

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, FEBRUARY 24,**
4 **2000, AT 9:00 A.M. NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES**
5 **DISPATCH ON FEBRUARY 3 AND 10, 2000.**
6

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

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

7
8 Mr. Kirkland - Welcome, ladies and gentlemen, to the February Board of
9 Zoning Appeals meeting. Before we get started, there's some paper on the back desk
10 there, with the staff recommendations for each case if you'd like to look at it during the
11 cases. And if you would, Mr. Secretary, would you read the rules, please.
12

13 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
14 and gentlemen. The rules for this meeting are as follows. The Secretary, myself, will
15 call each case. Then the applicants will come to the podium to present their case. At
16 that time I'll ask all those who intend to speak, in favor or opposition, to stand, and they
17 will be sworn in. The applicants will then present their testimony. When the applicant is
18 finished, anyone else will be given an opportunity to speak. After everyone has spoken,
19 the applicant, and only the applicant, will be given the opportunity for rebuttal. After
20 hearing the case, and asking questions, the Board will take the matter under
21 advisement. They will render a decision at the end of the meeting. If you wish to know
22 what their decision is, you may stay until the end of the meeting, or you may call the
23 Planning Office at the end of the day. This meeting is being tape recorded, so we will
24 ask everyone who speaks, to speak directly into the microphone on the podium, and to
25 state your name for the record. In the foyer, there are two binders, which have the staff
26 reports for each case, including the conditions suggested by the staff. We've moved
27 those, Mr. Chairman. They've always been in the back of the room, but now they're in
28 the foyer.
29

30 Mr. Kirkland - Thank you sir. Do we have any requests for withdrawals or
31 deferrals?
32

33 Mr. Blankinship - None that I know of.
34

35 Mr. Kirkland - Okay, then, call the first case.

36

37 **UP- 3-2000** **Yash Mehra, President, Hindu Center** requests a temporary use
38 permit pursuant to Section 24-116(c)(l) of Chapter 24 of the County
39 Code to locate a temporary trailer for Sunday school class at 6051
40 Springfield Road (Tax Parcels 29-A-34 and -34N), zoned A-1,
41 Agricultural District in the Brookland magisterial district.

42

43 Mr. Kirkland - If you would, come forward. Anyone else wish to speak on
44 this case? UP-3-2000 – if you would, sir, come forward and raise your right hand and
45 be sworn in. You can stay right there sir. You still need to be sworn in if you're going to
46 present the case.

47

48 Mr. Blankinship - Raise your right hand, please. Do you swear the testimony
49 you are about to give is the truth, the whole truth, and nothing but the truth, so help you
50 God?

51

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

53

54 Mr. Bhatt - Yes. Neil Bhatt.

55

56 Mr. Kirkland - You can sit down, and you can be heard right after he
57 finishes, sir. Have you turned in all your notices according to County Code? Yes, we
58 have them in the file. If you would, state your case.

59

60 Mr. Bhatt - The Hindu Center is located on 6051 Springfield Road, and
61 it's on 8.2-acre lot. The building was built about 10 years ago, and it's a multi-purpose
62 hall which is used for worship and also the Sunday classes and cultural activities. The
63 community has grown substantially in the last ten years, and we have expansion plans
64 to expand the building; however, we have an immediate need to cater to the Sunday
65 school need, so we are applying for a permit to locate a temporary trailer right on our
66 property right across from the entrance as shown on the plan there, and as for that, the
67 building will not be visible from any of this property, will not be of any noise or any
68 disturbance to the neighboring property.

69

70 Mr. Nunnally- How long will you need this trailer for?

71

72 Mr. Bhatt - We would like to have it for the full two years so that we can
73 have time to put together our permanent plan and get the building permit and to get
74 started on the permanent plan.

75

76 Mr. Nunnally- Do you have the dimensions of the trailer that you are going
77 to use?

78

79 Mr. Bhatt - We have tentatively looked at the trailers and see we only
80 have 20 feet wide and 60 feet long, which will allow about three classrooms.

81
82 Mr. Nunnally- Three classrooms?
83
84 Mr. Bhatt - Of a small size, about 20 by 20 classrooms.
85
86 Mr. Wright- Have you read the conditions that have been proposed?
87
88 Mr. Bhatt - Yes.
89
90 Mr. Wright- And you are in accord with the conditions?
91
92 Mr. Bhatt - Yes we are.
93
94 Mr. Kirkland - Any other questions of the Board members?
95
96 Mr. Bhatt- No, I don't.
97
98 MR. McKinney- How about water and sewer for the trailer? Water and
99 sewer.
100
101 Mr. Bhatt - We will need a connection to the water and sewer and will
102 connect it from the main building.
103
104 Mr. McKinney- I just wondered because that is not one of the conditions of
105 this case.
106
107 Mr., Kirkland- Do you have a septic tank and a well at this time? So you
108 will connect to that. Do you have any problem with that being added as a condition, that
109 you will connect the trailers to your water and sewer system?
110
111 Mr. Bhatt - No, we don't have.
112
113 Mr. Kirkland - Any other questions? Sir, we have someone else to speak,
114 and if it's opposition, you will have a time to rebuttal. Sir, would you like to speak.
115 Again, we record everything you say; that's why we need to come to the front.
116
117 Mr. Spain - Yes, the name is James R. Spain I am an adjoining land
118 owner. I think the question's been pretty much answered. Two years, he said?
119 Approximately where on the property was the trailer going to be – in the front of the
120 existing building?
121
122 Mr. Kirkland - See that little box up there – right there. In the photograph
123 there, it'll be just there; the main building is off to this side; this is the gate; the trailer will
124 be there.
125
126 Mr. Spain - Oh, I see it now. That answers my question.

127
128 Mr. Kirkland - Okay, thank you sir. Anyone else wish to speak on this
129 case? Okay, if no other questions by Board members, that will conclude the case. You
130 can get your answer this afternoon, or you can wait around – I don't know how long it
131 will take. Okay, thank you. Would you call the next case sir?

132
133 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
134 McKinney, the Board **granted** the case **UP-3-2000**.

135
136 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
137 Negative: 0
138 Absent: 0

139
140 The Board **granted** your application for a temporary conditional use permit to locate a
141 temporary trailer for Sunday school class at 6051 Springfield Road, subject to the
142 following conditions:

- 143
144 1. Only the improvements shown on the plan filed with the application may be
145 constructed pursuant to this approval. Any additional improvements shall comply with
146 the applicable regulations of the County Code.
147
148 2. The trailer shall be removed from the property no later than February 24, 2002.
149
150 3. If land disturbance will exceed 2,500 square feet, the requirements of Chapter 10
151 of the County Code apply. At the time of building permit application, the applicant shall
152 submit the necessary information to the Department of Public Works, to ensure
153 compliance with the requirements of the Chesapeake Bay Preservation Act and the
154 code requirements for water quality standards.
155
156 4. Connections shall be made to the well and septic system as approved by the
157 Virginia Department of Health.

158
159 **A - 11-2000** Allison P. Weinstein and Ivan P. Jecklin request a variance from
160 Section 24-95(i)(2)(f) of Chapter 24 of the County Code to build a
161 swimming pool in the side yard at 640 Walsing Drive (Mooreland
162 Landing) (Tax Parcel 124-6-A-24), zoned R-1, One-family
163 Residence District in the Tuckahoe magisterial district. The
164 accessory structure location requirement is not met. The Code
165 requires a rear yard location for an in-ground swimming pool. The
166 applicant requests a variance for side yard location for an in-ground
167 swimming pool.

168
169 Mr. Kirkland - Anyone wishing to speak and the applicant come forward,
170 please. Would you raise your right hand and be sworn in.

171

172 Mr. Blankinship - Do you swear the testimony you are about to give is the
173 truth, the whole truth, and nothing but the truth, so help you God? Would you state your
174 name for the record, please.

175
176 Ms. Moore - Yes, it is. Cheryl Moore, and this is my associate, Stephanie
177 Elliott, who will be displaying a model to you.

178
179 Mr. Kirkland - Have all your notices been turned in according to the County
180 Code? We have them in the file.

181
182 Ms. Moore - Yes. What we'd like to do if we could, is bring the model up
183 and set it on the counter here so you could see it.

184
185 Mr. Kirkland - Can everybody see this? Is anybody in opposition to this
186 case, so you can see the model also. Sounds good to me.

187
188 Ms. Moore - And Stephanie has a site landscaping plan that you can see
189 also as we go through this. Gentlemen, we are here today to be granted a variance for
190 the location of a swimming pool for Allison Weinstein and Ivan Jecklin. As you are
191 aware, the Henrico County zoning code only allows in-ground swimming pools to be
192 located in the rear yard. I would like to present our reasoning behind the proposed
193 location of the pool in the side yard. First, I would like to address the topography. The
194 site slopes 25% from the back of the site down to the street. On the left side of the site,
195 as the land slopes down, there is small plateau area, and from that point the land
196 continues to slope down to the street. As you can see on the model area where the
197 swimming pool is, that is where the plateau is located. This plateau is the only
198 reasonably level area on the site. This is the area where we propose to place the in-
199 ground pool. If the pool were placed in the rear yard, a massive retaining wall would be
200 required along the back of the property. The neighbors would then be looking at a wall
201 approximately ten feet tall at the back of the site, and seen from the street. This would
202 definitely detract from the neighborhood appearance and appear as something you
203 might see from an interstate highway system.

204
205 Next I would like to address other site factors, such as appearance, lighting and
206 neighborhood approval. In terms of appearance, the pool would not be seen by the
207 neighbor to the right of the property, due to the house location blocking the view. The
208 pool would not be seen by the neighbor to the rear of the property, due to the location of
209 existing evergreen trees 20 to 30 feet tall, which are planted along the rear property line.
210 The pool would not be seen by the neighbor to the left, due to the location of existing
211 evergreen trees to the back left side, and due to the earth berm which we are going to
212 wrap the pool with, as you can see on the model. In terms of the neighbor across the
213 street, it would not be seen either, due to a four foot wall in front of the pool, against
214 which evergreen trees and shrubs will be planted, as you can see on the model there.
215 And that's our landscaping plan. In addition, since the house is located on one of the
216 highest points in the neighborhood, the elevation at the top of the four foot wall is
217 actually 18 feet above the street level, with the top of the wall being at elevation of 175,

218 and the street level being at an elevation of 157. In terms of lighting, there is no
219 overhead lighting around the pool, only landscape lighting, located under the plant
220 material which surrounds the pool. And last, in terms of neighborhood approval, the
221 neighborhood architectural review committee has already accepted the preliminary
222 drawings on July 21 of 1999, and the final drawings in January of 2000. That sums it
223 up, and I want to thank you for your time, and we look forward to a favorable decision.

224
225 Mr. Kirkland - Any questions of the Board members?

226
227 Mr. Wright - What is the proposed size of the pool?

228
229 Ms. Moore - It's right on there – it's about 20 – 16 by 32.

230
231 Mr. Balfour - The front of the house is this way on the model? The trees
232 and shrubbery you're talking about is not there now, but will be placed there, right?

233
234 Ms. Moore - The size that you see in the model is not the entire site – the
235 model would be about 8 inches bigger all around, for the whole site.

236
237 Mr. Balfour - And you're saying to the rear, since the height is towards the
238 rear, the neighbors to the rear couldn't see the pool? Is there a home on this, I guess
239 my left, side of the house.

240
241 Ms. Moore - No, that's an empty lot on the left side; that's the last lot that
242 will have a building on it. And that particular lot is owned by Mr. Dick Du, who owns the
243 Peking Restaurants, and we have spoken with him, and he has no problem with it.

244
245 Mr. McKinney - Ms. Moore, what do you provide for as far as fencing goes,
246 around the pool?

247
248 Ms. Moore - We have in the front – it's a four foot masonry wall, and
249 around the sides we have the decorative iron fence, that matches the fences that you
250 see in the neighborhood.

251
252 Mr. McKinney - Does that meet with the Code requirements?

253
254 Ms. Moore - Yes, it's four foot in height, and it met with the architectural
255 review committee's approval.

256
257 Mr. McKinney - I'd like to ask the Secretary one question on condition # 1.
258 ".....Any additional improvements shall comply with the applicable regulations of the
259 County Code." What additional improvements would that be?

260
261 Mr. Blankinship - Well, who knows what the applicant would want to build, you
262 know, five or ten years from now, a detached garage or a storage building, a pool
263 house, a bath house? Any additional improvements would have to come back before

264 you – that’s the point. They couldn’t continue to build in the side yard based on this
265 variance.

266
267 Mr. McKinney - Do we need that in there?

268
269 Mr. Blankinship - Well, it’s hard to say, Mr. McKinney, there are cases where
270 we have relied on that condition.

271
272 Mr. McKinney - I mean, what I’m saying is, if we approve the approval, is
273 that all we approve? Anything else, I mean if they want to put it in the side yard, would
274 have to come back.

275
276 Mr. Blankinship - We often hear the argument from applicants that if the Board
277 had granted a variance to put an accessory structure in the side yard, that they can put
278 additional accessory structures in the side yard, and if we have the condition, it’s much
279 easier to answer that question.

280
281 Ms. Moore - If I may say something at this time, we’re here just for the
282 approval of the pool; we have no future plans to build any structures on the side.

283
284 Mr. McKinney - How about the pool house and equipment?

285
286 Ms. Moore - The equipment sits out in the shrubbery, and there is no pool
287 house.

288
289 Mr. McKinney - Is it in the side yard?

290
291 Ms. Moore - There is no pool house. The equipment is adjacent to the
292 pool.

293
294 Mr. Blankinship - It’s shown on the plan, is what she’s saying.

295
296 Ms. Moore - It’s included in the fenced area, and we would have no need
297 for a pool house, since we have a shower area directly in the back door for people to
298 use from the pool.

299
300 Mr. McKinney - Okay, thank you.

301
302 Mr. Kirkland - Any other questions? Anyone else wish to speak on this
303 case? If not, that concludes this case.

304
305 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
306 Wright, the Board **granted** the case **A-11-2000**.

307
308 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
309 Negative: 0

310 Absent:

0

311

312 The Board **granted** this request, as it found from the evidence presented, that
313 authorizing this variance to allow an accessory structure in the side yard at 640 Walsing
314 Drive, subject to the following conditions, will not be of substantial detriment to adjacent
315 property and will not materially impair the purpose of the zoning regulations.

316

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

320

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

326

327 **A - 12-2000** **SLA Construction** requests a variance from Sections 24-94 of
328 Chapter 24 of the County Code to build a single family dwelling at
329 5713 Drayton Drive (Eddleton Estates) (Tax Parcel 29-16-A-4),
330 zoned R-3C, One-family Residence District (Conditional) (Three
331 Chopt). The front yard setback and total side yard setback are not
332 met. The applicant has 35.25 feet front yard setback and 29.9 feet
333 total side yard setback, where the Code requires 40 feet front yard
334 setback and 30 feet total side yard setback. The applicant requests
335 a variance of 4.75 feet front yard setback and 0.1 foot total side
336 yard setback.

337

338 Mr. Blankinship - Mr. Chairman, before we go on, we received three letters
339 regarding this case yesterday, so I've made copies, so just pass them down.

340

341 Mr. Kirkland - Is the applicant here for this case? If you would, come
342 forward. Is anyone in opposition to this case? Have you seen these letters, ma'am? If
343 you would, raise your right hand and be sworn in.

344

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

347

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

349

350 Ms. Taylor - I do. Mary Ann Taylor.

351

352 Mr. Kirkland - Have you turned in all your notices according to the County
353 Code? Okay, we have them. Okay, if you would, state your case.

354

355 Ms. Taylor - The house has been constructed, and the porch is there, at
356 5713 Drayton Drive, and that's what we're requesting the variance for, because it
357 exceeds, on the front setback we're over 4.75 feet we're short of meeting that setback,
358 and on the side line, we're 0.1 foot short of that requirement. The setback line passes
359 through the porch, that 4.75 feet. One of the letters that objected said the "proposed
360 porch," you know, so, I mean, this house and porch are already there. It is on a cul-de-
361 sac; I imagine that was why it was sited incorrectly; we have gotten rid of the supervisor
362 who supervised this job, you know, but it was a little difficult to site, but he should have
363 been able to site it correctly, but it is short 4.75 feet. Some of the letters that we got
364 talked about the muddy conditions that are in the cul-de-sac, I mean the houses have
365 been under construction for about eight months, but we have had inclement weather
366 this winter. The setback violation doesn't seem to block anybody's view or cause any
367 traffic hazards. There are other houses in the neighborhood that do have porches, and
368 the houses seem to fit into the community, you know, look appropriate. I guess that's it.
369

370 Mr. Kirkland - Did you have a professional surveyor lay your house out?
371

372 Ms. Taylor - A professional surveyor looked at the plan, but it was just
373 sited by the site supervisor, and he actually did not go out and survey it until after the
374 house was on the lot. It was basically sited by the construction supervisor, who thought
375 he was in the setback limits; of course, the house itself was; the porch is the problem.
376 After it was constructed, it was 4.75 feet in violation. Being on a cul-de-sac, the line for
377 the survey, for the setback is a curved line, you know, so I imagine. You have the
378 finished survey?
379

380 Mr. Kirkland - Yes ma'am, believe I do. Do you all also own lots 3 and 5?
381

382 Ms. Taylor - That's correct.
383

384 Mr. Kirkland - Is that developed?
385

386 Ms. Taylor - Yes, the homes are all 90% complete. Like I say, I'm a little
387 surprised that the neighbors wrote these letters; I mean, normal construction is six to
388 eight months, and of course, with bad weather, you know, it is muddy there. I don't
389 deny that at all; and we have had the trash there that we haven't been able to get off
390 because the lots have been so muddy, you know. Like I say, I'm quite surprised by
391 these neighbors; I don't know these neighbors; they don't appear to be adjoining lot
392 owners or whatever. I wish these people had of come to us if they seem to have a
393 problem, you know.
394

395 Mr. Balfour - Some of these letters mention previous variances – what
396 else has already been asked for and granted, Mr. Secretary?
397

398 Mr. Blankinship - I'm not familiar with those variances.
399

400 Ms. Taylor - I don't know of any other variances. I've only been working
401 for SLA Construction since October, but this is the first variance that I know of that
402 we've requested. Unless they can tell us what variances they're referring to, I have no
403 knowledge of any other variances that have been given.
404

405 Mr. Balfour - So what you're asking is whether or not you're going to have
406 to remove the porch and just make a stoop, rather than a front porch?
407

408 Ms. Taylor - I beg your pardon?
409

410 Mr. Balfour - Is the essence of what you're asking us is to improve this
411 porch, rather than be limited to a stoop?
412

413 Ms. Taylor - That would be the only other option; most of the other
414 homes, lots of the homes in that neighborhood have built like a porch. A stoop would
415 look a little funny on that type of home, but that would be the option.
416

417 Mr. Wright - It appears that the setback line only affects part of the porch.
418

419 Ms. Taylor - Yes sir, one corner, right-hand corner.
420

421 Mr. Wright - Would you explain a little bit more how this happened – you
422 had plenty of room for the house to have been set back further from the street.
423

424 Ms. Taylor - Yes sir – the lot is sufficiently large enough; it was just an
425 incompetent construction supervisor, I'm afraid. I can't really tell you; I wasn't out there
426 on the job, except that the house was, well we did have a contract on the house, and
427 they requested that the porch be put on after the original plans, so it may have been just
428 one of those things they overlooked at the time, that it was going to exceed the setback
429 variation.
430

431 Mr. Wright - You don't have any information on the process, how you
432 went about determining the location of the house on the lot – was it done by surveyors?
433

434 Ms. Taylor - The surveyor did lay out the house; he did not go out and
435 actually see the house.
436

437 Mr. Kirkland - What was on the initial application?
438

439 Mr. Blankinship - I haven't seen the file, but it sounds to me that it was shown
440 on the building permit as complying with the code
441

442 Mr. Wright - Was the porch the same size on the application?
443

444 Ms. Taylor - I think it was a smaller porch, evidently.
445

446 Mr. Wright - So what you're saying is they changed it after they made
447 application?
448

449 Mr. Kirkland - Ma'am, if you'd like to speak, please stand and be sworn in.
450

451 Mr. Blankinship - Do you swear the testimony you are about to give is the
452 truth, the whole truth, and nothing but the truth, so help you God? State your name
453 please.
454

455 Ms. Carpenter - Cheryl Carpenter
456

457 Mr. Wright - Could you give us some more explanation, I mean this is
458 kind of fuzzy; I mean you come in here asking for a variance, but we don't have any
459 information. I'd like to know just how it happened.
460

461 Ms. Carpenter - Actually, I don't know how it happened. I know that when we
462 made the original application, that the porch was on there, but we had it sited out by
463 Engineering Designs; they went out there and they sited and said "this is where the
464 house is going to be." I think one of our biggest problems was, on this subdivision,
465 there was a special setback at 40 feet back, when all the other houses in that area were
466 at 35; it was only these five lots that were set back at 40 feet instead of 35 feet.
467

468 Mr. Wright - But you don't have any records or anything to show how the
469 house was stated?
470

471 Ms. Carpenter - Through Engineering Designs, we had them come out -
472

473 Mr. Wright - So you had an engineer work for your company?
474

475 Ms. Carpenter - Yes sir, we pay Engineering Designs, a surveying company.
476 The surveying company is called Engineering Designs.
477

478 Ms. Taylor - An outside contractor.
479

480 Mr. McKinney - Ms. Carpenter, did he actually come out and stake this out,
481 after you got the building permit?
482

483 Ms. Carpenter - I don't believe he did; I don't know; I can't honestly tell you.
484 He did it by plat plan. We had sent him the plat back and gave him the dimensions on
485 the house, and he plotted it out per plat for us, and sent the plat back to us, but as far as
486 physically going on the site, no, he did not, to put the stakes on the corners.
487

488 Mr. McKinney - But he sent you a survey back, and I'm sure he showed it set
489 back at 40 feet?
490

491 Ms. Carpenter - Yes sir, he did.

492
493 Mr. Wright - So your superintendent on the job laid the house out, when
494 they dug the footing, but he got off because of the front porch. Looks like the problem
495 that the neighbors are complaining about is the fact that there's a lot of mess and mud,
496 which really doesn't have anything to do with the porch. When will this house be
497 finished.?
498
499 Ms. Carpenter - Actually, tomorrow – we're right at the point of completion on
500 it.
501
502 Ms. Taylor - Other than the grading, because it is muddy; I know it's dry
503 enough to get the trash off now; the grading, I don't know if the lot is dry enough, but as
504 soon as it is, of course, we take the machinery and get that mud and stuff straightened
505 out.
506
507 Mr. McKinney - Is Paul Rubis the owner of SLA Construction?
508
509 Ms. Taylor - Yes sir.
510
511 Mr. Kirkland - Any other questions?
512
513 Mr. McKinney - I'm seeing a picture of this house – how about the steps?
514
515 Ms. Taylor - The steps come down on the side, yes right there where the
516 little hand is, right in that area. This house was under contract, and this was.....
517
518 Mr. McKinney - You don't have any steps on the front? There should be
519 railing in the front.
520
521 Ms. Taylor - Correct.
522
523 Mr. Kirkland - Any other questions? Anyone else wish to speak on this
524 case? If not, that concludes the case.
525
526 Ms. Taylor - Thank you for your time.
527
528 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
529 Balfour, the Board **granted** the case **A-12-2000**.
530
531 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
532 Negative: 0
533 Absent: 0
534
535 The Board **granted** this request, as it found from the evidence presented, that
536 authorizing this variance of 4.75 feet front yard setback and 0.1 foot total side yard

537 setback, subject to the following conditions, will not be of substantial detriment to
538 adjacent property and will not materially impair the purpose of the zoning regulations.

539
540 1. Only the improvements shown on the plan filed with the application may be
541 constructed pursuant to this approval. Any additional improvements shall comply with
542 the applicable regulations of the County Code.

543
544 **A - 13-2000** **Robert L. Poindexter** requests a variance from Section 24-9 of
545 Chapter 24 of the County Code to build a single family home at
546 8806 Fordson Road (Tax Parcel 68-A-54), zoned R-3, One-family
547 Residence District (Three Chopt). The public street frontage is not
548 met. The applicant has 41.96 feet public street frontage, where the
549 Code requires 50 feet public street frontage. The applicant
550 requests a variance of 8.04 feet public street frontage.

551
552 Mr. Blankinship - Mr. Chairman, this is the other case, in which I received a
553 phone call late yesterday, suggesting that some issues that had occurred in the past
554 that we were not aware of – I've proposed two new conditions on the second page of
555 the new staff report that I'm passing out. One is just stating bluntly that he has to meet
556 the erosion and sediment control requirements. I believe he would be required to meet
557 them anyway, but I'm not sure exactly how the trigger on that would apply to this case,
558 so rather than the standard condition, we're just stating that he would have to meet that.
559 And condition # 3 is that the driveway would have to be paved. This is something that
560 the adjoining property owners felt strongly about asking for. I spoke to Mr. Poindexter
561 on the phone this morning, and he said he is not in agreement with that condition, so he
562 is probably going to want to discuss that with you some.

563
564 Mr. Kirkland - Okay, so everyone with the applicant come forward. Does
565 anyone else wish to speak on this case? They can be sworn in at this time. If not sir,
566 raise your right hand.

567
568 Mr. Blankinship - Do you swear that the testimony you are about give, is the
569 truth, the whole truth, and nothing but the truth, so help you God? State your name,
570 please.

571
572 Mr. Poindexter - I do. Robert Poindexter.

573
574 Mr. Kirkland - Have all notices been turned in according to the County
575 Code? We've got them. Okay, state your case.

576
577 Mr. Poindexter - On 8806 Fordson Road, I plan to build a single family home.
578 The public street frontage is not met, according to County laws. I currently have 41.96
579 feet public frontage, where the County requires 50 feet. I'm requesting a variance of
580 8.04 feet of public street frontage. I'd like to note also that back in 1996 that a similar
581 variance was approved.

582

583 Mr. Wright - What happened to the variance that was approved in 1996?
584 You just didn't build the house?
585
586 Mr. Poindexter - Yes sir, just didn't build a house at the time.
587
588 Mr. Kirkland - Did you own it then?
589
590 Mr. Poindexter - Yes sir – May of 1996 is when I purchased the land, but at
591 the time my family wasn't here – they were back in Roanoke, Virginia. So, about the
592 time they moved down, which was last year, I had to start plans this year to build on it.
593
594 Mr. Balfour - What was your reaction to the conditions, the new set of
595 conditions.
596
597 Mr. Poindexter - Well, the only reason I have problems with the conditions is
598 because I have pre-approved for a loan, and specified in that loan with the bank I didn't
599 have included pavement; I was going to put stone down in the driveway, instead of
600 actually paving it, as you look at my drawings, I've got 200 feet of pavement I would
601 have to pave from the road to the house. I would like to basically just...
602
603 Mr. Balfour - Over 70 yards, you're saying?
604
605 Mr. Poindexter - I think it's approximately about, somewhere around 150 feet
606 from the road, the way it's curved, going to the house.
607
608 Mr. Kirkland - I don't see a driveway in my plan; do you have one? This
609 driveway back here? Oh, I see it.
610
611 Mr. Balfour - Mr. Secretary, was the call you got related to the fact that the
612 neighbor had a paved driveway, so he wanted a paved driveway here?
613
614 Mr. Blankinship - The concern expressed was over run-off, storm water.
615
616 Mr. Balfour - Looks like a driveway might create more; I mean it's surface,
617 and water just rolls on a drive.
618
619 Mr. Kirkland - You plan for this driveway to be 20 feet wide? Ten feet
620 wide?
621
622 Mr. Poindexter - At least in theory; I'm not sure exactly what the standards
623 are.
624
625 Mr. McKinney - Mr. Poindexter, what type of driveway did you intend on
626 putting in?
627
628 Mr. Poindexter - Gravel.

629
630 Mr. Wright - Is there a garage on the house. Would the driveway run
631 right up to the garage – is that what you show there?
632
633 Mr. Poindexter - Yes sir, well it would be going to the, well, I'm not sure
634 exactly, yes, it's showing here, going right to the garage.
635
636 Mr. Wright - You going to have any area back of this area where you can
637 turn around and go back out. It doesn't show on this plat, and that would be a long way
638 to back up an automobile.
639
640 Mr. Poindexter - Well, probably right there at the end, probably gravel, where
641 you can actually turn around and come back out, right there at the edge of the house,
642 sir. I'd state too, in the neighborhood, I think there's a few houses also that have gravel;
643 there's not that many, but it's one or two maybe.
644
645 Mr. McKinney - Mr. Poindexter, when you bought this lot, were you aware
646 that it did not meet the requirements?
647
648 Mr. Poindexter - No sir, not at the time I didn't. I thought maybe, back in
649 1996, everything was taken care of. The realtor I bought the land from, he had just
650 purchased a variance, there is a variance back in 1996 that he got for this reason for his
651 road front, and so was approved previous, back in '96, so he said everything was
652 basically okay, which it was back then at the time, but I didn't build then, in the specified
653 time and was required.
654
655 Mr. McKinney - Was it approved with the driveway?
656
657 Mr. Poindexter - I do not know.
658
659 Mr. McKinney - Ben, was it approved with a driveway?
660
661 Mr. Blankinship - I don't believe there was a specific condition on that report.
662
663 Mr. Wright - What about the other proposed condition – have you seen
664 that # 4 that they suggested?
665
666 Mr. Poindexter - I'm not too knowledgeable on # 4 as far as the roads and all.
667 I assume that the builder basically has to follow the standard erosions that he'd normally
668 submit when he built a house, is that correct.
669
670 Mr. Kirkland - Any other questions? Anyone else wish to speak on this
671 case? If not, that concludes the case. Thank you sir.
672
673 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
674 McKinney, the Board **granted** the case **A-13-2000**.

675
 676 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
 677 Negative: 0
 678 Absent: 0

679
 680 The Board **granted** this request, as it found from the evidence presented, that
 681 authorizing this variance of 50 feet public street frontage, subject to the following
 682 conditions, will not be of substantial detriment to adjacent property and will not
 683 materially impair the purpose of the zoning regulations.

684
 685 1. Only the improvements shown on the plan filed with the application may be
 686 constructed pursuant to this approval. Any additional improvements shall comply with
 687 the applicable regulations of the County Code.

688
 689 2. Road improvements, including curb and gutter and pavement widening, shall be
 690 constructed across the lot frontage as required by the Department of Public Works.

691
 692 3. The requirements of Chapter 10 of the County Code apply. At the time of building
 693 permit application, the applicant shall submit the necessary information to the
 694 Department of Public Works to ensure compliance with the requirements of the
 695 Chesapeake Bay Preservation Act and the code requirements for water quality
 696 standards.

697
 698 **A-14-2000 HealthSouth of Virginia** requests a variance from Section 24-
 699 94/93 of Chapter 24 of the County Code to build an addition to the
 700 hospital at 7700 Parham Road (Tax Parcels 60-A-22 and -24),
 701 zoned O-3, Office District (Brookland). The minimum side yard
 702 setback is not met. The applicant has 0 feet minimum side yard
 703 setback, where the Code requires 15 feet minimum side yard
 704 setback. The applicant requests a variance of 15 feet minimum
 705 side yard setback.

706
 707 Mr. Kirkland - If you would, come down sir. Anyone else wish to speak on
 708 this case? If you would, raise your right hand.

709
 710 Mr. Blankinship - Do you swear the testimony you are about give is the truth,
 711 the whole truth, and nothing but the truth, so help you God? State your names, please.

712
 713 Mr. Hostetler - I do. My name is Steve Hostetler with Timmons
 714 Engineering.

715
 716 Mr. McCamy - My name is Mike McCamy; I'm with CLJ Architects.

717
 718 Mr. Kirkland - Have all your notices been turned in according to the
 719 County Code? We have them in the file. Proceed with your case.

720

721 Mr. Hostetler - As was stated previously, HealthSouth Medical Center is
722 located at 7700 Parham Road. If you walk out the front of this building, you can see it,
723 basically. And the McGuire Clinic is the building immediately adjacent to that; it actually
724 looks almost like one large structure as you pass it on the street, but it is two separate,
725 there are actually two separate entities that own those two facilities, and there's a
726 property line that runs in between those two buildings. They do share a lot of common
727 uses; there's actually a connecting corridor now that ties the two facilities together, and I
728 know that the doctors at McGuire Clinic use the facilities at the hospital, and a lot of the
729 hospital doctors have offices in the McGuire Clinic, so there's a lot of back and forth
730 interaction. What we are requesting is permission to construct an approximately 4600
731 square foot addition in the front corner of HealthSouth Hospital in the area right adjacent
732 to the connecting corridor. Essentially, it will envelope, it will take in that corridor and
733 wrap around the corner of the hospital. This does encroach on the 15 foot setback
734 based off of the property line that runs in between the two buildings, but both entities
735 are willing and in favor of this development and have signed the application for the
736 variance. And I think what we need to do is explain to you why, this is not an arbitrary
737 location for this addition, there are functional reasons for it, and I'd like to ask Mr.
738 McCamy to speak to that, to explain why it's sited like it is.

739
740 Mr. McCamy - Good morning. The reason we've chosen to locate in this
741 area is because currently, this corner of the hospital houses the diagnostic services for
742 the entire hospital. So patients needing either MRI or X-rays will go to this area. What
743 we're proposing is to expand the diagnostic area. So if we were to place this anywhere
744 else on the campus, is, if you were a patient and we brought you down, we would have
745 to shove you from one end of the hospital to the other to have diagnostic services.
746 Again, the doctors in MOB III share some of the services in the hospital, and so this
747 would also cause some problems for them as well. What we're trying to do is to
748 maintain one central area so that we can bring all the patients to that one area, they can
749 have whatever diagnostics they need run and then take them back to their room, or if
750 it's on an outpatient basis, allowed to leave then, rather than to have to shuttle them
751 around.

752
753 Mr. Kirkland - Is that single story?

754
755 Mr. McCamy - Yes, it is single story.

756
757 Mr. McKinney - Where are your diagnostics being handled now?

758
759 Mr. McCamy - This corner here, right here. This area right here.

760
761 Mr. McKinney - Why can't you go up?

762
763 Mr. McCamy - The structure is not built for that, and there is a second story.

764
765 Mr. McKinney - You say the structure is not build for that?

766

767 Mr. McCamy - The structure was not constructed to allow for a second
768 story. Not only that, but the second story of the tower there, those are patient rooms.
769

770 Mr. McKinney - So you say the patients would not be able to see out of
771 those rooms?
772

773 Mr. McCamy - Right – you’d be eliminating all those rooms.
774

775 Mr. McKinney - Why would you be eliminating them?
776

777 Mr. McCamy - Because the Code requires that you have, that the patient’s
778 room has a window, and if we eliminate those windows we eliminate those rooms.
779

780 Mr. Kirkland - Any other questions?
781

782 Mr. Balfour - I’m still confused looking at this map. Looking at the
783 diagram, I can see the parking lot, and it looks like maybe that building. I just can’t see
784 why you need to connect the two. I’ve walked from one to the other to get an X-ray
785 before. What you’re saying is, now you’ll be able to walk under cover to get an X-ray, or
786 whatever it is.
787

788 Mr. McCamy - Oh no, what we’re saying is – this area currently is where all
789 the diagnostics are housed now –
790

791 Mr. Balfour - Well no, because there’s no building there – what do you
792 mean it’s this area?
793

794 Mr. McCamy - It’s right here, in this existing corner here – that’s where the
795 diagnostics currently are, so that’s where, what we’re doing is expanding the current
796 diagnostic area.
797

798 Mr. Hostetler - And the buildings are connected, point to the right,
799 connected corridor, right that’s a connecting corridor between two buildings.
800

801 Mr. Wright - Does that violate the ordinance to start with, that they’re
802 connected? If they’re owned by separate entities, and they’re connected, how were
803 they built to begin with?
804

805 Mr. McCamy - This building was bought by HealthSouth some years ago.
806 It’s my understanding a lot of this was done back, I think it was Humana that owned it
807 before, so there’s been a symbiotic relationship between the MOB III and this hospital
808 for some years.
809

810 Mr. Wright - How was it done?
811

812 Mr. Blankinship - We don’t know; it just appears to have been in error.

813
814 Mr. Wright - So this would be just an extension of the error?
815
816 Mr. Blankinship - This would be a rectification of the error.
817
818 Mr. Wright - Depends on how you look at it.
819
820 Mr. McKinney - What kind of agreement would they have between the two of
821 them?
822
823 Mr. Blankinship - We've required the other owner to become a party to this
824 application, and they have done that. Other than that, it's a contractual matter among
825 them.
826
827 Mr. Kirkland - So you can enter the diagnostic center from both buildings?
828
829 Mr. McCamy - Yes. Well, you would enter the diagnostic center from the
830 hospital, just as it is now.
831
832 Mr. Kirkland - It would not touch the other building and join through?
833
834 Mr. McCamy - It would not join through. It would touch.....
835
836 Mr. Kirkland - It would touch, but not connect?
837
838 Mr. McCamy - And there would be a tenant separation as required by
839 Code, to separate the two entities.
840
841 Mr. Balfour - What kind of separation?
842
843 Mr. McCamy - It's a four-hour separation. There's a tenant separation
844 requirement

845
846 Mr. Balfour - It's really connected to the building, as far as the patients are
847 concerned, is that right?
848
849 Mr. McCamy - But the connecting corridor is still there, right.....
850
851 Mr. Kirkland - They have to walk out the connecting corridor, go in the
852 hospital, come all the way around to the diagnostic center, which has been enlarged,
853 and go all the way back around and go back through the building again. The two
854 buildings would not be connected at the diagnostic center.
855
856 Mr. Balfour - So you're not really solving a problem with this addition?
857
858 Mr. Kirkland - No, you're just making a bigger diagnostic center, is that how

859 I understand it, so more patients can use that one area?
860
861 Mr. McCamy - Right, that are in the hospital?
862
863 Mr. Kirkland - Right, that are in the hospital.
864
865 Mr. Balfour - But if you're stuck in the doctor's office, you've still got to go
866 outside to go around, so you're not really helping those guys at all, are you?
867
868 Mr. McCamy - Well, there is a connector that connects the two main
869 corridors of the hospital and the MOB III, so currently they're able, if anyone in the POB
870 III wanted to have diagnostic services will be able to pass through that connector. Our
871 primary concern is those patients in the hospital, and who come to the hospital, not
872 having to shuttle them from one end of the hospital to the other for all diagnostic
873 services. Certainly if you were a patient, you wouldn't want to have to be carted on a
874 gurney from one end to the other, and that's there primary concern; it's the welfare of
875 the patients.
876
877 Mr. McKinney - How many square feet is the existing building?
878
879 Mr. McCamy - It is approximately – the total square footage right now is
880 approximately 1.5 million square feet.
881
882 Mr. McKinney - No, I'm talking about in the diagnostic center.
883
884 Mr. McCamy - In the diagnostic area, existing itself, what we're proposing,
885 or what's existing now?
886
887 Mr. Kirkland - What's existing.
888
889 Mr. McCamy - Well, we've got about; it's about between four- and five
890 thousand feet. It's around four thousand square feet.
891
892 Mr. Kirkland - And you're adding what – forty-six hundred?
893
894 Mr. McCamy - Yes. Doubling it.
895
896 Mr. Wright - Looks like what we'll be doing is correcting the variance
897 already made.
898
899 Mr. McCamy - It does look like that.
900
901 Mr. Kirkland - Any other questions? Mr. McKinney? Anyone else? Yes
902 sir, come on down. Are you in opposition?
903
904 Mr. Lanoux - No sir, in support.

905
906 Mr. Kirkland - Well, these gentlemen can sit down, and if you would, raise
907 your right hand. You weren't sworn in?
908

909 Mr. Blankinship - Do you swear the testimony you are about to give is the
910 truth, the whole truth, and nothing but the truth, so help you God. State your name,
911 please.
912

913 Mr. Lanoux - Robert Lanoux, with CLJ Associates, representing
914 HealthSouth. I just think it's important to note that the crux of this project is an addition
915 of services; it's not just a – it's an MRI addition; it's in addition to the modalities that are
916 in place currently in the hospital, so the idea is that an efficient addition is, that the best
917 location is here because it's an efficient addition to the existing facility, not to correct a
918 circulatory problem that exists, but to maintain efficient staff usage and space allocation
919 for the facility. It would make sense to, if you have a one-car garage, it wouldn't make
920 sense to add another one-car garage on the other side of your house; it's nothing more
921 complicated than that, architecturally, so the circulation from the adjacent MOB is
922 through the existing corridor connection, so there is no part of the program to remedy
923 any existing circulatory problem or provide any additional circulation from the existing
924 MOB; it's fine like it is, so you come in from the MOB, get into the existing facility, and
925 this is just a way to efficiently add access to new services offered by the facility. Thank
926 you.
927

928 Mr. Kirkland - Anyone else? That concludes the case. Next case, sir.
929

930 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
931 Nunnally, the Board **granted** the case **A-14-2000**.
932

933 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
934 Negative: 0
935 Absent: 0
936

937 The Board **granted** this request, as it found from the evidence presented, that
938 authorizing this variance of 15 feet minimum side yard setback to build an addition to
939 the hospital at 7700 Parham Road, subject to the following condition, will not be of
940 substantial detriment to adjacent property and will not materially impair the purpose of
941 the zoning regulations.
942

943 1. Only the improvements shown on the plan filed with the application may be
944 constructed pursuant to this approval. Any additional improvements shall comply with
945 the applicable regulations of the County Code.
946

947 **A-15-2000** Teal/Centex Homes requests a variance from Sections 24-95(r)(3)
948 and 24-95(r)(5) of Chapter 24 of the County Code to build a single
949 family home at 931 Ward Road (Stonewall Glen) (Tax Parcel 33-7-
950 A-6), zoned R-2A, One-family Residence District and R-2AC, One-
951 family Residence District (Conditional) (Fairfield). The lot width and

952 public street frontage are not met. The applicant has 71.4 feet lot
953 width and 17.39 feet public road frontage, where the Code
954 requires 80 feet lot width and 20 feet public road frontage. The
955 applicant requests a variance of 8.6 feet lot width and 2.61 feet
956 public road frontage.

957
958 Mr. Kirkland - Is the applicant here for this case? Anyone else going to
959 speak? If you would, sir, raise your right hand.

960
961 Mr. Blankinship - Do you swear the testimony you are about to give is the
962 truth, the whole truth and nothing but the truth, so help you God? State your name,
963 please.

964
965 Mr. Ketcham - I do. Joe Ketcham.

966
967 Mr. Kirkland - Have all your notices been turned in according to the County
968 Code? Hang on a second; we've got to look for them. OK, sir, if you would, present
969 your case.

970
971 Mr. Ketcham - As I said, my name is Joe Ketcham; I work for Timmons, and
972 I was asked by Teal Homes to represent them in this case. Initially I was asked by them
973 to fit a house, the house that you see on the plot plan here, on this particular lot. In an
974 attempt to do that, we discovered that the street frontage on this lot did not meet County
975 requirement. The County requires 20 feet; the street frontage is 17.39, so we're lacking
976 there. As a result of the narrowness of the lot in the front, by the time you put the lot on
977 there, adhering to the 80 foot building width line, the buildable area is really quite small.
978 So, as a result of that, Teal asked, well let me back up.....By the time we discovered
979 this, Teal had already bought the lot, and rather than, I'm not sure what their options
980 were. I assume one of them was to go back to the developer and say that we can't get
981 a house on here because the street frontage is not per County Code. Rather than doing
982 that, they decided to go the variance route, and see if they could make a good situation
983 out of this. And that's pretty much why I stand before you now.

984
985 Mr. Wright - How is it that the County requires 20 feet public road
986 frontage? Is that a special deal for this?

987
988 Mr. Blankinship - Because it's a cul de sac.

989
990 Mr. Wright - Oh, a cul de sac is special, not your usual 50 feet frontage?
991 Did your firm lay this subdivision out?

992
993 Mr. Ketcham - No sir, we didn't.

994
995 Mr. Wright - You didn't. Well, Mr. Blankinship, when this subdivision was
996 approved, wasn't that checked, should have been checked?

997

998 Mr. Blankinship - Should have been.
999
1000 Mr. Wright - But evidently it wasn't. So the subdivision has been
1001 approved with this requirement? I guess somebody missed it? I guess being on a
1002 curve is not as easy. to check.
1003
1004 Mr. McKinney - Mr. Wright, it happens every day, happens every day.
1005
1006 Mr. McKinney - It does? So who released the subdivision? And we have
1007 the engineer's signature on it? Whoever laid the subdivision out. And the County
1008 reviews them, and it goes through all the processes; it's presumed that all the lots meet
1009 the criteria for the time they're built, then all of a sudden they may find one or two lots
1010 that are off and don't meet it, and they come up with this problem.
1011
1012 Mr. Balfour - I'm glad to see you don't have a flag lot stuck in there with a
1013 house behind it.
1014
1015 Mr. Kirkland - Any other questions? Anyone else wish to speak on this
1016 case? If not, sir, that concludes the case.
1017
1018 Mr. McKinney - Mr. Ketcham, you said you were with Timmons?
1019
1020 Mr. Ketcham - Yes sir.
1021
1022 Mr. McKinney - Timmons laid this out for Attack?
1023
1024 Mr. Ketcham - No sir, we did not do the design on the subdivision.
1025
1026 Mr. McKinney - Did you stake the houses on it?
1027
1028 Mr. Ketcham - We are staking houses on there, yes. This is proposed, so
1029 nothing has been staked on this particular lot.
1030
1031 Mr. McKinney I just wondered why you were here representing them.
1032
1033 Mr. Ketcham - I do their house stakings, basically.
1034
1035 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1036 Balfour, the Board **granted** the case **A-15-2000**.
1037
1038 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1039 Negative: 0
1040 Absent: 0
1041
1042 The Board **granted** this request, as it found from the evidence presented, that
1043 authorizing this variance of 8.6 feet lot width and 2.61 feet public street frontage, subject

1044 to the following conditions, will not be of substantial detriment to adjacent property and
1045 will not materially impair the purpose of the zoning regulations.

1046
1047 1. Only the improvements shown on the plan filed with the application may be
1048 constructed pursuant to this approval. Any additional improvements shall comply with
1049 the applicable regulations of the County Code.

1050
1051 Mr. Kirkland - Next one, sir.

1052
1053 **A - 16-2000** **Constance C. Winn** requests a variance from Section 24-41(e) of
1054 Chapter 24 of the County Code to build a Florida room at 10507
1055 Red Maple Lane (Gayton Forest Townhouses) (Tax Parcel 78-14-
1056 FF-16), zoned RTH, Residential Townhouse District (Tuckahoe).
1057 The rear yard setback is not met. The applicant has 18 feet rear
1058 yard setback, where the Code requires 30 feet rear yard setback.
1059 The applicant requests a variance of 12 feet rear yard setback.

1060
1061 Mr. Sprouse - My name is Wallace G. Sprouse, Jr.

1062
1063 Ms. Winn - I'm Constance Winn.

1064
1065 Mr. Kirkland - Would you raise your hands and be recognized, please.

1066
1067 Mr. Blankinship - Do you swear the testimony you are about to give is the
1068 truth, the whole truth, and nothing but the truth, so help you God?

1069
1070 Mr. Kirkland - Would you turn in your notices, please. Turn them in to the
1071 Secretary, right there on the corner. Okay, ma'am, and sir, would you state your case.

1072
1073 Mr. Sprouse - Constance Winn here, would like to build a Florida room,
1074 and she bought the property in July of 1999. She was told by the association that, I
1075 guess, that governs the rules and regulations of Gayton Forest, and I think by the real
1076 estate people also, that she could build a Florida room in this area, and that's what it, I
1077 think 2 had been approved at that time by the County. The setback rules and
1078 regulations are the same for the whole area; every one of them is the same; all of them
1079 have a 30-foot setback. And that was pertinent to her buying this place, so she could
1080 actually turn this deck that's located on the back into a Florida room. Anyway, so
1081 therefore she got that as a mindset, when she bought it, that she could do this. I guess
1082 she was unaware that that was just what the association was proposing. Actually she
1083 was under the assumption that the County was in conjunction that that was fine also,
1084 but that obviously wasn't quite what the story was, that she needed to get a variance.
1085 Anyway, she is 66 years old, and she has an existing deck which would be unusable
1086 space, which is too hot in the summertime, and too cold in the wintertime for her to use.
1087 She wants to be able to use the space with an attractive, useable room, which would be
1088 the Florida room. In the association bylaws in March of 1999, deck enclosures would
1089 be allowed. This is what she also received this, a thought process for her, there were

1090 two types that were being allowed, they were allowing to do Florida rooms, they were
1091 saying like at a \$30,000 price tag. They were talking about they could do a more
1092 economical product where, I guess they just enclose the actual decks, which is not what
1093 she wants to do. She wants to do it with a full brick enclosure, foundation, make it
1094 attractive, a glass room, dry walled, and they, of course, with approval of the County,
1095 this is conditioned by the association. Of course what's obvious is you have to have the
1096 County's approval also. But other variances, and then we were asking also what did the
1097 County think about it, and they said well, it didn't seem to be any problems as far as ya'll
1098 were concerned, I say ya'll as being the zoning department. Other variances, there
1099 were 2, when I went to the County to check it out, there were 2 other variances, on April
1100 22, 1999, for the exact same thing in the exact same neighborhood. Case A-54-99 was
1101 Robustelli, that's at 10506 Red Maple Lane; case A-55-99, that's at 10500 Red Maple
1102 Lane for Joe Teefy, is also President of the association, he's who I spoke to about this.

1103
1104 Mr. Wright - What is the size of the present deck?

1105
1106 Mr. Sprouse - The existing deck, if you can see the picture there, comes
1107 out, can we flip back to that picture. Right now it comes out at 8 feet at this moment
1108 right now, and we want to come out 12 feet.

1109
1110 Mr. Wright - She wants to come out 4 more.

1111
1112 Mr. Sprouse - Yes sir, but the way it's set up, again, I've not done too much
1113 with townhouses. Every townhouse, all in this whole subdivision, they all have the
1114 same setback, and they're all built to the maximum limit of, and the way I understand it,
1115 the decks can protrude into the setback, so every one of them is 30 foot rear setback for
1116 every townhouse in the whole subdivision, and the deck protrudes into it, so therefore
1117 precedent had been set where the association is the one who even suggested it to
1118 Connie, Constance Winn here when she was about buying it, about building a Florida
1119 room, well, you could turn that into a Florida room, and so that was quite attractive to
1120 her in buying it, so she bought it with the understanding that she could do it, but what
1121 she didn't understand was she thought she had to get approval from the association.
1122 She didn't realize, obviously, that she would have to go through and get a variance and
1123 approval from you also.

1124
1125 Mr. McKinney - Mr. Sprouse, do you have that in writing?

1126
1127 Mr. Sprouse - Do I have what?

1128
1129 Mr. McKinney - Do you have that in writing. I mean we hear a lot of hearsay
1130 here, but you say the association did this, and they did that.....

1131
1132 Mr. Sprouse - Well, yes sir, actually I do have that in writing. Yes I do.

1133
1134 Mr. McKinney - I don't know by what authority they had to do that, and
1135 mislead her.

1136
1137 Mr. Sprouse - Yes sir, well I understand thoroughly. Well, one of the
1138 thought processes is Joe Teefy, which is President of the association. He has done the
1139 exact same thing.
1140
1141 Mr. McKinney - That's Big Joe Teefy?
1142
1143 Mr. Sprouse - Yes, he's in the process of completing one himself; I brought
1144 pictures of that is you're interested.
1145
1146 Mr. Wright - Well the policy on that is that each case stands on its own.
1147
1148 Mr. Sprouse - Correct, and we understand thoroughly; we understand
1149 thoroughly.
1150
1151 Mr. Wright - So we have to consider each circumstance, what's behind it,
1152 how much open space there is, there are a lot of factors that we have to consider
1153
1154 Mr. Sprouse - Yes sir, I understand. I understand thoroughly.
1155
1156 Mr. Wright - We just can't say that because somebody else got one, this
1157 case is exactly like it.
1158
1159 Mr. Balfour - Mr. Blankinship, I noticed that your staff report states,
1160 "requests of this type have become so common that the staff is considering
1161 amendments to the zoning ordinance." Am I to assume that means you are considering
1162 amendments that would allow these without having to get a variance?
1163
1164 Mr. Blankinship - It's being discussed, but it hasn't gone to the Commission
1165 yet.
1166
1167 Mr. Balfour - Is that another way of saying to us, though, which I guess
1168 perhaps they are, that if we were to deny it, they could come back in a year if they
1169 change the zoning ordinance, or they wouldn't have to I guess, but they'd have to wait a
1170 year.
1171
1172 Mr. Blankinship - Well, as you know, the State Code requires you to make a
1173 finding before you bring a variance, that the conditions that bring a variance to you, are
1174 not of such a general nature that they should be addressed with an amendment rather
1175 than a variance, and we're just trying to address that requirement in the State Code.
1176
1177 Mr. Balfour - I understand you, now but you said earlier there's no
1178 hardship, in the staff's opinion, but then your last sentence said that we're considering
1179 making a change.
1180
1181 Mr. Wright - The idea would be that you're going to take into

1182 consideration the common area?
1183
1184 Mr. Blankinship - What's been discussed is some sort of a trade-off, where
1185 rear yard setbacks would be reduced, but decks would no longer be allowed to project
1186 into them, so we wouldn't be creating a situation where the deck is complying.
1187
1188 Mr. Wright - So if the deck was there, and they wanted to close it in, they
1189 could do it, because it would be valid structure?
1190
1191 Mr. Blankinship - Right. As always, the first question that arises is "what do
1192 you do with all the non-conforming. It's not something we're ready to move on; it's just
1193 something we're discussing.
1194
1195 Mr. Balfour - I just thought of a curious statement. I think Mr. Wright's
1196 comment was good, whether we approve it or not, you should tell your President out
1197 there to quit telling people, because some people have done it, everybody's going to do
1198 it.
1199
1200 Mr. Sprouse - I understand thoroughly.
1201
1202 Mr. Wright - Just for the record, what's located to the rear of this
1203 property?
1204
1205 Mr. Sprouse - It's for future development.
1206
1207 Mr. Wright - Does this property line run all the way to the property line?
1208
1209 Mr. Sprouse - No sir, there's a 10 foot common area behind it. Let's see,
1210 there you go, there's, you can see, you have the rear of the property, then you have a
1211 10 foot common area beyond that. Beyond her 30 foot from the rear of her existing
1212 townhouse, to her rear property line, is 30 feet now, not much more than what the deck
1213 is already, and then beyond that, there's a 10 foot common area.
1214
1215 Mr. Wright - So there would actually be 28 feet from the proposed
1216 addition to the property line.
1217
1218 Mr. Sprouse - Yes sir, exactly, so we'll be pretty close to what it almost
1219 would be anyway.
1220
1221 Mr. Kirkland - Any other questions? Anyone else wish to speak on this
1222 case? If not, that concludes the case. Thank you very much.
1223
1224 Mr. Sprouse - Thanks very much.
1225
1226 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1227 McKinney, the Board **granted** the case **A-16-2000**.

1228
 1229 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
 1230 Negative: 0
 1231 Absent: 0

1232
 1233 The Board **granted** this request, as it found from the evidence presented, that
 1234 authorizing this variance of 12 feet rear yard setback, subject to the following condition,
 1235 will not be of substantial detriment to adjacent property and will not materially impair the
 1236 purpose of the zoning regulations.

1237
 1238 1. Only the improvements shown on the plan filed with the application may be
 1239 constructed pursuant to this approval. Any additional improvements shall comply with
 1240 the applicable regulations of the County Code.

1241
 1242 Mr. Kirkland - Okay, next case.

1243
 1244 **A - 17-2000** **Tarmac America, Inc.** requests a variance from Section 24-
 1245 70(b)(3) of Chapter 24 of the County Code to build a concrete block
 1246 plant at 1650 Darbytown Road (Tax Parcel 181-A-44A), zoned M-2,
 1247 General Industrial District (Varina). The distance requirement from
 1248 a residential district is not met. The applicant has 52.0 feet
 1249 distance from a residential district, where the Code requires 300.0
 1250 feet. The applicant requests a variance of 248.0 feet distance from
 1251 a residential district.

1252
 1253 Mr. Balfour - Mr. Chairman, I've got to abstain from this one.

1254
 1255 Mr. Kirkland - Okay, Mr. Balfour is out on this one. If you would, sir, raise
 1256 your right hand and be sworn in. Any opposition?

1257
 1258 Mr. Blankinship - Do you swear that the testimony you are about to give is the
 1259 truth, the whole truth, and nothing but the truth, so help you God? State your name
 1260 please.

1261
 1262 Mr. Lewis - I do. Monty Lewis, I'm with E. D. Lewis and Associates. We
 1263 represent Tarmac in this case.

1264
 1265 Mr. Kirkland - Have all your notices been turned in according to the County
 1266 Code?

1267
 1268 Mr. Lewis - Yes sir.

1269
 1270 Mr. Kirkland - Yes, we have them here in the file.

1271
 1272 Mr. Lewis - I also have the green cards; we got all of them back except
 1273 one.

1274
1275 Mr. Kirkland - Okay, sir, state your case.
1276
1277 Mr. Lewis - Yes sir, presently as you know, Tarmac has a block plant at
1278 this location. They bought this from Concrete Structures, and in 1988 the existing block
1279 plant was built by Concrete Structures. We would like to add an addition on the right-
1280 hand side as you're facing from Darbytown Road. Right now they construct gray block,
1281 or CMU. They would like to switch their production to do more of the architectural block,
1282 split-faced block with integral color. There's no one in this area that does that now. The
1283 closest one's in Martinsville, and then northern Virginia, since split-faced block with
1284 integral color is a very desirable product, especially around Henrico, which doesn't allow
1285 painted CMU. Presently, on this side of the plant they have a conveyor that comes out
1286 of the plant (you can't really see it in this; it's behind this trailer; the trailer's the office).
1287 The conveyor behind the office brings the block out, the block is picked up and stored
1288 on the lot; the addition, if you're looking at this, if I can get this styli to work, the addition
1289 is adding on to this portion right here, and there will be slightly smaller than that that is
1290 attaching to. The trailer, the office trailer, will remain, and will hide a lot of this building.
1291 The conveyor, instead of coming out of the side as it does now, which is behind this
1292 block, but it's in this area, that will turn and come out the back. There will be no
1293 openings towards Darbytown Road, no door openings; there will be one man door out
1294 the side, and then the product and a roll-up door will come out the back. I have an
1295 architectural elevation, if you'd like to see that. You can see that this area [unintelligible]
1296 – that's not very good, but the area that you see on the right-hand side is the addition.
1297 We have to go before the Planning Commission for this addition. This can be split-
1298 faced block. The structure that is abutting is a concrete structure; it's what they call
1299 double T's; it's really what they use on bridge and deck constructions, just turned up on
1300 end, and you can see there are no openings. You are standing at Darbytown Road,
1301 looking at the plant at this time. It will help hide the silo, which you can see behind it,
1302 and what this allows them to do is extend their conveyor line and turn it at 90° to go out
1303 the back, which allows them to do their shrink wrap within-side the building. Presently
1304 they do this with a portable machine outside in the yard, so this will help hide a lot of
1305 their operations. The noise level will not change with this; if anything, it may reduce it,
1306 being that the shrink wrap and everything will be combined in the building, and the
1307 conveyor now, instead of going out the side, will go out the back. They have taken
1308 readings in the past, along Darbytown Road, with the present operation of the block
1309 plant, and the traffic, from what I understand, and I haven't seen the results myself, the
1310 traffic had a higher impact than the block plant itself on the noise level. We do have
1311 residential zoning across the street from us; that's why we're before you today. They
1312 had been granted a variance in the past for this block plant that was built at that time it
1313 was 25 feet from the right-of-way. We don't have to be that close because of the angle
1314 of the lot and how the plant was built. We're adding on to the end. We're like 50, a little
1315 bit over 50 feet from the right-of-way. We also have Mr. John Hickey with Tarmac here,
1316 if you have any questions on the operation of the plant, the type of material, the product,
1317 and any other questions in regard to the plant operation itself.
1318
1319 Mr. McKinney - Mr. Lewis, I'm sure you've checked the land use plan for the

1320 R-4 across the street – does the land use plan, is that for industrial too?
1321
1322 Mr. Lewis - I don't recall, sir.
1323
1324 Mr. McKinney - Mr. Blankinship, would you happen to have that.....
1325
1326 Mr. Blankinship - I don't have that in front of me, but since it is.....
1327
1328 Mr. McKinney - I mean, it looks like residential spot zoning, right in the
1329 middle of M-1 and M-2.
1330
1331 Mr. Blankinship - Mr. Kennedy believes that it's residential.
1332
1333 Mr. McKinney - For the proposed land use plan?
1334
1335 Mr. Kirkland - If you would sir, if you're going to speak, come forward to the
1336 mike.
1337
1338 Mr. Blankinship - This is Mike Kennedy from the County staff.
1339
1340 Mr. Kirkland - Okay, if you would sir, state your name. Have you been
1341 sworn in? Would you raise your right hand.
1342
1343 Mr. Blankinship - Do you swear the testimony you are about to give is the
1344 truth, the whole truth, and nothing but the truth, so help you God?
1345
1346 Mr. Kennedy - I do. There's a residential neighborhood back there, and it's
1347 continuous with that residential neighborhood, and that's the reason why it's residential,
1348 because of this neighborhood back here going back to Amherst Street. This is a
1349 residential neighborhood going back to Amherst Street; this is all residential.
1350
1351 Mr. McKinney - I see that; it's zoned R, but, I mean, what's in the proposed
1352 future land use plan?
1353
1354 Mr. Kennedy - It was still maintained as R at the time.
1355
1356 Mr. McKinney - It was maintained at the last land use plan?
1357
1358 Mr. Kennedy - Because there was no contemplation of it being changed.
1359
1360 Mr. McKinney - If you think along Darbytown Road back so far, it would be
1361 planned for industrial use.
1362
1363 Mr. Kennedy - There's a limitation on sewer in that area; actually that just,
1364 basically sewer just runs up to this site now, and that was basically probably what was
1365 contemplated at that time, was probably getting sewer water to the area.

1366
1367 Mr. McKinney - It was done by Mr. Donati and Mr. Zehler, the last land use
1368 plan; but I don't remember what it was.
1369
1370 Mr. Blankinship - Mr. Kennedy's handling the POD on this case; that's why he
1371 is here.
1372
1373 Mr. Lewis - As you can see, it's a good point, because on both sides we
1374 have M-1 and we have M-2 over here. I really couldn't answer why residential is left in
1375 the middle, but it does appear that more of our corridor would be towards industrial or
1376 maybe office to transition from a heavy M-2 to a residence and back,
1377
1378 Mr. Wright - When was this plant built?
1379
1380 Mr. Lewis - The original, the plant that we're adding onto, was built with
1381 a POD in 1988. Before that, they've had this industrial area with concrete structures,
1382 back to, I believe, the mid-'40's.
1383
1384 Mr. Wright - You mean there were structures on this location at the time
1385 the plant was built?
1386
1387 Mr. Lewis - There was a structure, I believe it was the structure in the
1388 back.
1389
1390 Mr. Wright - So it wasn't that close to the Darbytown Road.
1391
1392 Mr. Lewis - No sir, it was back there where that red dot is.
1393
1394 Mr. Wright So when that original plant was built, it came before this
1395 Board for a variance?
1396
1397 Mr. Lewis - Yes sir, in 1988. Variances granted of 250 feet, no, excuse
1398 me, 275, because they were 25 feet from the right-of-way.
1399
1400 Mr. Nunnally - We haven't had any problems with the operation down there,
1401 have we?
1402
1403 Mr. Blankinship - No sir, none that I know of.
1404
1405 Mr. Nunnally - I notice on your remarks here, you said something about
1406 they could store the blocks off of Darbytown Road. Do you have any problem with that,
1407 sir?
1408
1409 Mr. Blankinship - No sir, that was part of the POD; we've just had our staff
1410 developer meeting, about a week ago, and that was one of their concerns that they
1411 wanted to get the block storage off of the front and back in the back, and also some

1412 landscaping and wall areas that we're still working with the staff on, but we don't have
1413 any problems with. That's going to be required with the POD, yes sir.

1414
1415 Mr. Kirkland - Any other questions? Anyone else wish to speak on this
1416 case? That concludes the case.

1417
1418 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1419 Wright, the Board **granted** the case **A-17-2000**.

1420
1421 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
1422 Negative: 0
1423 Abstention: Balfour 1
1424 Absent: 0

1425
1426 The Board **granted** this request, as it found from the evidence presented, that
1427 authorizing this variance of 248.0 feet distance from a residential district, subject to the
1428 following conditions, will not be of substantial detriment to adjacent property and will not
1429 materially impair the purpose of the zoning regulations.

1430
1431 1. Only the improvements shown on the plan filed with the application may be
1432 constructed pursuant to this approval. Any additional improvements shall comply with
1433 the applicable regulations of the County Code.

1434
1435 2. At the time of building permit application, the applicant shall submit the
1436 necessary information to the Department of Public Works to ensure compliance with the
1437 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1438 water quality standards.

1439
1440 3. This approval is subject to all conditions that may be placed on the proposed
1441 Plan of Development by the Planning Commission.

1442
1443 **A - 18-2000** **Harry L. Bowen** requests a variance from Section 24-41(e) of
1444 Chapter 24 of the County Code to construct a Florida room on the
1445 existing deck at 12013 Heiber Court (Worthington Hills) (Tax
1446 Parcel 56-10-B-5), zoned R-5C, General Residence District
1447 (Conditional) (Tuckahoe). The rear yard setback is not met. The
1448 applicant has 20 feet rear yard setback where the Code requires 30
1449 feet rear yard setback. The applicant requests a variance of 10 feet
1450 rear yard setback.

1451
1452 Mr. Kirkland - Anyone else wish to speak on this case? Looks like you're
1453 it. If you would, raise your right hand and be sworn in.

1454
1455 Mr. Blankinship - Do you swear the testimony you are about to give is the
1456 truth, the whole truth, and nothing but the truth, so help you God? State your name,
1457 please.

1458
1459 Mr. Ingram - Absolutely. Neil Ingram.
1460
1461 Mr. Kirkland - Have all your notices been turned in according to the County
1462 Code? We have them in the file here? We do? Okay, sir, they're in the file. Would you
1463 state your case.
1464
1465 Mr. Ingram - Yes sir. I guess it's very much like Ms. Winn, we find a
1466 gentleman in a townhouse. They are retired; he and his wife are in failing health, and
1467 they have found no advantageous way to enjoy their deck use whatsoever. They are in
1468 search of more room. Currently they are unable financially to look at moving from the
1469 townhouse to a home, and so they are requesting that we take this 10 by 14 deck and
1470 turn it into a Florida room. It is an end unit; it appears that it would have no disturbing
1471 effects on the neighbors. We have run it by the townhouse association; they're
1472 comfortable with it. I guess that's the biggest part of it, sir. We would do that as well as
1473 add a 7 by 10 foot deck around the existing chimney that you see there that's adjacent
1474 to the current deck. And so what we would be doing, it's a 30 foot area there now; 10
1475 foot of it is covered by the deck. Our request is to enclose that 10 by 14 foot area,
1476 leaving the 20 foot that they currently have behind the deck.
1477
1478 Mr. Wright - So you just propose to enclose the current deck so you can
1479 enlarge it any?
1480
1481 Mr. Ingram - We would enclose the current deck, and then we would go
1482 off to the left. If you see that little jut-out right there – that is a current chimney. We
1483 would be building another little deck around it, 7 by 10, so that's well within what's been
1484 accepted in the area, so it would not need any further variance.
1485
1486 Mr. Wright - What's to the rear of this property?
1487
1488 Mr. Ingram - It's a common area, common area to the rear, as well as to
1489 the left.
1490
1491 Mr. Wright - How deep is that common area?
1492
1493 Mr. Ingram - I don't know that sir.
1494
1495 Mr. McKinney - Mr. Ingram, why would you be building another deck if you
1496 can't use the one you've got?
1497
1498 Mr. Ingram - He just wants she is in the worst health, he just wants an
1499 area small enough to be able to put a grill on.
1500
1501 Mr. McKinney - But you made a statement at the beginning that neither one
1502 could use this deck because of their age. But you come and tell us that you want to
1503 enclose the deck, and you want to put another deck up.

1504
1505 Mr. Ingram - I probably said either one, and should have said “she” is not
1506 in good health; he just wants an area big enough to put a grill on. And in a 7 by 10
1507 area, about the time you get a grill, that’s about all you are going to have room for.
1508
1509 Mr. Balfour - Mr. Blankinship, I’ve been looking at the plan – is there
1510 already such a deck on the adjacent set of condominiums? It looks like it jutting out at
1511 the other end.
1512
1513 Mr. Ingram - I’m sorry, were you asking me sir?
1514
1515 Mr. Balfour - I was asking Mr. Blankinship,.
1516
1517 Mr. Blankinship - I’m sorry, what was the question?
1518
1519 Mr. Balfour - If you look at that building, is there already an enclosed deck
1520 on the other building adjacent to it. It looks like to me it is, you know, is there.
1521
1522 Mr. Ingram - It’s my understanding sir, I would hate to say that there is;
1523 it’s my understanding that there are several in there.
1524
1525 Mr. Balfour - Okay, that’s what it looked like.
1526
1527 Mr. Blankinship - I can’t tell from what I have in front of me, and it’s been a
1528 while since we were out there.
1529
1530 Mr. Ingram - The applicant said he thinks there is too.
1531
1532 Mr. Kirkland - Any other questions? Anyone else wish to speak on this
1533 case? If not, that concludes the case.
1534
1535 Mr. Ingram - Thank you, sirs, I appreciate it.
1536
1537 Mr. Kirkland - I’ve had a request for about a 5-minute break. We’ll take a
1538 5-minute recess.
1539
1540 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
1541 Nunnally, the Board **granted** the case **A-18-2000**.
1542
1543 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1544 Negative: 0
1545 Absent: 0
1546
1547 The Board **granted** this request, as it found from the evidence presented, that
1548 authorizing this variance of 10 feet rear yard setback, subject to the following condition,

1549 will not be of substantial detriment to adjacent property and will not materially impair the
1550 purpose of the zoning regulations.

1551
1552 1. Only the improvements shown on the plan filed with the application may be
1553 constructed pursuant to this approval. Any additional improvements shall comply with
1554 the applicable regulations of the County Code.

1555
1556 Mr. Kirkland - We're back in the motion here. Okay, let's do the cases,
1557 start at the front, work to the back. Minutes?

1558
1559 Mr. Kirkland - Well then, we'll defer them to the next meeting.

1560
1561 Mr. McKinney - Maybe you got mine.

1562
1563 Mr. Kirkland - We only got one set this time, didn't we? You got Mr.
1564 McKinney's. Since Mr. McKinney didn't get his, we'll defer the approval of the
1565 November minutes till the next month's meeting.

1566
1567 There being no further business and on a motion by Mr. McKinney, seconded by Mr.
1568 Wright, the Board adjourned until March 23, 2000.

1570

1571 Richard Kirkland,

1572 Chairman

1573

1574

1575

1576 Benjamin Blankinship, AICP

1577 Secretary

1578

1579