

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **HENRICO COUNTY GOVERNMENT COMPLEX, ON THURSDAY, SEPTEMBER 28,**
4 **2000, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**
5 **TIMES-DISPATCH ON SEPTEMBER 7 AND 14, 2000.**
6

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

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

7
8 Mr. Kirkland - Good morning, ladies and gentlemen, welcome to the
9 September meeting of the Board of Zoning Appeals. Before we get started, I'll have Mr.
10 Blankinship read the rules.
11

12 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
13 and gentlemen. The rules for this meeting are as follows. The Secretary, myself, will
14 call each case. Then the applicant will come to the podium. At that time I'll ask all
15 those who intend to speak, in favor or opposition, to stand, and you will be sworn in.
16 The applicants will then present their testimony. When the applicant is finished, anyone
17 else who wants to speak, will be given an opportunity to speak. After everyone has
18 spoken, the applicant, and only the applicant, will be given the opportunity for rebuttal.
19 After hearing the case, and asking questions, the Board will take the matter under
20 advisement. They will render all of their decisions at the end of the meeting. If you
21 wish to know what their decision is, you may stay until the end of the meeting, or you
22 may call the Planning Office at the end of the day. This meeting is being tape recorded,
23 so we will ask everyone to speak directly into the microphone on the podium, and to
24 state your name for the record. Out in the foyer, there are two binders, which contain
25 the staff report for each case, including the conditions suggested by the staff. Mr.
26 Chairman?
27

28 Mr. Kirkland - If anyone's outside in the lobby, the meeting has started, and
29 we are on the 9:00 o'clock agenda. Do we have any requests for deferrals or
30 withdrawals?
31

32 Mr. Blankinship - We have one request for a **deferral**, which is **A-93-2000 TPP, Inc.**
33 appeals a decision of the Director of Planning pursuant to Section 24-116(a) of the
34 County Code. The Director of Planning has determined that the proposed Genesis
35 Treatment Agency is allowed in the B-2 zoning district. The affected property is 6806

36 Paragon Place (tax parcel 93-A-1C) zoned B-2C, Business District (Conditional)
37 (Brookland). The applicant requests the Board of Zoning Appeals reverse the decision
38 of the Director of Planning.

39
40 Mr. Kirkland - Do I have a motion to defer this?

41 **A - 93-2000** **TPP INC.** appeals a decision of the Director of Planning pursuant to
42 Section 24-116(a) of the County Code. The Director of Planning has
43 determined that the proposed Genesis Treatment Agency is allowed
44 in the B-2 zoning district. The affected property is 6806 Paragon Place
45 (tax parcel 93-A-1C) zoned B-2C, Business District (Conditional)
46 (Brookland). The applicant requests the Board of Zoning Appeals
47 reverse the decision of the Director of Planning.

48
49 Upon a motion by Mr. McKinney, seconded by Mr. Nunnally, the Board of Zoning
50 Appeals **deferred** this application from the September 28, 2000, until the October 26,
51 2000, meeting,

52
53 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
54 Negative: 0
55 Absent: 0

56
57 Mr. Kirkland - That's the deferrals and withdrawals. Do I have a motion to
58 move any of the cases further ahead?

59
60 Mr. Wright - Mr. Chairman, I'd like to have case number **A-94-2000** called
61 at this time.

62
63 Mr. Kirkland - Mr. Blankinship, if you would call the case.

64
65 **A - 94-2000** **STEPHEN AND MELISSA TRUE, ET ALS.** appeal a decision of
66 the Director of Planning pursuant to Section 24-116(a) of the
67 County Code. The Director of Planning has determined that certain
68 structures and uses connected with the Virginia State Fair may be
69 allowed in the A-1 zoning district by conditional use permit. The
70 affected property lies in the northeast quadrant of the intersection of
71 Interstate 64 and Interstate 295 (tax parcels 163-A-3A, 176-A-14A,
72 14C, 14D, 19, 20 and 21) zoned A-1, Agricultural District (Varina).
73 The applicants request the Board of Zoning Appeals reverse the
74 decision of the Director of Planning.

75
76 Mr. Kirkland - Do I have a motion by any Board members?

77
78 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
79 McKinney, the Board **dismissed** this application for the above-referenced matter as it

80 found the matter to be moot, due to the August 8 action of the Board of Supervisors,
81 amending Section 24-52(g) of the Henrico County Code.

82
83 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
84 Negative: 0
85 Absent: 0

86
87 Mr. Kirkland - The case is dismissed.

88
89 **UP- 28-2000 VIRGINIA POWER, INC.** requests a conditional use permit
90 pursuant to Section 24-116(c)(2) of Chapter 24 of the County Code
91 to construct an electrical substation at 3899 Portugee Road (Tax
92 Parcel 187-A-5 (part)), zoned M-2, General Industrial District
93 (Varina).

94
95 Mr. Kirkland - Anyone here wish to speak on this case? You the applicant,
96 ma'am? If you would, raise your right hand and be sworn in. Does anyone else wish to
97 speak on this case at this time?

98
99 Mr. Blankinship - Do you swear that the testimony you are about to give is the
100 truth, the whole truth, and nothing but the truth, so help you God?

101
102 Mr. Kirkland - Okay. State your name for the record please.

103
104 Ms. Lamm - I do. Gail Lamm, from Virginia Power.

105
106 Mr. Kirkland - Okay, if you would, state your case.

107
108 Ms. Lamm - Our planned growth in the White Oak Technology Park, and
109 in Eastern Henrico, requires the construction of a new Elko Substation on Portugee
110 Road. Our distribution planning department continues to review our load facility needs.
111 Based on our current studies, we plan to begin site preparation for the substation in
112 2002.

113
114 Mr. Kirkland - Ma'am, may I interrupt you just a second, before we get
115 carried away. I forgot to ask you if all your notices had been turned in, according to the
116 County Code. I have to do that for the record; we're taping this. Okay, we have them.
117 Okay, continue, I'm sorry.

118
119 Ms. Lamm - We plan to begin site preparation for the substation in 2002,
120 with substation construction to be completed in 2003. We would like for the conditional
121 use approval to cover this time frame. We're here at this time, so that we can be ready
122 to respond if there is an earlier need for this facility. Virginia Power did respond to
123 County comments in August, and I would like to give you a copy of that if I could. The
124 landscaping plan is generally acceptable to the company; we think it's a good plan, and
125 we appreciate the work that the County did to meet our clearance requirements and the

126 transmission right-of-way. Our only real concern is the size availability of some of the
127 species. Our arborist called several vendors after she reviewed the proposed plans,
128 and did not find them readily available. She's most concerned with having healthy
129 plants, and notices the sizes suggested are obtainable and adapt well. We also placed
130 the landscape plan on our engineering drawings. Now this is showing our size
131 suggestions. If our size recommendations are not acceptable, we'll try our best to meet
132 those requirements.

133
134 Mr. McKinney- Excuse me just a minute, Ms. Lamm – how long have you
135 had these?

136
137 Ms. Lamm - I delivered them to the County, I believe, on the 19th.

138
139 Mr. McKinney- And you expect us to go over these now and render a
140 decision on these, and you're just getting them to us? And we're just hearing your
141 case?

142
143 Ms. Lamm - I did bring them to the County, thinking they were going to be
144 included with your package. I found out when I got the staff report this week, that they
145 were not.

146
147 Mr. Blankinship - Mr. Chairman, shall I explain that? When we received this
148 information, we circulated it among staff for review, before sending it out to you. We
149 discussed, during that process, that the original recommendations of the staff had been
150 approved by the White Oak Architectural Design Review Board, and the decision was
151 made that since the Design Review Board at White Oak had reviewed the original plan
152 and had not seen these, that we should not base our recommendation on these plans,
153 so we're going with the original work that was approved by the staff.

154
155 Ms. Lamm - We have no problem with the plans; our only concern is
156 getting the size plants, having healthy plants at this new seat. Our arborist comments
157 she has a real concern with getting plants at that size. If that's not acceptable, we'll try
158 our best to get the plants suggested. It's no problem with the plan itself. All we did was
159 put the County's plans on our engineering drawings. We accept the suggested
160 conditions of the case report, and we would like to note that we just plan minimal
161 security lighting in the station; we usually have a watch light and just sort of a porch light
162 over the door of the control enclosure. Again, we would like to plan for the site
163 preparation in 2002, with the substation to be in service in 2003. That's unless
164 customer requirements dictate an acceleration of the schedule. I'd be happy to answer
165 any questions that you might have.

166
167 Mr. Kirkland- Mr. Blankinship, on condition # 5, "All landscaping shall be
168 maintained in a healthy condition Dead plant materials shall be removed
169 within a reasonable time....." What normally is a "reasonable" time for dead
170 plants? A season or what?

171

172 Mr. Blankinship - Depends on what time of year it is, and 12 months, 6
173 months, -- either way it says "removed with a reasonable time and replaced during the
174 normal planting season," so it wouldn't be any longer than whatever the next season is,
175 the spring or fall planting.

176
177 Mr. Kirkland- So if it was taken out in the fall, it would be the next fall
178 before it was replaced, correct?

179
180 Mr. Blankinship - No, we'd ask them to plant in the spring.

181
182 Mr. Wright- Isn't this question of the size of these plants something that
183 the staff would review and work out with the -- that's really not before us.

184
185 Mr. Blankinship - And we've crafted the condition that way, to say, "A detailed
186 landscaping plan shall be submitted to the Planning Office for review and approval."

187
188 Ms. Lamm - That isn't a problem; that was our concern.

189
190 Mr. Blankinship - At this point staff's position is that we want what was
191 originally recommended, so it is good to have the discussion in front of you, for you to
192 be aware of staff's position, as well as Virginia Power's.

193
194 Mr. Kirkland- But if you all sit down at a table and work it out, and come to
195 an agreement, it doesn't interfere with what we're deciding today?

196
197 Mr. Blankinship - Right.

198
199 Mr. Wright- My point is, it's open, you're not binding either side; it's up to
200 the staff. Get with the staff, if they would be willing to listen to you and work with you on
201 that.

202
203 Mr. McKinney- This criteria you have here for the landscaping -- is it normal
204 in M-2?

205
206 Mr. Blankinship - No. This was done specifically for the White Oak
207 Development -- they have, in their restrictive covenants out there, they have much
208 higher than average requirements for, I think a variety of esthetic concerns, so this was
209 done very much with the White Oak Design Review Board in mind.

210
211 Mr. Kirkland - Any other questions of Board members? Anyone else wish
212 to speak on this case? If not, that concludes the case.

213
214 Upon a motion by Mr. Nunnally, seconded by Mr. Wright, the Board **granted** your
215 application **UP-28-2000** for a conditional use permit subject to the following conditions:

216

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

220
221 2. Before beginning any work, the applicant shall submit erosion control plans to the
222 Department of Public Works for review and approval. Throughout the life of the
223 operation, the applicant shall continuously satisfy the Department of Public Works that
224 erosion control procedures are properly maintained, and shall furnish plans and bonds
225 that the department deems necessary.

226
227 3. A detailed landscaping and site lighting plan shall be submitted to the Planning
228 Office for review and approval.

229
230 4. All exterior lighting shall be shielded to direct light away from adjacent property
231 and streets.

232
233 5. All landscaping shall be maintained in a healthy condition at all times. Dead plant
234 materials shall be removed within a reasonable time and replaced during the normal
235 planting season.

236
237 6. This conditional use permit is not transferable.

238
239 The Board granted this request, as it found from the evidence presented, that
240 authorizing this use permit will not be of substantial detriment to adjacent property and
241 will not materially impair the purpose of the zoning regulations.

242
243 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
244 Negative: 0
245 Absent: 0
246

246
247 **A - 87-2000** **URSULA M. BARRAVECCHIA** requests a variance from Section
248 24-94 of Chapter 24 of the County Code to enclose a deck as a
249 sunroom at 3808 Reynard Court (Foxhall) (Tax Parcel 45-2-B-71),
250 zoned R-2AC, One-family Residence District (Conditional) (Three
251 Chopt). The rear yard setback is not met. The applicant has 34 feet
252 rear yard setback, where the Code requires 45 feet rear yard
253 setback. The applicant requests a variance of 11 feet rear yard
254 setback.

255
256 Mr. Kirkland - Is the applicant here for this case? If you would, come
257 forward. Does anyone else wish to speak on this case? If you would, raise your right
258 hand and be sworn in.

259
260 Mr. Blankinship - Do you swear that the testimony you are about to give is the
261 truth, the whole truth, and nothing but the truth, so help you God?

262
263 Mr. Kirkland - State your name for the record, please.

264
265 Ms. Barravecchia - I do. Ursula M. Barravecchia.

266
267 Mr. Lane - Edward Lane.

268
269 Mr. Kirkland - Have all your notices been turned in, according to County
270 Code? If you would, state your case.

271
272 Ms. Barravecchia - I presently have a deck on the back of my house that
273 receives full sun all day long, and it gets extremely hot out there, and what I would like
274 to do, is to put a roof and screen it in, so that we could enjoy the use of the deck. It's in
275 the back of the house, along the kitchen, and in the afternoons, I have to drop all the
276 shades. It gets very, very hot out there, and we don't get any shade from any existing
277 trees because the deck is 8 feet above ground, and so we'd like to put a roof and
278 screen in the deck so we can enjoy it.

279
280 Mr. Wright- Is there any screening to the rear of your property, between
281 your property and the property to the rear?

282
283 Ms. Barravecchia - Yes sir, there is a full tree line there.

284
285 Mr. Wright- So this would probably not be visible, quite visible, from the
286 property to the rear?

287
288 Ms. Barravecchia - Correct.

289
290 Mr. Wright- Also, it appears that you have, at least the lot is not perfectly
291 rectangular in shape.....

292
293 Ms. Barravecchia - It's a very odd shaped lot, sir.
294
295 Mr. Kirkland - Any other questions?
296
297 Mr. McKinney- What's under this deck?
298
299 Ms. Barravecchia - We have a walk-out basement, so there's a walk-out
300 underneath there, and then there's gravel.....
301
302 Mr. McKinney- I mean, you go out of what to get underneath it – do you
303 have sliding doors.....
304
305 Ms. Barravecchia - French doors, yes sir. From the rec room down below; then
306 the rest of it is the garage.
307
308 Mr. McKinney- Do you ever talk about screening that in? Then you would
309 have the best of both worlds. I just made the suggestion. You might want to think
310 about that.
311
312 Ms. Barravecchia - No, because..... Well, that would be nice, OK. That
313 would be very nice.
314
315 Mr. Lane - But screening that in, it just wouldn't solve the problem of the
316 heat coming on the back of the house, as far as the kitchen is concerned, and the
317 usability of the deck.
318
319 Mr. McKinney- They make awnings for that also, Mr. Lane.
320
321 Mr. Lane- Yes, she just wanted to do something, though, that was
322 going to be esthetically pleasing and blend in with the architecture of the home.
323
324 Mr. McKinney- Are you the contractor? Well, see, you might get two jobs
325 out of this.
326
327 Mr. Kirkland - Any other questions of the Board members? Do you have
328 anything to say, sir, other than what you have? If there are no other questions, that
329 concludes the case.
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Upon a motion by Mr. Wright, seconded by Mr. Balfour, the Board **approved** this request subject to the following condition:

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.

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

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

Mr. Kirkland - Next one, sir.

A - 92-2000 **WILLIS L. BARNETT** requests a variance from Section 24-30.1(a) of Chapter 24 of the County Code to build an addition at 5430 Barleycorn Drive (Village of Azalea) (Tax Parcel 84-4-A-33), zoned R-5, General Residence District (Fairfield). The rear yard setback is not met. The applicant has 24 feet rear yard setback, where the Code requires 35 feet rear yard setback. The applicant requests a variance of 11 feet rear yard setback.

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

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. Barnett- I do.

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

Mr. Barnett - Willis L. Barnett.

Mr. Kirkland - Have all your notices been turned in, according to the County Code? Thank you very much. If you would, proceed with the case.

Mr. Barnett - Yes sir. Thank you. Good morning, Mr. Chairman, Board members. Thank you. In 1984 my home was constructed. My wife and I purchased that house from friends in 1987. At that time we had 3 small children under age 6. I serve as a minister of worship, and I teach at Virginia Union University. My line of work requires that I have a place to study and write quietly. Since 1987 my 3 small children

376 have become 4 children, and the 3 small ones have become 3 adults, one married,
377 possibility of becoming a grandfather. The quiet house has now become Grand Central
378 Station. My wife teaches and leads a very active life, civic wise, in the community, and
379 we just don't have enough space for study, for sharing with friends, and for eating, and
380 we need to expand. We don't want to move; we like the neighborhood and want to
381 remain there, and that's why we need to do the addition.

382
383 Mr. Kirkland - Any questions of Board members?

384
385 Mr. Nunnally- What size addition are you going to put on, Mr. Barnett?

386
387 Mr. Barnett - I believe it's 20 by 17.

388
389 Mr. McKinney- Eighteen by 17, according to the plans.

390
391 Mr. Barnett - I better ask the expert here.

392
393 Mr. McKinney- One's 20, and one's 18.

394
395 Mr. Keith - The existing house has a cantilever; it's a basement with a
396 first floor.

397
398 Mr. McKinney- And your name sir?

399
400 Mr. Keith - Jeffrey Keith, with Keith and Associates. The basement, the
401 first floor has a 2-foot cantilever over top of the basement in the rear.

402
403 Mr. Wright- Mr. Barnett, what's located to the rear of your property?

404
405 Mr. Barnett - An apartment complex, Brook Ridge Apartments.

406
407 Mr. Wright- And what is characteristic of the size of your lot, the shape of
408 your lot?

409
410 Mr. Barnett - It's very peculiar; it looks somewhat, we're in a cul-de-sac; it
411 looks like a strange rectangle, and our house, a triangle. Our home is rectangular, and
412 it sits right in the middle at an awkward angle.

413
414 Mr. Kirkland - Any other questions? If not, that concludes the case.

415

415
416 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
417 Wright, the Board **approved** this variance request subject to the following conditions:
418

419 1. Only the improvements shown on the plan filed with the application may be
420 constructed pursuant to this approval. Any additional improvements shall comply with
421 the applicable regulations of the County Code.
422

423 The Board granted this request, as it found from the evidence presented, that
424 authorizing this variance will not be of substantial detriment to adjacent property and will
425 not materially impair the purpose of the zoning regulations.
426

427 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
428 Negative: 0
429 Absent: 0
430

431 Mr. Kirkland - Next one, sir.
432

433 **UP- 30-2000 SANDSTON MOOSE LODGE** requests a temporary conditional
434 use permit pursuant to Section 24-116(c)(1) of Chapter 24 of the
435 County Code to operate a turkey shoot at 4505 Oakley's Lane (Tax
436 Parcel 155-A-2), zoned A-1, Agricultural District and M-1C, Light
437 Industrial District (Conditional) (Varina).
438

439 Mr. Kirkland - Anyone else wish to speak on this case? If you would, raise
440 your right hand and be sworn in.
441

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

445 Mr. Kirkland - State your name for the record sir. Have all your notices
446 been turned in, according to the County Code? If you would, state your case.
447

448 Mr. Klein - I do. It's Chris Klein. What we would like to do, we've been
449 having this turkey shoot since 1982, and we would like to get a renewal, I'll call it. We
450 donate most of the money back to the community and Massey Cancer, and that's
451 basically it.
452

453 Mr. Kirkland - Mr. Secretary, have we had any complaints on this turkey
454 shoot?
455

456 Mr. Blankinship - Not to my knowledge.
457

458 Mr. Nunnally- This is the same operation that you've been having?
459

460 Mr. Bowles - You get one shell out at a time, so.....

461
462 Mr. Kirkland - State your name, sir, for the record.
463
464 Mr. Bowles - My name is Mike Bowles. I run it. I give one shell out at a
465 time, so there's no chance of anybody being endangered. We run one of the safest
466 ones there is in the County.
467
468 Mr. Nunnally- Have you read the conditions in this case.
469
470 Mr. Bowles - Yes sir. We meet them all.
471
472 Mr. Nunnally- Now, what I'd like to know – you said 7:00 pm to 11:00 pm
473 on Fridays and Saturdays. When does this turkey shoot start and end? I mean, does it
474 start in November and go until December – what is the date on it.
475
476 Mr. Bowles - December. September, as soon as we get this permit, to
477 December. It'll stop December.
478
479 Mr. Klein - Normally we end it the first or second week in December.
480
481 Mr. Blankinship - And this permit would be for 2 seasons, for this season and
482 next.
483
484 Mr. Klein - Two seasons, it's a double season permit.
485
486 Mr. Kirkland - OK. Thank you. Any other questions by Board members?
487 Anyone else wish to speak on this case? That concludes the case.
488
489 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
490 Wright, the Board **granted** this temporary use permit to operate a turkey shoot subject
491 to the following conditions:
492
493 1. Hours of firing shall be from 7:00 PM to 11:00 PM on Fridays and Saturdays.
494
495 2. The land shall be properly posted to clearly show the particular area in which the
496 shooting is occurring.
497
498 3. No alcoholic beverages shall be consumed on the area of the shooting. A sign to
499 this effect shall be posted on the property.
500
501 4. Restrooms shall be provided.
502
503 5. The turkey shoot shall involve only the use of shotguns no larger than 12 gauge
504 and low powered shells containing No. 8 shot.
505
506 6. This permit is valid from September 1, 2000 through December 31, 2001.

507
508 The Board granted this request, as it found from the evidence presented, that
509 authorizing this temporary use permit will not be of substantial detriment to adjacent
510 property and will not materially impair the purpose of the zoning regulations.

511
512 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
513 Negative: 0
514 Absent: 0

515
516 Mr. Kirkland - Next case sir.

517
518 **A - 95-2000** **HAROLD NEAL** requests a variance from Section 24-94 of Chapter
519 24 of the County Code to allow a screened porch to remain at 8016
520 Nicewood Road (Mountain Ridge) (Tax Parcel 42-2-B-11), zoned
521 R-3, One-family Residence District (Fairfield). The rear yard
522 setback is not met. The applicant has 20 feet rear yard setback,
523 where the Code requires 40 feet rear yard setback. The applicant
524 requests a variance of 20 feet rear yard setback.

525
526 Mr. Kirkland - Is the applicant here? Come forward sir. Anyone else wish
527 to speak on this case? If you would sir, raise your right hand and be sworn in.

528
529 Mr. Blankinship - Do you swear that the testimony you are about to give is the
530 truth, the whole truth, and nothing but the truth, so help you God?

531
532 Mr. Kirkland - Would you state your name for the record.

533
534 Mr. Neal - I do. Good morning, Mr. Chairman, members of the Board.
535 My name is Harold Neal, N-E-A-L.

536
537 Mr. Kirkland - OK, have all your notices been turned in, according to the
538 County Code. Thank you, if you would, proceed with the case.

539
540 Mr. Neal - Yes sir. Mr. Chairman, members of the Board, I have a
541 patio, and my privacy is somewhat situated where this patio is in between the home and
542 the rear, and I had submitted a request to build a deck, and at the time, we didn't know
543 that we had to have a separate permission to put a roof on top of it, so all of this had
544 been completed, and later on I learned that I had to get permission to put a roof on top
545 of the enclosure. Well, my wife and I are now retired, and we have a family, as was
546 mentioned by a previous person here, that had increased, and in the area where we
547 are, in the rear, there are a lot of trees in the wooded area, and there are a lot of bugs
548 and insects, and when we sit out there, we can't enjoy ourselves for the insects. So our
549 intent was to screen it in, so that when we try to sit out there, we won't be escorted in
550 the house by these insects, and won't be constantly fanning ourselves. This patio that
551 we had was already constructed there, and it was in concrete, and I extended the porch

552 about 8 or 9 feet beyond that, and the reason that I'm here today, because the setback
553 that I'm supposed to meet, is only half the distance, for it should be 40, and it's only 20.
554
555 Mr. Wright- Mr. Neal, what's located to the rear of your property?
556
557 Mr. Neal - It's undeveloped area in the back, sir.
558
559 Mr. Wright- Is there any screening between your property and that
560 property, any trees or bushes or anything?
561
562 Mr. Neal - There are trees, oh, yes sir, all the way across, behind it.
563
564 Mr. McKinney- Can you go back to the picture that you had before, can you
565 site that one. Mr. Blankinship, who took this picture, do you know?
566
567 Mr. Blankinship - Either I did, or Jim Lehmann.
568
569 Mr. McKinney- The house on the other side of this, did it have a variance?
570 It appears that it's out further than this one.
571
572 Mr. Blankinship - That is a detached accessory building; it looks like a house
573 from this view.
574
575 Mr. McKinney- OK, it's a detached accessory building?
576
577 Mr. Blankinship - Yes sir, you see almost the whole thing there. There's only
578 about a foot of it cut off.
579
580 Mr. McKinney- Why did the picture change? And it has double hung
581 windows – what's that used for?
582
583 Mr. Blankinship - I have no idea – do you know Mr. Neal?
584
585 Mr. Neal - That was an addition that the neighbor placed on the corner,
586 one of these sun type, a sunroom, yes sir.
587
588 Mr. McKinney- Is it attached to his house?
589
590 Mr. Neal - Yes sir, they had to get a variance also, yes they did,
591
592 Mr. Blankinship- They did?
593
594 Mr. McKinney- It does not show it being attached to the house.
595

596 Mr. Neal - What you see now is the addition. The home, you see
597 where my addition starts, that screened in area. The other part of that house comes out
598 even from that part, but this is the addition that you see.

599
600 Mr. McKinney- I'm looking just beyond that pick-up truck.

601
602 Mr. Neal - Right – that's the addition.

603
604 Mr. McKinney- That's an addition? And that protrudes out further than
605 yours? It appears to be a residence rather than a tool shed or whatever.

606
607 Mr.; Kirkland - Any other questions of the Board members? Anyone else
608 wish to speak on this case? That concludes the case. Thank you sir

609
610 Mr. Neal - Thank you.

611
612 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
613 Nunnally, the Board **granted** your variance subject to the following conditions:

614
615 1. Only the improvements shown on the plan filed with the application may be
616 constructed pursuant to this approval. Any additional improvements shall comply with
617 the applicable regulations of the County Code.

618
619 The Board granted this request, as it found from the evidence presented, that
620 authorizing this variance will not be of substantial detriment to adjacent property and will
621 not materially impair the purpose of the zoning regulations.

622
623 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
624 Negative: 0
625 Absent: 0

626
627 Mr. Kirkland - Next case.

628
629

629 **A - 96-2000** **LITTLE SISTERS OF THE POOR** requests a variance from
630 Section 24-94 of Chapter 24 of the County Code to build an
631 independent living facility at 1503 Michael Road (Tax Parcel 91-A-
632 47A), zoned A-1, Agricultural District (Three Chopt). The structure
633 height requirement is not met. The applicant requests a variance to
634 allow construction of four stories where the Code allows three
635 stories.
636

637 Mr. Kirkland - Anyone else wish to speak on this case?
638

639 Mr. Spinella - Angela Newsome, who is the architect, and Mother Regina
640 and I will speak.
641

642 Mr. Kirkland - Okay, if you would, raise your right hand and be sworn in.
643

644 Mr. Blankinship - Do you swear that the testimony you are about to give is the
645 truth, the whole truth, and nothing but the truth, so help you God?
646

647 Mr. Kirkland - If you would, sir, state your name for the record.
648

649 Mr. Spinella - I do. Nicholas A. Spinella, an attorney representing Little
650 Sisters of the Poor, and I have the notices here.
651

652 Mr. Kirkland- Are they the originals?
653

654 Mr. Blankinship - Yes, these are the originals; the copies are in the file.
655

656 Mr. Kirkland - Okay, if you would, sir, state your case.
657

658 Mr. Spinella - All right sir. My name is Nicholas A. Spinella; I'm an attorney
659 and have represented the Little Sisters of the Poor for many years. We first presented
660 this variance on 8/26/99, and at that time, the Board granted it. However, we have been
661 attempting to raise money for the project and, so that we have another variance to
662 present to you at this time, the same variance. Mother Regina is here; she is the
663 President of the Little Sisters of the Poor, and Sister Marie is back there with her. We
664 also have Angela L. Newsome, who is the architect, who can answer any questions
665 regarding this matter. Little Sisters of the Poor first came to the Richmond area in 1874,
666 having the General Assembly pass an act to incorporate them on April 17, 1874. Prior
667 to the existence of the State Corporation Commission. On September 11, last year, this
668 coming year they have celebrated 126 anniversary in serving the poor and aged, first in
669 the city of Richmond, and now in Henrico County, at their home on Michael Road, which
670 has been in existence for about 24 years. The variance itself is for a variance due to
671 the maximum number of stories is exceeded. The Little Sisters require a variance of
672 one story in height. The new building will have the same roofline as the existing chapel,
673 and the ground slopes down toward both ends. Accordingly, because of the slope,
674 there is room for an additional floor. The second floor of the proposed building will be

675 level with the first floor of the existing building. The Little Sisters need to make the most
676 efficient use of the property, and we feel that a hardship exists, because of the nature of
677 the site, and although they could build the same number of units with 3 stories, it would
678 prevent buffering from other properties and would be an inefficient use of the property
679 and cause impervious services to be present. Because of the existing use of the
680 property as a home for the aged, it would be a hardship on the Little Sisters not to have
681 a variance granted by this Board, for the construction of 4 stories, instead of 3 stories,
682 due to the slope downward of the site where the new building is constructed. There is
683 no other site on their property, and therefore, this constitutes a hardship. The architect
684 is here, and if you have any further questions by any Board members, I think she could
685 respond to them.

686
687 Mr. Wright- Mr. Spinella, I only have one question. It appears to me that
688 if it were 3 stories, it would look odd from the street. The appearance would be much
689 better for it to be at the same line as the other building.

690
691 Mr. Spinella - Yes, it would. That's right.

692
693 Mr. Kirkland - Any other questions of the Board members?

694
695 Mr. McKinney- Mr. Spinella, the materials that this would be constructed out
696 of, it's the same as what's existing?

697
698 Mr. Spinella - I believe so, but the I think the architect could respond to
699 that.

700
701 Mr. Kirkland - Yes ma'am, if you'd state your name?

702
703 Ms. Newsome - Angela Newsome, and yes sir, we intend to match the brick
704 and keep porches similar to what's existing.

705
706 Mr. McKinney- Okay, thank you.

707
708 Mr. Kirkland - Any other questions? Anyone else wish to speak on this
709 case? If not, that concludes the case. Thank you.

710

710
711 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
712 McKinney, the Board **granted** this variance subject to the following conditions

713
714 1. Only the improvements, subject to this approval and shown on the plan filed with
715 the application may be constructed pursuant to this approval. Any additional
716 improvements shall comply with the applicable regulations of the County Code.

717
718 The Board **granted** this request, as it found from the evidence presented, that
719 authorizing this variance will not be of substantial detriment to adjacent property and will
720 not materially impair the purpose of the zoning regulations.

721 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
722 Negative: 0
723 Absent: 0
724

725
726 Mr. Kirkland - Next, sir.

727
728 **A - 97-2000 CHARLES T. AND KAREN S. ELLIOTT** request a variance from
729 Section 24-95(i)(1) of Chapter 24 of the County Code to build an
730 uncovered deck at 3309 Cartwright Court (Foxhall) (Tax Parcel 35-
731 1-A-6), zoned R-2A, One-family Residence District (Three Chopt).
732 The setback for a deck is not met. The applicants have 25 feet rear
733 yard setback, where the Code requires 35 feet rear yard setback.
734 The applicants request a variance of 10 feet rear yard setback.

735
736 Mr. Kirkland - Does anyone else wish to speak on this case? If not, sir,
737 raise your right hand.

738
739 Mr. Blankinship - Do you swear that the testimony you are about to give is the
740 truth, the whole truth, and nothing but the truth, so help you God?

741
742 Mr. Kirkland - State your name for the record, please.

743
744 Mr. Elliott - I do. Tom Elliott.

745
746 Mr. Kirkland - Mr. Elliott, have all your notices been turned in, according to
747 the County Code? Thank you very much. Proceed with your case.

748
749 Mr. Elliott - Yes they have. Mr. Chairman, members of the Board, I am
750 before the Board today to request in order to construct an uncovered deck. The
751 background information in your packet indicates adding to the existing deck; however,
752 this is incorrect. The request is to demolish the present deck and construct a new one.
753 When completed, the new deck will be less visible than the existing deck, due to the
754 step-down configuration of the planned deck and the extensive screening that is being
755 planted. As presented in the submitted plans, the planned deck will come off the back

756 of the house for 5 feet and step down close to ground level, will be screened from view.
757 Due to the restrictions that we face, we are requesting that a variance of 10 feet rear
758 yard setback be granted. Do you have any questions?

759
760 Mr. Wright- Mr. Elliott, describe the shape of your lot, please.

761
762 Mr. Elliott - I've always described it to my neighbors as being a
763 peninsula in our neighborhood. We've got 3 sides of essentially frontage, with just a
764 back to our neighbors.

765
766 Mr. Wright- Makes it very difficult to do any kind of construction, doesn't
767 it? And secondly, is there any screening behind this deck and the lot that would be
768 adjacent to it, lot 5.

769
770 Mr. Elliott - Very difficult, yes sir. As you can see, it's a wooded area,
771 and that wooded area extends all the way up to the garage area, and at the garage we
772 have, over to the left part, you can just see some of the English laurel right there, and
773 that extends across, probably about 8 to 10 feet high now, and we're also planting
774 across the back with Nellie hollies too, to also provide further screening.

775
776 Mr. McKinney- Mr. Elliott, are you Charles T.?

777
778 Mr. Elliott - Charles T. Elliott, that's correct.

779
780 Mr. McKinney- You listed yourself as Tom; I just wondered if you were the
781 same one. Go by your middle name.

782
783 Mr. Elliott - Correct.

784
785 Mr. Kirkland - Any other questions by Board members? Anyone else wish
786 to speak on this case? If not, that concludes the case.

787
788 Mr. Elliott - Thank you for your consideration.

789

789
790 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
791 Nunnally, the Board **granted** variance subject to the following conditions:

792
793 1. The property shall be developed in substantial conformance with the plan filed
794 with the application. No changes or additions to the layout may be made without the
795 approval of the Board of Zoning Appeals.

796
797 The Board granted this request, as it found from the evidence presented, that
798 authorizing this variance will not be of substantial detriment to adjacent property and will
799 not materially impair the purpose of the zoning regulations.

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

804
805 **UP- 32-2000 WEST SAND & GRAVEL CO., INC.** requests a conditional use
806 permit pursuant to Sections 24-52(d) and 24-103 of Chapter 24 of
807 the County Code to extract materials from the earth at 3464
808 Meadow Road (Tax Parcel 167-A-25), zoned A-1, Agricultural
809 District (Varina).

810
811 Mr. Kirkland - Would the applicant come forward, please. Anyone else
812 wish to speak on this case? Okay, if you will raise your right hands and be sworn in.

813
814 Mr. Blankinship - Do you swear that the testimony you are about to give is the
815 truth, the whole truth, and nothing but the truth, so help you God?

816
817 Mr. Kirkland - If you would, sir, state your name.

818
819 Mr. McCaul - I do. Mr. Chairman, for the record, my name is Eugene
820 McCaul, and I'm here on behalf of West Sand and Gravel Company, the applicant.

821
822 Mr. Kirkland - Have all your notices been turned in?

823
824 Mr. McCaul - They have, yes sir. This is a request for a renewal. As your
825 record will reflect, this operation started 2 years ago. At the present time, we are
826 requesting a renewal on 65.43 acres of land. You will note that it is substantially less
827 than what we had under bond initially. That comes about by reason of the fact that
828 \$1,000 an acre is not so bad, but when you get to \$2,000 an acre, it begins to hurt.
829 Therefore, there was a more discreet outline of the area which was going to be subject
830 to our operation steward the next couple of years. We've reviewed the conditions; we
831 find them all to be in order, and we are prepared to go along with them. I would like,
832 however, to make 2 comments. They relate to conditions 11 and 12. Twelve, I'll
833 address that first – provides that we will enforce the regulations which are imposed by
834 that particular operation. We discussed this at some length 2 years ago when it came

835 up, because of the language that it would be enforced by West Sand and Gravel
836 Company. On site we can do that. Once the trucks leave our entrance, or course, we
837 have no control over them, in so far as the operation is concerned. We will do our best
838 to see that everything is conducted in an efficient and a safe manner. With respect to
839 number 11, you have a new provision that truck traffic from this site will not be permitted
840 on that road to the north. There has been a complaint by neighbors in that area, that
841 truckers were using that as a shortcut to get over to Route 60. When this came to our
842 attention, we directed the truckers to cease that use, and it has been done. We are
843 agreeable to that condition, and we will undertake in every way to enforce it. I have only
844 one comment to make in connection therewith; that is that we may occasionally have a
845 local order that we have to fulfill in that area. If such is the case, we, of course would
846 need to turn that particular truck to that direction in order to serve that customer. The
847 bond is agreeable. The only other thing that I would call to your attention is that we do
848 have a duplication in conditions 22 and 30; they appear to be the same, and we'll
849 comply with them twice if that be necessary. Mr. Brian Cline, who's the engineer for the
850 company is here, and is there's any questions, he can respond to them, I'm sure.

851
852 Mr. McKinney - Mr. McCaul, who owns these trucks?

853
854 Mr. McCaul - They are owned by individual operators, Mr. McKinney.
855 West Sand and Gravel Company has no trucks at all.

856
857 Mr. McKinney - But you can take care of them on condition 11, but you can't
858 on 12; I mean you can give them a list of rules required by West Sand and Gravel to be
859 a contract hauler for them.

860
861 Mr. McCaul - We do that sir. And we do have signs posted with respect to
862 no traffic to the right upon leaving.

863
864 Mr. McKinney- Your comment on condition number 4 – did it go from \$1,000
865 to \$2,000, or was it \$2,000 in the past?

866
867 Mr. McCaul - No, it was \$1,000 last time.

868
869 Mr. McKinney- And why did it go to \$2,000 this time?

870
871 Mr. McCaul - Well, Mr. Blankinship says that you all have decided that you
872 need \$2,000 in order to do rehabilitation if it falls upon you to do so.

873
874 Mr. McKinney- I don't know if it's Code; we have discussed this in certain
875 areas, and some of them we've had \$1,000, and some of them we've had \$2,000 – is
876 this the opinion of the Planning Department, Mr. Blankinship, that it's going to take
877 \$2,000 if West Sand and Gravel should go under, that's been in business around here
878 for 100 years.

879

880 Mr. Blankinship - Yes sir, for some time we've been using, for several months,
881 not more than a year, we've been doing all the new renewals at \$2,000. It's partly on
882 the advice of the Department of Mines, Minerals, and Energy, and is a result of a
883 telephone survey that we did.

884
885 Mr. McKinney- Have we got a report on it, because I haven't seen anything
886 on it.

887
888 Mr. Blankinship - Well, we've discussed it.....we haven't had anything in
889 writing. Of course the final decision is yours; you can set the bond wherever you wish.

890
891 Mr. McKinney- I know we've discussed it. I mean if it should be \$2,000, I
892 don't have any problem with \$2,000. If it's undue hardship on the applicant, and they
893 haven't done it in the past, because every time we do this, it gets passed along to the
894 public, and the public, bottom line, pays for this. I think if we can look out for the public,
895 it's one thing. If it's really going to take that much to put this land back in shape, then I
896 agree that if it has to be done, it has to be done, that's my opinion.

897
898 Mr. Nunnally- Well we've approved 3 or 4, I guess, in the last 3 or 4
899 months, and we put \$2,000 on there, so I don't think we can.....

900
901 Mr. McKinney- Were they renewals or were they new ones?

902
903 Mr. Nunnally- Both.

904
905 Mr. Kirkland - Any further questions? Anyone else wish to speak in favor
906 of the case? Okay, we'll hear the opposition, and then you can rebut.....opposition
907 to the case?

908
909 Mr. Slater - Thank you. May it please the Board, my name is Park
910 Slater. I live at 1243 Grapevine Road. I'm here to address the Board as it considers
911 renewing the permit of West Sand and Gravel as it hauls from the Meadow Road
912 location. As I digress from what I've prepared for just a second, to say that I've read,
913 just a few moments ago, the recommendations of the Board, but lest I leave anything to
914 chance, and the time I spent at 2:00 o'clock this morning putting this presentation
915 together be wasted, if the Board would indulge me just for a moment, please. As this
916 Board knows, Simons Hauling operates the pit on Grapevine Road nearest its terminus
917 with Meadow Road. To my satisfaction and that of every other resident of Grapevine
918 Road with whom I've spoken, the BZA restricts the Simons route to either Drybridge
919 Road or to go out Meadow Road. No trucks are permitted to haul, either empty or full.
920 Again, when the JJ & B pit on Meadow Road was recently active, again this Board
921 required that trucks servicing JJ & B to use identical routes. However, I for one, have
922 been waiting for this day for about a year and a half, after the Meadow Road pit for
923 West Sand and Gravel, opened. For when the West pit opens, truck drivers
924 immediately found that absent any route restrictions imposed by this Board, not only
925 could they, by choice, use the routes required of the trucks servicing the former pits, but

926 they could also traverse Grapevine Road, in its entirety, adversely affecting the health,
927 safety, and welfare of the residents. Were this Board to impose route restrictions on all
928 trucks involved in the West Sand and Gravel operation on Meadow Road, the following
929 would be possible. A mere 9/10ths of a mile trek to Route 60, which is a 4-lane divided
930 highway, only passes one residence. But because there are no restrictions, many of
931 these trucks travel Grapevine Road, now passing directly by 78 houses, not including
932 the many houses from three other subdivisions as well, it's an additional 100. I didn't
933 have the exact miles there at the time, but I would submit to the Board that it exceeds 3
934 miles. In the meantime the Board can help stem this tide. I want to remind the Board
935 exactly what we're dealing with here, realizing that we cannot live in a vacuum, I still
936 strongly believe that the BZA can help us restore the quality of life that has caused
937 many of us to move here. I submit to the Board again that the health, safety, and
938 welfare is at the center of this particular issue. On Grapevine Road we enjoy a rural,
939 residential quality of life. It is not at all uncommon to see farm machinery passing down
940 the road, past the residences that we take pride in. Many of us have purposely chosen
941 this area to raise our children, but this traffic remains a threat to them. School buses
942 pick up and discharge children. The dangers of cars traveling 45 to 55 miles an hour
943 without impunity, are miniscule compared to the exponentially higher number of foot
944 pounds of energy generated by a fully loaded dump truck or 18-wheeler at the same
945 speed. There is no comparison. Grapevine Road is also the home of the Trent House,
946 a Civil War hospital that sometimes draws both pedestrians and tour buses.
947 Confederate soldier re-enactors have marched up Grapevine Road, recreating the trek
948 to Malvern Hill. Grapevine Road is the place where neighbors meet neighbors at the
949 fence and go for a walk in the evening. It has been declared a state bicycle route,
950 where it is routine to see a dozen or more cyclists at a time, out for exercise. As I've
951 testified before to this Board, along with my wife, Grapevine Road has undergone rapid
952 change. Gravel pit activity from the construction of the state highway depot on
953 Ponderosa Drive, as well as other area construction, in the gravel pit traffic, has
954 cumulatively transformed our road right before our eyes. And now we find that
955 Grapevine Road looks like this. *(film of truck traffic)* Again, the wonderful world of
956 electronics. This computer seems to be frozen up, but I'll continue. As you can see,
957 Grapevine Road is not even wide enough to accommodate striping, and passing trucks
958 have in the past, forced cyclists, like you saw a moment ago, into the ditch. The trucks
959 cannot even negotiate the turns without either going into the oncoming lanes of travel,
960 or driving onto the shoulder. I had in my presentation pictures of skid marks from
961 trucks, on both sides of the road, that can't negotiate the turns safely. The recently
962 asphalted surface has already shown unusual signs of wear caused by the undo weight.
963 In addition, the noisy practice of braking occasionally occurs as trucks try to slow to
964 negotiate the 90-degree turn at Old Hanover Road. In contrast to Grapevine, Meadow
965 Road is much wider, and it is marked with lines. Members of the Board, West Sand and
966 Gravel has posted a sign near where its trucks exit on Meadow Road. Not recalling the
967 exact wording, I will submit that the gist of it is this. "Remember we have neighbors on
968 Meadow Road, and we want to be good ones – do what you can to foster a good
969 relationship." Well, if West means what it says, and by hearing testimony this morning,
970 it sounds as if they do, it should not be objectionable to reasonable restrictions on its
971 permit. At the same time, I submit to the BZA that your choice should be relatively

972 simple – to weigh the minor inconvenience upon truck drivers that will cost a few
973 minutes time, against the health, safety and welfare of a community now plagued by
974 commercial vehicles. Members of the Board, I had pictures of the 2 children earlier –
975 they're my children, and they're but 2 of the people who are counting on you make a
976 decision. I ask that you seriously consider the restrictions you have placed on the
977 Simons permit, in order to be fair to all. Not knowing the existing parameters of the
978 West permit, I respectfully request that 1. you restrict the number of trucks, 2. the
979 hours of operation, and 3. that all trucks servicing the West Sand and Gravel pit be
980 required to turn left when they exit the facility and travel the 9/10 of a mile to Route 60.
981 That concludes what I had prepared. In looking at the recommendations this morning,
982 they are a little vague, and I see that in the opening paragraph, West says that they will
983 be glad to instruct the trucks to access from the south. I'm concerned both about
984 ingress and egress in the direction of travel. I told the Board when I appeared before
985 them, most recently on the Simons permit, that I've been working with Mr. Donati, and
986 requested him to take some action that would prohibit all through truck traffic off the
987 road, so that my request today, for instance, would be a moot point. So far that has not
988 proceeded. I'm glad to hear that West Sand and Gravel is willing to do what they can,
989 like they say they are. I'm willing to be a good neighbor, but this has gotten out of
990 control, and I've asked the Board to do what they can to rein it in. I'll be glad to answer
991 any questions that you might have. Yes sir.

992
993 Mr. Balfour - You say it's a little vague – what specifically are you asking
994 us to consider as a condition that's not there?

995
996 Mr. Slater - Currently, to require all truck traffic to turn left as it comes
997 out of Meadow Road, comes onto Meadow Road, and go to Route 60 that way. To not
998 be allowed to travel what would be reported as north on Meadow Road, to take either
999 Grapevine Road as a route or Drybridge Road. I'm speaking for the people who live
1000 along Meadow Road, the people in Green Meadows subdivision as well. I noticed in the
1001 recommendations this morning, that under daylight savings time, the truck traffic will be
1002 permitted as early as 6:00 o'clock in the morning. Some of us sometime enjoy to sleep
1003 past 6:00 o'clock, and I would ask the Board to consider moving that to 7:00 opening
1004 time, regardless of whether it's Eastern Standard Time or Eastern Daylight Time.

1005
1006 Mr. Balfour- If it all comes down your road, it wouldn't make any
1007 difference what time in the morning though, would it?

1008
1009 Mr. Slater - That is correct; that would be a moot point as well, for me.

1010
1011 Mr. Wright- Number 11 says "travel to and from the site from the south."

1012
1013 Mr. Slater - I was referring to the opening paragraph, and to tell you the
1014 truth, I got home at 2:00 o'clock this morning, and I wrote it the best I could.

1015
1016 Mr. Wright- Well wouldn't that take care of it, this new number 11
1017 requires all truck traffic to travel to and from the site from the south via Meadow Road.

1018
1019 Mr. Slater - That would take care of it, yes sir, but I didn't want to leave
1020 that for any interpretation, room for interpretation.
1021
1022 Mr. McKinney- It also says that the truck traffic from the site will not be
1023 permitted on Meadow Road to the north.
1024
1025 Mr. Slater - OK, I realize that those are recommendations, but.....
1026
1027 Mr. McKinney- No, these are recommendations, but if we approve this, this
1028 is it, this would go along with it, unless we take it out.
1029
1030 Mr. Slater - OK, well a year and a half ago, when this truck traffic began
1031 a crescendo, I called, and they said well, we'd have to wait another year and a half to
1032 get before the BZA.....I said I can't believe that, so I've been waiting all this time
1033 and wasn't going to miss it on just hope that the Board would pass this.
1034
1035 Mr. Wright- But doesn't that take care of your concerns?
1036
1037 Mr. Slater - Yes sir, it would.
1038
1039 Mr. Wright - I think that's what the intent was, to put that in.
1040
1041 Mr. Kirkland- And you wouldn't have any trouble with the time being 6:00?
1042
1043 Mr. Slater - No, there's only one house between where the trucks would
1044 enter Meadow Road and Route 60, and maybe you'll hear from them next time. Any
1045 other questions?
1046
1047 Mr. Balfour- You feel comfortable that you can call the police or
1048 whomever if you see violations to this restriction?
1049
1050 Mr. Slater - Yes, my wife calls them every day and complains about the
1051 truck traffic – I'm a police officer. Sometimes a profit has no water in his home town,
1052 and sometimes I can get things done for people, but I can't get things done for myself.
1053 Any other questions?
1054
1055 Mr. Kirkland - Anyone else wish to speak in opposition to the case? Mr.
1056 McCaul, if you'd like to rebut? Thank you sir.
1057
1058 Mr. McCaul - I want to assure you, we're going to try to comply with this
1059 condition. We may have to make local deliveries occasionally – if this gentleman wants
1060 a load of gravel, we're going to have to turn right to get to his house.
1061
1062 Mr. Slater - It's the through traffic that I have a problem with, and
1063 not.....your traffic, or anyone else's, servicing customers.

1064
1065 Mr. Balfour- Would you agree to amending it to say “south” or whatever
1066 the word was that Mr. Wright suggested – oh, it’s there.
1067
1068 Mr. McCaul - We request that we keep our hours of operation; those are
1069 essential.
1070
1071 Mr. Kirkland - Anyone else wish to speak? If not, that concludes the case.
1072
1073 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1074 Wright, the Board **granted** the renewal of this use permit subject to the following
1075 conditions:
1076
1077 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of the
1078 County Code.
1079
1080 2. Before beginning any work, the applicant shall obtain a mine license from the
1081 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
1082 within 90 days of approval, the use permit shall be void.
1083

- 1083
1084 3. Before beginning any work, the areas approved for mining under this permit shall be
1085 delineated on the ground by five(5)-foot-high metal posts at least five(5) inches in
1086 diameter and painted in alternate one(1) foot stripes of red and white. These posts shall
1087 be so located as to clearly define the area in which the mining is permitted. They shall
1088 be located, and their location certified, by a certified land surveyor. If this condition is not
1089 satisfied within 90 days of approval, the use permit shall be void.
1090
- 1091 4. Before beginning any work, the applicant shall provide a financial guaranty in an
1092 amount of \$2,000.00 per acre for each acre of land to be disturbed, for a total of
1093 \$130,860.00, guaranteeing that the land will be restored to a reasonably level and
1094 drainable condition. This permit does not become valid until the financial guaranty has
1095 been approved by the County Attorney. The financial guaranty may provide for
1096 termination after 90 days notice in writing to the County. In the event of termination, this
1097 permit shall be void, and work incident thereto shall cease. Within the next 90 days the
1098 applicant shall restore the land as provided for under the conditions of this use permit.
1099 Termination of such financial guaranty shall not relieve the applicant from its obligation
1100 to indemnify the County of Henrico for any breach of the conditions of this use permit. If
1101 this condition is not satisfied within 90 days of approval, the use permit shall be void.
1102
- 1103 5. The applicant shall furnish a certification of his financial guaranty each year, verifying
1104 that the financial guaranty is in effect, premiums have been paid, and the
1105 financial guaranty holder affirms its responsibility under the use permit conditions. This
1106 certification shall be submitted to the Board on September 30 of each year.
1107
- 1108 6. Before beginning any work, the applicant shall submit erosion control plans to the
1109 Department of Public Works for review and approval. Throughout the life of the
1110 operation, the applicant shall continuously satisfy the Department of Public Works that
1111 erosion control procedures are properly maintained, and shall furnish plans and bonds
1112 that the department deems necessary. The applicant shall provide certification from a
1113 licensed professional engineer that dams, embankments and sediment control
1114 structures meet the approved design criteria as set forth by the State. If this condition is
1115 not satisfied within 90 days of approval, the use permit shall be void.
1116
- 1117 7. In the event that the Board's approval of this use permit is appealed, all conditions
1118 requiring action within 90 days will be deemed satisfied if the required actions are taken
1119 within 90 days of final action on the appeal.
1120
- 1121 8. The applicant shall comply with the Chesapeake Bay Preservation Act and all state
1122 and local regulations administered under such act applicable to the property, and shall
1123 furnish to the Planning Office copies of all reports required by such act or regulations.
1124
- 1125 9. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings Time
1126 is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.
1127
- 1128 10. No operations of any kind are to be conducted at the site on Sundays or national
1129 holidays.

- 1130
1131 11. All means of access to the property shall be from the established entrance onto
1132 Meadow Road. All truck traffic will travel to and from the site from the south via
1133 Meadow Road. Truck traffic from this site will not be permitted on Meadow Road to the
1134 North.
1135
- 1136 12. Rules for on-site operation of trucks and methods of their departure from the site to
1137 ensure their operation is safe and does not constitute or create traffic hazards to other
1138 users of Meadow Road shall be posted in a conspicuous place and enforced by West
1139 Sand and Gravel Company.
1140
- 1141 13. The applicant shall erect and maintain gates at all entrances to the property. These
1142 gates shall be locked at all times, except when authorized representatives of the
1143 applicant are on the property.
1144
- 1145 14. The applicant shall post and maintain a sign at the entrance to the mining site
1146 stating the name of the operator, the use permit number, the mine license number, and
1147 the telephone number of the operator. The sign shall be 12 square feet in area and the
1148 letters shall be three inches high.
1149
- 1150 15. The applicant shall post and maintain "No Trespassing" signs every 250 feet along
1151 the perimeter of the property. The letters shall be three inches high. The applicant shall
1152 furnish the Chief of Police a letter authorizing the Division of Police to enforce
1153 the "No Trespassing" regulations, and agreeing to send a representative to testify in
1154 court as required or requested by the Division of Police.
1155
- 1156 16. Standard "Truck Entering Highway" signs shall be erected on Meadow Road on
1157 each side of the entrances to the property. These signs will be placed by the County, at
1158 the applicant's expense.
1159
- 1160 17. The applicant shall post and maintain a standard stop sign at the entrance to
1161 Meadow Road.
1162
- 1163 18. All roads used in connection with this use permit shall be effectively treated with
1164 calcium chloride or other wetting agents to eliminate any dust nuisance.
1165
- 1166 19. The operation shall be so scheduled that trucks will travel at regular intervals and
1167 not in groups of three or more.
1168
- 1169 20. Trucks shall be loaded in a way to prevent overloading or spilling of materials of
1170 any kind on any public road.
1171
- 1172 21. The applicant shall maintain the property, fences, and roads in a safe and secure
1173 condition indefinitely, or convert the property to some other safe use.
1174

- 1175 22. If, in the course of its preliminary investigation or operations, the applicant
1176 discovers evidence of cultural or historical resources, or an endangered species, or a
1177 significant habitat, it shall notify appropriate authorities and provide them with an
1178 opportunity to investigate the site. The applicant shall report the results of any such
1179 investigation to the Planning Office.
1180
- 1181 23. Open and vertical excavations having a depth of 10 feet or more, for a period of
1182 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
1183 public safety.
1184
- 1185 24. Topsoil shall not be removed from any part of the property outside of the area in
1186 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
1187 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
1188 within the authorized mining area and provided with adequate erosion control
1189 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought
1190 to the site to provide the required five-inch layer of cover. All topsoil shall be treated
1191 with a mixture of seed, fertilizer, and lime as recommended by the County after soil
1192 tests have been provided to the County.
1193
- 1194 25. No offsite-generated materials shall be deposited on the mining site without prior
1195 written approval of the Director of Planning.
1196
- 1197 26. A superintendent, who shall be personally familiar with all the terms and conditions
1198 of Section 24-103 of Chapter 24 of the County Code, as well as the terms and
1199 conditions of this use permit, shall be present at the beginning and conclusion of
1200 operations each work day to see that all the conditions of the Code and this use permit
1201 are observed.
1202
- 1203 27. A progress report shall be submitted to the Board on September 30, 2001. This
1204 progress report must contain information concerning how much property has been
1205 mined to date of the report, the amount of land left to be mined, how much rehabilitation
1206 has been performed, when and how the remaining amount of land will be rehabilitated,
1207 and any other pertinent information about the operation that would be helpful to the
1208 Board.
1209
- 1210 28. Excavation shall be discontinued by September 30, 2002 and restoration
1211 accomplished by not later than September 30, 2003, unless a new permit is applied for
1212 no later than 60 days before the expiration of the permit, and is subsequently granted by
1213 the Board of Zoning Appeals.
1214
- 1215 29. The rehabilitation of the property shall take place simultaneously with the mining
1216 process. Rehabilitation shall not be considered completed until the mined area is
1217 covered completely with permanent vegetation.
1218
- 1219 30. No more than 20 truck loads of material shall be removed from the site in any one
1220 hour on days that Henrico County Public Schools are in session and 25 truck loads per
1221 hour on days that schools are not in session.

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31. Adequate sight distance must be provided at the access points of the site.

32. A 200 foot setback shall be maintained from any Chesapeake Bay Resource Protection Area features on the site. Additionally, a 50 foot setback shall be maintained from any non Chesapeake Bay Resource Protection Area wetland within the property boundaries unless a permit has been obtained for impacting these wetlands. Any encroachment into the setback areas would require approval by the Department of Public Works.

33. Failure to comply with any of the foregoing conditions shall automatically void this permit.

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

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

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A - 98-2000 **CAROL P. JELLIE** requests a variance from Section 24-9 of Chapter 24 of the County Code to build a single family dwelling at 9380 Sherry Lane (Tax Parcel 267-A-8 (part)), zoned A-1, Agricultural District (Varina). The public street frontage requirement 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 - Would the applicant come forward, please. Anyone else wish to speak on this case? Okay, if you will raise your right hands and be sworn in.

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 - If you would, sir, state your name.

Ms. Jellie - I am Carol Jellie,

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

Ms Jellie- Yes they have.

Mr. Kirkland- Please present your case.

1267 Ms. Jellie- I would like to request a variance to build a single family
1268 dwelling and I would like to share a little history with you on this property. Originally, I
1269 lived in the house on the property . There were two lots, the larger lot is the one we are
1270 speaking of now. The former owners had built a barn on part of the lot. When we
1271 decided to sell our home, we spoke to several realtors, the health department and had
1272 the lot surveyed and with all those folks we talked to, there was no indication that the
1273 way we were separating the property there would be a problem. I was surprised when
1274 we learned that there was no road frontage for this lot. My request is that we be
1275 allowed to build a home on this lot, it does have access to the road.

1276
1277 Mr. Nunnally- When did you sell this property? Did you sell this lot to your
1278 neighbor?

1279
1280 Ms. Jellie- No sir. We owned the lot with the house on it and the extra
1281 lot. It was a field with a barn. When we sold the house, we had the line changed to
1282 include the barn with the house. We kept the extra lot, because we were not sure what
1283 we wanted to do with it. We would like the variance approved for another home. And
1284 as you can see, it would be very accessible to the cul-de-sac.

1285
1286 Mr. Nunnally- Have you read the conditions, Ms. Jellie? You do have a
1287 legal access to the property, you can get back to the property?

1288
1289 Ms. Jellie- Yes.

1290
1291 Mr. Wright- Eventually, that cul-de-sac is not an official cul-de-sac.

1292
1293 Ms. Jellie- In 22 years, I did not know that. I was shocked.

1294
1295 Mr. Kirkland- Any other questions by Board Members?

1296
1297 Ms. Jellie- I have spoken to my neighbors, and they do not object. In
1298 fact it would probably help the neighborhood, because several of the residents use the
1299 lot for dumping trees.

1300
1301 Mr. Kirkland- Any other questions? That concludes the case. Thank you.

1302
1303 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1304 Wright, the Board **granted** variance subject to the following conditions:

1305
1306 1. This variance only allows the lot shown on the plan filed with the application to be
1307 used for a single-family dwelling. Any other use or improvements shall comply with the
1308 applicable regulations of the County Code.

1309
1310 2. Approval of this request does not imply that a building permit will be issued. Building
1311 permit approval is contingent on Health Department requirements, including, but not

1312 limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well
1313 location.

1314
1315 3. The applicant must present proof with the building permit application that a legal
1316 access to the property has been obtained.

1317
1318 4. The owners of the property, and their heirs or assigns, shall accept responsibility for
1319 maintaining access to the property until such a time as the access is improved to
1320 County standards and accepted into the County road system for maintenance.

1321
1322 The Board granted this request, as it found from the evidence presented, that
1323 authorizing this variance will not be of substantial detriment to adjacent property and will
1324 not materially impair the purpose of the zoning regulations.

1325
1326 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1327 Negative: 0
1328 Absent: 0

1329

1330 **UP- 33-2000** **MARCIA HUDSON** requests a conditional use permit pursuant to
1331 Section 24-12(e) of Chapter 24 of the County Code to keep four or
1332 more cats at 2266 High Bush Circle (Mountain Laurel) (Tax Parcel 32-
1333 7-L-3), zoned R-5C, General Residence District (Conditional)
1334 (Fairfield).

1335

1336

1337 Mr. Kirkland - Would the applicant come forward, please. Anyone else
1338 wish to speak on this case? Okay, if you will raise your right hands and be sworn in.

1339

1340 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1341 truth, the whole truth, and nothing but the truth, so help you God?

1342

1343 Ms. Hudson- Yes sir.

1344

1345 Mr. Kirkland - If you would, sir, state your name.

1346

1347 Ms. Hudson - I am Marcia Hudson.

1348

1349 Mr. Kirkland - Have all your notices been turned in?

1350

1351 Ms Hudson- Yes they have.

1352

1353 Mr. Kirkland- Please present your case.

1354

1355 Ms. Hudson- I am applying for a conditional use permit in order to keep
1356 my family of 8 cats. First of all, I want everyone to understand that these cats do not go
1357 outside and roam all over the neighborhood. I only have 3 that basically go outside, the

1358 others stay inside. The 3 that go outside are my oldest ones. I have had these cats
1359 since 1991. The last 3 that I received, one was from my mother, who could no longer
1360 take care of it, one I found on the side of the road, and the other adopted me.

1361
1362 These last 3 do not go outside. I always have them spade and neutered. They are up
1363 to date on their shots. I keep my place spotless. I really didn't think I was doing any
1364 harm in keeping the cats. I am an animal lover, and when I call the shelters to try and
1365 find homes for these cats, the shelters ask if I can keep the animals at my house for
1366 awhile since they are so crowded. Well, they end up staying.

1367
1368 I am also on the board of directors of Mountain Laurel Townhouse Association, anyone
1369 could have come to me and mentioned this. Even though, the 3 cats do go outside,
1370 but stay around the house. My main concern is, that if I am not able to keep the cats,
1371 finding homes for them. I do not want any more cats.

1372
1373 Mr. McKinney- How old are these cats?

1374
1375 Ms. Hudson- My oldest ones are from 6-7 years old. The youngest are
1376 from 1-2 years.

1377
1378 Mr. McKinney You have 3 that are 1-2 years old? And the other 4 are 6-7
1379 years old? And the dog?

1380
1381 Ms. Hudson- My little dog is 2. He doesn't go outside at all.

1382
1383 Mr. McKinney- Just the 3 go outside.

1384
1385 Mr. Wright- Mr. Blankinship, If she has 8 cats, why do you only have 7
1386 animals in the condition? In her letter she states she has 8 cats and 1 dog. You are
1387 asking for 8 cats and 1 dog?

1388
1389 Ms. Hudson- Yes.

1390
1391 Mr. McKinney- The first condition calls for 7 cats and 1 dog.

1392
1393 Mr. Wright- And you understand that if this approved, you cannot get any
1394 more animals nor can you replace animals. The goal is to get down to the 3 allowed by
1395 code.

1396
1397 Ms. Hudson- That is fine.

1398
1399 Mr. Kirkland- Any other questions by Board Members? If not let us hear
1400 from the opposition. Anyone opposed to the case? If not, that concludes the case.

1401
1402 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1403 Balfour, the Board **granted** this use permit subject to the following conditions:

- 1404
 1405 1. This approval is only for the eight cats and one dog owned by the property owner.
 1406 The approval is not for the boarding or breeding of any other animals at any time.
 1407
 1408 2. No new or replacement animals may be added, so that the number of animals will be
 1409 reduced by natural means to three.
 1410
 1411 3. The applicant must maintain the property so that odors are controlled.
 1412

1413 The Board granted this request, as it found from the evidence presented, that
 1414 authorizing this use permit will not be of substantial detriment to adjacent property and
 1415 will not materially impair the purpose of the zoning regulations.
 1416

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

1420
 1421 **A - 99-2000** **JEFFREY B. DICKERSON** requests a variance from Section 24-94 of
 1422 Chapter 24 of the County Code to build a recreation room and
 1423 screened porch at 13500 Reynard Lane (Foxhall) (Tax Parcel 45-2-B-
 1424 76), zoned R-2AC, One-family Residence District (Conditional)
 1425 (Tuckahoe). The rear yard setback is not met. The applicant has 40
 1426 feet rear yard setback, where the Code requires 45 feet rear yard
 1427 setback. The applicant requests a variance of 5 feet rear yard setback.
 1428
 1429

1430 Mr. Kirkland - Would the applicant come forward, please. Anyone else
 1431 wish to speak on this case? Okay, if you will raise your right hands and be sworn in.
 1432

1433 Mr. Blankinship - Do you swear that the testimony you are about to give is the
 1434 truth, the whole truth, and nothing but the truth, so help you God?
 1435

1436 Mr. Dickerson- Yes sir.
 1437

1438 Mr. Kirkland - If you would, sir, state your name.
 1439

1440 Mr. Dickerson - I am Jeffrey B. Dickerson.
 1441

1442 Mr. Kirkland - Have all your notices been turned in?
 1443

1444 Mr. Dickerson- Yes they have.
 1445

1446 Mr. Kirkland- Please present your case.
 1447

1448 Mr. Dickerson- We are looking to add a recreation room onto the rear of our
 1449 house and cover the deck to create a screened porch. As you can see from the survey,
 1450 our rear setback is 45 feet our addition goes 3 feet over that line. The screen porch

1451 goes 5 feet over the setback line. We are going to use addition as a family room and
1452 the deck will become the screened porch. We have approached our neighbors about
1453 the additions, and they have no problem with them. They have submitted a signed
1454 statement as such.

1455
1456 Mr. Kirkland- Any questions of Mr. Dickerson?

1457
1458 Mr. McKinney- What kind of siding is on your house?

1459
1460 Mr. Dickerson- We have that hardboard siding. We plan on keeping the
1461 look of the house the same.

1462
1463 Mr. Wright- Please describe the shape of your lot.

1464
1465 Mr. Dickerson- Its pie shaped and there lies the problem. As you can see
1466 from the survey, we have no problem with the side setback, we will be well within the
1467 requirements. The lot itself and the angle of the house, causes the 2 additions to
1468 extend into the setbacks.

1469
1470 Mr. Wright- Is there any screening between your lot and you neighbors?

1471
1472 Mr. Dickerson- We have a heavy tree screen. And we plan on keeping that.
1473 The addition is going in the area were the garden is now, but the tree screen blocks the
1474 view.

1475
1476 Mr. Kirkland- Any other questions? Anyone else wish to speak on this
1477 case? If not that concludes the case.

1478
1479 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1480 Wright, the Board **granted** this use permit subject to the following conditions:

1481
1482 1. Only the improvements shown on the plan filed with the application may be
1483 constructed pursuant to this approval. Any additional improvements shall comply with
1484 the applicable regulations of the County Code.

1485
1486 The Board granted this request, as it found from the evidence presented, that
1487 authorizing this use permit will not be of substantial detriment to adjacent property and
1488 will not materially impair the purpose of the zoning regulations.

1489
1490 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1491 Negative: 0
1492 Absent: 0

1493
1494

1494 **A -100-2000** **RONALD J. JESSUP, DDS** requests a variance from Section 24-94 of
1495 Chapter 24 of the County Code to build an addition to an office building
1496 at 1130 Wilkinson Road (Chamberlayne Farms Shopping Center) (Tax
1497 Parcel 63-7-A-1A), zoned O-2, Office District (Fairfield). The rear yard
1498 setback is not met. The applicant has 15.1 feet rear yard setback,
1499 where the Code requires 35 feet rear yard setback. The applicant
1500 requests a variance of 19.9 feet rear yard setback.
1501

1502 Mr. Kirkland - Would the applicant come forward, please. Anyone else
1503 wish to speak on this case? Okay, if you will raise your right hands and be sworn in.
1504

1505 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1506 truth, the whole truth, and nothing but the truth, so help you God?
1507

1508 Dr. Jessup- Yes sir.
1509

1510 Mr. Kirkland - If you would, sir, state your name.
1511

1512 Dr. Jessup - I am Dr. Ronald J. Jessup.
1513

1514 Mr. Kirkland - Have all your notices been turned in?
1515

1516 Dr. Jessup- Yes they have.
1517

1518 Mr. Kirkland- Please present your case.
1519

1520 Dr. Jessup- I want to merge my practice with an existing practice, Dr.
1521 David White. He has been at this location, and I need to add to his building. The rear
1522 setback is the area where we don't have enough room for the addition. The addition
1523 that I want to build is in the front of his building. But a variance was granted to him in
1524 1986 for a rear setback. That is what we are hoping to do this time also. We would like
1525 to add some parking also.
1526

1527 Mr. Wright- What is the size of the proposed addition?
1528

1529 Dr. Jessup- 1400 square feet. The existing building is about 1600
1530 square feet.
1531

1532 Mr. Wright- What is located to the rear of your property?
1533

1534 Dr. Jessup- Dirk Drive, that has residential homes along it.
1535

1536 Mr. Blankinship- That is technically the rear is the shopping center.
1537

1538 Mr. Wright- The homes are across the street from the office. What kind
1539 of shopping center is this? Is it zoned business?

1540
1541 Mr. Blankinship- Yes.

1542
1543 Mr. Wright- The hatched area on the plot plan is the addition, correct?
1544 And doesn't the existing building already encroach into the setback? So this new
1545 addition would not project any farther?

1546
1547 Mr. Blankinship- Yes.

1548
1549 Mr. McKinney- You are going to relocate off of Route 1?

1550
1551 Dr. Jessup- Yes.

1552
1553 Mr. Kirkland- Any more questions by the Board Members? Anyone else
1554 wish to speak on this case? If not that concludes the case.

1555
1556 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1557 Wright, the Board **granted** this variance subject to the following conditions:

1558
1559 1. Only the improvements shown on the plan filed with the application may be
1560 constructed pursuant to this approval. Any additional improvements shall comply with
1561 the applicable regulations of the County Code.

1562
1563 2. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of
1564 the County Code apply. At the time of building permit application, the applicant shall
1565 submit the necessary information to the Department of Public Works to ensure
1566 compliance with the requirements of the Chesapeake Bay Preservation Act and the
1567 code requirements for water quality standards.

1568
1569 3. This approval is subject to all conditions that may be placed on the proposed Plan of
1570 Development by the Planning Commission.

1571
1572 The Board granted this request, as it found from the evidence presented, that
1573 authorizing this variance will not be of substantial detriment to adjacent property and will
1574 not materially impair the purpose of the zoning regulations.

1575
1576 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1577 Negative: 0

1578 Absent: 0

1579
1580 **UP- 34-2000 COLLEGIATE SCHOOLS** requests a conditional use permit pursuant
1581 to Section 24-12(b) of Chapter 24 of the County Code to use a field for
1582 athletic practice at 9400 River Road (Tax Parcel 111-A-16D), zoned R-
1583 1, One-family Residence District (Tuckahoe).

1584

1585 Mr. Kirkland - Would the applicant come forward, please. Anyone else
1586 wish to speak on this case? Okay, if you will raise your right hand and be sworn in.
1587
1588 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1589 truth, the whole truth, and nothing but the truth, so help you God?
1590
1591 Mr. Custis- Yes sir.
1592
1593 Mr. Kirkland - If you would, sir, state your name.
1594
1595 Mr. Custis - I am Glen Custis with Draper Aden Associates who is
1596 representing Collegiate Schools.
1597
1598 Mr. Kirkland - Have all your notices been turned in?
1599
1600 Mr. Custis- Yes they have.
1601
1602 Mr. Kirkland- Please present your case.
1603
1604 Mr. Custis- Collegiate Schools is applying for this permit to use the
1605 vacant lot as a practice soccer field. They have been using this field for several years
1606 and did not realize that this was an issue. I guess some other sports clubs started using
1607 the field, and some problems arose. The School was informed by the County that they
1608 needed a permit. At that time, the School stop using the field and we applied for the
1609 permit this summer.
1610
1611 We are basically asking to continue using the field for practice soccer fields. The 4
1612 suggested conditions for the case, we are in complete agreement with them. The
1613 School is only looking to use this field through the summer. There is a sports complex
1614 being constructed on the campus in Goochland, so this would be used until that is
1615 completed.
1616
1617 Mr. Balfour- Through the summer of 2001?
1618
1619 Mr. Custis- Yes sir.
1620
1621 Mr. McKinney- so you could accept a conditions stati9ng that?
1622
1623 Mr. Custis- Yes.
1624
1625 Mr. McKinney- What about the spectators? Where are they going to sit or
1626 park?
1627
1628 Mr. Custis- There are no games held there, this is just for practice. The
1629 students will be brought from the school on a bus and taken back to the school.
1630

1631 Mr. Settavee I am Robert Settavee, I Vice President for Finance at
1632 collegiate. The issue for us is practice space, if the Board were to impose a condition
1633 that no cars would be parked there during practice we would accept that conditions. We
1634 want to get the teams out there practicing only. We will bus them out and bus them
1635 back.
1636
1637 Mr. McKinney- I have been by there when activities have been going on,
1638 and there are cars parked all over the place. Across the street, on the road etc.
1639
1640 Mr. Settavee- There are a number of athletic groups that have been using
1641 the field. My understanding is that some of the incidents that occurred did not involve
1642 collegiate school.
1643
1644 Mr. McKinney- Who owns this piece of property?
1645
1646 Mr. Settavee- JG Construction.
1647
1648 Mr. Kirkland- Is there any sign on the property to say that you are the sole
1649 user?
1650
1651 Mr. Settavee- At this point, this sign says no organized athletic events on
1652 the property. Which I believe this sign was posted at the County's request.
1653
1654 Mr. Kirkland- When you practice, do you practice during school hours?
1655
1656 Mr. Settavee- The practice is held after school. Typically 3:30 to 5:30 –
1657 6:00 pm And during the summer months it could be we practice at various times during
1658 the day. The suggested conditions speaks about 3-6:30 during the school year and 8-6
1659 during the summer months. That is perfectly fine with us.
1660
1661 Mr. McKinney- How many days a week?
1662
1663 Mr. Settavee- As many as 5 days a week. It would not necessarily be every
1664 day, but it could be.
1665
1666 MR. McKinney- Would it be on Saturdays?
1667
1668 Mr. Settavee- No sir. Monday through Friday only.
1669
1670 Mr. McKinney- How about Holidays?
1671
1672 Mr. Settavee- When we will only be practicing when school is in session.
1673
1674 Mr. McKinney- And you need the site through when?
1675

1676 MR. Settavee- Through this coming summer. We have a 55 acre athletic
1677 complex that is under construction in Goochland, and we are advised that the surface
1678 will be playable come fall of 2001.
1679

1680 Mr. Balfour- Do you think September 1 will give you enough time, or
1681 should we make it until the end of 2001?
1682

1683 Mr. Wright- Why don't we make it through 2001, incase there are delays
1684 in construction.
1685

1686 Mr. Settavee- That would be fine.
1687

1688 Mr. Kirkland- Anyone else in favor of the case?
1689

1690 Mr. Balfour- If we have a condition to grant this through 2001, or as soon
1691 as the new fields are finished that would cover you both ways.
1692

1693 Mr. Settavee- That would be fine.
1694

1695 Mr. McKinney- And what does the signage say on this property?
1696

1697 Mr. Settavee- The current signage says something like " no organized
1698 athletic events permitted on the property" I am told that was a sign Mr. Gummenick was
1699 asked to post after it was discovered that there were no appropriate permits to use the
1700 property for such use. The county asked him to do this. We stopped all use at the
1701 property at that point.
1702

1703 Mr. Kirkland- Any other questions? Alright, lets hear from the opposition.
1704

1705 Mr. Young- My name is Daniel Young Jr. I live at 9505 Carterwood
1706 Road. I have prepared a statement. We are not specially opposing Collegiate, but we
1707 are concerned about the property being used for sports activities. We were subjected to
1708 problems when ever activities were held on the site. We had a lot of noise coming from
1709 the fields, we couldn't even sit on our deck. They were using the woods for toilets,
1710 since none were provided. They left litter all over the place. Parking and traffic was a
1711 major issue for us. We have people driving in and out of the neighborhood, and we
1712 were concerned about our children playing. The Police were called on one occasion
1713 and ticketed many of the cars. We think granting Collegiate this permit will allow others
1714 to think they can use the fields also. I have a problem with that. Collegiate is
1715 responsible for their activities, they have not caused these problems. Probably the
1716 whistle blowing by the coach during drills is the most irritating. But we have suggested
1717 some additional conditions to the staffs conditions. We believe the staff zeroed in on
1718 many of the concerns we have. 1.They are using if for practice only, no organized
1719 games or spectators.
1720 2 No parking allowed. I do have a concern as to how that will be enforced unless all the
1721 streets are marked with no parking signs.

1722 3. No activities on the weekends and restricted hours during the school year. We are
1723 suggesting 10-12 noon in the morning and 2-4 in the afternoon. We would like the
1724 activity broken up so the field is not used for sports all day.

1725
1726 We agree with the staff that there be no permanent lighting and we don't want any
1727 buildings put on the property. The applicant has said that they would bring in portable
1728 toilets, but I don't want one in my back yard. I have a problem with them being there,
1729 they smell and who knows who will use them at any time of the day or night. We agree
1730 that the field should be maintained at all times in a neat and orderly manner. And we
1731 agree that this permit be issued only for Collegiate to use the field and no one else. I
1732 want this to be a temporary use permit and not a permanent one.

1733
1734 Mr. Kirkland- If Collegiate is going to be the only user of this site, the signs
1735 need to be changed to reflect this. This will help the Police, if they are called, to actually
1736 enforce this provision.

1737
1738 Mr. O'Neil- My name is Bill O'Neil, I live on Walsing Drive. My lot has a
1739 deep grade to it, and when they park there they many times get stuck. You have
1740 covered most everything, but I would like to know who will be there after Collegiate?

1741
1742 Mr. Kirkland- No one. Any other questions?

1743
1744 Mr. Settavee- I just received these. We are only interested in practices, we
1745 are not interested in games. We are happy to have a restriction to use the fields only
1746 during the school days on weekdays and restricted hours during the summers. We
1747 have no desire to put in any lighting, none of our fields are lit now. Nor will we seek a
1748 permit to erect any structure. I thought we could erect stockade fencing around portable
1749 toilets to make them less visible. The one I am having the most trouble with is taking
1750 the toilets away at the end of the day. That is just not possible. I am not familiar with a
1751 mobile portable toilet that can be removed at the end of each day. We will have to
1752 investigate that.

1753 Mr. Kirkland- They do have some on trailers, I have seen them at various
1754 types of shows.

1755
1756 Mr. Settavee- That conditions means that we would have to bring them out
1757 and take them away every day.

1758
1759 Mr. McKinney- How many do you have?

1760
1761 Mr. Settavee- We don't have any toilets and have not put any out there.
1762 There has not been a need for them during the few hours that we are on the field. I
1763 think the toilet issue arose because of some the weekend activities that were not ours.

1764
1765 Mr. Dorwin- Our trees behind my house have been used for toilets, but
1766 Collegiate has not been the ones doing this.

1767

1768 Mr. Settavee- If the neighbors don't want any toilets, then we won't even
1769 discuss it, since we did not plan on using them. We will pick up any litter and I will ask
1770 the coaches to watch the whistle blowing. We have no interest in transferring this
1771 permit and only want a temporary permit.

1772
1773 Mr. Kirkland- Any other questions by Board Members? If not than that
1774 concludes the case.

1775
1776
1777 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1778 Wright, the Board **granted** this temporary use permit subject to the following conditions:

1779
1780 1. Use of the property subject to this permit shall be limited to school athletic practices
1781 only. No organized games or spectators will be permitted.

1782
1783 2. Parking at the site shall be limited to not more than two school buses. The buses
1784 shall be parked such that they do not impede traffic on any public street.

1785
1786 3. Hours of operation shall be limited to 3:00 - 6:30 PM during the school year and
1787 10:00 AM - 12:00 Noon and 2:00 - 5:00 PM during the summer break. There shall be no
1788 operations on Saturdays, Sundays, or national holidays.

1789
1790 4. No buildings, structures, portable toilets, or lighting, either temporary or permanent,
1791 shall be erected at the site.

1792
1793 5. The property shall be maintained in a neat and orderly fashion, with trash removed at
1794 the end of each practice.

1795
1796 6. This permit shall expire on December 31, 2001, or when alternative facilities become
1797 available, whichever comes first.

1798
1799 The Board granted this request, as it found from the evidence presented, that
1800 authorizing this temporary use permit will not be of substantial detriment to adjacent
1801 property and will not materially impair the purpose of the zoning regulations.

1802
1803 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1804 Negative: 0
1805 Absent: 0
1806

1807 **A -101-2000 MR. AND MRS. PHILLIP J. KIRBY** request a variance from Section
1808 24-94 of Chapter 24 of the County Code to allow a garage to remain
1809 and build an addition at 8315 Whistler Court (Chamberlayne Farms)
1810 (Tax Parcel 64-3-N-21) zoned R-2, One-family Residence District
1811 (Fairfield). The minimum side yard setback and total side yard setback
1812 are not met. The applicants have 14.8 feet minimum side yard setback,

1813 and 32.1 feet total side yard setback, where the Code requires 15 feet
1814 minimum side yard setback and 35 feet total side yard setback. The
1815 applicants request variances of 0.2 feet minimum side yard setback
1816 and 2.9 feet total side yard setback.

1817
1818 Mr. Kirkland - Would the applicant come forward, please. Anyone else
1819 wish to speak on this case? Okay, if you will raise your right hand and be sworn in.

1820
1821 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1822 truth, the whole truth, and nothing but the truth, so help you God?

1823
1824 Mr. Wilson- Yes sir.

1825
1826 Mr. Kirkland - If you would, sir, state your name.

1827
1828 Mr. Wilson - Phillip Wilson.

1829
1830 Mr. Kirkland - Have all your notices been turned in?

1831
1832 Mr. Custis- Yes they have.

1833
1834 Mr. Kirkland- Please present your case.

1835
1836 Mr. Wilson- I am the contractor. The proposal by Mr. And Mrs. Kirby is
1837 to build a 20x20 foot bedroom addition for an elderly parent. The lot is pie-shaped
1838 tapering to the front of the property. The floor layout that the Kirby's propose is the
1839 most ideal for both parties. This allows for better use of the space considering the
1840 position of the cut through door way where the access will be for the addition. If the
1841 addition were to be moved farther back to comply with the setbacks requirements, this
1842 would cause problems for the floor plan and additional construction costs for the Kirby's.
1843 As proposed, the front of the addition would be sited 17.4 feet from the side boundary
1844 and the rear corner would be 27.6 feet from the side boundary due to the shape of the
1845 lot. Letters have been received from adjoining neighbors at 8313 and 8317 Whistler
1846 Court, and neither have any objections. There is another minor issue, prior to the
1847 applicants moving into the dwelling, an attached garage addition was approved that
1848 encroaches into the side setback on the opposite side of the house. WE would like to
1849 have this encroachment included in this variance. This design would create less impact
1850 on the neighbors and the planning staff agrees, as stated in the staff report. And for
1851 these reasons, I request that the variance be granted.

1852
1853 Mr. Wright- What is to the rear of this Property?

1854
1855 Mr. Wilson- There are no homes, it is the main highway, Route 301.

1856
1857 Mr. Kirkland- Any additional questions of the applicant? Any one else
1858 wish to speak on this case? If not, that concludes the case.

1859
1860 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1861 Wright, the Board **granted** this variance subject to the following conditions:

1862
1863 1. Only the improvements shown on the plan filed with the application may be
1864 constructed pursuant to this approval. Any additional improvements shall comply with
1865 the applicable regulations of the County Code.

1866
1867 The Board **granted** this request, as it found from the evidence presented, that
1868 authorizing this variance will not be of substantial detriment to adjacent property and will
1869 not materially impair the purpose of the zoning regulations.

1870
1871 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1872 Negative: 0
1873 Absent: 0

1874
1875 **UP- 35-2000 WALTER D. GRAY D/B/A PLANT LAND** requests a temporary
1876 conditional use permit pursuant to Section 24-116(c)(1) of Chapter
1877 24 of the County Code to erect a temporary sales tent and
1878 amusement rides at 12496 Gayton Road (Tax Parcel 65-A-7B),
1879 zoned B-3, Business District (Tuckahoe).

1880
1881 Mr. Kirkland - Would the applicant come forward, please. Anyone else
1882 wish to speak on this case? Okay, if you will raise your right hand and be sworn in.

1883
1884 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1885 truth, the whole truth, and nothing but the truth, so help you God?

1886
1887 Mr. Thorton - Yes sir.

1888
1889 Mr. Kirkland - If you would, sir, state your name.

1890
1891 Mr. Thorton - Chris Thorton.

1892
1893 Mr. Kirkland - Have all your notices been turned in?

1894
1895 Mr. Thorton- Yes they have.

1896
1897 Mr. Kirkland- Please present your case.

1898
1899 Mr. Thorton- We are applying for a temporary use permit to do sales of
1900 pumpkins and fall decoration. We have been at this location for the past 3 years, this
1901 year we found out we have3 to go through this process. We have had no problems in
1902 the past. As far as these amusement rides, I did not know we hade to have approval of
1903 that through the planning office. I do have some photos showing you how things were
1904 setup last year.

1905

1906 Mr. Kirkland- You had rides last year?

1907

1908 Mr. Thorton- They were moon walks, a slide and a ball crawl. They are
1909 inflatable-type amusements, they are not moving rides.

1910

1911 Mr. Kirkland- Will these amusements be inspected by Building
1912 Inspections?

1913

1914 Mr. Thorton- Yes, they have inspected them every year, and we provide
1915 insurance.

1916

1917 Mr. Kirkland- No traffic complaints, Mr. Blankinship?

1918

1919 Mr. Blankinship - No sir.

1920

1921 Mr. Kirkland - No calls from the Police?

1922

1923 Mr. Blankinship- They have not contacted us.

1924

1925 Mr. Kirkland- Any further questions of Mr. Thorton? Anyone else wish to
1926 speak on this case? If not, that concludes the case.

1927

1928 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1929 Wright, the Board **granted** this temporary use permit **UP-35-2000**, subject to the
1930 following conditions:

1931

1932 1. Only the improvements shown on the plan filed with the application may be
1933 constructed pursuant to this approval. Any additional improvements shall comply with
1934 the applicable regulations of the County Code.

1935

1936 The Board **granted** this request, as it found from the evidence presented, that
1937 authorizing this temporary use permit will not be of substantial detriment to adjacent
1938 property and will not materially impair the purpose of the zoning regulations.

1939

1940 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1941 Negative: 0
1942 Absent: 0

1943

1944 There being no further business, and on a motion by Mr. Wright, seconded by
1945 Mr. Nunnally, the Board adjourned until October 26, 2000, at 9:00 am.

1946

1947 All of the aforementioned decisions have been filed in the office of the Board of
1948 Zoning Appeals as of October 2, 2000.

1949

1950

1951

1952

Richard Kirkland,

1953

Chairman

1954

1955

1956

Benjamin Blankinship, AICP

1957

Secretary