - That's correct, to make sure the Commission is clear,  
1457 there will be little bit of a glow, if you will, because it doesn't shut off the light gray



1458 color, but no, it will not be a search light or anything like that. Be very aware, our  
1459 architect advises early on about the requirements are concerning foot candle  
1460 illumination at the property line.

1461

1462 Mr. Wright- How about in the summer time? There won't be a  
1463 bubble, and there will be lights there at night time?

1464

1465 Mr. Fauls - At some point in the future, again we don't have  
1466 money in the budget for that, and we are requesting that yes, but we recognize  
1467 again that when we put in the screening and the fence, the fence right now, as  
1468 with all of our fences, has got a degree of very dense landscaping material,  
1469 which shuts out a good bit of the light, which makes it attractive for the players,  
1470 as well as it makes it more esthetically pleasing. We also plan on planting  
1471 shrubbery there, in that particular area. In looking at where the courts are now,  
1472 they used to be right up against the property right behind it. These courts will now  
1473 be farther away than they have ever been from any adjacent property line. We  
1474 will make sure the screening is sufficient.

1475

1476 Mr. Wright- What type of lights do we have on these courts? Are  
1477 these special lights that are prescribed to cut down on the glare?

1478

1479 Mr. Fauls - Well the lighting that we have discussed with our  
1480 architect, as well as our architect has referred us to, with some lighting  
1481 contractors, will be able to assist us. What we are looking to do is make sure the  
1482 lights are more of a spot variety rather than a general illumination type. We  
1483 recognize that they will need to have shades to cover the lights to insure not  
1484 impacting the adjacent properties.

1485

1486 Mr. Wright- What about the hours of operation? I don't see  
1487 anything down to mention that – what hours would you be using those courts?

1488

1489 Mr. Fauls - Currently the Club is open till midnight, but I'm not  
1490 aware of anybody who's ever played after 11:00 at night. With respect to the  
1491 outside courts, we would certainly be open to a reasonable recommendation  
1492 about there not playing after 10:30 at night. One of the things we have in a  
1493 landlocked facility, with a strong membership, we have quite a bit of demand for  
1494 courts and the lighting of the courts provides more time to play.

1495

1496 Mr. Wright- Well, we have some definite rules as to how, what we  
1497 permit in these other recreational areas and associations – what is the limit? Ten  
1498 o'clock. Well, I think we ought to propose the same type, I'd want a condition in  
1499 here about the time, especially at night time.

1500

1501 Mr. McKinney Is this classed a POD?

1502

1503 Mr. Wright- It doesn't say so in the conditions.

1504  
1505 Mr. Kirkland- All it says is a light plan shall be approved by the  
1506 Planning Office. Landscaping and lighting.  
1507  
1508 Mr. Wright- I don't see why we would permit them to do anything  
1509 more than we permit any other recreational association to do in a similar  
1510 neighborhood. There's also some noise involved with tennis, if the bubble's not  
1511 involved.  
1512  
1513 Mr. Kirkland- Do you do outside announcing during tennis?  
1514  
1515 Mr. Fauls - Certainly not in the evening, no. We have a few  
1516 outdoor tennis tournaments, but those are all during the day. Certainly much  
1517 less noise than is generated by the pool in the course of the pool season.  
1518  
1519 Mr. Kirkland- What time does your pool close? During pool  
1520 season?  
1521  
1522 Mr. Fauls - Eight o'clock. To the extent that the Board looks at  
1523 the issue of the hours of operation we respectfully request that 10:00 p.m. be  
1524 granted as a closing hour.  
1525  
1526 Mr. Wright- I think we ought to impose the same requirement on  
1527 this as we do on the others, and I don't have that before me. I think it's 10:00  
1528 o'clock. ....  
1529  
1530 Mr. McKinney You said you have spoken to the Planning  
1531 Commission??  
1532  
1533 Mr. Fauls - We have had members of our master plan building  
1534 committee actually working with the Staff, not the Planning Commission. Mr.  
1535 McKinney- Let me ask you a question. Do you have anyone here  
1536 from Worley and Associates --  
1537  
1538 Mr. Fauls - Yes, we do – Mr. Ron Worley is here.  
1539  
1540 Mr. McKinney I'm looking at the front elevation on Club Lane.  
1541  
1542 Mr. Fauls- Do you want Mr. Worley?  
1543  
1544 Mr. Kirkland- If Mr. Worley would come up here and be sworn in,  
1545 please.  
1546  
1547 Mr. Blankinship – If you would raise your right hand and be sworn in,  
1548 please. Do you swear the testimony you are about to give is the truth, the whole  
1549 truth, and nothing but the truth, so help you God?

1550  
1551 Mr. Worley - I do.  
1552  
1553 Mr. Blankinship - State your name for the record, please.  
1554  
1555 Mr. Worley - Ronald A. Worley.  
1556  
1557 Mr. McKinney- Now Mr. Worley, when you're in the process of putting  
1558 these plans together, on the front elevation, on the last page, can you tell me why  
1559 the roof is deceiving, it looks like you've got a warehouse behind, in front of .....,  
1560 why this was not changed to some type of decorative end rather than just a metal  
1561 façade.  
1562  
1563 Mr. Worley Yes, I want to see if we have the presentation board  
1564 that shows this rendering. We don't seem to have that, but I think this board will  
1565 show what you want to see. This is the primary elevation that you're concerned  
1566 with. What you've done is to bring the new entry and the parking spaces to the  
1567 forward part of the building. You will see the green metal roof and the brick  
1568 masonry which is the primary façade of the addition. Behind it is the shape of the  
1569 indoor tennis facility and what we have done is place it behind the more  
1570 conventional construction so that the scale of the indoor tennis courts is  
1571 recessed. This is a technique that is used on other indoor tennis centers for  
1572 example the College of William and Mary tennis center which is in the colonial  
1573 Williamsburg area which is very sensitive to the mass, shape and size of a tennis  
1574 building. We are proposing to use a very dark green façade which works with the  
1575 trees and become sort of a back drop. You'll see the apex of a roof ....it will be  
1576 really the same green as is on the pyramid roof of the entry  
1577  
1578 Mr. McKinney- Which is a metal green?  
1579  
1580 Mr. Worley Which is a metal green, which is a high quality metal  
1581 façade, a long term finish in a dark green color. And what we found is, by using  
1582 the dark green form, that shape becomes a backdrop and it is not as noticeable  
1583 even though it is large building.  
1584  
1585 Mr. McKinney- So you're telling me that the gables are going to be  
1586 the same color as that roof?  
1587  
1588 Mr. Worley Yes, yes they will.  
1589  
1590 Mr. McKinney- The tennis court gables facing West Club Lane,  
1591 because you don't show it?  
1592  
1593 Mr. Worley- You're right, and it's really just a rendering technique  
1594 to show a little more focus to what's in the foreground. You'll see the roof over  
1595 the brick part is a little darker green, and what we're trying to do there is just by a

1596 graphic technique, emphasize what's in the foreground. Where the buildings in  
1597 behind it so therefore it's a little lighter, but it will be the same color.  
1598  
1599 Mr. Kirkland- So the little pyramid roof will blend right in with the  
1600 back roof? ....  
1601  
1602 Mr. Worley- But the pyramid roof is actually much forward.  
1603  
1604 Mr. McKinney- Is this a galvalume?  
1605  
1606 Mr. Worley No, galvalume really is a metallic kind of roof, but it  
1607 will be a pre-finished metal roof that is...  
1608  
1609 Mr. McKinney- I'm not talking about the roof; I'm talking about the  
1610 gable end, the siding on it.  
1611  
1612 Mr. Worley The siding – no, it will be a conair finish, which is a  
1613 painter finish down at the factory, essentially the same finish that you see on all  
1614 the standard seam roofs that put in ....the same roof that is above the main  
1615 entrance.  
1616  
1617 Mr. McKinney- From the rendering you have here, like you say, it's a  
1618 nice facility, but it appears like you have a warehouse in back of it.  
1619  
1620 Mr. Worley- I understand.  
1621  
1622 Mr. McKinney- From what we see.  
1623  
1624 Mr. Worley Yes. And there is the necessary form for an indoor  
1625 tennis building. You have to have a clearance, or an apex at the center of the  
1626 roof or .....

1627  
1628 Mr. McKinney- I'm not talking about the form, oh I'm fine with the  
1629 form; I'm talking about this.  
1630  
1631 Mr. Worley- The metal panels, the wall panels are typical for high  
1632 quality world tennis. It may look like a warehouse there, but it is ribbed. We will  
1633 not use the standard metal building profile siding that you may be thinking of. The  
1634 siding will actually have a shadow rib form, so that it has deep ribs that are put on  
1635 center and will essentially look just like the siding or the roofing on the main  
1636 building. We're not looking at just a standard metal building profile metal siding  
1637 that you may be thinking of in terms of a warehouse; this is a more upscale  
1638 product. I'm trying to think of a better example, but the William and Mary facility  
1639 that we have done which is in Colonial Williamsburg, uses the same product that  
1640 is on this building as theirs.  
1641

1642 Mr. McKinney- You're saying you're proposing this product, that  
1643 doesn't mean its been approved. I don't have any problem with the height and  
1644 the rear and the size, and I'm thinking about the people that come down  
1645 Westwood, I didn't know if it could be dressed up any with some type of windows.  
1646  
1647  
1648 Mr. Worley- There may be a way to  
1649  
1650 Mr. McKinney- I'm not saying you've got to do this; I'm just saying  
1651 from a prospectus concerned about the mass of the building. Like maybe an  
1652 octagon shaped window at the gable end. Something like that to break it up –  
1653 you've got that large mass back there. I don't know if the members have looked  
1654 at this and said this looks great.  
1655  
1656 Mr. Motley- It's a double-edged sword – sometimes if you start to  
1657 put emphasis on the gable end, you put a louvers and windows on it to break it  
1658 up and give it arch elements to look at, sometimes that draws more attention to it  
1659 at the same time. We'd be happy to look at it and discuss it with the Westwood  
1660 Club, and see if there is something we can work out that would be more  
1661 acceptable to look at, but we have to consider that we want to treat it as a  
1662 backdrop, something that is sort of in the background that you don't notice as  
1663 much and trying to put emphasis on the entry condition, which has recesses,  
1664 brick, nice features to it.  
1665  
1666 Mr. McKinney- So what is the height of the ridge to the ....  
1667  
1668 Mr. Worley- The ridge would be around – I don't have the figure  
1669 right off the top of my head, but we are burying the tennis building in the ground  
1670 slightly. That's something I should mention to you – you see the dash line that's  
1671 coming across the bottom of the screen there? We are actually taking the floor  
1672 around the tennis building and pushing it in the ground four or five feet, and that  
1673 is helping to reduce the mass of the building, so what the apex is above the level  
1674 of the ground is, I'm not quite sure, but generally it would be in the 35 to 38 foot  
1675 range, somewhere in that range.  
1676  
1677 Mr. McKinney- That's all I have. Thank you.  
1678  
1679 Mr. Kirkland- Any other questions.  
1680  
1681 Mr. Wright- Yes, what concerns me in this application is nothing in  
1682 our information here talks about any lighting – nothing. Where is  
1683  
1684 Mr. Kirkland- I believe Ms. Blackburn left to get some information....  
1685  
1686 Mr. Balfour- Susan's gone to find out what the present conditions  
1687 are and see if there are any conditions that are applicable.

1688  
1689 Mr. Blankinship- We do require a landscaping and lighting plan – that’s  
1690 one of the recommended conditions....  
1691  
1692 Mr. Wright- I understand – I’m just looking further here. Right  
1693 now there are no lights on any of the courts, is that correct.  
1694  
1695 Mr. Worley- Yes, that’s correct.  
1696  
1697 Mr. Wright- I see here on this plan that it looks like a little  
1698 lighting....  
1699  
1700 Mr. Worley- Yes the lighting should be indicated on the plan.  
1701  
1702 Mr. Wright- Well, there’s one, two, three, four, five, six of these  
1703 outdoor courts that will be lighted – that’s something different than what they had  
1704 before, and that’s....  
1705  
1706 Mr. Fauls Maybe I can help with some information.... The plan  
1707 that’s been submitted does indicate lights over some specific courts. The type of  
1708 lighting that we are proposing in the design is a low cut-off type luminary  
1709 specifically designed for tennis in residential neighborhoods. It will not be the  
1710 massive type lighting that you see in the public facilities that you see in Byrd  
1711 Park. It will be on low poles, 20 to 25 foot high, and the fixtures will be a simple  
1712 shoebox type fixture that thrusts the light down and cuts off the light at the  
1713 property line. This is an issue that’s a fairly common concern when you have  
1714 tennis court lighting in a residential neighborhood. There are lighting schemes  
1715 that are specifically designed to address this issue. So that would be a low level  
1716 lighting scheme; it would not have a lot of overcast to the adjacent neighbors,  
1717 and it would be relatively low level poles painted black; it would not be like a  
1718 public park. It would be top quality.  
1719  
1720 Mr. Wright- I’m concerned also about the time – how long the  
1721 lights would be on, and I think that should be addressed. We need to control  
1722 that.  
1723  
1724 Mr. Balfour- How late do you want to play at night? 10:00 o’clock?  
1725  
1726 Mr. Kirkland- Ten o’clock at night?  
1727  
1728 Mr. Wright- I want to make sure we don’t make it any longer than  
1729 we grant to any of these associations all around. I don’t think it’s fair for one to  
1730 have something the other.  
1731  
1732 Mr. Balfour- What do they have at Kanawha Rec. Facility, do you  
1733 all know. Because that got these lighted courts like you are talking about with the

1734 box that glare right there on the court. CCV has the same thing, and I know what  
1735 you're talking about. Those lights don't glare beyond the court edge.  
1736  
1737 Mr. Worley We've just been working with CCV also, on their  
1738 tennis facility and that's the kind of lighting you're talking about, very sensitive to  
1739 the neighborhood when you've got residents just across the street.  
1740  
1741 Mr. Fauls One of the reasons we hired Mark Worley's firm is  
1742 because they are experienced with the Country Club renovation.  
1743  
1744 Mr. McKinney Mr. Wright why don't you make a condition that states  
1745 "there be....standard type lighting has been approved in the past for all the  
1746 facilities of this type." And the hours of operation would be the same too. Does  
1747 that answer your concern?  
1748  
1749 Mr. Wright- Yes, as long as we control it.  
1750  
1751 Mr. Kirkland- Any other questions? Anyone else wish to speak on  
1752 this case? Right, sir, come forward.  
1753  
1754 Mr. Tucker- My name is Haywood Tucker; I'm President of the  
1755 Westwood Association....Five years ago I was here speaking against the  
1756 proposal for expansion for many reasons, and five years later it is my pleasure to  
1757 say that this civic association supports this project. They have been very  
1758 responsive to our questions and concerns over the time and we feel that the Club  
1759 is an asset to our neighborhood. One concern that we always have in this area,  
1760 being that the facility is in the middle of a residential community, is traffic and  
1761 safety. And sometimes we feel that they are not as aware that they are in a  
1762 residential area. This project will increase I'm sure it is intended to also increase  
1763 membership in the Club, and they are expected 20% increase in membership to  
1764 support the cost of this expansion. so at this point in time, we support the  
1765 proposal.  
1766  
1767 Mr. Kirkland- Any other comments? Anyone else?  
1768  
1769 Mr. Fauls- This is Bruce Hulcher, who is our engineer for this  
1770 project.  
1771  
1772 Mr. Kirkland- Mr. Hulcher, would you raise your right hand and be  
1773 sworn in by the Secretary.  
1774  
1775 Mr. Hulcher- Yes, sir.  
1776  
1777 Mr. Blankinship - Do you swear the testimony you are about to give is  
1778 the truth, the whole truth, and nothing but the truth, so help you God?  
1779

1780 Mr. Hulcher - I do.  
1781  
1782 Mr. Kirkland- State your name for the record.  
1783  
1784 Mr. Hulcher- Bruce Hulcher. I just wanted to mention one concern  
1785 on one of the conditions. It says "no changes may come back to the Board." I'd  
1786 like to modify that a little if we could, and say "no substantial changes, or no  
1787 major changes, or no changes inconsistent with the general intent of the plan."  
1788 Such that if we move an entrance or change a parking space we would not end  
1789 up before this Board again, for just minor changes to the site plan.  
1790  
1791 Mr. Wright- That would open up the door for, I don't know about  
1792 that. We agreed. We have what you present, and this is what we approve. If we  
1793 allow changes, then what's a substantial change? We don't know what that is.  
1794  
1795 Mr. Hulcher The condition after that says we have to go back to  
1796 Public Works for approval of the plan. Public Works may require a different  
1797 radius on the entrance or something. I just think it would be to everyone's benefit  
1798 if we could keep the change restrictions to major changes, not minor things like  
1799 that.  
1800  
1801 Mr. McKinney- I don't think it really says "minor." It says "no changes  
1802 or additions to the layout may be made without the approval of the Board of  
1803 Zoning Appeals." Would you like to have them add "excluding moving a door or"  
1804  
1805 Mr. Hulcher- No, I'd like to have something a little more general  
1806 than that, "no changes inconsistent with the intent of the plan," and, Public Works  
1807 is going to look at this; Planning is going to look at it for lighting and landscaping,  
1808 and should they make suggestions that improve the plan, we'd like to be able to  
1809 incorporate this, without coming back to the Board of Zoning Appeals.  
1810  
1811 Mr. McKinney- I don't see how you can do that, Mr. Hulcher.  
1812  
1813 Mr. Kirkland- I don't either.  
1814  
1815 Mr. Worley - One suggestion, if I may, I understand your concern  
1816 about the term substantially maybe we can modify the language to say no  
1817 material changes. This is to make sure that we remain well within what the intent  
1818 is here. I think that everyone will agree that moving a door or a parking lot, a  
1819 parking space rather than a lot, would be immaterial, and that's what we're  
1820 looking for we want to improve the facility, based on the current Code of the  
1821 County and the Planning Commission, as opposed to finding ourselves in a  
1822 situation where, while we want to accept the change, it would require a new  
1823 document.  
1824



1825 Mr. McKinney- Well, we have a Secretary down here that, if you want  
1826 to make any changes, I think you can go through him, and pretty much be his  
1827 decision as to what denies or approves, if he thinks it's valid to come back before  
1828 us, you'll get your answer from him.

1829  
1830 Mr. Blankinship - That second sentence should be read in light of the  
1831 first sentence, which says "The property shall be developed in substantial  
1832 conformance with the plan filed."

1833  
1834 Mr. McKinney- That's what it says, "in substantial conformance...."

1835  
1836 Mr. Wright- We understood that any change should be submitted  
1837 to the Secretary, and if it's not substantial, he would go ahead with it. You  
1838 wouldn't have to come back before us.

1839  
1840 Mr. Fauls That would be satisfactory.

1841  
1842 Mr. Wright- That's the way we operate.

1843  
1844 Mr. Kirkland- Any other testimony in this case?

1845  
1846 Mr. McKinney Mr. Vanarsdall, you're not going to speak?

1847  
1848 Mr. Kirkland If there's no further testimony, that concludes the  
1849 case. Thank you very much for coming.

1850  
1851 After an advertised public hearing and on a motion by Mr. Wright, seconded by  
1852 Mr. McKinney, the Board **granted** cases UP-39-99 and A-136-99.

1853  
1854 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1855 Negative: 0  
1856 Absent: 0

1857  
1858 The Board **granted** this request as it found from the evidence presented that  
1859 authorizing this use permit will not be of substantial detriment to adjacent  
1860 property and will not materially impair the purpose of the zoning regulations.

1861  
1862 1. The property shall be developed in substantial conformance with the plan filed  
1863 with the application. No changes or additions to the layout may be made without  
1864 the approval of the Board of Zoning Appeals.

1865  
1866 2. The applicant shall present a complete grading, drainage, and erosion control  
1867 plan prepared by a Professional Engineer certified in the state of Virginia to the  
1868 Department of Public Works for approval. This plan must include the necessary  
1869 floodplain information if applicable.

1870

1871 3. A detailed site lighting plan shall be included with the landscaping plans for  
1872 Planning Office review and approval.  
1873  
1874 4. All exterior lighting shall be shielded to direct light away from adjacent  
1875 property and streets.  
1876  
1877 5. All landscaping shall be maintained in a healthy condition at all times. Dead  
1878 plant materials shall be removed within a reasonable time and replaced during  
1879 the normal planting season.  
1880  
1881 6. Outdoor activities shall not be conducted after 10:00 PM, except for four swim  
1882 meets each year.  
1883  
1884 Mr. Kirkland - The next case is **UP-40-1999**, which is companion to  
1885 the last case on the docket, which is **UP-41-1999**. In order to handle both of  
1886 these at the same time, I need to call for any deferrals or withdrawals on the  
1887 10:00 o'clock agenda, since it's after 10:00 now. Do we have any, Mr. Secretary.  
1888  
1889 Mr. Blankinship - None that I know of, Mr. Chairman.  
1890  
1891 Mr. Kirkland - OK. If you would, please call those two cases.  
1892  
1893 **UP-40-1999** **W. C. English, Inc.** request for a use permit pursuant to  
1894 Sections 24-52(d) and 24-103 of Chapter 24 of the County  
1895 Code to extract materials from the earth at 3501 Britton  
1896 Road (Tax Parcel 217-A-1), zoned A-1, Agricultural district in  
1897 the Varina magisterial district.  
1898  
1899 Mr. Kirkland - Anyone to speak on this case? Would you please  
1900 raise your right hand and be sworn in by the Secretary.  
1901  
1902 Mr. Blankinship - Do you swear that the testimony you are about to give  
1903 is the truth, the whole truth, and nothing but the truth, so help you God?  
1904  
1905 Mr. Koontz - I do.  
1906  
1907 Mr. Kirkland - State your name for the record, please.  
1908  
1909 Mr. Koontz - Greg Koontz.  
1910  
1911 Mr. Kirkland - OK, all adjacent landowners been contacted in both  
1912 cases?  
1913  
1914 Mr. Koontz - Yes, sir, and the receipts were turned in.  
1915  
1916 Mr. Blankinship - We've got the receipts here for both.

1917

1918 Mr. Kirkland - If you would, state your case.

1919

1920 Mr. Koontz - Yes, sir, I'm representing the applicant, who's

1921 requesting a use permit, as requested by the County, to extract materials from

1922 the earth. As we just said, notification was sent to all the adjacent owners and

1923 receipts turned in to the County. The applicant is committed to abide by all the

1924 County buffers and requirements, with understanding that plan approvals are

1925 required, as listed in the outline by County staff and their recommendations prior

1926 to their beginning work on these properties. The location of both of these cases

1927 is directly adjacent to the proposed Interstate 895 corridor, and what helps with

1928 this is that it allows for hauling of these raw materials directly into the 895 corridor

1929 and that way, it eliminates any additional truck traffic on any of the adjacent

1930 roads. This portion of I-895 does require quite a bit of dirt just trying to deal with

1931 the interchange right there with Interstate 295. I'll be glad to answer any kind of

1932 questions you have. This is considered a mining permit. Basically it's required to

1933 go through that, but it's just for a borrow for the construction of I-895.

1934 Mr. Wright - What is the length of this permit? The period of the

1935 permit?

1936

1937 Mr. Blankinship - Typically two years, Mr. Wright. I don't know if they're

1938 going to actually operate for that long.

1939

1940 Mr. Wright - I was just looking – is that in the conditions I have?

1941 Would it be condition number 14?

1942

1943 Mr. Blankinship- "Excavation operations shall be discontinued on said

1944 site by October 31, 2001, restoration accomplished not later than October 31,

1945 2002...."?

1946

1947 Mr. Nunnally- Mr. Koontz, you say you have read the conditions on

1948 both cases and you agree with them?

1949

1950 Mr. Koontz - Yes, sir.

1951

1952 Mr. McKinney- I'd like to ask the Secretary a question if I may.

1953

1954 Mr. Blankinship - Yes, sir.

1955

1956 Mr. McKinney- Condition number 2. Is this predicated on Eastern

1957 and Daylight time? Because if it is, we've got to change the conditions.

1958

1959 Mr. Blankinship - Isn't that just from the standard conditions?

1960

1961 Mr. McKinney- Can you see where I'm coming from.

1962

1963 Mr. Blankinship - It would make sense for it to coordinate with the  
1964 change in Daylight Savings Time. ....  
1965  
1966 Mr. Blankinship- It's going to be very close. I'll look into that.  
1967  
1968 Mr. Kirkland- Any other questions of the Board members? On  
1969 either case? OK, anyone else wish to speak?  
1970  
1971 Ms. Foster - Good morning, my name is Gloria Foster, and I'm one  
1972 of the residents along Britton Road, and I'm here representing the rest of the  
1973 residents – I have all of their names and addresses here on record.  
1974  
1975 Mr. Wright- Thank you. Was she sworn in?  
1976  
1977 Mr. Kirkland- Yes, she was sworn in.  
1978  
1979 Ms. Foster - Yes, I was. And I'm here because of the shallow  
1980 wells in the area on Britton Road, and Condition No. 26 deals with the shallow  
1981 wells problem. The citizens that live along Britton Road, the majority of them, are  
1982 senior citizens, and it will be a great hardship if there were some problems with  
1983 the wells in that area, so we appreciate the fact that that has been looked at as  
1984 one of the conditions, but what we're looking for is we are concerned that the  
1985 bond that has been put up, the \$25,000, may not be sufficient, and perhaps we  
1986 don't know how that works, but it may not be sufficient if multiple wells go out  
1987 because of it being fed by a spring or something that they hit when they dig the  
1988 gravel out of this area. And one of the things we're concerned about is, when the  
1989 bid for English Construction came in, it wasn't under the condition that they would  
1990 come in and start digging in those areas, so the price, it's sort of like, you feel like  
1991 there's a profit being made so they can get to the materials in the lands beside  
1992 that. We're not opposed to them doing that provided we don't suffer any kind of  
1993 hardship as a result of our wells going dry, because that would require, you  
1994 know, I know that Condition No. 26 does say they would replace our wells and  
1995 make sure that it's OK. We were just concerned that the \$25,000 bond would not  
1996 be sufficient to cover it if multiple wells went out.  
1997  
1998 Mr. Wright- Well they would still be responsible for it, the bond is  
1999 only, is a security measure to insure that the money would be there, but  
2000 assuming that the company is still solvent, they would be responsible for  
2001 replacing the wells. That doesn't limit them to \$25,000.  
2002  
2003 Ms. Foster - OK, we didn't know that, and that's why we came  
2004 down to talk about it, because we are concerned that, you know, about the wells  
2005 in the area. I mean, we know the road's coming through and all that. In the  
2006 condition it indicates that we would have to show proof that the reason the well  
2007 went dry or worse, is that burden of proof on us?  
2008

2009 Mr. Blankinship- To some extent, yes. If there is a dry summer next  
2010 year, we're not going to expect them to fix every well that shows difficulties.  
2011 There would have to be some showing of evidence, but it wouldn't be like in a  
2012 courtroom, where you have to show beyond a reasonable doubt. You'd just have  
2013 to present a reasonable case, and they would have to rebut.  
2014  
2015 Ms. Foster - So, for instance, let me use myself as an example  
2016 because I do own the high property. The well on my property has been there for  
2017 over fifty years, so if we presented material then, that would indicate that this  
2018 drought was no worse than droughts we've had within that fifty years, that would  
2019 be sufficient.  
2020  
2021 Mr. Wright- Has it been dry this past summer?  
2022  
2023 Ms. Foster - No sir, it did not. It didn't go dry in a whole lot of  
2024 worse summers.  
2025  
2026 Mr. Wright- You ought to be pretty safe then.  
2027  
2028 Ms. Foster - I just wanted to make sure, you know, because we're  
2029 not familiar with this, except we do appreciate the fact that they do put this up; we  
2030 just didn't know if it exceeded the cost of \$25,000,  
2031  
2032 Mr. Wright- That's no limit; we just tried to come up with some  
2033 figure that we felt would pass as far as the bond was concerned; that doesn't limit  
2034 their exposure.  
2035  
2036 Ms. Foster- OK, thank you very much.  
2037  
2038 Mr. Kirkland- Would you like to respond to that?  
2039  
2040 Mr. Koontz - Yes, sir. I'd just like to say that W. C. English is a  
2041 very good company that's been involved in this, and they are sensitive to these  
2042 type of issues; they have no problem with these bonds being set, and they do  
2043 understand what their responsibilities are in this area, and I think they'll be willing  
2044 to work with any kind of problems that may arise. They are aware of those kinds  
2045 of issues and are sensitive to that.  
2046  
2047 Mr. Balfour If a well has to be dug deeper, and take care of our  
2048 problems, and do you also pay for the cost to the landowner to have the well  
2049 checked in the first place to be able to show you what caused this?  
2050 If this lady found out she had a dry well and she has to go pay someone to come  
2051 out and look at it and it cost her \$500 to find out that it's your fault, Do you pay  
2052 the \$500 as well, that she had to pay to find out in the first place that you need to  
2053 come fix it?  
2054

2055 Mr. Koontz- I am sure that will be part of the bill. It's hard to look  
2056 at each case like that, but I'm sure that will be part of bill of the costs to repair a  
2057 well.

2058  
2059 Mr. Kirkland - Anyone else wish to speak on this case? Any other  
2060 questions? If not, that concludes the cases.

2061  
2062 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
2063 Mr. Wright, the Board **granted** the case.

2064  
2065 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2066 Negative: 0  
2067 Absent: 0

2068  
2069 The Board **granted** this request as it found from the evidence presented that  
2070 authorizing this use permit will not be of substantial detriment to adjacent  
2071 property and will not materially impair the purpose of the zoning regulations.

2072  
2073 1. This permit is subject to all requirements of Section 24-103 of Chapter 24 of  
2074 the County Code.

2075  
2076 2. Monday through Friday hours of operation shall be from 7:00 a.m. to 5:00  
2077 p.m. from November 1 to March 31, and from 6:00 a.m. to 7:00 p.m. from April 1  
2078 to October 31, local time in effect in the County of Henrico. Saturday hours of  
2079 operation shall be from 8:00 a.m. to 1:00 p.m.

2080  
2081 3. No operations of any kind are to be conducted at the site on Sundays or on  
2082 national holidays.

2083  
2084 4. Open and vertical excavations having a depth of 10 feet or more for a period  
2085 of more than 30 days, shall be effectively sloped to a 2 to 1 slope or flatter to  
2086 protect the public safety.

2087  
2088 5. All means of access to the property shall be from the public right of way of the  
2089 proposed I-895.

2090  
2091 6. A superintendent who shall be personally familiar with all the terms and  
2092 conditions of Section 24-103 of Chapter 24 of the County Code as well as the  
2093 terms and conditions of UP-40-99, shall be present at the beginning and  
2094 conclusion of operations each work day to see that all conditions of said Code  
2095 and said Use Permit are carefully observed.

2096  
2097 7. Topsoil shall not be removed from any part of the property outside of the area  
2098 in which extraction is authorized. Sufficient topsoil shall be stockpiled on the  
2099 property for respreading in a layer with five (5) inches of minimum depth. If the  
2100 site does not yield sufficient topsoil, additional topsoil shall be brought to the site

2101

2102 to provide the required five-inch layer of cover. All topsoil shall be treated with a  
2103 mixture of seed, fertilizer, and lime as recommended by the County of Henrico  
2104 after the results of soil tests have been submitted to the County of Henrico. All  
2105 topsoil shall be stockpiled within the authorized borrow area and provided with  
2106 adequate erosion control protection.

2107

2108 8. The rehabilitation of the property shall take place simultaneously with the  
2109 extraction process. Rehabilitation shall not be considered completed until the  
2110 extraction area is covered completely with permanent vegetation.

2111

2112 9. Responsibility for maintaining the property, fences, and roads in a safe and  
2113 secure condition indefinitely, or for converting the property to some other safe  
2114 use, shall rest with the applicant.

2115

2116 10. Entrance gates shall be erected and maintained at all entrances to the  
2117 property. These gates shall be locked at all times, except when authorized  
2118 representatives of the applicant are on the property.

2119

2120 11. Erosion Control Plans shall be submitted to the Department of Public Works  
2121 for review and approval at time of application for the Use Permit. Throughout the  
2122 life of this extraction operation, the applicant shall continuously satisfy the  
2123 Department of Public Works that erosion control procedures are properly  
2124 handled, and furnish plans and bonds that the department deems necessary.  
2125 The applicant shall provide certification from a licensed professional engineer  
2126 that dams, embankments and sediment control structures meet standard and  
2127 approved design criteria as set forth by the State.

2128

2129 12. The areas approved for extraction under this permit shall be delineated on  
2130 the ground by the erection of five (5) foot high metal posts at least five (5) inches  
2131 in diameter and painted in alternate one (1) foot stripes of red and white. These  
2132 posts shall be so located as to clearly define the area in which the extraction is  
2133 permitted. They shall be located, and the location certified by a certified surveyor,  
2134 within ninety (90) days of the date of approval of this use permit by the Board of  
2135 Zoning Appeals, or this use permit is void.

2136

2137 13. "No Trespassing" signs shall be posted and maintained on the property to  
2138 warn against use of the property by unauthorized persons. The minimum letter  
2139 height shall be three inches, and signs are to be posted every 250 feet along the  
2140 perimeter of the property. The applicant shall furnish the Chief of Police a letter  
2141 authorizing enforcement by the County Police Officers of the "No Trespassing"  
2142 regulations, and agreeing to send a representative to court for purposes of  
2143 testimony whenever required or requested by the Division of Police.

2144

2145 14. Excavation operations shall be discontinued on said site by October 31,  
2146 2001, and restoration accomplished not later than October 31, 2002, unless a  
2147 new permit is applied for no later than 60 days before the expiration of the permit,  
2148 and is subsequently granted by the Board of Zoning Appeals.

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15. A financial guaranty satisfactory to the County Attorney shall be posted with the Secretary of the Board of Zoning Appeals for extracting materials from 30.85 acres, in an amount of \$2,000.00 per acre for each disturbed acre of land included, for a total of \$61,700.00 guaranteeing that the land will be restored to a reasonably level and drainable condition with a minimum slope on the restored property being five to one or flatter. The guaranty may provide for the termination of the obligations after 30 days notice in writing. Such notice shall be served upon the principal and upon the obligee as provided by law for the service of notices. At the termination of the aforesaid 30 day notice to the principal, all authority of the principal under this use permit to extract materials, and work incident thereto, shall cease provided the applicant has not furnished another guaranty suitable to the County within said 30 days. The principal shall then proceed within the next ensuing 30 days following the termination of its authority under this use permit, to accomplish the complete restoration of the land as provided for under the terms of this permit. A notice of termination by such surety shall in no event relieve the surety from its obligation to indemnify the County of Henrico for a breach of the conditions of this use permit.

16. The applicant shall furnish a certification each year, verifying that the guaranty is in effect, premiums have been paid, and the bonding company reaffirms its responsibility under the use permit conditions. This certification shall be submitted to the Board on October 31st of each year.

17. This permit does not become valid until the guaranty, required in condition No. 15, has been posted with the County, and necessary approval received. This must be accomplished within 30 days of the Board's action or the action becomes invalid.

18. A progress report shall be submitted to the Board on October 31st of each year during the life of this permit. This progress report must contain information concerning how much property has been disturbed to date of the report, the amount of land left to be disturbed, how much rehabilitation has been performed, when and how the remaining amount of land will be rehabilitated, and any and all pertinent information about the operation that would be helpful to the Board.

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

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



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21. In the event that an appeal of the Board's approval action is filed, all conditions requiring action on the part of the applicant within 90 days are considered satisfied if the required actions take place within 90 days of final action on the appeal process by the courts.

22. If the Virginia Department of Mines, Minerals and Energy determines that use of this property constitutes a mine, the applicant shall obtain a mine license from the Division of Mineral Mining, Virginia Department of Mines, Minerals and Energy, within 90 days of such determination, or the use permit is void.

23. No offsite-generated materials shall be deposited on the site unless materials and plans for their placement have been approved by the Planning Office.

24. If the Virginia Department of Mines, Minerals and Energy determines that the use of this property constitutes a mine, a sign shall be posted at the entrance to the mining site stating the name of the operator, the Henrico use permit number, the Division of Mineral Mining mine license number, and the phone number of the operator. The sign shall be 12 square feet in area and shall be properly maintained.

25. If the Virginia Department of Mines, Minerals and Energy determines that the use of this property constitutes a mine, all drainage and erosion and sediment control measures shall conform to the standards and specifications of the Mineral Mining Manual Drainage Handbook.

26. If water wells located on surrounding properties are adversely affected, and the extraction operations on this site are suspected as the cause, the effected property owners may present to the Board evidence that the extraction operation is a contributing factor. After a hearing by the Board, this use permit may be revoked or suspended, and the operator may be required to correct the problem. The applicant shall post a financial guarantee in the amount of \$25,000, satisfactory to the County Attorney, guaranteeing compliance with this condition.

**U P 41-1999**                      **W C. English, Inc.** request for a use permit pursuant to Sections 24-103 and 24-52(d) of Chapter 24 of the County Code to extract material from the earth at 7020 Turner Road (Tax Parcel 217-A-33C), zoned A-1, Agricultural district(Varina).

Mr. Kirkland-                      OK, and have him sworn in again for this case? Is there anyone to speak against this one, or for it again? If not, that concludes the case. The answer will be this afternoon. OK, next case.

After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Wright, the Board **granted** the case.

2243			
2244	Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
2245	Negative:		0
2246	Absent:		0

- 2247
- 2248 1. This permit is subject to all requirements of Section 24-103 of Chapter 24 of
- 2249 the County Code.
- 2250
- 2251 2. Monday through Friday hours of operation shall be from 7:00 a.m. to 5:00
- 2252 p.m. from November 1 to March 31, and from 6:00 a.m. to 7:00 p.m. from April 1
- 2253 to October 31, local time in effect in the County of Henrico. Saturday hours of
- 2254 operation shall be from 8:00 a.m. to 1:00 p.m.
- 2255
- 2256 3. No operations of any kind are to be conducted at the site on Sundays or on
- 2257 national holidays.
- 2258
- 2259 4. Open and vertical excavations having a depth of 10 feet or more for a period
- 2260 of more than 30 days, shall be effectively sloped to a 2 to 1 slope or flatter to
- 2261 protect the public safety.
- 2262
- 2263 5. All means of access to the property shall be from the public right of way of the
- 2264 proposed I-895.
- 2265
- 2266 6. A superintendent who shall be personally familiar with all the terms and
- 2267 conditions of Section 24-103 of Chapter 24 of the County Code as well as the
- 2268 terms and conditions of UP-41-99, shall be present at the beginning and
- 2269 conclusion of operations each work day to see that all conditions of said Code
- 2270 and said Use Permit are carefully observed.
- 2271
- 2272 7. Topsoil shall not be removed from any part of the property outside of the area
- 2273 in which extraction is authorized. Sufficient topsoil shall be stockpiled on the
- 2274 property for respreading in a layer with five (5) inches of minimum depth. If the
- 2275 site does not yield sufficient topsoil, additional topsoil shall be brought to the site
- 2276 to provide the required five-inch layer of cover. All topsoil shall be treated with a
- 2277 mixture of seed, fertilizer, and lime as recommended by the County of Henrico
- 2278 after the results of soil tests have been submitted to the County of Henrico. All
- 2279 topsoil shall be stockpiled within the authorized borrow area and provided with
- 2280 adequate erosion control protection.
- 2281
- 2282 8. The rehabilitation of the property shall take place simultaneously with the
- 2283 extraction process. Rehabilitation shall not be considered completed until the
- 2284 extraction area is covered completely with permanent vegetation.
- 2285
- 2286 9. Responsibility for maintaining the property, fences, and roads in a safe and
- 2287 secure condition indefinitely, or for converting the property to some other safe
- 2288 use, shall rest with the applicant.

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10. Entrance gates shall be erected and maintained at all entrances to the property. These gates shall be locked at all times, except when authorized representatives of the applicant are on the property.

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

12. The areas approved for extraction under this permit shall be delineated on the ground by the erection of five (5) foot high metal posts at least five (5) inches in diameter and painted in alternate one (1) foot stripes of red and white. These posts shall be so located as to clearly define the area in which the extraction is permitted. They shall be located, and the location certified by a certified surveyor, within ninety (90) days of the date of approval of this use permit by the Board of Zoning Appeals, or this use permit is void.

13. "No Trespassing" signs shall be posted and maintained on the property to warn against use of the property by unauthorized persons. The minimum letter height shall be three inches and signs are to be posted every 250 feet along the perimeter of the property. The applicant shall furnish the Chief of Police a letter authorizing enforcement by the County Police Officers of the "No Trespassing" regulations, and agreeing to send a representative to court for purposes of testimony whenever required or requested by the Division of Police.

14. Excavation operations shall be discontinued on said site by October 31, 2001 and restoration accomplished not later than October 31, 2002 unless a new permit is applied for by not later than 60 days before the expiration of the permit, and is subsequently granted by the Board of Zoning Appeals.

15. A financial guaranty satisfactory to the County Attorney shall be posted with the Secretary of the Board of Zoning Appeals for extracting materials from 11.58 acres, in an amount of \$2,000.00 per acre for each disturbed acre of land included, for a total of \$23,160.00 guaranteeing that the land will be restored to a reasonably level and drainable condition with a minimum slope on the restored property being five to one or flatter. The guaranty may provide for the termination of the obligations after 30 days notice in writing. Such notice shall be served upon the principal and upon the obligee as provided by law for the service of notices. At the termination of the aforesaid 30 day notice to the principal, all

2336 authority of the principal under this use permit to extract materials, and work  
2337 incident thereto, shall cease provided the applicant has not furnished another  
2338 guaranty suitable to the County within said 30 days. The principal shall then  
2339 proceed within the next ensuing 30 days following the termination of its authority  
2340 under this use permit, to accomplish the complete restoration of the land as  
2341 provided for under the terms of this permit. A notice of termination by such surety  
2342 shall in no event relieve the surety from its obligation to indemnify the County of  
2343 Henrico for a breach of the conditions of this use permit.

2344

2345 16. The applicant shall furnish a certification each year, verifying that the  
2346 guaranty is in effect, premiums have been paid, and the bonding company  
2347 reaffirms its responsibility under the use permit conditions. This certification shall  
2348 be submitted to the Board on October 31st of each year.

2349

2350 17. This permit does not become valid until the guaranty, required in condition  
2351 No. 15, has been posted with the County, and necessary approval received. This  
2352 must be accomplished within 30 days of the Board's action or the action  
2353 becomes invalid.

2354

2355 18. A progress report shall be submitted to the Board on October 31st of each  
2356 year during the life of this permit. This progress report must contain

2357

2358 information concerning how much property has been disturbed to date of the  
2359 report, the amount of land left to be disturbed, and how much rehabilitation has  
2360 been performed, and when and how the remaining amount of land will be  
2361 rehabilitated, and any and all pertinent information about the operation that would  
2362 be helpful to the Board.

2363

2364 19. If, in the course of its preliminary investigation or operations, applicant  
2365 discovers evidence of the existence of cultural or historical material or the  
2366 presence on the site of significant habitat or an endangered species, it will notify  
2367 appropriate professional or governmental authorities and provide them with an  
2368 opportunity to investigate the site and applicant will report the results of such  
2369 investigation to the Planning Office.

2370

2371 20. The applicant shall comply with the Chesapeake Bay Preservation Act and  
2372 all state and local regulations administered under such act applicable to the  
2373 property and shall furnish to the Planning Office copies of all reports required by  
2374 such act or regulations.

2375

2376 21. In the event that an appeal of the Board's approval action is filed, all  
2377 conditions requiring action on the part of the applicant within 90 days are  
2378 considered satisfied if the required actions take place within 90 days of final  
2379 action on the appeal process by the courts.

2380

2381 22. If the Virginia Department of Mines, Minerals and Energy determines that the  
2382 use of this property constitutes a mine, the applicant shall obtain a mine license  
2383 from the Division of Mineral Mining, Virginia Department of Mines, Minerals and  
2384 Energy, within 90 days of such determination, or the use permit is void.

2385  
2386 23. No offsite-generated materials shall be deposited on the site unless the  
2387 materials and the plans for their placement have been approved by the Planning  
2388 Office.

2389  
2390 24. If the Virginia Department of Mines, Minerals and Energy determines that the  
2391 use of this property constitutes a mine, a sign shall be posted at the entrance to  
2392 the mining site stating the name of the operator, the Henrico use permit number,  
2393 the Division of Mineral Mining mine license number, and the phone number of the  
2394 operator. The sign shall be 12 square feet in area and shall be properly  
2395 maintained.

2396  
2397 25. If the Virginia Department of Mines, Minerals and Energy determines that the  
2398 use of this property constitutes a mine, all drainage and erosion and sediment  
2399 control measures shall conform to the standards and specifications of the Mineral  
2400 Mining Manual Drainage Handbook.

2401  
2402 26. If water wells located on surrounding properties are adversely affected, and  
2403 the extraction operations on this site are suspected as the cause, the effected  
2404 property owners may present to the Board evidence that the extraction operation  
2405 is a contributing factor. After a hearing by the Board, this use permit may be  
2406 revoked or suspended, and the operator may be required to correct the problem.  
2407 The applicant shall post a financial guarantee in the amount of \$25,000,  
2408 satisfactory to the County Attorney, guaranteeing compliance with this condition.

2409  
2410  
2411 **A -137-1999**                    **Neil J. Sullivan** requests a variance from Sections 24-  
2412 95(b)(8) and 24-95(c)(1) of Chapter 24 of the County Code to  
2413 build a single-family dwelling at 2508 Inman Ave. (Chevalier  
2414 Heights) (Tax Parcel 161-1-A-5 (part)), zoned A-1,  
2415 Agricultural District (Varina). The lot width, minimum side  
2416 yard setback, total lot area, and total side yard setback are  
2417 not met.

2418  
2419 (The Board heard the cases as companion cases)

2420  
2421 Mr. Balfour-                    Are you going to call them both together?

2422  
2423 Mr. Blankinship                Would you like me to?

2424  
2425 Mr. Kirkland-                  Yes, sir.

2426

2427 **A-138-1999** **Neil J. Sullivan** requests a variance from Sections 24-  
2428 95(b)(8) and 24-95(c)(1) of Chapter 24 of the County Code  
2429 to construct a single family dwelling at 2508 Inman Ave.  
2430 (Chevalier Heights) (Tax Parcel 161-1-A-5 (part)), zoned A-  
2431 1, Agricultural District (Varina). The lot width, minimum side  
2432 yard setback, total lot area, and total side yard setback are  
2433 not met. The applicant has 11,250 square feet total lot area,  
2434 75 feet lot width, 7.5 feet minimum side yard setback and  
2435 32.50 feet total side yard setback where the Code requires  
2436 30,000 square feet total lot area, 150 feet lot width, 20 feet  
2437 minimum side yard setback and 50.0 feet total side yard  
2438 setback. The applicant requests a variance of 18,750 square  
2439 feet total lot area, 75 feet lot width, 12.5 feet minimum side  
2440 yard setback and 27.5 feet total side yard setback.

2441

2442 Mr. Kirkland - Anyone else wish to speak on this case? Please  
2443 stand and be sworn in. Raise your right hand.

2444

2445 Mr. Blankinship - Do you swear the testimony you are about to give is  
2446 the truth, the whole truth, and nothing but the truth, so help you God?

2447

2448 Mr. Sullivan - I do.

2449

2450 Mr. Kirkland - State your name for the record, please.

2451

2452 Mr. Sullivan - Neil Sullivan.

2453

2454 Mr. Kirkland- Have you turned in all your receipts?

2455

2456 Mr. Sullivan - Yes

2457

2458 Mr. Kirkland - Do we have them?

2459

2460 Mr. Blankinship - Yes

2461

2462 Mr. Kirkland - OK, proceed with your case.

2463

2464 Mr. Sullivan - I own lots 5 and 6 of Chevalier Heights. Two years  
2465 ago I requested and was granted a variance by the County, that allowed the  
2466 property to be used for two separate family residences. Got a little busy at work,  
2467 and recently I applied for two permits, and told that I needed to request a  
2468 variance again, because the previous variance was temporary. The request for  
2469 variance would be consistent with all the four existing lots in the subdivision. I  
2470 recently purchased the property based upon the lots being usable for two single  
2471 family residences, and I understand from the utilities department, there are water

2472 and sewage out at the site, and I request that variances be granted according to  
2473 the suggested conditions listed by the planning staff.

2474  
2475 Mr. Nunnally- You mean you're going to build these, Mr. Sullivan?  
2476 Spec houses, or?

2477  
2478 Mr. Sullivan - I'm not a professional builder, per se, I'm a general  
2479 contractor, and I build a house or two now and again. I will either build them for  
2480 rental property or resell them.

2481  
2482 Mr. Nunnally- Can't you build one house for those two lots?

2483  
2484 Mr. Sullivan - Basically, this is what I would consider a "starter  
2485 home" neighborhood, and it just wouldn't be economically feasible, the cost of,  
2486 assuming there were 2 lots, the cost of the property would raise it above the  
2487 general values of the area.

2488  
2489 Mr. Nunnally- That's quite a bit of variance you are asking for. You  
2490 can have this rezoned, you know; to R-4 One family district and then you can put  
2491 two houses on it.

2492  
2493 Mr. Sullivan - I was just going by the variance that was granted in  
2494 the past, and that's the way we pursued it.

2495  
2496 Mr. Wright- The only reason he has problems with it is that the lot  
2497 is zoned A-1.

2498  
2499 Mr. Sullivan just the lots when they were there in the fifties all the  
2500 other homes to the left of the lots in questions are the same size as these lots.  
2501 The four houses to the left are all the same size as these, and are all considered  
2502 Chevalier Heights, which is the subdivision.

2503  
2504 Mr. Wright- So the other lots on that street are the same as these,  
2505 75 feet frontage or less?

2506  
2507 Mr. Sullivan - Correct. To the left of those and it looks like the  
2508 generally to right actually did build one house on 2 lots. I was looking at the plats  
2509 and that's what it looked like to me. The 4 houses to the left are all the same  
2510 size as these and all considered in Chevalier Heights.

2511  
2512 Mr. Nunnally- The 4 houses are built on 75 foot lots?

2513 Mr. Sullivan- Yes, sir. Looking at the plat, Just to the left of Inman  
2514 Road, those lots are 75 feet wide and have houses.

2515  
2516 Mr. Wright- How about across the street?

2517

2518 Mr. Sullivan - Just going by visual, they look about the same width I  
2519 couldn't tell you the depth. When I was out there scoping things out, they all  
2520 looked, they all appeared about the same size.

2521  
2522 Mr. Blankinship Those across the street are zoned R-4.

2523  
2524 Mr. Kirkland- Mr. Sullivan, have you seen this petition with the  
2525 names signed on it, and this other letter? That was given to us? Have you seen  
2526 a copy of this?

2527  
2528 Mr. Sullivan- No sir, I am not aware of anything like that.

2529  
2530 Mr. Kirkland- Wrong case, wrong numbers, well, we leave out  
2531 everything. Any other questions of the Board members? Anyone else wish to  
2532 speak on this case? If there are no questions, that concludes this case. Next  
2533 case sir.

2534  
2535 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
2536 Mr. Wright, the Board **granted** the cases, A-137-99 and A-138-99.

2537  
2538 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2539 Negative: 0

2540 Absent: 0

2541

2542 The Board **granted** this request as it found from the evidence presented that  
2543 authorizing this variance will not be of substantial detriment to adjacent property  
2544 and will not materially impair the purpose of the zoning regulations.

2545

2546 1. Connections shall be made to public water and sewer.

2547

2548 2. The construction of the dwelling and its location on the property shall comply  
2549 with all the applicable regulations of the County Code in addition to the variances  
2550 granted in this case.

2551

2552 **A -139-1999** Paula Burnham requests a variance from Section 24-9 of  
2553 Chapter 24 of the County Code to build a single-family  
2554 dwelling at 3305 Chris Travis Drive (Tax Parcel 259-A-20  
2555 (part), zoned A-1, Agricultural District (Varina). The public  
2556 street frontage is not met. The applicant has 0 feet public  
2557 street frontage where the Code requires 50 feet public street  
2558 frontage. The applicant requests a variance of 50 feet public  
2559 street frontage.

2560



2561 Mr. Kirkland- Anyone else wish to speak on this case? Ma'am,  
2562 raise your right hand and be sworn in.

2563  
2564 Mr. Blankinship - Do you swear that the testimony you are about to give  
2565 is the truth, the whole truth, and nothing but the truth, so help you God?

2566  
2567 Ms. Burnham- Have all your notices been handed in?

2568  
2569 Ms. Burnham - Yes, they have. My name is Paula Burnham, and I  
2570 am here to request a variance of 50 feet from this Board, to build my mom and  
2571 dad a home. They have owned this property since 1951. The house that is  
2572 existing now, it would take major repairs to book this house back in proper living  
2573 condition, and I would like to request that this Board grant me this variance. All  
2574 the conditions have been met that have been stated.

2575  
2576 Mr. Kirkland - Any questions of the Board members? Can I ask you,  
2577 how old is this house?

2578  
2579 Ms. Burnham - It was built in 1937.

2580  
2581 Mr. Kirkland- Anybody else have any comments? Anyone else  
2582 oppose this case? Or for it? Next case?

2583  
2584 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
2585 Mr. Wright, the Board **granted** the case.

2586  
2587 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2588 Negative: 0  
2589 Absent: 0

2590  
2591 The Board **granted** this request, as it found from the evidence presented that  
2592 authorizing this variance will not be of substantial detriment to adjacent property  
2593 and will not materially impair the purpose of the zoning regulations.

2594  
2595 1. Approval of this request does not imply that a building permit will be issued.  
2596 Building permit approval is contingent on Health Department requirements,  
2597 including, but not limited to, soil evaluation for a septic drainfield and reserve  
2598 area, and approval of a well location.

2599  
2600 2. The applicant must present proof with the building permit application that a  
2601 legal access to the property has been obtained.

2602  
2603 3. The owners of the property, and their heirs or assigns, shall accept  
2604 responsibility for maintaining access to the property until such a time as the  
2605 access is improved to County standards and accepted into the County road  
2606 system for maintenance.

2607

2608 4. At the time of building permit application, the applicant shall submit the  
2609 necessary information to the Department of Public Works to ensure compliance  
2610 with the requirements of the Chesapeake Bay Preservation Act and the code  
2611 requirements for water quality standards.

2612

2613 Mr. Kirkland- Well, we're on the 10 o'clock agenda now, officially. If  
2614 you will, call cases number 140 and 141.

2615

2616 **A -140-1999** John A. & Lois C. Crown requests a variance from Section  
2617 24-94 of Chapter 24 of the County Code to build a single-  
2618 family dwelling at 2007 Fordson Road (Tax Parcel 80-A-24  
2619 (part)), zoned R-2, One-family Residence District (Three  
2620 Chopt). The lot width is not met. The applicant has 85 feet lot  
2621 width where the Code requires 100 feet lot width. The  
2622 applicant requests a variance of 15 feet lot width.

2623

2624 **A -141-1999** John A. & Lois C. Crown requests a variance from Section  
2625 24-94 of Chapter 24 of the County Code to build a single  
2626 family dwelling at 2009 Fordson Road (Tax Parcel 80-A-24  
2627 (part)), zoned R-2, One-family Residence District (Three  
2628 Chopt). The lot width is not met. The applicant has 85 feet lot  
2629 width where the Code requires 100 feet lot width. The  
2630 applicant requests a variance of 15 feet lot width.

2631

2632 Mr. Kirkland- Is anyone here to speak on this case? How about the  
2633 applicant? Do you want to pass and come back, since the applicant is not here?  
2634 We'll pass it right now and come back to it, to give the applicant a chance to get  
2635 here. Between now and the end of the meeting.

2636

2637 Well, sir, we were all given notice; I assumed  
2638 that.....

2639

2640 Mr. Kirkland - If you'll come down front and give your name  
2641 please.....

2642 Raise your right hand and be sworn in.

2643

2644 Mr. Blankinship - Do you swear the testimony you are about to give is  
2645 the truth, the whole truth and nothing but the truth, so help you God.

2646

2647 Mr. Baxter - I'm J. G. Baxter. My comment was that we were, I  
2648 assume all of us, I know I was given notice that the hearing would be at 9 am  
2649 today.

2650

2651 Mr. Kirkland - No, 10 o'clock – it's on the 10 o'clock agenda. We're  
2652 running late; we're running behind. Whenever someone not here, we pass it until  
2653 the end of the meeting, and that allows them to get here, and then we can hear  
2654 your concerns.  
2655  
2656 Mr. Baxter - Mr. Chairman, I was referring to the notice that I  
2657 received, and the notice says, "Thursday, October 28, at 9:00 am, to consider the  
2658 following: Case No. A-140-1999."  
2659  
2660 Mr. Kirkland - Well, that means that the meeting starts at 9:00  
2661 o'clock, but when it's posted in the newspaper, they have the time broken up. It  
2662 says 9:00 o'clock, 10:00 o'clock agenda; it's done that way when the  
2663 advertisement goes out.  
2664  
2665 Mr. Balfour- So Mr. Baxter, your comment is  
2666  
2667 We need to get back to work. Do we need to wait? Oh, you need to get back to  
2668 work?  
2669  
2670 Mr. McKinney- I'd like to make a comment if I may – the applicant  
2671 should have been here at 10:00 o'clock; it's now 11:05, so do they usually pass  
2672 these cases by sometimes if you don't have all this opposition. But you've got all  
2673 these citizens out here, and they're an hour and six minutes past the starting  
2674 time, and if the applicant is not here, I say we act on it right now.  
2675  
2676 Mr. Kirkland- OK, we'll hear the case. You want to stand up and be  
2677 sworn in?  
2678  
2679 Mr. Wright- Well they can't testify. Is anyone here? If they don't  
2680 have a case, they really don't have a case at all. If there's no one here to speak,  
2681 there's no case. We don't need to.... You've got to have something for them to  
2682 speak to.  
2683  
2684 Mr. Blankinship- Should one person represent all?  
2685  
2686 Mr. Wright- We've got to have an applicant.  
2687  
2688 Mr. Kirkland- You need to have an applicant here to state his case,  
2689 so they can repudiate his testimony.  
2690  
2691 Mr. Wright- You've called the case clearly? He's called the case.  
2692 No applicant here.  
2693  
2694 Mr. Balfour - Mr. Chairman, I move that we wait till 11:30, recall the  
2695 case at 11:30, if they don't mind waiting a few minutes to give the fellow a  
2696 chance, and then defer at that time.

2697  
2698 Mr. Balfour- Mr. Chairman did Mr. Balfour say “defer” or “deny”?  
2699  
2700 Mr. Balfour - I said “defer,” I don’t think we ought to “deny” if the  
2701 person’s not here. Mr. Baxter, I’m sure we can do it -- I’m just saying if you don’t  
2702 mind, we’ll give the fellow another 20 minutes if you can wait. I’m sure we’ll  
2703 move to either defer it or have it withdrawn. Unless you want to act right now,  
2704 Mr. Wright?  
2705  
2706 Mr. Wright - I want to act right now. All these people been waiting  
2707 all this time. OK, then I move we deny the case.  
2708  
2709 Mr. McKinney - Second.  
2710 After an advertised public hearing and on a motion by Mr. Wright seconded by  
2711 Mr. McKinney, the Board **denied** the case.  
2712  
2713 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2714 Negative: 0  
2715 Absent: 0  
2716  
2717  
2718 The Board **denied** your request as it found from the evidence presented that  
2719 authorizing this variance would be of substantial detriment to adjacent property or  
2720 would materially impair the purpose of the zoning regulations.  
2721  
2722 Mr. Kirkland- Case has been denied. Anyone opposed? Ma’am, if  
2723 you want to ask one question, feel free to come up here and be sworn in.  
2724  
2725 Voice from the audience-I just want to ask you sir – does this mean he can ask  
2726 for this again next month?  
2727  
2728 Mr. Kirkland- Next year. If he chooses. Mr. Secretary, let’s call the  
2729 next case and hope that everybody shows up.  
2730

2731 **A -142-1999** **Herman and Rhonda Thorpe** request a variance from  
2732 Section 24-94 of Chapter 24 of the County Code to build a  
2733 10 x 16 sunroom at 6205 Varina Station Drive (Varina  
2734 Station) (Tax Parcel 192-10-C-6), zoned R-3C, One-family  
2735 Residence District (Conditional) (Varina). The rear yard  
2736 setback is not met. The applicant has 33 feet rear yard  
2737 setback where the Code requires 40 feet rear yard setback.  
2738 The applicant requests a variance of 7 feet rear yard  
2739 setback.  
2740

2741 Mr. Kirkland - Does anyone else here wish to speak on this case? If  
2742 not, sir, raise your right hand and be sworn in.  
2743  
2744 Mr. Blankinship - In the testimony you are about to give, do you swear  
2745 to tell the truth, the whole truth, and nothing but the truth, so help you God?  
2746  
2747 Mr. Barham- I do.  
2748  
2749 Mr. Kirkland - State your name for the record.  
2750  
2751 Mr. Barham- Terry Barham.  
2752  
2753 Mr. Kirkland- Have all your notices been turned in? If you would  
2754 sir, state your case.  
2755  
2756 Mr. Barham - I'm Terry Barham, Sales Manager for Melani  
2757 Brothers. What we're proposing is to build a 10 x 16 sunroom on the existing  
2758 deck. All of those homes in that particular cul de sac, would have been OK with  
2759 the same structure being built, but this one I believe may have been set back a  
2760 little further than it should have, instead of the first house going into the cul de  
2761 sac right on that little curve. And we are requesting about 7 feet.  
2762  
2763 Mr. Wright- What is the setback requirement for this particular lot?  
2764  
2765 Mr. Blankinship- That should be in the caption here. It says it requires  
2766 40 feet.  
2767  
2768 Mr. Wright- Front setback?  
2769  
2770 Mr. Blankinship- Oh, the front yard setback? Is that also 40 feet,  
2771 Susan?  
2772  
2773 Ms. Blackburn- Yes.  
2774  
2775 Mr. Barham- It's 41 feet, and there are 40 feet required.  
2776  
2777 Mr. Wright- It's not that far back from the building, just 1 foot. You  
2778 said it's set back too far, but it's only 1 foot back from the building. Of course  
2779 you've got a curved front there; that presents a problem.  
2780  
2781 Mr. Barham- Yes, it starts with that first home right there, starting  
2782 the curve.  
2783  
2784 Mr. Wright- The 41 feet is measured from the inside of the curve;  
2785 you've probably got about 6 or 7 feet back into the other straight road, straight  
2786 line.

2787

2788 Mr. Nunnally- This sunroom is going to be the same size as the  
2789 deck, right?

2790

2791 Mr. Barham - It's going to be, Yes, sir, exactly. What we're doing is  
2792 basically closing the existing structure.

2793

2794 Mr. Wright- Is there any house to the rear of your property, sir?

2795

2796 Mr. Barham - Yes, sir.

2797

2798 Mr. Wright- How far is it from your property? It doesn't look like  
2799 there is a house to the rear of your property; maybe that's not correct?

2800

2801 Mr. Blankinship - The photograph on the screen now – the deck in the  
2802 foreground is the applicant's deck. The applicant's house is the one right in the  
2803 center of the photo.

2804

2805 Mr. Kirkland - Any other questions of the applicant? Anyone else  
2806 wish to speak on this case? If not, that concludes the case.

2807

2808 Mr. Barham - Thank you so much.

2809

2810 Mr. Kirkland- You're welcome

2811

2812 Mr. Blankinship - Mr. Chairman, that is another case where the  
2813 conditions did not print on the staff report, and it would be the standard condition  
2814 that I read earlier, "Only the improvements shown on the plan filed with the  
2815 application may be constructed pursuant to this approval. Any additional  
2816 improvements shall comply with the applicable regulations of the County Code."  
2817 The staff recommends that one condition be attached if the Board chooses to  
2818 grant the variance. Staff recommends that they attach the condition, "Only what  
2819 you have described can be built."

2820

2821 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
2822 Mr. Wright, the Board **granted** the case.

2823

2824 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2825 Negative: 0  
2826 Absent: 0

2827

2828 The Board **granted** this request, as it found from the evidence presented that  
2829 authorizing this variance will not be of substantial detriment to adjacent property  
2830 and will not materially impair the purpose of the zoning regulations.

2831

2832 1. Only the improvements shown on the plan filed with the application may be  
2833 constructed pursuant to this approval. Any additional improvements shall comply  
2834 with the applicable regulations of the County Code.  
2835

2836  
2837 Mr. Kirkland - Mr. Blankinship, if you would, call the next case.  
2838

2839 **A-143-1999 J & L Associates** request for a variance from Section 24-  
2840 94(s) of Chapter 24 of the County Code to build an addition  
2841 to an automobile showroom at 7100 West Broad Street  
2842 (West Broad Street Village subdivision) (Tax Parcel 81-11-D-  
2843 17), zoned B-3, Business district in the Brookland magisterial  
2844 district. The rear yard setback is not met. The applicant has  
2845 11 feet rear yard setback where the Code requires 40 feet  
2846 rear yard setback. The applicant requests a variance of 29  
2847 feet rear yard setback.  
2848

2849  
2850 Mr. Kirkland - Is anyone here to speak on this case? Anyone else  
2851 wish to speak on this case. If you would, please raise your right hand and be  
2852 sworn in by the Secretary.  
2853

2854 Mr. Blankinship - Do you swear that the testimony you are about to give  
2855 is the truth, the whole truth, and nothing but the truth, so help you God?  
2856

2857 Mr. Glen Moore- I do.  
2858

2859 Mr. Kirkland- If you would, state your name for the record.  
2860

2861 Mr. Moore - Mr. Chairman, members of the Board, my name is  
2862 Glenn Moore. I am an attorney, and I am here representing J & L Associates;  
2863 this is Mr. Page – he is one of the general partners of J & L Associates.  
2864

2865 Mr. Kirkland - Have you turned in your notices?  
2866

2867 Mr. Moore - I've turned in all that I had five days prior to the date  
2868 of this hearing, as requested; I've gotten one more.  
2869

2870 Mr. Kirkland- Is that a return receipt? So we have the receipt that it  
2871 had been mailed? OK, if you would, state your case.  
2872

2873 Mr. Moore - Yes, sir. This is a request for a variance of 29 feet  
2874 from the required 40 foot rear yard setback, to allow J & L Associates, the owner  
2875 of the property on which West Broad Mitsubishi and West End Hyundai are  
2876 located, to construct a modest expansion to the showroom building. If the  
2877 request for variance is approved, the applicant proposes the following request, if  
2878 necessary, to modify his plan in order to accommodate the building condition.

2879 The building addition is shown, shaded, I guess you can see, the area just to the  
2880 left, toward the McDonalds would be the West Broad Mitsubishi building along  
2881 Broad Street. I'd like to state that prior to the request for variance, that Mr. Page  
2882 and I met with Mr. Blankinship and Mr. Silber to discuss requirements for  
2883 constructing the building expansion and also issues relating to a possible  
2884 variance. It was suggested that an effort be made to purchase all or a portion of  
2885 the property located behind the proposed building addition, which is affected by  
2886 the variance, which gives rise to the need for a variance, so that the variance  
2887 would not be necessary. Discussions were held with representatives of the  
2888 owner concerning the possible purchase of all or a portion of that property. Mr.  
2889 Page was unable to come to an agreement on a price for the purchase of either  
2890 the entire parcel or enough of the parcel that would eliminate the need for this  
2891 variance request. The property fronting on Broad Street is extremely narrow in  
2892 this area, because of condemnation of a portion of the property several years  
2893 ago to accommodate the widening of Broad Street. There is no logical place to  
2894 construct additional showroom space on the property except in this location, and  
2895 the manufacturer Hyundai has insisted that a new showroom area be constructed  
2896 so that Hyundai models may be displayed in an area devoted exclusively for the  
2897 display of such vehicles.

2898

2899 Mr. Page, has only acquired Hyundai franchise in the last approximate year, I  
2900 would say, eight months, after it was reacquired as Hyundai America from  
2901 Hawthorne Motors. So his efforts to acquire a franchise have assured the  
2902 continued presence of a Hyundai dealer in Henrico County.

2903

2904 The proposed addition is approximately 1300 square feet in area, and we will  
2905 limit the height of that building, or build one story consistent with the existing  
2906 building. There are unusual circumstances present in this case, which support  
2907 this request. As a site plan indicates, the house on the affected property, that I  
2908 point to right there, is located towards Fountain Avenue frontage, and does have  
2909 fairly substantial rear yard. The side of the house will be significantly closer to  
2910 the existing service building, now you can see that from the site plan on the  
2911 screen – than the rear of the house will be to the proposed addition. The subject  
2912 property has been, in the area in which the addition is to be built, has been  
2913 devoted to commercial use for a number of years, as it's been a place where  
2914 inventory has been stored. Accordingly, the introduction of the showroom  
2915 addition will not have a meaningful impact on the level of activity in the area.  
2916 Existing screening fences are at present along the property, as the photographs  
2917 showed, and I'll get more of them to you in just a minute, and the rear yard of the  
2918 affected property has significant plantings, as you can see from that photograph,  
2919 an additional screen between the house and the property. There are other  
2920 photographs that I would like to leave with you which also demonstrate our plan.  
2921 Extreme narrowness on the southern property creates the need for the approval  
2922 of this variance, to allow construction of a showroom addition. Strict adherence  
2923 to the 40-foot rear yard requirement is not necessary in this instance, as the  
2924 fence and existing vegetation will screen the addition in a satisfactory manner.



2925 Operation of the addition for purposes of a showroom is a plan which should  
2926 have no adverse effects on owner of the adjoining property. We've reviewed, Mr.  
2927 Page and I have reviewed the suggested conditions recommended by the staff –  
2928 they are acceptable for all the forgoing reasons, we respectfully suggest that an  
2929 exceptional situation exists here, and it strictly adheres to the terms of the zoning  
2930 ordinance for unreasonably restricted use of this property. Thus we request that  
2931 the Board approve the request for a variance to allow Mr. Page to move forward  
2932 with his plans for this addition. I'll be happy to answer any questions the Board  
2933 members may have.

2934  
2935 Mr. Kirkland- Any questions by Board members.

2936  
2937 Mr. Wright- Mr. Moore, will there be any lighting on the rear of this  
2938 building? Adjacent to this property?

2939  
2940 Mr. Moore - No lighting except possibly a security light. If that will  
2941 be acceptable.

2942  
2943 Mr. McKinney- Mr. Moore, will there be any outside paging?

2944  
2945 Mr. Moore - No.

2946  
2947 Mr. McKinney- So you don't mind that being in the conditions?

2948  
2949 Mr. Moore- That would be fine.

2950  
2951 Mr. Kirkland- Any other questions? Anyone else wish to speak on  
2952 this case? That concludes the case. Next case, sir.

2953  
2954 After an advertised public hearing and on a motion by Mr. McKinney, seconded  
2955 by Mr. Wright, the Board **granted** the case.

2956  
2957 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2958 Negative: 0

2959 Absent: 0

2960

2961 The Board **granted** this request as it found from the evidence presented that  
2962 authorizing this variance will not be of substantial detriment to adjacent property  
2963 and will not materially impair the purpose of the zoning regulations.

2964

2965 1. Only the improvements shown on the plan filed with the application may be  
2966 constructed pursuant to this approval. Any additional improvements shall comply  
2967 with the applicable regulations of the County Code.

2968

2969 2. This approval is subject to all conditions that may be placed on the proposed  
2970 Plan of Development by the Planning Commission.

2971

2972 3. There shall be no outdoor public address system.

2973

2974

2975 **A-144-1999 Hermitage Road Church of Christ** request for a variance  
2976 from Section 24-96(c) of Chapter 24 of the County Code to  
2977 build a parking lot in the front yard at 9500 Three Chopt  
2978 Road (Tax Parcel 68-A-40), zoned R-3, One-family  
2979 residence district in the Three Chopt magisterial district. The  
2980 yard is not met. The applicant has parking in the front yard  
2981 where the Code permits parking in the rear yard. The  
2982 applicant requests a variance of parking in the front yard.

2983

2984 Mr. Kirkland- Anyone else wish to speak on this case? Mr.  
2985 Secretary, if you would, please swear these gentlemen in.

2986

2987 Mr. Blankinship - Raise your right hand. In the testimony you are about  
2988 to give, do you swear to tell the truth, the whole truth, and nothing but the truth,  
2989 so help you God? Would you state your name for the record sir?

2990

2991 Mr. Weinberg - Yes, Mr. Chairman, members of the Board, I'm Jay  
2992 Weinberg, appearing on behalf of Hermitage Road Church of Christ. Mr. Randy  
2993 Wittemore is with the church and very active in this building project, and John  
2994 Chenault is the architect for the case in question. As the Secretary has said, it is  
2995 request for a variance from Section 24-96(c) of Chapter –

2996

2997 Mr. Kirkland - Can I ask one question – have you turned in your  
2998 notices?

2999

3000 Mr. Weinberg - Yes, we have – all owners of adjacent property have  
3001 been notified and the notices turned in.

3002

3003 Mr. Weinberg - This request is to permit the continuance of off-street  
3004 parking in the front yard of the educational building owned by Temple Beth El at  
3005 9500 Three Chopt Road. By way of background, The Hermitage Road Church  
3006 of Christ have signed a contract to purchase the 7 ¾ acre parcel at 9500 Three  
3007 Chopt Road from Temple Beth El. The property for many years has had an  
3008 educational building located on it, which is used, by Temple Beth El, until fairly  
3009 recently, when it relocated its educational facilities. That existing building is light  
3010 gray and has existed for many years. When the education building was  
3011 constructed on this site, it was perfectly legal to have parking in the front yard,  
3012 and it was not until many years later that the ordinance was amended to exclude  
3013 such front yard parking for non-residential use. However, parking in the front  
3014 yard of the educational building remains today as a legal non-conforming use.  
3015 The Hermitage Road Church of Christ signed a contract to purchase the facility in  
3016 obtaining all required governmental approvals for the relocation of its sanctuary

3017 and fellowship hall to this location and its ability to renovate and restore the  
3018 deteriorating educational building currently on the site.

3019  
3020 The property is zoned R-3, which is the proper zoning for the church and Sunday  
3021 School building, and it meets all requirements except for the parking in the front  
3022 yard of the proposed sanctuary building. The Hermitage Road congregation  
3023 feels that it is essential that the sanctuary be attached to the educational building,  
3024 rather than have it separated by an intervening parking lot, and therefore the  
3025 parking has to be in the front of the building. That will still be more than 100 feet  
3026 back from Three Chopt Road. In other words, there is the existing educational  
3027 building; this would be the sanctuary; this would be the conditional parking. That  
3028 is still more than 100 feet back from Three Chopt Road, which enables us to  
3029 preserve the very heavy trees that are out there. The building is several hundred  
3030 feet, 200 plus feet back.

3031  
3032 It's essential that children attending Sunday School can easily find their parents  
3033 attending church, at the conclusion of the service, and that parents and children  
3034 can go back and forth between the building, under cover, in adverse weather  
3035 conditions, including traffic safety. By connecting the sanctuary and the  
3036 educational building, neither the children nor the parents will have to walk  
3037 through a parking lot or cross driving aisles, to meet each other after church  
3038 services. We submit to the Board the sanctuary's very modern, attractive facility,  
3039 fitting in well with the surrounding residential community, and the rapidly  
3040 deteriorating educational building needs to be renovated and restored in keeping  
3041 with the new sanctuary, so that both will be an asset to the community.

3042  
3043 All the buffers surrounding the parking will be carefully observed and the  
3044 deteriorated residence at the entrance of the property will be removed, and the  
3045 house adjoining the eastern boundary of the property will be retained for such  
3046 purposes. There is an existing house right here that is deteriorated; if that's  
3047 access out to Three Chopt Road, that house will be demolished. This house  
3048 right here currently also has dual access to Three Chopt Road. That access will  
3049 be eliminated, and it will be internalized so you get to the house by coming into  
3050 the parking lot and going down through the gate and traffic sign. That house will  
3051 be used for church purposes it will be part of the church development.

3052  
3053 We've had a meeting with the border residents who adjoin our property, and had  
3054 an opportunity to review these plans with them, and I'm pleased to report that  
3055 they have endorsed our request for a variance to permit parking in the front yard  
3056 just as precisely as shown in these plans, and have asked that we convey to the  
3057 Board that they prefer this use to the property by the church and the restoration  
3058 of the building shown in the layout plan elevation to any other use, including  
3059 single family. Several have signed a petition so stating. We have also reviewed  
3060 the conditions by staff on this case, and they are perfectly acceptable to the  
3061 church.

3062

3063 We believe that the request meets the jurisdictional requirements of the Board of  
3064 Zoning Appeals, to grant this variance for the following reasons: 1) The property  
3065 was unquestionably acquired in good faith by Temple Beth El three years ago,  
3066 and its predecessors and the location of the educational building on the property,  
3067 with the parking in the front yard met, all required legal requirements at the time.  
3068 2) The fact that the church should be physically attached and connected to the  
3069 existing education building to avoid creating an unsafe traffic condition,  
3070 represents an extraordinary perception of the situation. The strict application of  
3071 the terms of the ordinance would actually prohibit or reasonably restrict the use  
3072 of the property, because it would create an unsafe traffic condition. Finally, the  
3073 granting of this variance will alleviate a feeling of hardship, which certainly was  
3074 not self-imposed by any of the parties involved, because the building, as I said  
3075 earlier, was perfectly legal at the time. The area residents who have lived with  
3076 the use of the property for religious school purposes for many years, prefer the  
3077 site and handsome church structure which the Tenant Harvey Group has  
3078 designed, and find it in harmony with the intended spirit and purpose of this  
3079 chapel. The area residents also have indicated to us that authorizing this  
3080 variance will not be of substantial detriment to their properties, and will not  
3081 materially impair the purpose of this chapter of public interest, in fact will be an  
3082 asset.

3083 Because the education building with parking was clearly legal at the time of this  
3084 construction, felt that submitting it during its subsequent use, we submit that it is  
3085 an ideal time to revitalize and significantly improve the educational building,  
3086 thereby protect the values of adjoining property owners, and affords Hermitage  
3087 Road Church of Christ an opportunity to relocate to this site in a safe and efficient  
3088 manner, keeping with the desires and wishes of the surrounding residential  
3089 properties.

3090  
3091 Finally, gentlemen, because of the very unique situation involving the property,  
3092 we do not believe that it is of such a general recurring nature to make reasonably  
3093 practical, the formulation of a general regulation of such conditions. It is much  
3094 better left to the sound discretion of the Board of Zoning Appeals in each  
3095 particular case in which it occurs. For all the foregoing reasons, we respectfully  
3096 request that the Board grant the respective variance, subject to the two  
3097 conditions placed on there by staff.

3098

3099 Mr. Wright- Mr. Weinberg, what's the size of this lot?

3100

3101 Mr. Weinberg - Seven and three-quarter acres.

3102

3103 Mr. Wright- And what's located across the street directly in front of  
3104 this building?

3105

3106 Mr. Weinberg - Two very large, two extremely large lots, I believe  
3107 there's a house on one of them. Ss you can see, from the plan, our buildings are

3108 about 300 feet back, and there are dense evergreen trees all across, at least 100  
3109 feet back.

3110  
3111 Mr. Wright- So there would be adequate screening there, at a  
3112 distance to protect.

3113  
3114 Mr. Weinburg- Any other questions, Mr. Chairman?

3115  
3116 Mr. Kirkland- Any questions by Board members? That concludes  
3117 the case. Any opposition to this case? Thank you. OK, next one.

3118  
3119 After an advertised public hearing and on a motion by Mr. Wright, seconded by  
3120 Mr. Balfour, the Board **granted** the case.

3121  
3122 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
3123 Negative: 0  
3124 Absent: 0

3125  
3126

3127 The Board **granted** this request, as it found from the evidence presented that  
3128 authorizing this variance will not be of substantial detriment to adjacent property  
3129 and will not materially impair the purpose of the zoning regulations.

3130

3131 1. Only the improvements shown on the plan filed with the application may be  
3132 constructed pursuant to this approval. Any additional improvements shall comply  
3133 with the applicable regulations of the County Code.

3134

3135 2. This approval is subject to all conditions that may be placed on the proposed  
3136 Plan of Development by the Planning Commission.

3137

3138

3139 **A-145-1999** J. Kelly Mire requests a variance from Section 24-95(i)(1) of  
3140 Chapter 24 of the County Code to expand an existing deck  
3141 at 7916 Blueberry Hill Court (Blueberry Hill) (Tax Parcel  
3142 101-30-A-16), zoned R-3, One-family Residence District  
3143 (Tuckahoe). The rear yard setback is not met. The applicant  
3144 has 23.6 feet rear yard setback where the Code requires  
3145 30.0 feet rear yard setback. The applicant requests a  
3146 variance of 6.4 feet rear yard setback.

3147

3148 Mr. Kirkland - Yes, sir, if you would, raise your right hand and be  
3149 sworn in. Anyone else wish to speak on this case?

3150

3151 Mr. Blankinship - Do you swear the testimony you are about to give, is  
3152 the truth, the whole truth, and nothing but the truth, so help you God?  
3153  
3154 Mr. Mire - Yes I do.  
3155  
3156 Mr. Kirkland- If you would, state your name for the records.  
3157  
3158 Mr. Mire - My name is J. Kelly Mire.  
3159  
3160 Mr. Kirkland- Have all adjacent landowners been contacted  
3161 according to County Code?  
3162  
3163 Mr. Mire- Yes they have. We have receipts for all the mailings,  
3164 as well as returned.  
3165  
3166 Mr. Blankinship - We've got them in the file.  
3167  
3168 Mr. Kirkland- OK, proceed with the case.  
3169  
3170 Mr. Mire – Good morning. What I would like to do is to extend a  
3171 deck on the rear of the house to accommodate additional sheltered parking. The  
3172 hardship that I'm suffering, is that, you can tell by the shape of the lot, is  
3173 somewhat unusual, and although it is quite large, there's not enough feet in the  
3174 back yard, so should I expanded into the bulk of the yard if would be difficult to  
3175 have it adjacent to the actual driveway. There's an existing deck there and what  
3176 I want to do is extend that out to provide additional parking space and shelter.  
3177  
3178 Through the course of planning this I have not only sent out the notices of the  
3179 County and with all the immediately adjacent neighbors, I sat down with them  
3180 and shown them diagrams of what I intend to do. I have solicited their feedback;  
3181 they are all in agreement. In addition, I have submitted to our homeowners  
3182 association the plans, which they have approved. In fact the chairman of that  
3183 committee is the neighbor immediately behind. There is immature vegetation  
3184 that has been planted to help create a screen in the future. If I could show you a  
3185 drawing just to indicate that the existing structure of the deck has posts  
3186 underneath that hold toys and such. It would be enclosed on the side with lattice  
3187 work and a brick foundation matching the house so that will be more esthetically  
3188 pleasing.  
3189  
3190 Mr. McKinney- Did you know about Fats Domino?  
3191  
3192 Mr. Mire- Fats Domino? Blueberry Hill  
3193  
3194 Mr. Wright- You said something about this deck would afford you  
3195 the opportunity to park your car under it? Is that your idea?  
3196

3197 Mr. Mire- It's actually for parking a boat.  
3198  
3199 Mr. Wright- A boat? What is the width of the new post structure?  
3200  
3201 Mr. Mire- The total from the back of the house, the total  
3202 distance is 24 feet at the widest point. You can see there that white line there is  
3203 a, the house is not straight back. So that the red part at the bottom is the brick,  
3204 and the house is not regular shaped, so that the deepest is 24. The yellow line  
3205 indicates existing, the structure that's there, so everything from the yellow  
3206 towards the house will remain, and new portion that's out is an additional 13 foot  
3207 span to get the boat.  
3208  
3209 Mr. Blankinship- You say the white portion?  
3210  
3211 Mr. Mire - The large white portion is actually the space that the  
3212 boat will actually take up. I tried to get extra space in there for additional shelter  
3213 and storage for bikes and all kinds of things.  
3214  
3215 Mr. Kirkland- Are you relocating the stairs ?  
3216  
3217 Mr. Mire - Yes I am. Currently, the stairs are further out, so I'm  
3218 going to move them to the house to try and minimize. The plan is, the stairs  
3219 were going to be on the exterior try to minimize the deck going to relocate the  
3220 stairs against the house so they don't go as far.  
3221  
3222 Mr. Kirkland- Any other questions of the Board members? Any  
3223 opposition to this case? Seeing none, then that concludes this case. Thank you  
3224 sir.  
3225  
3226 After an advertised public hearing and on a motion by Mr. Balfour, seconded by  
3227 Mr. McKinney, the Board **granted** the case.  
3228  
3229 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
3230 Negative: 0  
3231 Absent: 0  
3232  
3233 The Board **granted** this request as it found from the evidence presented that  
3234 authorizing this variance will not be of substantial detriment to adjacent property  
3235 and will not materially impair the purpose of the zoning regulations.  
3236  
3237 1. Only the improvements shown on the plan filed with the application may be  
3238 constructed pursuant to this approval. Any additional improvements shall comply  
3239 with the applicable regulations of the County Code.  
3240  
3241 Mr. Kirkland - **A-136-1999 and UP-39-1999.**  
3242

3243 Motion to approve the minutes of April 22, 1999 and May 27, 1999 meeting made  
3244 by Mr. Balfour and seconded by Mr. Nunnally.

3245

3246 There being no further business and on a motion by Mr. Wright, seconded by Mr.  
3247 Nunnally, the Board adjourned until November 18, 1999.

3248