

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 25,**
4 **2003, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**
5 **TIMES-DISPATCH ON SEPTEMBER 4 AND 11, 2003.**
6

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

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

7
8
9 Mr. Wright - Ladies and Gentlemen, welcome to the September meeting
10 of the Board of Zoning Appeals of Henrico County. I ask you to please stand and join
11 me in the **Pledge of Allegiance to the Flag of the United States**. Before we begin our
12 Agenda for the day, I would like to make a presentation. This is a plaque we've
13 prepared to be presented to Daniel T. Balfour, who was Chairman of the Board of
14 Zoning Appeals, August 23, 2001, to August 28, 2003. We certainly appreciate your
15 fine leadership and work as Chairman of our Board. Mr. Secretary, would you read the
16 rules, please.

17
18 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
19 and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each
20 case. Then at that time the applicant should come to the podium. I will ask all those
21 who intend to speak on that case, in favor or in opposition, to stand and be sworn in.
22 The applicants will then present their testimony. After the applicant has spoken, the
23 Board will ask them questions, and then anyone else who wishes to speak will be given
24 the opportunity. After everyone has spoken, the applicant, and only the applicant, will
25 be given the opportunity for rebuttal. After hearing the case, and asking questions, the
26 Board will take the matter under advisement. They will render all of their decisions at
27 the end of the meeting. If you wish to know their decision on a specific case, you may
28 stay until the end of the meeting, or you can call the Planning Office later this afternoon.
29 This meeting is being tape recorded, so we will ask everyone who speaks, to speak
30 directly into the microphone on the podium, to state your name, and to spell your last
31 name please. And finally, out in the foyer, there are two binders, containing the staff
32 report for each case, including the conditions that have been suggested by the staff.
33 Mr. Chairman, we do not have any deferrals or withdrawals.
34

35 **Beginning at 9:00:**

36

37 **New Applications:**

38

39 Mr. Wright - All right, sir. Please call the first case.

40

41 **A -100-2003** **CLAIRE-MARIE FORBES** requests a variance from Section 24-
42 95(c)(1) of Chapter 24 of the County Code to build a screened
43 porch at 403 Beechwood Drive (Westham) (Parcel 758-736-8199),
44 zoned R-1, One-family Residence District (Tuckahoe). The
45 minimum side yard setback is not met. The applicant proposes 7
46 feet minimum side yard setback, where the Code requires 9.3 feet
47 minimum side yard setback. The applicant requests a variance of
48 2.3 feet minimum side yard setback.

49

50 Mr. Wright - Please state your name. Does anyone else desire to speak?
51 Would you raise your right hand and be sworn please?

52

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

55

56 Ms. Forbes - I do. My name is Claire-Marie Forbes. We would like to
57 build a screened porch that extends from the east part of the house, and it's basically
58 the only place that we could put it. The land slants very abruptly to the right, so this is
59 basically the only place we could put a screened porch.

60

61 Mr. Wright - What is the size of this proposed porch?

62

63 Ms. Forbes - I believe it's ten by sixteen.

64

65 Mr. Wright - This would be on the rear of your house.

66

67 Mr. Nunnally - Is it going to match the other construction of your house, the
68 same kind of siding? Is it brick or frame?

69

70 Ms. Forbes - It will be siding and sliding glass doors and screens.

71

72 Mr. Wright - It appears that the porch will extend back from the side of
73 the house; in other words, it would be no closer to the property line than your house is.

74

75 Ms. Forbes - No, it's in the alignment of the house, a straight line.

76

77 Mr. Wright - What's located to the rear of your property?

78

79 Ms. Forbes - The back yard.

80

81 Mr. Wright - Do you have any trees or shrubbery, or any screening back
82 there?

83
84 Ms. Forbes - Bushes. Actually, we had trees that actually fell, so we don't
85 have any more trees back there. I think we have two trees left.

86
87 Mr. Wright - Are there any questions by members of the Board? Is there
88 anyone here in opposition to this case? Hearing none, that concludes the case.

89
90 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
91 Nunnally, the Board **granted** application **A-100-2003** for a variance to build a screened
92 porch at 403 Beechwood Drive (Westham) (Parcel 758-736-8199). The Board granted
93 the variance subject to the following conditions:

- 94
95 1. The new construction shall match the existing dwelling as nearly as practical.
96
97 2. The property shall be developed in substantial conformance with the plan filed
98 with the application. No substantial changes or additions to the layout may be made
99 without the approval of the Board of Zoning Appeals.

100
101
102 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
103 Negative: 0
104 Absent: 0

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

111
112 **A -101-2003 IAN AND CATHERINE CHURCHER** request a variance from
113 Section 24-95(c)(1) of Chapter 24 of the County Code to build a
114 second-floor addition at 2420 Kenmore Road (Bryan Parkway)
115 (Parcel 779-743-5581), zoned R-4, One-family Residence District
116 (Brookland). The minimum side yard setback is not met. The
117 applicants have 6 feet minimum side yard setback, where the Code
118 requires 7 feet minimum side yard setback. The applicants request
119 a variance of 1 foot minimum side yard setback.

120
121 Mr. Wright - Please state your name. Does anyone else desire to speak?
122 Would you raise your right hand and be sworn please?

123
124 Mr. Blankinship - Do you swear that the testimony you are about to give is the
125 truth, the whole truth, and nothing but the truth, so help you God? Mr. Chairman, before
126 they begin, let me point out, there was an error in the staff report on this case. Under

127 the background section in the first paragraph, it says that they are requesting a variance
128 of three feet. I don't know how that happened; it's one foot.

129
130 Mr. Churcher - I do. I am Ian L. Churcher.

131
132 Ms. Churcher - I do. I am Catherine A. Churcher. What we're asking for is
133 the variance. We're actually five inches off the Code, from the side. The original house
134 was built in the '40's, as a brick Colonial, and it was added on in 1964, a first floor
135 addition, brick, and we are five inches too close to the property line.

136
137 Mr. Kirkland - Ms. Churcher, what is the addition going to be used for?
138 You're putting it on top of that flat roof, I assume?

139
140 Ms. Churcher - Yes, we are. It is a room for my elderly father, who needs
141 care, and I've been going over there every day, so we're bringing him over to our house
142 to live.

143
144 Mr. Kirkland - What are the materials for the siding going to be?

145
146 Ms. Churcher - It will be vinyl siding, and we have taken pictures of the ones
147 in the neighborhood that have added onto, and they're all vinyl siding. Our next-door
148 neighbor – I can just leave these pictures showing all of them.

149
150 Mr. Kirkland - Will the chimney be extended up?

151
152 Ms. Churcher - Yes, the chimney will be extended up also. We've talked to
153 all of our neighbors. In fact, some of our neighbors have offered to come here, but
154 we're all without power, so it's a little bit of a hardship right now. They've said there's no
155 problem with the addition.

156
157 Mr. Wright - What you're saying is, this addition will be compatible with
158 the other houses?

159
160 Ms. Churcher - Yes, it will be.

161
162 Mr. Wright - Any further questions of members of the Board? Anyone
163 here in opposition to this request?

164
165 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
166 McKinney, the Board **granted** application **A-101-2003** for a variance to build a second-
167 floor addition at 2420 Kenmore Road (Bryan Parkway) (Parcel 779-743-5581). The
168 Board granted the variance subject to the following conditions:

169
170 1. Only the improvements shown on the plan filed with the application may be
171 constructed pursuant to this approval. No substantial changes or additions to the layout

172 may be made without the approval of the Board of Zoning Appeals. Any additional
173 improvements shall comply with the applicable regulations of the County Code.

174
175 2. The new construction shall match the existing dwelling as nearly as practical.

176
177 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
178 Negative: 0
179 Absent: 0

180
181 The Board granted this request, as it found from the evidence presented that, due to the
182 unique circumstances of the subject property, strict application of the County Code
183 would produce undue hardship not generally shared by other properties in the area, and
184 authorizing this variance will neither cause a substantial detriment to adjacent property
185 nor materially impair the purpose of the zoning regulations.

186
187 **A -102-2003** **JAMES S. YOFFY** requests a variance from Section 24-94 of
188 Chapter 24 of the County Code to build an addition at 2962
189 Dragana Drive (Dover Hunt) (Parcel 746-754-7654), zoned R-3C,
190 One-family Residence District (Conditional) (Three Chopt). The
191 rear yard setback is not met. The applicant proposes 33 feet rear
192 yard setback, where the Code requires 40 feet rear yard setback.
193 The applicant requests a variance of 7 feet rear yard setback.

194
195 Mr. Wright - Please state your name. Does anyone else desire to speak
196 with respect to this case? Would you raise your right hand and be sworn please?

197
198 Mr. Blankinship - Do you swear that the testimony you are about to give is the
199 truth, the whole truth, and nothing but the truth, so help you God?

200
201 Mr. Gee - My name is John Gee. I do.

202
203 Mr. Yoffy - I'm James Yoffy. Yes sir.

204
205 Mr. Gee - Mr. and Mrs. Yoffy want to enlarge their dining room,
206 because it's very narrow, and when they entertain, or both of them have large families,
207 the table that they have in there right now, when it extends out, it's ten feet by four feet,
208 in a 12 by 16 area. When they come in from the kitchen, it's hard to get around with the
209 other furniture that's in the room. To add on to this, the house is right on the property
210 line as it is, I believe, and so to give them any kind of length to the dining room, they
211 need to go out the back. There is one change in the drawing you have there, that they
212 gave to me after we had started this thing. I had some copies made. It's just adding
213 one window that we would like to have as well. It's not going to deter from the variance
214 of the house; the house will have the cedar siding just like it is now, matching brick as
215 close as we can get. The trees you see in the back there; they've disappeared.

216
217 Mr. Wright - This change will not cause it to extend any further?

218
219 Mr. Gee - No sir; it's just adding the window. You see the one little
220 window on the second floor; we're adding one on the right, right at the bottom, so that
221 you can have a little more light in that corner right there. It makes that side of the house
222 look even more presentable.

223
224 Mr. Wright - What's located to the rear of this property?

225
226 Mr. Gee - In the rear of the property is a County park.

227
228 Mr. Wright - You have plenty of open space back there?

229
230 Mr. Gee - Yes sir, and a tree buffer zone.

231
232 Mr. Wright - Any further questions from members of the Board? Anyone
233 here in opposition to this request? Hearing none, that concludes the case. Thank you
234 very much.

235
236 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
237 Balfour, the Board **granted** application **A-102-2003** for a variance to build an addition at
238 2962 Dragana Drive (Dover Hunt) (Parcel 746-754-7654). The Board granted the
239 variance subject to the following conditions:

240
241 1. The new construction shall match the existing dwelling as nearly as practical.

242
243 2. The property shall be developed in substantial conformance with the plan filed
244 with the application. No substantial changes or additions to the layout may be made
245 without the approval of the Board of Zoning Appeals.

246
247 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

248 Negative: 0

249 Absent: 0

250
251 The Board granted this request, as it found from the evidence presented that, due to the
252 unique circumstances of the subject property, strict application of the County Code
253 would produce undue hardship not generally shared by other properties in the area, and
254 authorizing this variance will neither cause a substantial detriment to adjacent property
255 nor materially impair the purpose of the zoning regulations.

256
257 **UP- 24-2003** **JACQUELINE GRAY** requests a temporary conditional use permit
258 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code
259 to set up amusement devices and a shipping container at 12496
260 Gayton Road (Parcel 732-751-4078), zoned B-3, Business District
261 (Tuckahoe).

262

263 Mr. Wright - Please state your name. Does anyone else desire to speak?
264 Would you raise your right hand and be sworn please?

265
266 Mr. Blankinship - Do you swear that the testimony you are about to give is the
267 truth, the whole truth, and nothing but the truth, so help you God?
268

269 Ms. Gray - Jacqueline Gray. Yes sir. I am into seasonal sales, and I
270 have sold pumpkins at the Gayton Shopping Center for the past four years, except for
271 last year, because the County was putting in a pumping station. I'm just here to get
272 permission to put my sea container in, which is forty feet by eight feet, and it has roll-up
273 windows and two doors on the end that close, so that I can store a generators at night,
274 so they're not stolen. I have blow-ups that are run by generators; nothing is
275 mechanical, a moon bounce, a ball crawl, and a dino-slide. That's about it, and I just
276 need your permission for this.

277
278 Mr. Wright - Is this the same operation that's been carried on there
279 before? Mr. Secretary, have we had any complaints or problems in the past?
280

281 Ms. Gray - Yes, yes.

282
283 Mr. Blankinship - No sir, none in the last couple of years.
284

285 Mr. Wright - And you've read the conditions? And you're agreeable with
286 the conditions? Any questions from the Board? Is anyone here in opposition to this
287 request?
288

289 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
290 Kirkland, the Board **granted** application **UP-24-2003** for a temporary conditional use
291 permit to set up amusement devices and a shipping container at 12496 Gayton Road
292 (Parcel 732-751-4078). The Board granted the use permit subject to the following
293 conditions:

294
295 1. The property shall be used in substantial conformance with the plan filed with the
296 application. No changes or additions to the layout may be made without the approval of
297 the Board of Zoning Appeals.
298

299 2. Hours of operation shall be limited to 10:00 AM - 8:00 PM, October 1 - 31, 2003.
300

301 3. Temporary outdoor sales lots and stands shall be located at least 200 feet from
302 any R district.
303

304 4. This use shall not interfere with the parking lot or vehicular circulation of the
305 shopping center.
306

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

308 Negative: 0

309 Absent:

0

310

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

313

314 **A -103-2003**

RYAN BROWNING requests a variance from Sections 24-95(c)(4)
315 and (1) of Chapter 24 of the County Code to build an addition and
316 front porch at 1808 Court Street (Hermitage Court) (Parcels 782-
317 749-0462 (part) and 0061), zoned R-4, One-family Residence
318 District (Fairfield). The front yard setback and minimum side yard
319 setback are not met. The applicant proposes 17 feet front yard
320 setback and 5 feet minimum side yard setback, where the Code
321 requires 35 feet front yard setback and 7.5 feet minimum side yard
322 setback. The applicant requests a variance of 18 front yard
323 setback and 2.5 feet minimum side yard setback.

324

325 Mr. Wright - Please state your name for the record. Does anyone else
326 desire to speak with respect to this matter? Would you raise your right hand and be
327 sworn please?

328

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

331

332 Mr. Browning - Ryan Browning. I do. The existing house that my wife and I
333 live in is 24 feet from the front property line, where it sits right now. The front porch or
334 stoop would be 18 feet from the front property line. The house is five feet from the side.
335 We'd like to add on in three different areas. We'd like to add four feet to the side of the
336 house where the kitchen is, to expand the kitchen. That would then mean it would still
337 be twenty-seven feet from the front property line. It wouldn't be getting any closer to the
338 front property line, but it would be twenty-seven feet, so that's one part of the variance.
339 We'd like to make the second floor into a bedroom/bathroom, to have three bedrooms,
340 two bathrooms. To do that we'd really need to extend the front roof and cover the
341 porch, would be the most economical way to garner enough room upstairs to make a
342 bedroom and second bathroom. The front porch, the concrete stoop that's there now,
343 would basically be covered. The porch would get one foot closer to the front property
344 line than the concrete stoop is right now

345

346 The third thing would be adding onto the side of the house that's five feet from the
347 property line. We'd like to add a small addition out back, so that we can get the stairs
348 that are in there to go upstairs. As the house sits right now, it's too close to the front
349 and too close to the sides, so that if I try to add on in any place, while I'm really keeping
350 it in line with the house, I have to have a variance for that.

351

352 Mr. McKinney - Mr. Browning, what type of material are you going to cover
353 this addition with, same thing as on your home now, or what?

354

355 Mr. Browning - I plan to either match that, or, if I can afford it, I plan to re-
356 side the whole house at the same time, so that everything would match, and re-paint the
357 whole house, so I probably would go with that new hardy plank that they're putting out
358 and take the aluminum siding off.
359

360 Mr. McKinney - Mr. Blankinship, 1800 Court Street – does that face Club
361 Road, or does it face Court Street, or do you know?
362

363 Mr. Blankinship - I don't know; I can't really tell.
364

365 Mr. McKinney - It looks like it's awful close to Court Street, in comparison
366 with Mr. Browning's, from this aerial photograph.
367

368 Mr. Blankinship - It certainly does. The property lines on the aerial photograph
369 are not absolutely accurate, so it could be that that line actually runs a little south of
370 there.
371

372 Mr. Wright - Any other Board member have any other questions? One
373 comment, the proposed addition on the rear would be no closer to the property line than
374 the house already is?
375

376 Mr. Browning - No sir, it would just be in line with the house, just extending
377 back another four to eight feet, depending on the size I need for the stairs.
378

379 Mr. Wright - And the addition on the side would be in the same situation.
380

381 Mr. Browning - Correct. It would be in line with the kitchen, just bumping it
382 out four feet to garner more space.
383

384 Mr. Wright - The porch is the only thing that would extend closer to the
385 street than your house is now, is that correct?
386

387 Mr. Browning - Yes, it would pretty much cover the front stoop that's there
388 now, be a little bit larger, and come a foot closer. It would just be covered to allow me
389 to extend the roof to get more room upstairs, to have headroom to have a bedroom and
390 bathroom.
391

392 Mr. Wright - Are there any other houses in the area that have front
393 porches of this type?
394

395 Mr. Browning - Yes, my next-door neighbor has a front porch; it's not a large
396 one, but it's a front porch. The new house that's being built across the street has a front
397 porch, so as you ride around in the neighborhood, there are a fair amount that do have
398 front porches.
399

400 Mr. Wright - Are they the same size as yours, your proposed porch?

401
402 Mr. Browning - Probably close. My front porch won't extend the whole width
403 of the house. Most of the houses that have them, it extends the full width. The house
404 may be turned the opposite direction, so it's the skinny side of the house, but in that
405 area, the bungalow-type look, those front porches are fairly common.

406
407 Mr. McKinney - Mr. Browning, let me inform you, the house across the
408 street's front porch meets the setback.

409
410 Mr. Browning - Oh, I'm sure it does. There are houses with front porches.

411
412 Mr. Wright - Anyone here in opposition to this request?

413
414 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
415 Nunnally, the Board **granted** application **A-103-2003** for a variance to build an addition
416 and front porch at 1808 Court Street (Hermitage Court) (Parcels 782-749-0462 (part)
417 and 0061). The Board granted the variance subject to the following conditions:

418
419 1. The new construction shall match the existing dwelling as nearly as practical.

420
421 2. The property shall be developed in substantial conformance with the plan filed
422 with the application. No substantial changes or additions to the layout may be made
423 without the approval of the Board of Zoning Appeals.

424
425 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

426 Negative: 0

427 Absent: 0

428
429 The Board granted this request, as it found from the evidence presented that, due to the
430 unique circumstances of the subject property, strict application of the County Code
431 would produce undue hardship not generally shared by other properties in the area, and
432 authorizing this variance will neither cause a substantial detriment to adjacent property
433 nor materially impair the purpose of the zoning regulations.

434
435 **A -104-2003** **ROBERT AND CHRISTINE HOLSTEN, JR.** request a variance
436 from Sections 24-95(c)(4) and 24-95(k) of Chapter 24 of the County
437 Code to build an addition at 901 Woodberry Drive (Rollingwood)
438 (Parcel 760-740-8364), zoned R-3, One-family Residence District
439 (Tuckahoe). The front yard setback and minimum street side yard
440 setback are not met. The applicants have 31 feet front yard
441 setback and 6 feet street side yard setback, where the Code
442 requires 35 feet front yard setback and 25 feet street side yard
443 setback. The applicants request a variance of 4 feet front yard
444 setback and 19 feet street side yard setback.

445
446 Mr. Blankinship - Mr. Chairman, let me call your attention to the letter that was

447 left before you that pertains to this case.

448

449 Mr. Wright - Please state your name for the record. Does anyone else
450 desire to speak with respect to this case? Would you please raise your right hand and
451 be sworn?

452

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

455

456 Mr. Holsten - Robert Holsten, Jr. I do. When I applied for the side yard
457 setback, the Planning Technician who was helping me said I also had to apply for the
458 front yard setback. Our house was built in 1940, with a 31-foot setback. The Code
459 requires 35 feet, so we're requesting a four-foot variance for the front. We're not doing
460 anything to the front. On the side, the corner closest to Woodberry Road, if you
461 measure from there to the property line on Sweetbriar Road, it's 14.8 feet away from
462 that property line. Something I'd like you to consider today, is how far I am from the
463 street, and I'm 27 feet away from the street. As the lot goes back, it flares out, so that's
464 the closest point from that front corner. We'd like to build an addition that many of our
465 neighbors have already done, a two-story rear addition, with a master suite on the top
466 and a family room on the bottom. For the side facing Sweetbriar Road, we'd like to add
467 a one-story entrance, with a porch wrapping around to the back. This entrance would
468 make it more convenient for us to get from the car to the kitchen. The entrance we
469 have planned will extend eight feet closer to Sweetbriar Road, and if we can look at the
470 first picture, the other picture, the front yard picture – you see that tall bush on the right
471 – our addition would actually be four and a half feet to the left of that bush, so it's only
472 coming eight feet. The front plane of the addition will be even with that fence the way it
473 is now.

474

475 Mr. Balfour - It'll come roughly where the row of hedges is now, just
476 outside the air conditioning unit, I guess?

477

478 Mr. Holsten - Yes. That would give us a six-foot setback; however, at the
479 closest point to Sweetbriar Road, we'll still be twenty feet away from the road.

480

481 Mr. Wright - Does the house, as it sits, violate the side yard?

482

483 Mr. Holsten - Yes it does.

484

485 Mr. Wright - So it's already in violation?

486

487 Mr. Holsten - That's correct. The entrance, along with other
488 improvements, will improve the appearance of the house. Because we're on a corner
489 lot, a lot of people, when they drive by, they see the back of the house, and the side of
490 the house. They usually see that more than they see the front. Our goal is to make the
491 side look just as good as the front. To help do this, the addition will be a brick
492 foundation, with hardy plank siding, and a good-looking roof. We'll remove those heat

493 pumps, so that they can't be seen from the street. We'll also take that six-foot tall fence
494 and replace it with a newer picket fence. Then we'll properly landscape all of that to
495 make it look as good as the front.

496
497 Mr. Wright - What happens to that window that's on the side to the rear,
498 on the first floor. Is that to be taken out?

499
500 Mr. Holsten - The new entrance would cover that whole area, and that
501 window would be our doorway from the entrance into the kitchen area. I do have a
502 preliminary drawing, if you wish to see it.

503
504 Mr. Wright - If you would, pass it up.

505
506 Mr. Nunnally - On the right, that will be your entrance in this drawing?

507
508 Mr. Holsten - Yes, there will be an entrance to the front of it, which will be
509 from the Woodberry side, and an entrance to the rear of it, but the fence will close in
510 that back part, so that the dogs and the kids can go out the back, and we can enter from
511 the front. We've presented this to all of our neighbors, and they all look forward to the
512 improvements we're planning, and that letter that Mr. Blankinship just passed out, I've
513 got a signed copy of it now, if you wish to see a signed copy.

514
515 Mr. Wright - This drawing that you just submitted, is that looking at it from
516 the front?

517
518 Mr. Holsten - That's looking from the side, from Sweetbriar Road.

519
520 Mr. Wright - How do you get those two windows up there, when you only
521 have one window?

522
523 Mr. Holsten - That was a quick sketch by a draftsman, and the two
524 windows from the brick part of the house, he did not put that into the drawing. The other
525 detailed part of the drawing is for the addition.

526
527 Mr. Wright - Any further questions from any members of the Board?
528 Anyone here in opposition to this request?

529
530 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
531 McKinney, the Board **granted** application **A-104-2003** for a variance to build build an
532 addition at 901 Woodberry Drive (Rollingwood) (Parcel 760-740-8364). The Board
533 granted the variance subject to the following conditions:

534
535 1. The new construction shall match the existing dwelling as nearly as practical.
536

537 2. The property shall be developed in substantial conformance with the plan filed
538 with the application. No substantial changes or additions to the layout may be made
539 without the approval of the Board of Zoning Appeals.

540
541 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
542 Negative: 0
543 Absent: 0
544

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

550
551 **A -105-2003 HABITAT FOR HUMANITY** requests a variance from Section 24-
552 95(c)(2) of Chapter 24 of the County Code to build a one-family
553 dwelling at 311 Crawford Street (Laburnum Grove) (Parcels 793-
554 738-6505 (part) and 6105), zoned R-6, General Residence District
555 (Fairfield). The rear yard setback is not met. The applicant
556 proposes 22 feet rear yard setback, where the Code requires 25
557 feet rear yard setback. The applicant requests a variance of 3 feet
558 rear yard setback.

559
560 Mr. Wright - Please state your name. Does anyone else desire to speak?
561 Would you raise your right hand and be sworn please?

562
563 Mr. Blankinship - Do you swear that the testimony you are about to give is the
564 truth, the whole truth, and nothing but the truth, so help you God?

565
566 Mr. Lowry - I do. Matthew Lowry. I apologize for my appearance today.
567 We're busy working on site. Our sponsorship money has been very good to us. We are
568 currently building eight houses on Crawford Street. We have eight lots. We've had
569 some trouble fitting a lot of these houses on these lots. Right now we have every permit
570 submitted for these lots, either in process or already approved. This is the one problem
571 that we do have. You see on the last page in your pamphlet, the rear alley makes an
572 abrupt turn upward and thus does not give us our rear clearance. The only problem
573 with this, if you look at that 22-foot dimension, that left rear corner, if the house were just
574 shifted eight inches to the right, we were told by our survey company, if it were just
575 moved over eight inches, we would be clear of that alley. We're just infringing eight
576 inches to the left at that corner. We'd like to have a variance on this one particular issue
577 right here.

578
579 Mr. Wright - That alley is slightly irregular in shape, isn't it?

580
581 Mr. Lowry - Yes sir, it's a funny-looking thing, and it does not give us any
582 trouble anywhere else. We won't be coming to you for any of our other houses being

583 built on lot 3, 2, or 1. That would be to the left of that house. It's just this one house
584 right here that has this funny alley in the back; it's just giving us a little bit of trouble
585 trying to get it to fit on there.

586
587 Mr. Blankinship - Is there actually an improved alley back there; is there any
588 kind of a surface? It really doesn't show up on the ground; it's just a line on the plat.

589
590 Mr. Wright - It's a paper alley?

591
592 Mr. Lowry - Yes. We had no idea that this alley was shaped like that till
593 we went out and staked the lot itself. It was only after we had it surveyed that we
594 realized that we had trouble with this alley.

595
596 Mr. Wright - So that alley is not an access for anyone? In effect, it gives
597 you a little more distance between your property line and the other property line behind
598 you?

599
600 Mr. Lowry - Yes sir, that's correct. There is an apartment complex;
601 probably you'll see it in that picture. I would say that apartment complex is probably fifty
602 feet from that alley in the rear.

603
604 Mr. Wright - And that is what's behind your property – apartments?

605
606 Mr. Lowry - Yes sir, and I can't remember the name of it to save me.

607
608 Mr. Wright - Any questions by members of the Board?

609
610 Mr. Kirkland - Mr. Blankinship, is this alley that's back there, is that used
611 for utility easements, or water, sewer, or anything under that, or do you know?

612
613 Mr. Blankinship - I do not know.

614
615 Mr. Kirkland - I don't know if they'll ever have to gain entrance to the alley.
616 Might have been utilities or something placed under there a long time ago, but if they
617 were to go bad, they might have to pull them out.

618
619 Mr. Blankinship - It could well be. Do you know where the utilities are going
620 for the houses that you're building.

621
622 Mr. Lowry - Sewer, I believe, runs through the back.

623
624 Mr. McKinney - That's what it is then.

625
626 Mr. Lowry - Wire is in the front.

627
628 Mr. Blankinship - So we wouldn't want them to vacate that alley.

675 Mr. Farrar - I do. Terry Farrar. I'm with Melani Brothers, and we're going
676 to hopefully do a sunroom on the existing structure's existing deck, 10 by 12. We're not
677 protruding any further out or any wider. The front yard is already a foot off, about .4 off.
678 We're requesting a 10-foot setback for the rear yard, for the sunroom, which is going to
679 go on the existing deck. There's not really any hardship here, with the exception of Ms.
680 Noel was expecting to put a sunroom on when she bought the home, not knowing what
681 we know now. We already have the homeowners' association approval; we're just
682 waiting for you gentlemen to give us the okay to do it.

683
684 Mr. Nunnally - What size is the sunroom going to be?

685
686 Mr. Farrar - It's a ten by twelve.

687
688 Mr. Kirkland - Mr. Farrar, is it total glass, or what's the roof made out of?

689
690 Mr. Farrar - Aluminum polystyrene.

691
692 Mr. Wright - It looks like this house is located on a cul-de-sac, is that
693 correct?

694
695 Mr. Farrar - Yes, it's a little odd-shaped, but I don't have the hardship
696 that I normally have when I come in front of you guys.

697
698 Mr. Wright - You're less than a half a foot too close to the front property
699 line.

700
701 Mr. Farrar - We're not doing anything with the front; that's the way the
702 home was built initially. We're putting the sunroom on the existing structure of the deck
703 in the rear. The only thing that we are changing, obviously on the right side of it, where
704 they have the steps on the deck, we're obviously required to put a nine square foot
705 landing, three by three landing with steps.

706
707 Mr. Wright - Do you know how much this proposed addition encroaches
708 in the rear yard setback.

709
710 Mr. Farrar - Ten feet.

711
712 Mr. Wright - I know it's ten feet, but it doesn't appear to me that the whole
713 proposed addition would be at ten feet, because it realigns. The rear line is not
714 perpendicular to the house.

715
716 Mr. Farrar - I don't know exactly what that is, no.

717
718 Mr. Wright - Any further questions of members of the Board? Anyone
719 here in opposition to this request?

720

721 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
722 McKinney, the Board **granted** application **A-106-2003** for a variance to build a sunroom
723 and allow the dwelling to remain at 7313 Oakham Court (Windsor Oaks) (Parcel 823-
724 694-7876). The Board granted the variance subject to the following conditions:

- 725
- 726 1. The new construction shall match the existing dwelling as nearly as practical.
 - 727
 - 728 2. The property shall be developed in substantial conformance with the plan filed
729 with the application. No substantial changes or additions to the layout may be made
730 without the approval of the Board of Zoning Appeals.

731

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

735

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

741

742 **A -107-2003** **AUSTIN-DAVIDSON, INC.** requests a variance from Section 24-94
743 of Chapter 24 of the County Code to build a one-family dwelling at
744 11700 Old Nuckols Road (Hampshire South) (Parcel 743-774-
745 7910), zoned R-2AC, One-family Residence District (Conditional)
746 (Three Chopt). The rear yard setback is not met. The applicant
747 proposes 43 feet rear yard setback, where the Code requires 45
748 feet rear yard setback. The applicant requests a variance of 2 feet
749 rear yard setback.

750

751 Mr. Balfour - Mr. Chairman, I'm going to have to recuse myself in this
752 case.

753

754 Mr. Wright - Please state your name. Does anyone else desire to speak?
755 Would you raise your right hand and be sworn please?

756

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

759

760 Mr. Bowman - I do. I'm Darrell Bowman; I represent Austin-Davidson. On
761 this house you can see that the side yard starts at the corner of Shady Grove and Old
762 Nuckols Road. It's the first lot in the subdivision. Because it's on Shady Grove Road,
763 the County required the developer to make the side yard from the buildable area to
764 Shady Grove Road about 45 feet, which would typically be only 25 feet. Because of
765 that, we have to put a house that's not as wide on the lot, and the only plan we've got
766 that really works well for this is 1.8 feet too deep to actually fit within the back buildable

767 area. All the houses in the neighborhood are about 3100 square feet, plus they all have
768 side garages, so we can't shove it right to the property line, because then we wouldn't
769 have the proper access to get in and out of the driveway into the house. So what we're
770 requesting is to be able to build a house that encroaches 1.8 feet into the back yard.
771 I've talked to the neighbor across the street, and one of the two neighbors behind the
772 house. One of them I've not been able to reach. The two I've talked to have signed a
773 petition stating they have no objection to it, which I'd like to give to you now. We've built
774 this house before, where we've knocked off ten feet off the back, and it made the house
775 less desirable. The homes in the neighborhood are running \$400,000 to \$500,000, so
776 we don't want to build something that's going to compromise the other houses in the
777 neighborhood, and do something that might adversely affect the other neighborhood
778 houses, as far as values and stuff like that.

779
780 Mr. Nunnally - But you're telling me you could design a house that would fit
781 on this lot properly, is that correct?

782
783 Mr. Bowman - We could shave two feet off the back of that; we've done that
784 in the past; unfortunately when we do that, the floor plan is not desirable, and the last
785 one we did, we ended up having to reduce the price by \$25,000 or \$30,000, which really
786 didn't help the neighborhood's values. We did it over in River's Edge, and wound up
787 having to sell the house for a whole lot less money, which impacted the builder too, but I
788 think it impacted the neighbors, because when people want to resell their houses, they
789 see that some of our houses were built and sold for substantially less money, it
790 adversely affects the property values in the neighborhood, so we're looking to protect
791 the neighborhood as much as anything. All the homes have brick fronts; they're all side
792 garages. We've build in a nice upscale neighborhood, so we're not trying to cut
793 corners, so we don't want to do anything that we feel would adversely affect the
794 neighborhood. If the County had required the builder to keep the house 45 feet off of
795 Shady Grove Road on the side yard, we could have built any of our wider houses on the
796 lot. But because the County requested us to make the side yard buildable, like 45 feet
797 from Shady Grove Road, which would normally only be 25 feet wide, it wouldn't be an
798 issue. But because they made us hold the house so far to the side, that's where the
799 impact is coming in.

800
801 Mr. Wright - The other houses that are built along Shady Grove have to
802 meet that requirement, don't they?

803
804 Mr. Bowman - Correct, but the one across the street that we're doing, the
805 lot was wider for some reason, and we're able to fit the house on there. Excuse me, the
806 lot was wider, so we were able to put a wider house on it.

807
808 Mr. Wright - Couldn't you come up with some other plan, not shave two
809 feet off, couldn't you design the house so it would fit?

810
811 Mr. Bowman - The only way we could do that is build a substantially smaller
812 house on the lot.

813
814 Mr. Kirkland - When you say substantially smaller, how many square feet?
815

816 Mr. Bowman - I don't know. We'd have to come up with a totally different
817 plan. We don't have any plan in stock that would fit. The plans we've got that would fit
818 are down around 2600 square feet, and I don't think you want to go build a 2600 square
819 foot house, when everything else in the neighborhood is 3100 square feet plus.

820
821 Mr. Kirkland - The difference in money, what do you think? Value? You
822 say \$400,000 or \$500,000 out there now. What would the difference be in a 2600
823 square foot?
824

825 Mr. Bowman - You're probably looking to spend somewhere around
826 \$350,000. You're not going to get more than \$350,000 for a 2600-square foot house
827 out there, even if you put brick all the way around it, and everything else.

828
829 Mr. Wright - Any further questions from members of the Board? Anyone
830 here in opposition to this request?
831

832 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
833 McKinney, the Board **denied** application **A-107-2003** for a variance to build a one-family
834 dwelling at 11700 Old Nuckols Road (Hampshire South) (Parcel 743-774-7910).
835

836 Affirmative:	Kirkland, McKinney, Nunnally, Wright	4
837 Negative:		0
838 Abstain:	Balfour	1

839
840 The Board denied your request as it found from the evidence presented that there are
841 no exceptional conditions and no hardship as required by the Code of Virginia to justify
842 a variance.
843

844 **A -108-2003** **WILLIAM AND ANDREA CASEY** request a variance from Section
845 24-94 of Chapter 24 of the County Code to build a one-family
846 dwelling at 11712 Lincolnshire Court (Hampshire South) (Parcel
847 743-773-5282), zoned R-2AC, One-family Residence District
848 (Conditional) (Three Chopt). The front yard setback and rear yard
849 setback are not met. The applicants propose 41 feet front yard
850 setback and rear yard setback, where the Code requires 45 feet
851 front yard setback and rear yard setback. The applicants request a
852 variance of 4 feet front yard setback and rear yard setback.
853

854 Mr. Wright - Please state your name. Does anyone else desire to speak?
855 Would you raise your right hand and be sworn please?
856

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

859
860 Mr. Casey - I do. William and Casey.
861
862 Ms. Casey - Yes I do. Andrea Casey.
863
864 Mr. Balfour - Mr. Chairman, I'd better recuse myself on this one too.
865
866 Mr. Bowman - This is a similar situation, only this lot is even worse than the
867 one I just talked about. The Caseys are buying a house in Hampshire South, and the
868 lot we want to get has got a very odd configuration. If you look at it, it's very deep on
869 the right-hand side, but it tapers in to where it's only about 24 feet wide on the left-hand
870 side, which makes it very difficult to fit a house in there. What we had to do, we were
871 able to take one of our plans and modify it. To make it work, we had to shift the garage
872 four feet forward on the lot on the house plan to make it actually fit into the buildable
873 area, but to do that, we had to take off the covered stoop to make it fit within the
874 parameters of the buildable area, which the Caseys were willing to accept. The
875 diagram you see here, the ten by fourteen deck screened-in area is where they're
876 asking for a screened-in porch, is where the actual deck will be on the house, which
877 meets all your building codes. On the front of the property the house has a 5' by 8.3'
878 front stoop, and what they're asking for is to be able to put a cover on the stoop like all
879 the other houses in the neighborhood have. Ninety percent of the homes in the
880 neighborhood have covered stoops, and they'd like to be able to just cover that in just
881 the same as the other houses in the neighborhood. It will not adversely affect the
882 footprint of the house, because it's going to be right over the existing footprint of where
883 the house will actually fit on the lot. I have gone around to all the neighbors again, and
884 they've all signed a petition stating they have no objections to the requested variances,
885 from all the existing neighbors.
886
887 Mr. Wright - So in this case, it's the deck and the covered stoop that
888 present the problem.
889
890 Mr. Bowman - That is correct. The house will fit on the lot as we've drawn
891 it, if we do not cover the stoop. The stoop will still be there, where you see the stoop
892 drawn. That will not change, whether it's covered or not. What the Caseys are asking
893 for, is for us to have the ability to actually cover the stoop, so that when they come up to
894 the house, they won't have to stand in the rain to get in the property, or if they have
895 guests coming over. It's going to look better with the covered stoop in my opinion. In
896 their opinion, the covered stoop makes the house look more attractive.
897
898 Mr. Wright - And the screened porch violates at just one corner.
899
900 Mr. Bowman - One corner will encroach approximately four feet into the
901 rear setback, correct. The covered front stoop will encroach 3.5 feet, at the closest
902 point. The Caseys will be glad to answer questions for you also.
903
904 Mr. Wright - Do you desire to speak.

905
906 Ms. Casey - I brought some photographs of the additional homes in the
907 neighborhood that have covered stoops, and although they've probably passed
908 variance, I just wanted to show you what a difference it does make. To us, we feel like
909 it's going to increase the value of our home, and as Mr. Bowman stated, it's what we
910 actually prefer, so I'd like to leave these with you, along with a rendition of the elevation
911 of what our actual home will look like with the covered stoop.
912
913 Mr. Casey - I just wanted to add as well, that these two variances we've
914 requested today are very important to us and weigh heavily on our decision about the
915 house. Thank you.
916
917 Mr. Wright - Have you already contracted to buy the house, to buy the
918 lot?
919
920 Mr. Casey - Yes sir.
921
922 Mr. Wright - So you own the lot now?
923
924 Mr. Casey - We have a deposit on the lot.
925
926 Mr. Wright - Is there a condition, is it subject to your being able to put this
927 house on the lot. Are there any conditions in the contract?
928
929 Mr. Bowman - It's subject to being able to build the house on the lot, yes.
930
931 Mr. Wright - The one with the variance?
932
933 Mr. Bowman - I believe so, yes.
934
935 Mr. Wright - So if the variance is denied, they have a right to not proceed
936 with the contract?
937
938 Mr. Bowman - That is a possibility, yes.
939
940 Mr. McKinney - Did you say that is a possibility or that is a fact?
941
942 Mr. Bowman - I don't have the contract in front of me; I don't know the
943 exact wording on it. I know it's subject to the house fitting on the lot, and everybody
944 mutually agreed on how we were going to build the house.
945
946 Mr. Wright - Any further questions from members of the Board? Anyone
947 here in opposition to this request?
948

949 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
950 McKinney, the Board **denied** application **A-108-2003** for a variance to build a one-family
951 dwelling at 11712 Lincolnshire Court (Hampshire South) (Parcel 743-773-5282).

952
953 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
954 Negative: 0
955 Abstain: Balfour 1
956

957 The Board denied your request as it found from the evidence presented that there are
958 no exceptional conditions and no hardship as required by the Code of Virginia to justify
959 a variance.

960
961 **A -109-2003** **BRIAN AND CHRISTINE COUTURIER** request a variance from
962 Section 24-95(u)(1)b. of Chapter 24 of the County Code to build an
963 addition at 5528 Jones Mill Drive (Summerberry) (Parcel 755-770-
964 9353), zoned R-3, One-family Residence District (Brookland). The
965 setback from the floodplain is not met. The applicants have 0 feet
966 setback from the floodplain, where the Code requires 12 feet
967 setback from the floodplain. The applicants request a variance of
968 12 feet setback from the floodplain.

969
970 Mr. Wright - Please state your name. Does anyone else desire to speak?
971 Would you raise your right hand and be sworn please?

972
973 Mr. Blankinship - Do you swear that the testimony you are about to give is the
974 truth, the whole truth, and nothing but the truth, so help you God?

975
976 Mr. Wright - Are you in opposition? Our procedure would be, just to
977 refresh your memory from the beginning, the applicant would be given an opportunity to
978 state his case, or anyone else to speak for the application. Then the opposition may
979 speak, as fully as the opposition desires, but once the opposition concludes his
980 statement, then the applicant has a chance to rebut, and that's the end of the case.

981
982 Mr. Manson - I do. I'm Andre Manson. What my clients would like to do is
983 add a 12 by 12 addition on the rear of their house. There are some photographs of the
984 rear and left side of the house. That deck is probably shown at almost 20 feet. The 12
985 feet is what they want to actually remove the existing deck and put a 12 by 12 addition
986 on it. The floodplain is so close, with the wetlands, the deck they have on now is
987 definitely in the wetland area, because I think they later on added that deck after they
988 moved into the house. They're trying to get more room into the house, as you see
989 there. What they're going to do is remove the deck, put a 12 by 12 addition in, and
990 place the new deck alongside the rear of the house, not onto the new addition, so that it
991 won't actually go into the floodplain. That drawing right there is showing with a 12 by 12
992 deck now. As you can see, the dash line there, the setback, they pretty much can't
993 build anything at all, or expand their house at all, anywhere on that house. So it's a
994 really tough piece of property to do an addition on. The addition they plan on adding is

995 a two-story addition. The only hardship I can think of, is the older daughter has some
996 kind of health condition, and the mother would have to stay home, and she is pursuing a
997 home daycare or some kind of child care to help bring in some kind of money.
998

999 Mr. Wright - All right. Any questions by members of the Board?
1000

1001 Mr. McKinney - Mr. Manson, from the rear of this home, are the other
1002 adjacent homes visible?
1003

1004 Mr. Manson - No, from the rear of the home, it's actually very wooded.
1005

1006 Mr. McKinney - I see that side. How about the side?
1007

1008 Mr. Manson - Oh, the other side. I do believe the neighbor to the right, that
1009 one there, can see from their back yard, that view.
1010

1011 Mr. McKinney - They don't have any windows on that side of the house
1012 either, do they?
1013

1014 Mr. Manson - No, there are no windows on that side of the house on that
1015 side, no.
1016

1017 Mr. McKinney - Do they have a deck out back?
1018

1019 Mr. Manson - The neighbors? I'm not sure what the neighbors have. I
1020 have seen a pool, but I think that's probably the extent of it. I'm not sure what else is
1021 back there.
1022

1023 Mr. McKinney - How about to the rear of this home?
1024

1025 Mr. Manson - To the rear of the home is heavily wooded. I don't even
1026 know how far back that property stretches.
1027

1028 Mr. Wright - All right. Any further questions by members of the Board?
1029 Mr. Manson, would you be seated, and we'll hear from the opposition. Would you come
1030 down to the microphone. Please state your name for the record.
1031

1032 Ms. Heffler - I'm Michelle Heffler.
1033

1034 Ms. Bisha - My name is Maureen Bisha.
1035

1036 Ms. Heffler - Facing the home, I'm directly to the left. Maureen is directly
1037 to the right of the home. I do believe we would have had a bigger group here today, but
1038 due to the circumstances, we have Virginia Power workers and postal workers who had
1039 to be at work.
1040

1041 Mr. Nunnally - Could I ask a question, please. What is your street number?
1042
1043 Ms. Heffler - 5524 Jones Mill Drive.
1044
1045 Mr. Nunnally - Do you have a house on that lot now?
1046
1047 Ms. Heffler - Yes. I'm back, that dot that's way back there, that's right
1048 where my house is.
1049
1050 Mr. Nunnally - And the other lady is at 5532?
1051
1052 Ms. Heffler - The wetlands is a very big issue in the neighborhood. I do
1053 believe my first strong statement is I don't know how they can interfere with the
1054 wetlands without having the Corps of Engineers. What has happened, is we all abide
1055 by our wetlands. All of us back up to it. That's three-fourths of an acre back of
1056 wetlands when we bought the property. I was the first house in the neighborhood,
1057 picked the bigger lot. When the applicant bought that lot, they had a very small deck
1058 on. The wetlands went probably four feet beyond the deck. They knew it was a small,
1059 small lot. They extended the deck into the wetlands; no one said anything. They also
1060 have cleared the wetlands from brush and trees and put a fence back into the wetlands.
1061 No one said anything, but now we're very upset because of what they're doing. I was
1062 told when the addition was going to replace the deck, they were first disapproved. Then
1063 they wanted to bring the addition off to the side, four feet from my property line. I said
1064 no, that I wouldn't agree with that, so now we're back to having them get the variance
1065 for it to go in the back. I just believe that zero feet from the wetlands is not appropriate.
1066 She has something she wants to say.
1067
1068 Mr. Nunnally - Can we ask questions of you first?
1069
1070 Ms. Heffler - Yes, I'm sorry.
1071
1072 Mr. Kirkland - Do you have a deck on the back of your house? How close
1073 is your deck to the wetlands?
1074
1075 Ms. Heffler - Yes I do. I also have the built-in pool in my back yard. I'm
1076 twelve feet off the wetlands requirement.
1077
1078 Mr. Wright - You realize this addition would not be in the wetlands. The
1079 only concern that's evidenced here is that there may be some disturbance to the
1080 wetlands during the construction, that's the concern.
1081
1082 Ms. Heffler - That's correct. It's zero feet from the wetlands. That is true,
1083 because if there wasn't wetlands, there wouldn't be a problem. That's their lot. There
1084 wouldn't be a problem.
1085
1086 Mr. Wright - But this is not in the wetlands, and it evidently will not affect

1087 the wetlands, the addition itself.
1088
1089 Ms. Heffler - I believe it would be more the equipment coming in that
1090 would disturb it , and the side part that's wetlands, but no, they're saying zero feet from
1091 the wetlands, so it will be off, and I believe we're all going by the twelve-foot rule from
1092 the wetlands.
1093
1094 Mr. Nunnally - Isn't it true though, that the deck extends further out now
1095 than this addition is going to extend?
1096
1097 Ms. Heffler - That's correct. They just built that deck into the wetlands.
1098
1099 Mr. Nunnally - I understand that, but the deck is already there, and this
1100 addition would remove the deck and shorten the distance between the addition and the
1101 wetlands, if I understand it.
1102
1103 Ms. Heffler - That's correct; that would do that.
1104
1105 Ms. Bisha - I'd like to speak to that. The deck was extended without
1106 permission for an addition, and they did not consult with the neighbors before they did it.
1107 They just did it.
1108
1109 Mr. Nunnally - I understand that.
1110
1111 Ms. Bisha - The only thing I have to say is that there are other people in
1112 our neighborhood who wanted that property and wanted a 14-foot porch on their
1113 property, and they were denied the use of that property for that purpose. They were
1114 well aware that this was a wetlands when they bought this property.
1115
1116 Mr. Wright - All right. Is there anything further that you'd desire to say?
1117
1118 Ms. Bisha - When you asked about the property right there, that is my
1119 house, and I do have a deck. I would think that my deck is probably the twelve by
1120 twelve also, but then I also have an additional deck that goes down to my above-ground
1121 pool.
1122
1123 Mr. Wright - But your deck is twelve feet from the wetlands?
1124
1125 Ms. Bisha - No, I only have in my property, probably about two feet of
1126 the wetlands, and it's way in the back of my property, and it curves into their property,
1127 and our fence is probably three to four feet within that wetlands, I mean on the other
1128 side of the wetlands.
1129
1130 Mr. Wright - But what you're saying is, your deck is a long ways from the
1131 wetlands.
1132

1133 Ms. Bisha - Yes, a very long ways. We really only have about two feet in
1134 the back of our yard that is part of the wetlands.
1135
1136 Mr. Wright - Do either of you have anything further you would like to say?
1137 That will conclude the opposition now. Mr. Manson, you have an opportunity to rebut.
1138
1139 Mr. Manson - Yes, the only thing I wanted to say is that by our putting the
1140 addition on the back of this house, we would remove the existing deck that clearly goes
1141 over the wetland, and actually put in an addition that would fit within, as you see in the
1142 drawing here. We would actually be making the house more correct according to the
1143 wetland issue.
1144
1145 Mr. Nunnally - Did this owner put the deck on, or did some previous owner
1146 put the deck on?
1147
1148 Mr. Manson - I think they put the deck on, the owners. I don't think any
1149 other homeowner may have had this house besides them; I believe they added the
1150 deck.
1151
1152 Mr. Wright - Are Mr. and Mrs. Couturier, your clients, here today?
1153
1154 Mr. Manson - No, they couldn't be here today, I'm sorry.
1155
1156 Mr. Wright - Do you know what the need for this addition is?
1157
1158 Mr. Manson - The upstairs part of the addition will be adding a playroom
1159 for the children; the downstairs will be just a little bit more room for the family itself. It's
1160 actually just a 12 by 12 family room. If she decided to do a little childcare or something
1161 like that, it will give them another room for that.
1162
1163 Mr. Wright - What is the size of the house now?
1164
1165 Mr. Manson - I'm not exactly sure of the size of the house. I want to say
1166 it's probably only 30, just about 30 feet deep, and without the garage, it's 32 feet wide.
1167
1168 Mr. Wright - It's a two-story house though, isn't it?
1169
1170 Mr. Manson - Yes it is; it's a two-story home.
1171
1172 Mr. McKinney - It's about 2,000 square feet, 2100, somewhere in there.
1173
1174 Mr. Wright - Is there anything else you want to say? That concludes the
1175 case. Thank you very much for appearing.
1176
1177 Mr. Blankinship - That's your 9:00 o'clock agenda, with three minutes.
1178

1179 Mr. Wright - Let's use that time wisely and start from the beginning and
1180 vote on these.

1181
1182 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1183 McKinney, the Board **granted** application **A-109-2003** for a variance to build an addition
1184 at 5528 Jones Mill Drive (Summerberry) (Parcel 755-770-9353). The Board granted the
1185 variance subject to the following conditions:

1186
1187 1. Only the improvements shown on the plan filed with the application may be
1188 constructed pursuant to this approval. No substantial changes or additions to the layout
1189 may be made without the approval of the Board of Zoning Appeals. Any additional
1190 improvements shall comply with the applicable regulations of the County Code.

1191
1192 2. The new construction shall match the existing dwelling as nearly as practical.

1193
1194 3. At the time of building permit application, the applicant shall submit the
1195 necessary information to the Department of Public Works to ensure compliance with the
1196 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1197 water quality standards.

1198
1199 4. The portion of the deck that extends into the wetlands shall be removed prior to
1200 the final building inspection for the addition.

1201
1202 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1203 Negative: 0
1204 Absent: 0

1205
1206 The Board granted this request, as it found from the evidence presented that, due to the
1207 unique circumstances of the subject property, strict application of the County Code
1208 would produce undue hardship not generally shared by other properties in the area, and
1209 authorizing this variance will neither cause a substantial detriment to adjacent property
1210 nor materially impair the purpose of the zoning regulations.

1211
1212 **Beginning at 10:00:**

1213
1214 Mr. Wright - Mr. Blankinship, are there any calls for deferrals or
1215 withdrawals at 10:00 o'clock?

1216
1217 Mr. Blankinship - No sir.

1218
1219 **New Applications**

1220
1221 **A -111-2003** **DOROTHY D. NORMAN** requests a variance from Section 24-94 of
1222 Chapter 24 of the County Code to build an addition at 3623
1223 Mechanicsville Turnpike (Pemberton Place) (Parcels 802-735-6802
1224 and 802-734-6795), zoned B-3, Business District (Fairfield). The

1225 rear yard setback is not met. The applicant has 2 feet rear yard
1226 setback, where the Code requires 40 feet rear yard setback. The
1227 applicant requests a variance of 38 feet rear yard setback.
1228

1229 Mr. Blankinship - Mr. Chairman, we have some additional drawings of this.
1230 Can we put it up on the table.
1231

1232 Mr. Wright - Please state your name. Does anyone else desire to speak?
1233 Would you raise your right hand and be sworn please?
1234

1235 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1236 truth, the whole truth, and nothing but the truth, so help you God?
1237

1238 Mr. Keith - I do. Mr. Chairman, members of the Board, my name is Jeff
1239 Keith, the President of Keith Engineering. We're in Goochland County, and we
1240 represent the owner. The owner's son is here with me. This existing one-story building
1241 was built in about 1957, about 45 years ago. Since it was built, Mechanicsville Pike was
1242 widened, and the road department took over 20 feet of the road frontage to widen
1243 Mechanicsville Pike. There's a grass section there, about where Lot 13 was. Now the
1244 owner decided to use this property. The Merita Bread people need some more
1245 property, and they want to make some lease property. If you take the rear setback and
1246 the front setback, and then take away the roads, there's really not any room left to build
1247 on there except in this area right here where it's proposed. We've talked to the
1248 neighbors and asked them what they thought about extending this building. It would
1249 look the same as the brick building now. It would stay a brick building, and we
1250 understand we have to meet all the other County ordinances, and we did the parking to
1251 show that there'd be sufficient parking for this building. What we're asking for, is that
1252 this building, the existing one-story building, just be extended on out to the property line.
1253 There's no setback requirement, because we're coming to another B-3 property line, so
1254 there's no setback requirement there. We're asking that this 40-foot setback be
1255 reduced so we only have a two-foot setback, what we'll end up having here. There's an
1256 alley behind this, a 15-foot alley, so you don't get into this R-4 district until you go the
1257 two feet and then the 15 feet, so you're 17 feet away from the R-4 district. There was a
1258 question came up on the transitional buffer, and with the storms and everything we've
1259 had a limited amount of time, but transitional buffer, one of the items in the order says
1260 that screen will be provided except for driveways and other openings are permitted.
1261 We're not completely through with our review of that, but that would be part of the Plan
1262 of Development procedure. If you were to favorably approve this, then we would take
1263 whatever we had to do as part of the Plan of Development process..
1264

1265 Mr. McKinney - Mr. Keith, this is a proposed one-story business? On the
1266 application, it says addition, so is that proposed one story to the Merita building?
1267

1268 Mr. Keith - Yes.
1269

1270 Mr. McKinney - The same type of material?

1271
1272 Mr. Keith - It's the same type of material, the same construction; it's just
1273 a longer building.
1274
1275 Mr. McKinney - It will be a brick front?
1276
1277 Mr. Keith - A brick front.
1278
1279 Mr. McKinney - How about the ends? How about the end elevation?
1280
1281 Mr. Keith - It will be brick.
1282
1283 Mr. McKinney - So it won't be block like this Merita building?
1284
1285 Mr. Keith - No, it will be brick.
1286
1287 Mr. McKinney - You've talked to all the neighbors?
1288
1289 Mr. Keith - Yes, before we applied, we made a reduced sketch of what
1290 you've looked at here, and we went around and talked to all the neighbors. One
1291 advantage you can probably see clear from there, but the people that live in behind
1292 there will have quite a bit of noise buffering from this building. There's a lot of noise on
1293 Mechanicsville Pike, and this building extending out where we're looking at here, will
1294 reduce the noise input to these houses.
1295
1296 Mr. Kirkland - Mr. Keith, is this like an outlet store for Merita?
1297
1298 Mr. Keith - It extends Merita, but there will also be some retail.
1299
1300 Mr. Kirkland - How do the supplies get into the building right now, from the
1301 back or front?
1302
1303 Mr. Keith - Everything's from the front.
1304
1305 Mr. Kirkland - Will it still be from the front when the addition's put on?
1306
1307 Mr. Keith - Yes. I don't think we have any intention of
1308
1309 Mr. Kirkland - No overhead doors or anything going into the alley?
1310
1311 Mr. Keith - Right. The only thing, it might be a fire escape or something
1312 of that sort, but there won't be any loading docks or anything.
1313
1314 Mr. Wright - Mr. Keith, are there any windows in this proposed building, in
1315 the rear?
1316

1317 Mr. Keith - No.
1318
1319 Mr. Wright - So what the neighbors would see, would be a brick wall?
1320
1321 Mr. Keith - Right.
1322
1323 Mr. McKinney - Brick or block?
1324
1325 Mr. Keith - Brick, the same as out there.
1326
1327 Mr. McKinney - Well is the back of Merita brick?
1328
1329 Mr. Keith - Yes. The end is block, but it's all brick. There would be an
1330 ordinance if we built this close to the property line, we'd have to have a fire-rated wall,
1331 and we chose the brick, but it'd have to be fire-rated, because we could stay 15 feet
1332 away from the property line.
1333
1334 Mr. McKinney - I'd like to ask Mr. Blankinship a question. On this site, we'd
1335 lose 13 parking spaces. Are they being used now, or are they 13 spaces that could be
1336 used?
1337
1338 Mr. Blankinship - Thirteen proposed spaces.
1339
1340 Mr. McKinney - But you say it would lose 13 parking spaces.
1341
1342 Mr. Blankinship - Right, and what I intend by that is 13 proposed parking
1343 spaces. They do use that area, I think, for parking, mostly for trucks. There's nobody
1344 parked there now.
1345
1346 Mr. McKinney - What I'm getting at, where this propane tank is, on the end,
1347 that building is going to go there, and you have grass in the front. First of all, what's this
1348 building going to be used for?
1349
1350 Mr. Keith - It will be for retail stores, and an expansion of Merita.
1351
1352 Mr. McKinney - Like how many stores?
1353
1354 Mr. Keith - That's to be determined. It would depend on the client.
1355 Maybe one client wants the entire building, or they might divide it into two or three, but
1356 the parking ordinance is one space for every 200 square feet.
1357
1358 Mr. McKinney - So you've got 125-foot frontage to this building? And it's
1359 how deep?
1360
1361 Mr. Keith - Yes. Forty feet.
1362

1363 Mr. McKinney - So what would you do, just extend the parking lot, the
1364 sidewalk.
1365
1366 Mr. Keith - Go back to this other picture, this grass area would all be
1367 parking in front of the building.
1368
1369 Mr. McKinney - That's not there now?
1370
1371 Mr. Keith - No, that would be the building, right beside where that block
1372 wall is.
1373
1374 Mr. McKinney - Where the propane tank is.
1375
1376 Mr. Keith - All the rest of it would be incorporated into a parking lot, like
1377 you saw in the other drawing.
1378
1379 Mr. McKinney - How far off this parking lot, to the left, is the bank?
1380
1381 Mr. Keith - It would be adjacent to the bank.
1382
1383 Mr. McKinney - It would come right to the curb?
1384
1385 Mr. Keith - Yes.
1386
1387 Mr. McKinney - Where are you going to put the propane tank? Or is that
1388 going to be eliminated?
1389
1390 Mr. Keith - I don't know. That would have to be determined.
1391
1392 Mr. McKinney - What do you mean, it would have to be determined? You're
1393 the engineer: you're supposed to know what you're going to do with it.
1394
1395 Mr. Keith - It's going to be natural gas; we're going to change over.
1396
1397 Mr. McKinney - So you're going to take that out; it's going to be eliminated.
1398
1399 Mr. Keith - Yes.
1400
1401 Mr. McKinney - I agree with you, that building would shield a lot of noise
1402 from houses in the rear.
1403
1404 Mr. Wright - And it would be no closer to the rear line than the existing
1405 building?
1406
1407 Mr. Keith - No, it would be exactly the same, keep a straight building.
1408

1409 Mr. Wright - Any further questions of member of the Board? Anyone
1410 here in opposition to this request?

1411
1412 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1413 Kirkland, the Board **granted** application **A-111-2003** for a variance to build an addition
1414 at 3623 Mechanicsville Turnpike (Pemberton Place) (Parcels 802-735-6802 and 802-
1415 734-6795). The Board granted the variance subject to the following conditions:

1416
1417 1. This variance applies only to the rear yard setback. All other applicable
1418 regulations of the County Code shall remain in force.

1419
1420 2. The proposed building shall match the adjacent building as nearly as practical,
1421 including brick on the north end.

1422
1423 3. The final site design shall conform to the conditions imposed on the plan of
1424 development by the Planning Commission.

1425
1426 4. There shall be no loading doors on the wall facing the alley.

1427
1428 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1429 Negative: 0
1430 Absent: 0

1431
1432 The Board granted this request, as it found from the evidence presented that, due to the
1433 unique circumstances of the subject property, strict application of the County Code
1434 would produce undue hardship not generally shared by other properties in the area, and
1435 authorizing this variance will neither cause a substantial detriment to adjacent property
1436 nor materially impair the purpose of the zoning regulations.

1437
1438 **A -112-2003** **FIRST MENNONITE CHURCH** requests a variance from Sections
1439 24-94 and 24-96(b) of Chapter 24 of the County Code to build a
1440 church building at 601 East Parham Road (Parcel 788-758-9933),
1441 zoned R-2C, One-family Residence District (Conditional) (Fairfield).
1442 The lot width requirement and parking lot location requirement are
1443 not met. The applicant has 385 feet lot width and parking in the
1444 front yard, where the Code requires 400 feet lot width and allows
1445 parking in the rear yard. The applicant requests a variance of 15
1446 feet lot width and the parking lot location.

1447
1448 Mr. Wright - Please state your name. Does anyone else desire to speak?
1449 Would you raise your right hand and be sworn please?

1450
1451 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1452 truth, the whole truth, and nothing but the truth, so help you God?

1453
1454 Mr. Hulsey - Yes sir. My name is J. Hulsey. Basically, this property was

1455 purchased by the church, back during the summer months. We've gone through
1456 several -- we had to have it rezoned, conditionally, to R-2C. I believe it was R-6 prior.
1457 The side lot requirement of 400 feet is not met. When you take the setback off that
1458 property line that is to the west, you have approximately 385 feet. That's merely a
1459 condition of the property. The other variance in question has to do with parking, and in
1460 the staff report, it talks about it being to the front of the building. I'm not sure how "front"
1461 gets defined, but we merely placed the parking in our planning. What's not shown in
1462 these drawings is, the property tapers off and finds a low spot there at the corner of St.
1463 Charles and Parham, which is the northwest corner, right where the cursor is. Our
1464 proposed BMP is also just adjacent to the parking lot, and this whole property, basically,
1465 wants to flow from east to west. The location of the church building as shown there is
1466 on the flattest portion of the property. We did that simply to eliminate the amount of cut
1467 and fill we would have to do to build the structure.
1468

1469 Mr. McKinney - Mr. Blankinship, further down Greg Windsor is applying for
1470 zoning for residential. How's that going?
1471

1472 Mr. Blankinship - I don't know.
1473

1474 Mr. McKinney - In the Land Use Plan, I don't think it's been changed -- it was
1475 all for business, wasn't it?
1476

1477 Mr. Blankinship - I know it is on the north side of Parham; I'm not sure how far
1478 that extends.
1479

1480 Mr. McKinney - It was on the south side too, unless it's been changed. I
1481 know that's what we put in, was upscale office along that Parham corridor.
1482

1483 Mr. Blankinship - That, of course, would have been discussed when the
1484 property was rezoned for this use.
1485

1486 Mr. McKinney - But it was R-6.
1487

1488 Mr. Hulse - That's correct. It was R-6. It was originally approved for a
1489 Plan of Development in 1997 or 1999.
1490

1491 Mr. McKinney - Was that for apartments?
1492

1493 Mr. Hulse - No, it was an assisted care living facility.
1494

1495 Mr. McKinney - It was a condition case, the zoning?
1496

1497 Mr. Hulse - Yes sir. It was an R-6C, and in our discussions with the
1498 Planning Office, and in our proposal to change it to something that would allow the
1499 church to go there, their feeling was, I think, the Ten-Year Plan called for office along
1500 that corridor there. The Planning people who we spoke with felt that perhaps the church

1501 would make a nice transition from office across the street, to a church, to residential,
1502 which I believe is the Wildwood Subdivision behind us directly. I don't want to speak for
1503 the Planning Commission, but that was the logic.

1504
1505 Mr. McKinney - You've got two churches about eight blocks from there. You
1506 guys wouldn't like to have a condition where you pay the County taxes, would you.

1507
1508 Mr. Hulsey - No, I'm sure the church is not real attuned to that idea.

1509
1510 Mr. McKinney - Where is the church located now, Mr. Hulsey?

1511
1512 Mr. Hulsey - 2350 Staples Mill Road. The property has been purchased
1513 by Guminick Properties. We have approximately ten months to vacate our current
1514 property. You may or may not be familiar with Guminick Properties, but I'm sure they're
1515 reselling all of that.

1516
1517 Mr. McKinney - I'm familiar with them. 2350, what's that close to?

1518
1519 Mr. Hulsey - It's directly across the street from the old Heilig Myers
1520 building. It's where Suburban Apartments used to be.

1521
1522 Mr. McKinney - I know where it is. He's torn down all of Suburban
1523 Apartments.

1524
1525 Mr. Hulsey - Yes sir, he has. Most of them, maybe it's not Suburban on
1526 the other side of the church, those are still standing.

1527
1528 Mr. McKinney - What is your connection with First Mennonite Church?

1529
1530 Mr. Hulsey - I am the former Congregational Chairperson, and I just
1531 vacated that post on August 31, and I am a member of the Building Commission.

1532
1533 Mr. McKinney - How many parishioners do you have?

1534
1535 Mr. Hulsey - There are approximately 100 people in our roster right now.

1536
1537 Mr. McKinney - The church you propose will hold how many?

1538
1539 Mr. Hulsey - Two hundred to two hundred fifty. I believe it's 250 on the
1540 sanctuary size, and that determined the parking spaces at 65, I believe.

1541
1542 Mr. McKinney - Do you plan on having any daycare or anything like that
1543 there ?

1544
1545 Mr. Hulsey - At this time, no.

1546

1547 Mr. Wright - Why couldn't you put the church where the parking is, and
1548 the parking where the proposed church building is?
1549

1550 Mr. Hulsey - It was merely a matter of design, sir. Most of the run-off is
1551 going to come from what we do to this property is coming from the roof lines and the
1552 parking, and it was merely a means of putting the parking adjacent to where the
1553 proposed BMP is. It was economics, I'm sure, that the civil engineer who designed it
1554 and our architect thought that was the best fit for the property. The other thing I would
1555 like to add to the staff report, is that in the back of this property, all of this property is
1556 wooded. It abuts the County Library that's on the corner of Franconia and Parham.
1557 The property's that just to the right in the photo there, is now developed by the County.
1558 That's the library.
1559

1560 Mr. McKinney - That's the North Park Library.
1561

1562 Mr. Hulsey - Yes sir. The way we're wanting to try to maintain this
1563 property is to maintain all of those woods between ourselves and the library, and we
1564 sort of an outdoor natural area, perhaps where kids could get outside. If we end up
1565 putting parking back there, that's obviously going to change all of that planning and
1566 thinking.
1567

1568 Mr. McKinney - Mr. Hulsey, let me ask you this. The tree line from your
1569 entrance to the first house on St. Charles and the other houses' yards that back up to it,
1570 how much of that tree line, of that buffer, are you going to leave?
1571

1572 Mr. Hulsey - The proffers require that we maintain a 50-foot buffer off that
1573 back line.
1574

1575 Mr. McKinney - Fifty feet doesn't do anything.
1576

1577 Mr. Hulsey - That's what the proffers are asking us to do. That's what
1578 was put before the Planning Commission. We would like to leave it as natural as
1579 possible.
1580

1581 Mr. McKinney - How far is your driveway off of your lot line?
1582

1583 Mr. Hulsey - I do not know that sir, not off the top of my head. I don't
1584 have the plat with me.
1585

1586 Mr. Blankinship - Just eye-balling it, you see the 45-foot setback there, so it's
1587 roughly 50 feet.
1588

1589 Mr. McKinney - To the driveway?
1590

1591 Mr. Wright - It's a little more than that.
1592

1593 Mr. Blankinship - A little bit more, probably.
1594
1595 Mr. Wright - It's 46 feet, you see that little area there; it's probably more
1596 in the range of 60. Another thought too, if you put the parking, if you switched it, what
1597 would be the impact on the residences? Maybe the impact would be less where is the
1598 parking is proposed, than it would be if you put it behind the church.
1599
1600 Mr. Hulsey - From a lighting standpoint, I would agree. We have to put
1601 the shoebox type lighting that reflects up, but if you put it behind the church, I would
1602 assume that would impact more of these houses along Ironington Road.
1603
1604 Mr. McKinney - Have you talked to all the neighbors there?
1605
1606 Mr. Hulsey - Yes sir. They've been part of the process, and they were all
1607 obviously called with the rezoning hearing, as well. The neighborhood association that
1608 was there
1609
1610 Mr. McKinney - Chamberlayne? Chamberlayne Civic Association? That's
1611 what it is.
1612
1613 Mr. Hulsey - That neighborhood association was also given notice when
1614 we went to rezone the property. Nobody has shown up in opposition to anything that
1615 we've done. All of my calls into the Planning Office, just trying to track this, to see how
1616 it was going for the rezoning process, they didn't have any calls from the neighborhood.
1617
1618 Mr. McKinney - So you have to give Mr. Guminick possession when?
1619
1620 Mr. Hulsey - Mid-July of this coming year.
1621
1622 Mr. McKinney - Of 2004?
1623
1624 Mr. Hulsey - Yes sir. The church's time frame right now is such that I'm
1625 not certain that construction, with all of the proper permit and approvals, POD's, I'm not
1626 sure that construction will finish in time for the church to simply make one move. We're
1627 probably going to be meeting in an alternate location.
1628
1629 Mr. McKinney - You don't have any idea where that will be though?
1630
1631 Mr. Hulsey - There are plenty of churches with space that they're glad to
1632 rent, and we'd be looking into something like that sir. But it would not be on this
1633 property.
1634
1635 Mr. McKinney - You say nobody showed up?
1636
1637 Mr. Hulsey - No one. No one at any of the County hearings for the
1638 rezoning, and all of my calls to Mr. Coleman's office, who handled this case for the

1639 Planning Office, and he helped walk us through how to write our proffers, what was
1640 going to be required.
1641
1642 Mr. McKinney - Who was that?
1643
1644 Mr. Hulsey - Tom Coleman. I checked with him on a fairly regular basis,
1645 to make sure, had he had any calls, you put the rezoning sign up, and I personally
1646 made sure if he'd had any calls on it, and he said none.
1647
1648 Mr. McKinney - Do you have any problem with deferring this for 30 days?
1649
1650 Mr. Hulsey - Yes, because this variance is required, we are on the docket
1651 for the October 22 Plan of Development meeting. Obviously, this variance is required
1652 prior to POD going any farther.
1653
1654 Mr. McKinney - POD can be deferred too. You're interested in trying to get it
1655 approved, aren't you?
1656
1657 Mr. Hulsey - Yes sir.
1658
1659 Mr. McKinney - I think in your best interest, a 30-day deferral would be good
1660 to work out some of the problems I have with it.
1661
1662 Mr. Hulsey - If that's what the County requests, then we'll abide by it.
1663
1664 Mr. McKinney - Since you're saying that you'll probably have to go
1665 somewhere else anyhow, you're not going to be able to make this July deadline.
1666
1667 Mr. Hulsey - It's undetermined at this point. My builder swears up and
1668 down, if he can get started in February or March

1669
1670 Mr. McKinney - Who's your builder?
1671
1672 Mr. Hulsey - Century Construction, and he thinks that he needs four good
1673 months to get this building up. I'm skeptical of that, but it's debatable whether we've got
1674 them.
1675
1676 Mr. McKinney - Who's your architect?
1677
1678 Mr. Hulsey - A gentleman by the name of Eric Hepler.
1679
1680 Mr. McKinney - Where's he located?
1681
1682 Mr. Hulsey - He's located in Midlothian, and our civil engineer is a
1683 gentleman by the name of Carl Palmer. Excuse me, I've got that name wrong. Carl is
1684 his first name; he's also located in Midlothian, and he was hired by our architect, on our

1685 behalf, and he really is the one who is responsible for most of the site planning.
1686
1687 Mr. McKinney - Okay. I'd like to see you defer it for 30 days.
1688
1689 Mr. Hulsey - Are you asking me to request that?
1690
1691 Mr. McKinney - You can if you'd like.
1692
1693 Mr. Blankinship - They can do it whether or not you request it.
1694
1695 Mr. Hulsey - Okay, if that's what the Board wishes, that's fine.
1696
1697 Mr. McKinney - I just don't understand the people not having any input over
1698 there, because I live two blocks from there.
1699
1700 Mr. Hulsey - Did you have any input?
1701
1702 Mr. McKinney - I never got a notice on it, until I got my packet.
1703
1704 Upon a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **deferred**
1705 application **A-112-2003** for a variance to build a church building at 601 East Parham
1706 Road (Parcel 788-758-9933). The case was deferred to allow time to discuss it with the
1707 neighbors and the civic association, from the September 25, 2003, until the October 23,
1708 2003, meeting.
1709
1710 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1711 Negative: 0
1712 Absent: 0
1713
1714 **A -113-2003** **EARL MCCATTY** requests a variance from Section 24-94 of
1715 Chapter 24 of the County Code to build a Florida room at 5601
1716 Cupula Drive (Hechler Village) (Parcel 814-721-5068), zoned R-3,
1717 One-family Residence District (Fairfield). The rear yard setback is
1718 not met. The applicant has 35 feet rear yard setback, where the
1719 Code requires 40 feet rear yard setback. The applicant requests a
1720 variance of 5 feet rear yard setback.
1721
1722 Mr. Wright - Please state your name. Does anyone else desire to speak?
1723 Would you raise your right hand and be sworn please?
1724
1725 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1726 truth, the whole truth, and nothing but the truth, so help you God?
1727
1728 Mr. Bradshaw - So help me God. Good morning sirs. My name is Chuck
1729 Bradshaw. I'm the President of B&B Custom Homes. Mr. McCatty had taken out a
1730 building permit a year and a half ago, to do an addition. He had a contractor who was

1731 supposed to be doing a good job, who ended up taking him. The Board of Contractors
1732 is looking for him; we're looking for him; he did the job half-way. The photographs that
1733 you have, you can plainly see what he has left with the man. That has nothing to do
1734 with the addition, but he did enclose, and showing from this view right here, you're
1735 looking at the little offset in the back, which is actually Mrs. McCatty's sunroom. As you
1736 know, when you build a house, once the walls get up, it's a little bit smaller than what
1737 you really think it's going to be when it's being built. We are requesting that we can
1738 extend on the back of this, six feet, which would actually be four feet into the variance,
1739 of approximately 44 square feet, just so we can give this lady a little bit more of a
1740 sunroom where she can have her plants. We can't go to the other side because of the
1741 side variance. Coming out of the set of French doors right there, it actually has a set of
1742 brick steps coming down there (you can't see it because of the privacy fence). Right
1743 when you get to the base of the brick steps, you go into the main house, the utility room,
1744 which is probably about 7 by 8, which houses the hot water tank, washer and dryer,
1745 that's on ground level, and you actually take two steps up to get into the main house.
1746 Coming that way, we would have to destroy and lower down everything, it would be a
1747 two-level little sunroom. The only thing that we could do is to go back six feet and give
1748 her a little bit of extra space in her little room.
1749

1750 Mr. Wright - What is this proposed garage that we have on this plat here?

1751
1752 Mr. Bradshaw - I'm sorry, that garage is standing. I'm not sure how long
1753 they've had it, but it's been there for quite some time.
1754

1755 Mr. Wright - So this is an old plat that shows before the garage was
1756 constructed. That carport is not involved in this at all?
1757

1758 Mr. Bradshaw - No sir.
1759

1760 Mr. Kirkland - Are you going to complete the carport?
1761

1762 Mr. Bradshaw - Yes sir. I feel sorry for these people. The man who actually
1763 did the job took all their money, so we're looking for him for fraud and everything else.
1764 We've had to go back in, as far as structurally. Inspector Green, you can see the
1765 carport, and we're re-doing that for the people also. Mr. Green said he wouldn't park his
1766 truck under it. As you can see, Mr. McCatty's truck is sitting right there. He said he
1767 didn't even like standing under it. So we have redone the carport, and we're getting
1768 ready to put columns, aluminum support columns underneath the corners. Nothing this
1769 man did passed the building codes.
1770

1771 Mr. McKinney - Did he get a permit?
1772

1773 Mr. Bradshaw - He had a permit.
1774

1775 Mr. McKinney - He never got an inspection?
1776

1777 Mr. Bradshaw - Let me put it this way. He went to the County, and this is
1778 something maybe the County can work on, he went to the County and got the building
1779 permit in Mr. McCatty's name, without showing any ID or anything. When I got involved,
1780 I said there's not much you can do, the building permit's in your name. He said he
1781 didn't even know where to go to get a permit. This man is retired from the Air Force.
1782 He's a decent man, he's raised four children, and he doesn't know anything about this.
1783 The plumbing permit and the building permit were obtained in his name. We've come to
1784 find out that this man who was doing it, had gotten his license a month before he took
1785 this contract on. It was approximately a \$25,000 contract. I told Mr. McCatty there was
1786 no way I could build it for \$25,000; I have to put food on my table also, but he was
1787 actually a Class C, and he went up there and got the building permit in Mr. McCatty's
1788 name.

1789

1790 Mr. McKinney - Mr. Bradshaw, he had to have the owner's signature on the
1791 application for the building permit.

1792

1793 Mr. Blankinship - Not if he forged it.

1794

1795 Mr. Bradshaw - That's just it; he didn't. We're looking for him. The Board of
1796 Contractors is looking for him.

1797

1798 Mr. McKinney - The County has a copy of the building permit with Mr.
1799 McCatty's name on it, which he signed to allow this to be filed on his property, unless,
1800 as Mr. Blankinship says, he forged it.

1801

1802 Mr. Balfour - By the way, there's a statute you're probably aware of, your
1803 client ought to check with the Board of Contractors, there's a statute that sets up a fund
1804 for people who are defrauded by contractors, if they want to proceed under it.

1805

1806 Mr. Bradshaw - We're looking for him; we've had private servers; we've had
1807 addresses for this man. Obviously, he is bouncing from one place to the other.

1808

1809 Mr. Balfour - This is a separate fund that the State maintains. When you
1810 get your contractor's license, you put a deposit in.

1811

1812 Mr. Bradshaw - Yes sir. There is a meeting on October 21. Mr. McCatty and
1813 I are going to be there. They have requested that this man be there, but they're going
1814 after him. They want him big time too.

1815

1816 Mr. McKinney - Mr. Bradshaw, what Mr. Balfour is telling you, there is a
1817 State fund for contractors who leave a job unfinished, and they've got the money for
1818 where the owner of the property can apply

1819

1820 Mr. Bradshaw - I'll learn more about that on October 21. From what the
1821 attorney says, we have to get a judgment against him in the courts, and by not being
1822 able to serve him, we're going in different directions trying to find him, even mobile

1823 numbers, that we're trying to trace him down with.

1824

1825 Mr. McKinney - This fund is handled through the Department of
1826 Occupational Services

1827

1828 Mr. Bradshaw - The fund would pay Mr. McCatty up to \$10,000, plus his
1829 attorney's fees. Again, we have to find him; we have to get a judgment. From what the
1830 attorney says, they can go ahead and file, but I'm not a lawyer. To be honest, I don't
1831 know exactly what needs to be done.

1832

1833 Mr. Wright - Any further questions from members of the Board? Anyone
1834 here in opposition to this request?

1835

1836 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1837 Nunnally, the Board **granted** application **A-113-2003** for a variance to build a Florida
1838 room at 5601 Cupula Drive (Hechler Village) (Parcel 814-721-5068). The Board
1839 granted the variance subject to the following conditions:

1840

1841 1. Only the improvements shown on the plan filed with the application may be
1842 constructed pursuant to this approval. No substantial changes or additions to the layout
1843 may be made without the approval of the Board of Zoning Appeals. Any additional
1844 improvements shall comply with the applicable regulations of the County Code.

1845

1846 2. The new construction shall match the existing dwelling as nearly as
1847 practical.

1848

1849 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1850 Negative: 0

1851 Absent: 0

1852

1853 The Board granted this request, as it found from the evidence presented that, due to the
1854 unique circumstances of the subject property, strict application of the County Code
1855 would produce undue hardship not generally shared by other properties in the area, and
1856 authorizing this variance will neither cause a substantial detriment to adjacent property
1857 nor materially impair the purpose of the zoning regulations.

1858

1859 **A -114-2003** **JOE DAWSON** requests a variance from Section 24-94 of Chapter
1860 24 of the County Code to build a screened porch on the existing
1861 deck at 13641 Horselydown Lane (Foxhall) (Parcel 730-762-2357),
1862 zoned R-2AC, One-family Residence District (Conditional) (Three
1863 Chopt). The rear yard setback is not met. The applicant has 41
1864 feet rear yard setback, where the Code requires 45 feet rear yard
1865 setback. The applicant requests a variance of 4 feet rear yard
1866 setback.

1867

1868 Mr. Wright - Please state your name. Does anyone else desire to speak?
1869 Would you raise your right hand and be sworn please?
1870
1871 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1872 truth, the whole truth, and nothing but the truth, so help you God?
1873
1874 Mr. Hardy - I do. Michael Hardy, representing Great Southern
1875 Contracting.
1876
1877 Mr. Dawson - I do. And I'm Joe Dawson.
1878
1879 Mr. Hardy - Gentlemen, we propose to cover the existing deck with a
1880 gable style roof, matching the existing construction style of the home, with a cedar
1881 shake roof, two skylights. The actual footprint is not going to be extended except on the
1882 outer edges, where the existing deck is cantilevered. According to the homeowners'
1883 regulations, we will be installing brick piers, to give the visual look of the requirements in
1884 the neighborhood. All other construction will be as like construction to match the home,
1885 the cedar roof. The majority of the construction is going to be on the open screening.
1886 There will be a little extension built. If you looked at the floor plan, it would be to the
1887 right side to house a grill area, and then allow steps down to the existing aggregate
1888 sidewalk. As far as hardships, I don't feel that there is a great hardship, except for the
1889 shape of the lot and the builder, when they built the home, to, I guess meet the side
1890 setbacks, had to set the building back at 61 feet, and that limits the back yard
1891 accessibility, although the width of the back yard is probably at least twice the front
1892 yard's width. Mr. Dawson has contacted all the neighbors; they are all in accordance
1893 with this and have no problems whatsoever.
1894
1895 Mr. Wright - What's located to the rear of this property?
1896
1897 Mr. Hardy - Two additional properties. There is a tree line, so as far as
1898 visually, you really can't see anything from the back, except in the dead of winter. Mr.
1899 Dawson has already contracted with a landscaping designer to plant approximately
1900 \$2,000 worth of evergreen trees, to limit any view from the back yard, so it will be
1901 completely isolated. As far as the side neighbors, you really can't see that area,
1902 because of the location of the house. If you look at the aerial view, it's set back a little
1903 bit farther than the 13367, and as far as the other property on the left side, they can't
1904 really view it at all.
1905
1906 Mr. Wright - Any questions by members of the Board?
1907
1908 Mr. McKinney - Mr. Hardy, so you have any problem with your last
1909 statement, as making that \$2,000 worth of evergreens as a condition of this case?
1910
1911 Mr. Dawson - Sir, I just mentioned that to him this morning. I've been
1912 thinking about doing that for quite some time.
1913

1914 Mr. McKinney - Then you don't have a problem with that being a condition?
1915
1916 Mr. Dawson - No, not at all.
1917
1918 Mr. McKinney - What is that, six-foot evergreens, or what?
1919
1920 Mr. Dawson - We've contracted a friend of ours, actually, who does
1921 landscape designing, and she's recommending several different types of evergreen
1922 trees. She says, I'm not familiar with trees that much, but, I guess, Leyland Cypress are
1923 probably over-planted in the area, you know, some people have just done a stream of
1924 them. We're going to do several different types, and she recommends buying a more
1925 mature tree, probably anywhere from eight to ten feet already in height, a little bit more
1926 expensive, she said, but more resistant to disease, things like that.
1927
1928 Mr. Wright - Any other comments? Anyone here in opposition?
1929
1930 Mr. Dawson - Sir, could I say one thing as far as condition to approving
1931 this? Does that mean I have to have that done before we can start the addition?
1932
1933 Mr. Wright - I don't think so; we'll give you some time to do it.
1934
1935 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1936 McKinney, the Board **granted** application **A-114-2003** for a variance to build a screened
1937 porch on the existing deck at 13641 Horselydown Lane (Foxhall) (Parcel 730-762-
1938 2357). The Board granted the variance subject to the following conditions:
1939
1940 1. Only the improvements shown on the plan filed with the application may be
1941 constructed pursuant to this approval. No substantial changes or additions to the layout
1942 may be made without the approval of the Board of Zoning Appeals. Any additional
1943 improvements shall comply with the applicable regulations of the County Code.
1944
1945 2. The new construction shall match the existing dwelling as nearly as practical.
1946
1947 3. The visible exterior portions of residence foundations shall be constructed of
1948 brick or stone. (Proffer 10)
1949
1950 4. All exterior portions of residence roofs shall be cedar shake, supra slate or slate.
1951 (Proffer 11 & letter dated September 12, 1996 relating to this proffer)
1952
1953 5. A landscaping plan showing evergreen screening shall be submitted to the
1954 Planning Office with the building permit for review and approval.
1955
1956 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1957 Negative: 0
1958 Absent: 0
1959

1960 The Board granted this request, as it found from the evidence presented that, due to the
1961 unique circumstances of the subject property, strict application of the County Code
1962 would produce undue hardship not generally shared by other properties in the area, and
1963 authorizing this variance will neither cause a substantial detriment to adjacent property
1964 nor materially impair the purpose of the zoning regulations.

1965
1966 On a motion by Mr. Balfour, seconded by Mr. Kirkland, the Board **approved** the
1967 Minutes of the **May 22, 2003**, Henrico County Board of Zoning Appeals meeting.

1968
1969 There being no further business, and on a motion by Mr. Kirkland, seconded by
1970 Mr. McKinney, the Board adjourned until **October 23, 2003**, at 9:00 am.

1971
1972

1973

1974

1975 R. A. Wright,

1976 Chairman

1977

1978

1979 Benjamin Blankinship, AICP

1980 Secretary