

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, MAY 27, 2004, AT**  
4 **9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**  
5 **DISPATCH ON MAY 6 AND MAY 13, 2004.**  
6

**Members Present:** R. A. Wright, Chairman  
James W. Nunnally, Vice-Chairman  
Elizabeth G. Dwyer, Esq., CPC  
Richard Kirkland  
Gene L. McKinney, C.P.C., C.B.Z.A.

**Also Present:** Dave O'Kelly, Assist. Director of Planning  
Benjamin Blankinship, Secretary  
Lee J. Tyson, County Planner  
Priscilla M. Parker, Recording Secretary

7  
8 Mr. Wright - I call the meeting of the County of Henrico Board of Zoning  
9 Appeals to order. Would you stand for the **Pledge of Allegiance**. Mr. Secretary would  
10 you read the rules for our meeting.  
11

12 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies  
13 and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each  
14 case. Then at that time the applicant should come down to the podium. I will then ask  
15 all those who intend to speak, in favor or in opposition to the case, to stand and be  
16 sworn in. The applicants will then present their testimony. After the applicant has  
17 finished, anyone else who intends to speak will be given the opportunity. After  
18 everyone has spoken, the applicant, and only the applicant, will be given the opportunity  
19 for rebuttal. After hearing the case, and asking questions, the Board will take the matter  
20 under advisement. They will make all of their decisions at the end of the meeting. If  
21 you wish to know their decision on a specific case, you can either stay until the end of  
22 the meeting, or you can call the Planning Office later this afternoon, or you can check  
23 the Planning Office website. This meeting is being tape recorded, so we will ask  
24 everyone to speak directly into the microphone on the podium, and to state your name,  
25 and please spell your last name for the record. And finally, out in the foyer, there are  
26 two binders that contain the staff report for each case, including the conditions that have  
27 been recommended by the staff.  
28

29 Mr. Wright- Are there any deferrals or withdrawals?  
30

31 Mr. Blankinship- Yes, sir. On the 9 o'clock agenda, UP-4-2004, the Country  
32 Club of Virginia is still working on an alternative; also, UP-11-2004, the second case,  
33 Shows by Jutta, requested a deferral until June. They want to submit some additional  
34 information.

May 27, 2004

35 Mr. Wright- Do I hear a motion on UP-4-2004?

36  
37 Ms. Dwyer- Is that a motion to defer for one month?

38  
39 Mr. Blankinship- Yes.

40  
41 **UP-4-2004** **COUNTRY CLUB OF VIRGINIA** requests a conditional use  
42 permit pursuant to Section 24-12(b) of Chapter 24 of the  
43 County Code to add a maintenance building and parking  
44 area at 710 S Gaskins Road (Parcel 735-733-6834), zoned  
45 R-0, One-family Residence District (Tuckahoe).

46  
47 Upon a motion by Ms. Dwyer, seconded by Mr. McKinney, the Board **deferred**  
48 application **UP-4-2004** for a conditional use permit to add a maintenance building at 710  
49 S. Gaskins Road (Parcel 735-733-6834). The case was deferred until June 24, 2004

50  
51 Affirmative: Wright, Kirkland, McKinney, Nunnally, Dwyer 5  
52 Negative: 0  
53 Abstain: 0

54  
55 Mr. Wright- How about UP-11?

56  
57 **UP-11-2004** **SHOWS BY JUTTA** requests a temporary conditional use  
58 permit pursuant to Section 24-116(c)(1) of Chapter 24 of the  
59 County Code to hold a carnival at 10101 Brook Road (Parcel  
60 785-771-0111), zoned B-3, Business District (Fairfield).

61  
62 Upon a motion by Mr. Kirkland, seconded by Mr. Nunnally, the Board **deferred**  
63 application **UP-11-2004** for a conditional use permit to hold a carnival at 10101 Brook  
64 Road (Parcel 785-771-0111). The case was deferred until June 24, 2004

65  
66 Affirmative: Wright, Kirkland, McKinney, Nunnally, Dwyer 5  
67 Negative: 0  
68 Abstain: 0

69  
70 Mr. Wright- Please call the first case.

71  
72 **A-42-2004** **STEPHEN MCDANIEL** requests a variance from Section 24-  
73 94 of Chapter 24 of the County Code to build a sunroom and  
74 ramp at 2805 Maplewood Road (Hermitage Park) (Parcel  
75 777-746-7298), zoned R-4, One-family Residence District  
76 (Brookland). The front yard setback is not met. The applicant  
77 has 23 feet front yard setback, where the Code requires 35  
78 feet front yard setback. The applicant requests a variance of  
79 12 feet front yard setback.

80

81 Mr. Wright- Is there anyone else here who desires to speak with  
82 reference to this case? Please raise your right hand and be sworn.

83  
84 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
85 whole truth and nothing but the truth, so help you God?

86  
87 Mr. Gerald Lindsey- I do. I was here last time and my client didn't show up, and  
88 he's not here again. I can't really answer the questions you have at this time.

89  
90 Mr. Wright- What's his problem? Does he just not want to come?

91  
92 Mr. Lindsey- To be honest, I don't know. I was told he was going to try  
93 and be here. He's not here and I didn't want to just not show up.

94  
95 Mr. Wright- When did you talk to him last?

96  
97 Mr. Lindsey- Our sales representative spoke with him yesterday.

98  
99 Mr. Wright- And he said he'd be here?

100  
101 Mr. Lindsey- My understanding was that he would **try** to be here. I don't  
102 know exactly what that means.

103  
104 Mr. Wright- Would you like to request it to the next meeting and give you  
105 one more chance to try and get him here?

106  
107 Mr. Lindsey- Yes, sir, I believe so.

108  
109 on a motion by Mr. Kirkland, seconded by Mr. McKinney, the Board **deferred**  
110 application **A-42-2004** for variance to construct a sunroom and ramp at 2805  
111 Maplewood Road (Tax Parcel 777-746-7298), from the May 27, 2004 meeting to the  
112 June 24, 2004 meeting.

113  
114 Affirmative: Dwyer, Kirkland, McKinney, Nunnaly, Wright 5

115 Negative: 0

116 Absent: 0

117  
118 **A-48-2004** **CHERYL L. MARTIN** requests a variance from Section 24-  
119 94 of Chapter 24 of the County Code to enclose the existing  
120 deck at 12304 Bridgehead Place (Kimberwicke) (Parcel  
121 735-776-8914), zoned R-3C, One-family Residence District  
122 (Conditional) (Three Chopt). The rear yard setback is not  
123 met. The applicant has 37 feet rear yard setback, where the  
124 Code requires 40 feet rear yard setback. The applicant  
125 requests a variance of 3 feet rear yard setback.  
126

127 Mr. Wright- Is there anyone else here who desires to speak with  
128 reference to this case? Please raise your right hand and be sworn.

129  
130 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
131 whole truth and nothing but the truth, so help you God?

132  
133 Ms. Cheryl Martin- I do. I have an existing deck on the rear of my house that  
134 was built with the house, and I'd like to enclose it to make a glass enclosure. I've  
135 received conditional approval from our HOA pending that I have variance approval and  
136 that the permits go through. That's what I'm here to do. I need 40 feet and I only have  
137 37 to the rear lot line.

138  
139 Mr. Wright- When was your house constructed?

140  
141 Ms. Martin- In 2000.

142  
143 Mr. Wright- What's to the rear of your property?

144  
145 Ms. Martin- I'm up against other residences in another neighborhood.  
146 There's a 6 foot fence.

147  
148 Mr. Wright- Any questions from members of the Board? Anyone here in  
149 opposition to this case? Hearing none that concludes the case.

150  
151 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
152 McKinney, the Board **approved** application **A-48-2004** for variance to enclose the  
153 existing deck at 12304 Bridgehead Place (Tax Parcel 735-776-8914). The approval is  
154 subject to the following conditions:

155  
156 Affirmative: Dwyer, Kirkland, McKinney, Nunnaly, Wright 5  
157 Negative: 0  
158 Absent: 0

- 159  
160 1. The new construction shall match the existing dwelling as nearly as practical.  
161  
162 2. The property shall be developed in substantial conformance with the plan filed  
163 with the application. No substantial changes or additions to the layout may be  
164 made without the approval of the Board of Zoning Appeals.  
165

166 The Board approved the request as it found from the evidence presented that approving  
167 the permit would not be of substantial detriment to adjacent property nor would  
168 materially impair the purpose of the zoning regulations.

169  
170 **A-49-2004** **MARC AND CONNIE D. PETOCK** request a variance from  
171 Section 24-94 of Chapter 24 of the County Code to build a  
172 screened porch on the existing deck at 12300 Rennick Place  
173 (Renwick at Wyndham) (Parcel 738-780-1852), zoned R-

174 4C, One-family Residence District (Conditional) (Three  
175 Chopt). The rear yard setback is not met. The applicants  
176 have 30 feet rear yard setback, where the Code requires 35  
177 feet rear yard setback. The applicants request a variance of  
178 5 feet rear yard setback.  
179

180 Mr. Wright- Is there anyone else here who desires to speak with  
181 reference to this case? Please raise your right hand and be sworn.  
182

183 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
184 whole truth and nothing but the truth, so help you God?  
185

186 Mr. Marc Petock- I do. We've lived in this house since 1995, in Renwick at  
187 Wyndham, and we have an existing deck that we'd like to enclose a portion of. We  
188 have met with the Wyndham HOA and it has been approved. It will be built to code, and  
189 in addition we have a buffer from the neighbor behind us of existing bushes that are  
190 about 10 feet tall. In all honesty, no one will be able to see that we've even covered the  
191 deck. That's what we're asking. We need a 5 foot variance.  
192

193 Mr. Wright- It will not be visible from the property to the rear?  
194

195 Mr. Petock- Or from the street...that's correct, sir.  
196

197 Mr. Nunnally- It'll be the same size as the screened porch, right?  
198

199 Mr. Petock- It'll just cover the existing deck.  
200

201 Mr. Wright- Any further questions from members of the Board? Anyone  
202 in opposition to this case? Hearing none, that concludes the case.  
203

204 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
205 McKinney, the Board **approved** application **A-49-2004** for variance to construct a  
206 screened porch at 12300 Rennnick Place (Tax Parcel 738-780-1852). The approval is  
207 subject to the following conditions:  
208

209 Affirmative:	Dwyer, Kirkland, McKinney, Nunnaly, Wright	5
210 Negative:		0
211 Absent:		0

212

213 1. The new construction shall match the existing dwelling as nearly as practical.  
214

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

219 The Board approved the request as it found from the evidence presented that approving  
220 the permit would not be of substantial detriment to adjacent property nor would

221 materially impair the purpose of the zoning regulations.

222  
223 **A-50-2004** **CHESTER AND STELLA TRZASKI** request a variance from  
224 Sections 24-94 and 24-95(i)(1) of Chapter 24 of the County  
225 Code to build an addition at 10901 New Harvard Court (New  
226 Harvard at Wyndham) (Parcel 742-781-1033), zoned R-3C,  
227 One-family Residence District (Conditional) (Three Chopt).  
228 The rear yard setback and setback for a deck are not met.  
229 The applicants have 28 feet rear yard setback and 25 feet  
230 setback for a deck, where the Code requires 40 feet rear  
231 yard setback and 30 feet setback for a deck. The applicants  
232 request a variance of 12 feet rear yard setback and 5 feet  
233 setback for a deck.  
234

235 Mr. Wright- Is there anyone else here who desires to speak with  
236 reference to this case? Please raise your right hand and be sworn.  
237

238 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
239 whole truth and nothing but the truth, so help you God?  
240

241 Mr. Chester Trzaski- I do. I'm here to request a zoning variance to put an addition  
242 on our house, in the form of an extension of the kitchen. It'll just about cover the  
243 existing deck. We do not meet the rear yard setback requirement. That's about it.  
244

245 Mr. Wright- What size is this addition?  
246

247 Mr. Trzaski- It is approximately 12 x 18 feet.  
248

249 Mr. Wright- And that's larger than the existing deck?  
250

251 Mr. Trzaski- No. The expansion would come out to the edge of the deck  
252 as it is right now.  
253

254 Mr. Wright- And then you propose to have another deck?  
255

256 Mr. Trzaski- The deck would only partially be covered. It would take up  
257 no more space than it presently does.  
258

259 Mr. Wright- What's located to the rear of your property?  
260

261 Mr. Trzaski- A golf course fairway.  
262

263 Mr. Wright- An open area?  
264

265 Mr. Trzaski- Yes. There are trees along the fairway.  
266

267 Ms. Dwyer- So the existing deck doesn't meet the Code as far as  
268 setback?

269  
270 Mr. Trzaski- Yes, that's true. We moved into the house in 1992 and that  
271 set back was pointed out as requiring a variance at the time we moved in. We were  
272 denied a CO. But then we got the CO and what was done, I don't know.

273  
274 Mr. Wright- Any other questions from members of the Board? Anyone in  
275 opposition to this request? Hearing none, that concludes the case.

276  
277 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
278 McKinney, the Board **approved** application **A-50-2004** for variance to construct an  
279 addition at 10901 New Harvard Court (Tax Parcel 742-781-1033). The approval is  
280 subject to the following conditions:

281  
282 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
283 Negative: 0  
284 Absent: 0

- 285  
286 1. The new construction shall match the existing dwelling as nearly as practical.  
287  
288 2. The property shall be developed in substantial conformance with the plan filed  
289 with the application. No substantial changes or additions to the layout may be made  
290 without the approval of the Board of Zoning Appeals.

291  
292 The Board approved the request as it found from the evidence presented that approving  
293 the permit would not be of substantial detriment to adjacent property nor would  
294 materially impair the purpose of the zoning regulations.

295  
296 **A-51-2004** **MARGARET NUNN** requests a variance from Section 24-9  
297 of Chapter 24 of the County Code to build a one-family  
298 dwelling at 3001 Old Memorial Drive (Parcel 841-707-2869  
299 (part)), zoned A-1, Agricultural District (Varina). The public  
300 street frontage requirement is not met. The applicant has 0  
301 feet public street frontage, where the Code requires 50 feet  
302 public street frontage. The applicant requests a variance of  
303 50 feet public street frontage.

304  
305 Mr. Wright- Is there anyone else here who desires to speak with  
306 reference to this case? Please raise your right hand and be sworn.

307  
308 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
309 whole truth and nothing but the truth, so help you God?

310  
311 Ms. Brenda Feria- I do. I'm Margaret Nunn and I have power of attorney for  
312 her. She is in a nursing home and we're selling her property. We'd like to have

313 permission to build a house on 3 acres are behind my mother's house. She has a  
314 house at present on the road, probably about 50 feet off the road. As it is, we can't use  
315 the acreage due to the configuration of it – it is long and skinny.

316  
317 What I'm proposing is to put an easement beside the house to access the property in  
318 the back and build a house.

319  
320 Mr. Wright- What's the size of the lot you propose to create?

321  
322 Ms. Feria- 3 acres.

323  
324 Mr. Nunnally- Who will this house be built for?

325  
326 Ms. Feria- We were going to just sell it with the hopes that we could sell  
327 it as a buildable lot. It does perc for another house.

328  
329 Mr. Blankinship- So you don't intend to build a house?

330  
331 Ms. Feria- No, I'm not. I want to be able to build it or represent it as a  
332 buildable lot. It would give her more money, as she's in a nursing home.

333  
334 Ms. Dwyer- Would you be able to dedicate a 50 foot section of the front  
335 lot and include that as part of the front lot to meet the road frontage requirement?

336  
337 Ms. Feria- Could it be 25 feet?

338  
339 Ms. Blankinship- If she did cut off 50 feet, then the front lot wouldn't meet the  
340 lot width requirement.

341  
342 Ms. Feria- I was thinking more like 25 feet maximum.

343  
344 Mr. Blankinship- The easement could be 25 feet, but she's suggesting an  
345 actual transfer of ownership.

346  
347 Ms. Dwyer- So what is the requirement of the frontage for the front lot?

348  
349 Mr. Blankinship- The frontage requirement is 50 feet, but the width  
350 requirement is 100 feet.

351  
352 Ms. Dwyer- She only has 162 feet.

353  
354 Mr. Wright- You can grant an easement over it without granting title to it.  
355 Have you read the conditions which have been proposed for this case?

356  
357 Ms. Feria- No, I haven't seen them.

358

359 Mr. Wright- You should take a look at those, because if this is approved,  
360 you'll be held to them. One of the conditions is that you prove that you have legal  
361 access when you apply for your building permit.

362  
363 Mr. Blankinship- Mr. Chairman, we also got a call from Public Utilities asking  
364 that we also put in the utility easement language, so if you see something that looks  
365 different, that's why.

366  
367 Ms. Feria- I don't believe I have any comment.

368  
369 Mr. Wright- Any further questions from members of the Board? Anyone  
370 here in opposition to this request? Hearing none, that concludes the case.

371  
372 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
373 McKinney, the Board **approved** application **A-51-2004** for variance to construct a one  
374 family dwelling at 3001 Old Memorial Drive (Tax Parcel 841-707-2869 (part of) ). The  
375 approval is subject to the following conditions:

376  
377 Affirmative: Dwyer, Kirkland, McKinney, Nunnaly, Wright 5  
378 Negative: 0  
379 Absent: 0

380  
381 1. This variance applies only to the public street frontage requirement. All other  
382 applicable regulations of the County Code shall remain in force.

383  
384 2. Approval of this request does not imply that a building permit will be issued.  
385 Building permit approval is contingent on Health Department requirements, including,  
386 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval  
387 of a well location.

388  
389 3. The applicant shall present proof with the building permit application that a legal  
390 access to the property has been obtained.

391  
392 4. The applicant shall present proof with the building permit application that a  
393 recorded utility easement to serve the parcel has been recorded.

394  
395 The Board approved the request as it found from the evidence presented that approving  
396 the permit would not be of substantial detriment to adjacent property nor would  
397 materially impair the purpose of the zoning regulations.

398  
399 **A-52-2004** **HENRY GLAZEBROOK, JR.** requests a variance from  
400 Section 24-10 of Chapter 24 of the County Code to keep  
401 show chickens at 1418 Cole Boulevard (Longdale) (Parcel  
402 781-763-7868), zoned R-4, One-family Residence District  
403 (Fairfield). The agricultural distance requirement is not met.  
404 The applicant proposes an agricultural use 20 feet from the

405 property line, where the Code requires 400 feet from the  
406 property line. The applicant requests a variance of 380 feet  
407 from the agricultural distance requirement.  
408  
409 Mr. Wright- Is there anyone else here who desires to speak with  
410 reference to this case? Will everyone rise so we can swear everyone at the same time.  
411 Please raise your right hands and be sworn.  
412  
413 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
414 whole truth and nothing but the truth, so help you God?  
415  
416 Mr. Henry Glazebrook, Jr.- I want to keep some show chickens.  
417  
418 Mr. Wright- How many chickens do you propose to keep?  
419  
420 Mr. Glazebrook- I'd like to keep 20.  
421  
422 Mr. Wright- How many do you have right now?  
423  
424 Mr. Glazebrook- I've got 15.  
425  
426 Mr. Wright- Why do you need 20?  
427  
428 Mr. Glazebrook- They're show chickens. I put them in the State Fair and  
429 show them.  
430  
431 Mr. Wright- What type of accommodations do you have to care for these  
432 chickens?  
433  
434 Mr. Glazebrook- I keep them in cages. I've got pictures here.  
435  
436 Mr. Wright- We'll need to see those. Please submit them.  
437  
438 Mr. McKinney- Mr. Glazebrook, do you also raise pigeons?  
439  
440 Mr. Glazebrook- My dad does.  
441  
442 Mr. McKinney- How many does he have?  
443  
444 Mr. Glazebrook- 70  
445  
446 Mr. McKinney- 70? And you got a variance to keep these pigeons?  
447  
448 Mr. Glazebrook- Yes, my dad does.  
449  
450 Mr. Glazebrook- 75.

451 Ms. Dwyer- Do you have any other livestock?  
452  
453 Mr. Glazebrook- No.  
454  
455 Mr. McKinney- Something in the paper said you have 200 pigeons? Is that  
456 correct?  
457  
458 Mr. Glazebrook- *unintelligible*...several dozen.  
459  
460 Mr. McKinney- These are small chickens, aren't they?  
461  
462 Mr. Glazebrook- Yes.  
463  
464 Mr. McKinney- About half the size of a regular chicken?  
465  
466 Mr. Glazebrook- Yeah, bantams are what they are.  
467  
468 Mr. Kirkland- The cages that are on the table in the photos, is that just for  
469 show purposes? I assume you keep them in a shed?  
470  
471 Mr. Glazebrook- I keep them right in those cages.  
472  
473 Mr. Kirkland- Out on the table like that?  
474  
475 Mr. Glazebrook- No, in the cages in the left picture.  
476  
477 Mr. McKinney- Do these chickens crow in the morning?  
478  
479 Mr. Glazebrook- A little bit.  
480  
481 Mr. McKinney- What time do they start?  
482  
483 Mr. Glazebrook-- About 5:00 a.m.  
484  
485 Mr. Wright- Describe how you take care of these chickens in so far as  
486 this coop is concerned. How often do you clean it?  
487  
488 Mr. Glazebrook- I clean it once a week.  
489  
490 Mr. Kirkland- What do you do with the manure?  
491  
492 Mr. Glazebrook- I haul it up the country. I have some land up the country and  
493 I take it up there.  
494

495 Mr. McKinney- Mr. Blankinship, could you pull up on the screen where it  
496 outlines on the screen the addresses. Mr. Glazebrook, what is all that in your  
497 backyard?  
498  
499 Mr. Glazebrook- It is my dad's cages and stuff.  
500  
501 Mr. McKinney- How many do you have?  
502  
503 Mr. Glazebrook- Probably 7 or 8 cages. I've got a greenhouse right there,  
504 too.  
505  
506 Mr. Blankinship- Mr. McKinney, when we went to photograph the site no on  
507 was home. We didn't try to get into the backyard to try and take photos.  
508  
509 Mr. McKinney- It looks like a lot of out buildings in the rear. Some of them  
510 look like they're right on the line.  
511  
512 Mr. Glazebrook- There's sheds out there.  
513  
514 Mr. McKinney- What's that right there?  
515  
516 Mr. Glazebrook- That's my dad's pigeon loft  
517  
518 Mr. McKinney- It looks like it is right on the line.  
519  
520 Mr. Glazebrook- It is probably 10 feet from the line.  
521  
522 Mr. McKinney- Is your neighbor here?  
523  
524 Mr. Glazebrook- Not that one.  
525  
526 Ms. Dwyer- How many buildings are dedicated to the chickens/  
527  
528 Mr. Glazebrook- Just 3.  
529  
530 Ms. Dwyer- How many for the pigeons?  
531  
532 Mr. Glazebrook- My dad could better answer that question.  
533  
534 Mr. McKinney- The place you have in the country – how far away is that?  
535  
536 Mr. Glazebrook- 20 miles. It is in Caroline County.  
537  
538 Mr. McKinney- How often do you go up there?  
539  
540 Mr. Glazebrook- Not very much.

541 Mr. McKinney- Is it raw land?  
542  
543 Mr. Glazebrook- It's just woods.  
544  
545 Mr. Kirkland- You must go once a week, because you just said you take  
546 manure up there once a week.  
547  
548 Mr. McKinney- How often do you have to service these chickens? Feed  
549 them, water them?  
550  
551 Mr. Glazebrook- Everyday.  
552  
553 Mr. Kirkland- Mr. Blankinship, what is the square footage of this lot?  
554  
555 Mr. Blankinship- About a quarter of an acre – closer to a third of an acre.  
556  
557 Mr. Wright- Mr. Glazebrook, you understand that the problem here is  
558 that we have an ordinance that says any of your buildings or coops must be 400 feet  
559 from the line?  
560  
561 Mr. Glazebrook- I'm trying to get the permit – I've got 22 signatures from my  
562 neighbors.  
563  
564 Mr. Wright- Yes, but what you're asking us to do is amend the County  
565 ordinance. You're either 400 feet from the line or you're not. I take it that this was  
566 designed by the Board of Supervisors to protect residential areas from this type of thing.  
567 This, in effect, is more of a farming operation...a type of farming operation.  
568  
569 Mr. Glazebrook- They're show chickens – I show them at the State Fair.  
570  
571 Mr. Wright- Our investigation shows that there are 17 houses that are  
572 within 400 feet of the chicken coop.  
573  
574 Mr. Glazebrook- Yes, and I have 22 signatures here.  
575  
576 Mr. Wright- You can have 1,000 signatures, and that doesn't help us  
577 with the Ordinance.  
578  
579 Mr. Glazebrook- I'm also certified to test chickens in the State of Virginia.  
580  
581 Mr. McKinney- Mr. Glazebrook, what do you have to do to get this  
582 certification from the State?  
583  
584 Mr. Glazebrook- You have to take a class.  
585  
586 Mr. McKinney- Do you have to take a test?

587 Mr. Glazebrook- Yes. You have to look at videos all day long.  
588  
589 Mr. McKinney- This petition that you have us – I don't see on here where it  
590 says that these people are in favor or against your operation.  
591  
592 Mr. Glazebrook- The stuff at the top is what I wrote.  
593  
594 Mr. McKinney- I see that.  
595  
596 Mr. Glazebrook- Everybody read that and signed it.  
597  
598 Mr. Wright- This property is owned by your father, right?  
599  
600 Mr. Glazebrook- That's right.  
601  
602 Mr. Wright- So, you're applying through your father to keep these  
603 chickens, right? Mr. Blankinship, shouldn't the applicant be the father?  
604  
605 Mr. Blankinship- We list the father as the owner, and we often list the person  
606 who actually submits the application as the person to speak at the hearing.  
607  
608 Mr. Wright- Who would the permit be issued to?  
609  
610 Mr. Blankinship- The variance would run with the land and that is owned by  
611 the father.  
612  
613 Mr. Wright- Any further questions from members of the Board at this  
614 moment? Mr. Glazebrook, you please have a seat and we're going to hear from those  
615 that may be in opposition to this. Do you have someone else to speak on behalf? I'm  
616 sorry. You were sworn?  
617  
618 Mr. Henry Glazebrook, Jr.- My name is Henry "Bobby" Glazebrook, Jr. I've been living  
619 at this location for 37 years. I've had chickens at this location for 30 or more, and when  
620 my son got 8 years old he got interested in them and I let him take them over. He got  
621 me interested again, and we both joined the Virginia Poultry Breeders Association. We  
622 got the State certification to check chickens. We just went to Warsaw last year and  
623 checked chickens for the 4-H members – over 70 chickens so they could enter them in  
624 the fair.  
625  
626 We just enjoy putting them in shows and showing them. He did have some larger  
627 chickens last year, but he got rid of them. He's got the small ones now. They don't  
628 make as much noise as the big ones. We want to be able to keep 15 or 20 to show in  
629 the Fair.  
630  
631 Mr. Wright- The ordinance permits 3.  
632

633 Mr. Glazebrook- That's what I was told, that chickens were classed as pets.  
634 Why don't dogs have to be 400 feet from the property line?  
635  
636 Mr. Wright- You can have 3 dogs. You don't have to be 400 feet if you  
637 only have 3.  
638  
639 Mr. Glazebrook- But why do you have chickens 400 feet ...  
640  
641 Mr. Wright- Because if you only have 3 chickens you don't have to be  
642 400 feet from the line.  
643  
644 Mr. McKinney- If you keep a kennel for the dogs, you have to be 400 feet.  
645  
646 Mr. Glazebrook- You mean I can keep 3 chickens and not be 400 feet?  
647  
648 Mr. Wright- You can keep 3 chickens with no problem at that location.  
649  
650 Mr. Glazebrook- So I can get 3 rooster – the biggest I can find...  
651  
652 Mr. Wright- You can do it.  
653  
654 Mr. McKinney- I don't know if he can or not. Mr. Blankinship, if he's got the  
655 pigeons can he have the chickens?  
656  
657 Mr. Blankinship- They'd have to be treated as pets.  
658  
659 Mr. Glazebrook- Well, the pigeons are not his pets. Nothing was ever said at  
660 the hearing about that...about pets.  
661  
662 Mr. Wright- That's a separate ordinance  
663  
664 Mr. McKinney- Mr. Glazebrook, we understand your dilemma, but the  
665 Ordinance doesn't allow it. I know you've done it for a long time, and probably never  
666 had any complaints until now. It is the same as someone who goes out and breaks the  
667 law for years and years and then they get caught. It is the same situation. Someone  
668 has reported you because they don't like the chickens; and, when the County  
669 investigated they found out that you weren't in agreement with what the Ordinance  
670 says.  
671  
672 Mr. Glazebrook- But I've lived there 37 years, and you're going to let  
673 someone move in there and try to run everything? That's not right.  
674  
675 Mr. Wright- If you've been in violation of the Ordinance for 37 years, that  
676 doesn't make it right.  
677  
678 Mr. Glazebrook- But nobody told me it was a violation.

679  
680 Mr. Wright- Did you read the Ordinance? You should have knowledge of  
681 the Ordinances of the County.  
682  
683 Mr. Glazebrook- I just don't think it's right.  
684  
685 Mr. Wright- OK, sir. Anything further? Anyone else desire to speak for  
686 the application? Now we'll hear from the opposition.  
687  
688 Mr. Grady Wilder- I live at 1414 Cole Boulevard. I'm just now becoming  
689 familiar with the Ordinance. I wasn't aware of it when I purchased the house. The  
690 problems I have with the chicken is that our garage, that sits on the right hand corner of  
691 the property, has several snakes. I can't directly attribute that to the chickens, but I  
692 have to assume that that's part of the problem. Also, we have a fly problem in our  
693 house. We have flies in our refrigerator. We have flies in our windowsills. I'm not  
694 talking about 1 or 2 flies; I'm talking about 15 or 20 on a daily basis. That bothers my  
695 fiancé and me. And also the noise. It isn't something that's outrageous, but is  
696 something that is there and something that is bothersome.  
697  
698 I think the Glazebrooks are very nice people. I'm not here to say that they aren't. I'm  
699 here to state the things that make me upset. That's all I have to say.  
700  
701 Mr. Kirkland- Mr. Wilder, when did you move to the residence?  
702  
703 Mr. Wilder- We moved in August of last year.  
704  
705 Mr. McKinney- When did you discover the snakes?  
706  
707 Mr. Wilder- The prior owner of the house told us about the snakes in the  
708 garage. I've only seen one. I was putting my lawnmower back and it fell out of the  
709 ceiling ... it was a 5 foot long black snake, which I killed. I've found numerous snake  
710 skins, up to 6 feet long. I haven't seen any this year, so I don't know if they're there or  
711 not.  
712  
713 Mr. McKinney- Have you tried to get rid of them?  
714  
715 Mr. Wilder- I don't go in there. I put my lawnmower in there and that's  
716 about it.  
717  
718 Mr. McKinney- Do the chickens crow in the morning? Do they wake you  
719 up?  
720  
721 Mr. Wilder- Absolutely. They don't bother me, but they bother my fiancé  
722 and then she bothers me.  
723  
724 Mr. McKinney- What time does this start?

725  
726 Mr. Wilder- She says about 4:30 a.m. , but I'm asleep. We work  
727 different schedules – I work around noon and she's a nurse so she goes in around 3:00  
728 p.m. and gets off at 11:00 p.m.  
729  
730 Mr. Wright- Anyone else desire to speak in opposition?  
731  
732 Ms. Louise Wilder- My name is Louise Wilder. I'm the property owner. My big  
733 concern is the same as his – the smell, the snakes, and the flies.  
734  
735 Mr. Blankinship- You're the owner of 1414 Cold Blvd?  
736  
737 Ms. Wilder- I am, and I rent to my son.  
738  
739 Mr. Wright- How long have you owned the property?  
740  
741 Ms. Wilder- Since July 2003. And I did know it was a snake problem  
742 because when the man moved, he was a friend of mine, he informed me that there was  
743 a snake problem in the garage.  
744  
745 Mr. Wright- Have you ever tried to take some action to get rid of the  
746 snakes?  
747  
748 Ms. Wilder- No.  
749  
750 Mr. Wright- There must be someone who's qualified to do that...not me,  
751 but somebody.  
752  
753 Ms. Wilder- I don't go in there either. It is the emptiest garage in the  
754 neighborhood.  
755  
756 Mr. McKinney- Do you think the flies are coming from the chickens?  
757  
758 Ms. Wilder- Oh, I would say so – well, it smells.  
759  
760 Mr. McKinney- How about the pigeons?  
761  
762 Ms. Wilder- I don't have any idea.  
763  
764 Mr. Kirkland- Are there flies in the yard when you go outside?  
765  
766 Ms. Wilder- There are just lots of flies.  
767  
768 Mr. Kirkland- All the time...summer, fall?  
769

770 Ms. Wilder- It is usually worse this time of year. They start and get  
771 worse. I know that in my house in Ashland, I haven't seen the first one this year. But  
772 I've seen lots of flies in that location already. It must have something to do with it.  
773  
774 Ms. Dwyer- Can you talk to us about the smell?  
775  
776 Ms. Wilder- It is a bad smell.  
777  
778 Ms. Dwyer- All the time?  
779  
780 Ms. Wilder- Most of the time...it isn't pleasant.  
781  
782 Mr. Wright- OK, is there anything else?  
783  
784 Ms. Wilder- They don't just crow in the morning. We assumed they did.  
785 She can tell you more about when they crow.  
786  
787 Mr. Wright- Anyone else desire to speak?  
788  
789 Mr. Wilder- Can I say just one more thing? So the pigeons are  
790 separate?  
791  
792 Mr. Wright- Yes.  
793  
794 Mr. Wilder- So what's the Ordinance on the pigeons? The flies are my  
795 main problem. If it is coming from the pigeons, what steps do I have to take?  
796  
797 Mr. McKinney- He has a permit for the pigeons. For 75.  
798  
799 Mr. Wright- They're supposed to keep the roost clean.  
800  
801 Mr. McKinney- Do you have the minutes on that Mr. Blankinship?  
802  
803 Mr. Blankinship- Yes. One of the conditions – "the pigeon lofts shall be kept  
804 in a clean, sanitary condition at all times and shall not be permitted to come a nuisance  
805 to the surrounding properties." The other is about the "no more than 75 birds at one  
806 time."  
807  
808 Mr. Wright- If the pigeon lofts are not kept clean, then they're in violation  
809 of the permit.  
810  
811 Mr. McKinney- Have they become a nuisance?  
812  
813 Mr. Wilder- I don't know much about agriculture and flies, I just know we  
814 have flies and they're coming from there, I assume.  
815

816 Mr. McKinney- Mr. Wilder, do you know the people at 1415?  
817  
818 Mr. Wilder- No, I don't.  
819  
820 Mr. McKinney- How about 1417?  
821  
822 Mr. Wilder- I've spoken to them on several occasions.  
823  
824 Mr. McKinney- Because he's got signatures here that these people don't  
825 have any problem with it. I wonder if they have a fly problem?  
826  
827 Mr. Wilder- I don't know, but they don't live right next door, I do.  
828  
829 Mr. McKinney- Well, someone's got to live on the other side.  
830  
831 Mr. Wilder- If you want to come by the house, feel free.  
832  
833 Mr. Wright- Anyone else desire to speak? Now we'll hear the rebuttal  
834 from the applicant. Mr. Glazebrook you can respond to what they've said.  
835  
836 Mr. Glazebrook- They might get the flies in their house because they don't  
837 have any screen doors on the house and they leave the door wide open. The snakes,  
838 they don't come over to my area for the eggs, because I get the eggs up everyday. The  
839 snakes have been there for years.  
840  
841 The people behind me, they have a swimming pool, and they signed the note. It did  
842 smell a little last year because I got carried away with the chickens, but I got rid of them  
843 and I'm not going to have them again. I've just got a few bantams that I want to take to  
844 the shows.  
845  
846 Mr. McKinney- Do you have any flies?  
847  
848 Mr. Glazebrook- No, I don't have any flies.  
849  
850 Mr. McKinney- You say there are no screens on the adjacent properties?  
851  
852 Ms. Dwyer- Do you have any **[unintelligible]** permits for the chickens?  
853  
854 Mr. Glazebrook- No.  
855  
856 Mr. Wright- Anything else? Someone else wants to speak?  
857  
858 Ms. Edith Glazebrook- We don't have flies in the house. We have them outside, but  
859 they're not inside our house. We have screens. We have brand new windows on our  
860 house. When they bought that piece of property they told the previous owner they didn't  
861 mind the chickens. The chickens were fine.

862 My husband and son love those animals...I work all day long. My husband is home all  
863 day long now because he's on disability. My son is at home during the day – he works  
864 at night. He doesn't run around, he doesn't drink, he doesn't smoke. He doesn't have  
865 a girlfriend because he doesn't want one. But that's none of my business or their  
866 business either. They wake us up at 3:00 a.m. out in the yard running around the  
867 house. They make as much noise as the chickens do. They're a bunch a drunks over  
868 there at 3:00 a.m. , and I want that stopped.  
869

870 Mr. Wright- That doesn't come before us, all you have to do is talk to the  
871 police. Thank you very much...that concludes the case.  
872

873 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
874 Kirkland, the Board **denied** application **A-52-2004** for variance to keep chickens at 1418  
875 Cole Boulevard (Tax Parcel 781-763-7868).  
876

877 Affirmative:	Dwyer, Kirkland, McKinney, Nunnaly, Wright	5
878 Negative:		0
879 Absent:		0

880  
881 The Board denied the request as it found from the evidence presented that approving  
882 the permit would be of substantial detriment to adjacent property and would materially  
883 impair the purpose of the zoning regulations.  
884

885 **A-53-2004** **JEFF AND CARLA SAMFORD** request a variance from  
886 Section 24-94 of Chapter 24 of the County Code to build a  
887 screened porch on the existing deck at 6104 Inkberry Place  
888 (Shady Ridge) (Parcel 744-778-2531), zoned R-3C, One-  
889 family Residence District (Conditional) (Three Chopt). The  
890 rear yard setback is not met. The applicants have 37 feet  
891 rear yard setback, where the Code requires 40 feet rear yard  
892 setback. The applicants request a variance of 3 feet rear  
893 yard setback.  
894

895 Mr. Wright- Is there anyone else here who desires to speak with  
896 reference to this case? Please raise your right hand and be sworn.  
897

898 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
899 whole truth and nothing but the truth, so help you God?  
900

901 Mr. Jeff Samford- I do. I have some pictures here as well.  
902

903 We moved in the house in November of 2000. We attempted to have a screened porch  
904 put in the back of the deck, and we were too late getting to the construction crew. The  
905 reason we want to do this is because we have a BMP in the back and it is an eyesore  
906 and mosquito haven. We can't go out back from 4:00 until dark. We have two children  
907 and they get eaten up by mosquitoes. We have approval from the HOA. The County

908 has come out to the BMP and advised the HOA that they need to do something  
909 because of the mosquito larvae, but we're having a tough time getting the funds raised  
910 to do the project.

911  
912 Mr. Wright- I think that since that is within your subdivision, I suspect  
913 your HOA is responsible for doing something.

914  
915 Mr. Samford- Individually, we buy mosquito donuts. But it doesn't seem to  
916 do a whole lot. The existing deck runs the length of the house, and what we're trying to  
917 do is take about half the deck and enclose it. It won't stick out any further in terms of  
918 width.

919  
920 Mr. Wright- Any questions from members of the Board? Anyone in  
921 opposition? That concludes the case.

922  
923 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
924 McKinney, the Board **approved** application **A-53-2004** for variance to construct a  
925 screened porch at 6104 Inkberry Place (Tax Parcel 744-778-2531). The approval is  
926 subject to the following conditions:

927  
928 Affirmative: Dwyer, Kirkland, McKinney, Nunnaly, Wright 5  
929 Negative: 0  
930 Absent: 0

- 931  
932 1. The new construction shall match the existing dwelling as nearly as practical.  
933  
934 2. The property shall be developed in substantial conformance with the plan filed  
935 with the application. No substantial changes or additions to the layout may be made  
936 without the approval of the Board of Zoning Appeals.

937  
938 The Board approved the request as it found from the evidence presented that approving  
939 the permit would not be of substantial detriment to adjacent property nor would  
940 materially impair the purpose of the zoning regulations.

941  
942 **A-54-2004** **ROBERT W. VESELY** requests a variance from Section 24-  
943 9 of Chapter 24 of the County Code to build a one-family  
944 dwelling at 3000 Chiles Road (Greenwood Acres) (Parcel  
945 773-775-9002), zoned A-1, Agricultural District (Brookland).  
946 The public street frontage requirement is not met. The  
947 applicant has 0 feet public street frontage, where the Code  
948 requires 50 feet public street frontage. The applicant  
949 requests a variance of 50 feet public street frontage.

950  
951 Mr. Wright- Is there anyone else here who desires to speak with  
952 reference to this case? Please raise your right hand and be sworn.

953

954 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
955 whole truth and nothing but the truth, so help you God?  
956

957 Mr. Robert Vesely- I do. I bought this property in 1990. My hopes were that  
958 water and sewer would be run on Chiles Road, and that I could give some land to each  
959 daughter to build a house on. There's no water and sewer and I've got a drainage are  
960 on the west side. The only way to do it to permit both daughters to build there is to  
961 eliminate the road frontage and split the lot.  
962

963 Mr. Wright- How would you access this property?  
964

965 Mr. Vesely- When I spoke with the County folks about what was  
966 required, I was under the assumption that there was 100 foot of road frontage required.  
967 When I got your staff report I found 50' – if I took 50' off the west side of the property  
968 that abuts my line I could redraw this to have 50' access that back property. If that's all  
969 that's required.  
970

971 Mr. Blankinship- That would get you around the road frontage requirement,  
972 but you'd still need 150 feet of lot width measured at the setback line.  
973

974 Mr. Wright- You'll still need a variance.  
975

976 Mr. Blankinship- You could divide it side by side and go straight back.  
977

978 Mr. Vesely- Except, when you look at what I submitted, west of the creek  
979 is the lowest part of the property – it is more a drainage area. Yesterday, there was no  
980 water in it, today there probably is.  
981

982 Mr. Wright- So that's a creek that runs through the property?  
983

984 Mr. Vesely- I'd call it a 6" deep drainage. I cut it with my lawnmower, at  
985 times.  
986

987 Mr. Blankinship- So why would that prohibit you from dividing the property  
988 that way?  
989

990 Mr. Vesely- Just west of that, if I draw it so that there's 150' of frontage, I  
991 would have a lot of problems with sewage.  
992

993 Mr. Blankinship- Could you get an engineered system? They do different  
994 kinds.  
995

996 Mr. Vesely- I'm probably looking at an alternative system the way it is  
997 drawn now. I can't image what the cost would be to have a sewage treatment system  
998 installed there?  
999

1000 Mr. Blankinship- Have you had a perc test done?  
1001  
1002 Mr. Vesely- I had the County coming out in the snow this winter, and I  
1003 was there for about 20 holes. It looks like we're right on the border of a standard  
1004 system. I'll probably need a pump.  
1005  
1006 Ms. Dwyer- The way the drainage area looks on your plat, it looks like it  
1007 more nearly bisects the property than it does on the photo.  
1008  
1009 Mr. Vesely- I agree.  
1010  
1011 Ms. Dwyer- If it were more in the middle, it would make more sense to  
1012 divide it.  
1013  
1014 Mr. Vesely- When the surveyor comes out the property lines are what's  
1015 important. They just probably drew the creek in where they thought it was.  
1016  
1017 There was a map that I presented with my request. Anything west of the drainage is  
1018 very low.  
1019  
1020 Mr. Wright- What do you propose to do to access the lot in the rear?  
1021 Something along the east property line?  
1022  
1023 Mr. Vesely- No, sir. It will be best if it is along the west. I couldn't waste  
1024 any potential drainfield area on the east side. So I'll probably come in on the west and  
1025 build a bridge over the drainage area.  
1026  
1027 Mr. Wright- Have you read the suggested conditions?  
1028  
1029 Mr. Vesely- Yes, sir.  
1030  
1031 Mr. Wright- I just wanted to make sure.  
1032  
1033 Mr. Vesely- Oh, I've got a lot of hurdles to get over to make this work.  
1034  
1035 Mr. Wright- Any questions from members of the Board? Anyone in  
1036 opposition to this request? Hearing none, that concludes the case.  
1037  
1038 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
1039 McKinney, the Board **approved** application **A-54-2004** for variance to construct a one  
1040 family dwelling at 3000 Chiles Road (Tax Parcel 773-775-9002). The approval is  
1041 subject to the following conditions:  
1042  
1043 Affirmative: Dwyer, Kirkland, McKinney, Nunnaly, Wright 5  
1044 Negative: 0  
1045 Absent: 0

- 1046  
 1047 1. This variance applies only to the public street frontage requirement. All other  
 1048 applicable regulations of the County Code shall remain in force.  
 1049  
 1050 2. At the time of building permit application, the applicant shall submit the  
 1051 necessary information to the Department of Public Works to ensure compliance with the  
 1052 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
 1053 water quality standards.  
 1054  
 1055 3. Approval of this request does not imply that a building permit will be issued.  
 1056 Building permit approval is contingent on Health Department requirements, including,  
 1057 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval  
 1058 of a well location.  
 1059  
 1060 4. The applicant shall present proof with the building permit application that a legal  
 1061 access to the property has been obtained.  
 1062  
 1063 5. The applicant shall present proof with the building permit application that a public  
 1064 utility easement has been recorded for the properties.  
 1065  
 1066 6. The applicant shall apply for, and receive, Planning Commission approval for the  
 1067 proposed lot division within one (1) year of this approval.  
 1068

1069 The Board approved the request as it found from the evidence presented that approving  
 1070 the permit would not be of substantial detriment to adjacent property nor would  
 1071 materially impair the purpose of the zoning regulations.  
 1072

1073 **A-55-2004** **BOBBY AND PHYLLIS POORE** request a variance from  
 1074 Sections 24-95(c)(4) and (1) of Chapter 24 of the County  
 1075 Code to build a covered front porch at 7109 Walford Avenue  
 1076 (Fort Hill) (Parcel 764-744-0521), zoned R-3, One-family  
 1077 Residence District (Three Chopt). The front yard setback  
 1078 and minimum side yard setback are not met. The applicants  
 1079 have 32 feet front yard setback and 5 feet minimum side  
 1080 yard setback, where the Code requires 35 feet front yard  
 1081 setback and 7 feet minimum side yard setback. The  
 1082 applicants request a variance of 3 feet front yard setback  
 1083 and 2 feet minimum side yard setback.  
 1084

1085 Mr. Wright- Where are they?  
 1086

1087 Mr. Blankinship- Mr. Chairman, this was a case that involved a building line  
 1088 on the plat, and the staff report mentions the need for a vacation of the building line.  
 1089 We were asked by the Administration to send those requests to the Board of  
 1090 Supervisors before they were heard by the BZA – to handle the vacation request first.  
 1091

1092 There was a Board meeting this week that they were hoping to be heard at, but they  
1093 didn't make it onto the agenda. I believe it is necessary for the BZA to defer this case  
1094 until that vacation can be addressed.

1095  
1096 On a motion by Mr. Kirkland, seconded by Mr. McKinney, the Board **deferred**  
1097 application **A-55-2004** for variance to construct a covered porch at 7109 Walford  
1098 Avenue (Tax Parcel 764-744-0521), from the May 27, 2004 meeting to the June 24,  
1099 2004 meeting.

1100  
1101 Affirmative: Dwyer, Kirkland, McKinney, Nunnaly, Wright 5

1102 Negative: 0

1103 Absent: 0

1104

1105 **A-56-2004** **MURLE L. VAUGHAN, JR.** requests a variance from  
1106 Section 24-94 of Chapter 24 of the County Code to build an  
1107 addition at 10815 Westek Drive (Cross Keys) (Parcel 747-  
1108 755-4091), zoned R-3, One-family Residence District (Three  
1109 Chopt). The rear yard setback is not met. The applicant has  
1110 27 feet rear yard setback, where the Code requires 40 feet  
1111 rear yard setback. The applicant requests a variance of 13  
1112 feet rear yard setback.

1113

1114 Mr. Wright- Is there anyone else here who desires to speak with  
1115 reference to this case? Please raise your right hand and be sworn.

1116

1117 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1118 whole truth and nothing but the truth, so help you God?

1119

1120 Mr. Murle L. Vaughan, Jr.- I do. My wife and I are proposing to add a first floor master  
1121 bedroom on the back of the house. We were originally going to put the addition on the  
1122 middle of the house, but my wife changed her mind. We plan to move the addition over  
1123 to the end of the house and not encroach into the rear yard. We won't go out any  
1124 further than originally proposed. After that, we plan on putting a new screened porch  
1125 and deck.

1126

1127 Mr. Wright- Was that on the original application, Mr. Blankinship?

1128

1129 Mr. Blankinship- No, sir.

1130

1131 Mr. Wright- Then what you're coming up with is something different than  
1132 what was originally proposed, is that right?

1133

1134 Mr. Vaughan- Yes, sir.

1135

1136 Mr. Wright- How does that effect the notice?

1137

1138 Mr. Blankinship- It sounds like we're changing the application.  
1139  
1140 Mr. Wright- I don't see how we can hear it if you've changed it from what  
1141 you originally proposed.  
1142  
1143 Mr. Vaughan- Yes, sir.  
1144  
1145 Mr. Wright- I'd like to defer it 'til next month.  
1146  
1147 On a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **deferred**  
1148 application **A-56-2004** for variance to construct an addition at 10815 Westek Drive (Tax  
1149 Parcel 747-755-4091), from the May 27, 2004 meeting to the June 24, 2004 meeting.  
1150  
1151 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1152 Negative: 0  
1153 Absent: 0  
1154  
1155 **UP-13-2004 VULCAN CONSTRUCTION MATERIALS, L. P.** requests a  
1156 conditional use permit pursuant to Sections 24-103 and 24-  
1157 52(d) of Chapter 24 of the County Code to extract materials  
1158 from the earth at 4721 Curles Neck Road (Parcel 836-667-  
1159 5251), zoned A-1, Agricultural District (Varina).  
1160  
1161 Mr. Wright- Is there anyone else here who desires to speak with  
1162 reference to this case? Please raise your right hand and be sworn.  
1163  
1164 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1165 whole truth and nothing but the truth, so help you God?  
1166  
1167 Mr. Monty Lewis- I do. I'm with Lewis and Associates, representing the  
1168 applicant.  
1169  
1170 Strawberry West is a site we've had previous approval on and we've done some  
1171 excavation. Some is still under agricultural use. This is for a renewal of that.  
1172  
1173 We also have a determination from the Corps and DEQ that we can disturb the  
1174 wetlands that were previously in the middle of this area. The Corps ruled that these are  
1175 not jurisdictional wetlands, so they have nothing to do with them. DEQ's permit to  
1176 disturb the wetlands is coming.  
1177  
1178 The area you see cross-hatched is the area that has been worked in.  
1179  
1180 Mr. Nunnally- This is the identical operation that's been going on for years?  
1181  
1182 Mr. Lewis- Yes, sir.  
1183

1184 Mr. Nunnally- You don't use the public roads, do you?  
1185  
1186 Mr. Lewis- No, sir. I would like to bring out one condition that we'd like  
1187 to remove – that's condition number 11. This condition is standard, but because it is an  
1188 active agricultural farm, the condition doesn't allow us to farm the area efficiently. We'd  
1189 like it removed.  
1190  
1191 Mr. Wright- You don't use those gates?  
1192  
1193 Mr. Lewis- Not at all – all the material goes to barges at the river.  
1194  
1195 Mr. Wright- Is that condition used when you use those gates for access?  
1196  
1197 Mr. Blankinship- It is a standard condition for extraction sites, but I don't know  
1198 if it has ever been on Curles Neck before.  
1199  
1200 Mr. Lewis- It hasn't been on any of the other sites. It did turn up in a  
1201 staff report before, but the Board removed it.  
1202  
1203 Ms. Dwyer- Is this gravel?  
1204  
1205 Mr. Lewis- Sand and gravel.  
1206  
1207 Mr. Wright- Anything further? Anyone here in opposition? Hearing  
1208 none, that concludes the case.  
1209  
1210 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.  
1211 Kirkland, the Board **approved** application **UP-13-2004** for a permit to extract materials  
1212 from the earth at 4721 Curles Neck Road (Tax Parcel 836-667-5251). The approval is  
1213 subject to the following conditions:  
1214  
1215 Affirmative: Dwyer, Kirkland, McKinney, Nunnaly, Wright 5  
1216 Negative: 0  
1217 Absent: 0  
1218  
1219 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of  
1220 the County Code.  
1221  
1222 2. Before beginning any work, the applicant shall provide a financial guaranty in an  
1223 amount of \$2,000 per acre for each acre of land to be disturbed, for a total of \$274,820,  
1224 guaranteeing that the land will be restored to a reasonably level and drainable condition.  
1225 This permit does not become valid until the financial guaranty has been approved by the  
1226 County Attorney. The financial guaranty may provide for termination after 90 days  
1227 notice in writing to the County. In the event of termination, this permit shall be void, and  
1228 work incident thereto shall cease. Within the next 90 days the applicant shall restore  
1229 the land as provided for under the conditions of this use permit. Termination of such

1230 financial guaranty shall not relieve the applicant from its obligation to indemnify the  
1231 County of Henrico for any breach of the conditions of this use permit. If this condition is  
1232 not satisfied within 90 days of approval, the use permit shall be void.  
1233

1234 3. Before beginning any work, the applicant shall submit erosion control plans to the  
1235 Department of Public Works for review and approval. Throughout the life of the  
1236 operation, the applicant shall continuously satisfy the Department of Public Works that  
1237 erosion control procedures are properly maintained, and shall furnish plans and bonds  
1238 that the department deems necessary. The applicant shall provide certification from a  
1239 licensed professional engineer that dams, embankments and sediment control  
1240 structures meet the approved design criteria as set forth by the State. If this condition is  
1241 not satisfied within 90 days of approval, the use permit shall be void.  
1242

1243 4. Before beginning any work, the applicant shall obtain a mine license from the  
1244 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied  
1245 within 90 days of approval, the use permit shall be void.  
1246

1247 5. Before beginning any work, the areas approved for mining under this permit shall  
1248 be delineated on the ground by five-foot-high metal posts at least five inches in diameter  
1249 and painted in alternate one foot stripes of red and white. These posts shall be so  
1250 located as to clearly define the area in which the mining is permitted. They shall be  
1251 located, and their location certified, by a certified land surveyor. If this condition is not  
1252 satisfied within 90 days of approval, the use permit shall be void.  
1253

1254 6. In the event that the Board's approval of this use permit is appealed, all  
1255 conditions requiring action within 90 days will be deemed satisfied if the required actions  
1256 are taken within 90 days of final action on the appeal.  
1257

1258 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all  
1259 state and local regulations administered under such act applicable to the property, and  
1260 shall furnish to the Planning Office copies of all reports required by such act or  
1261 regulations.  
1262

1263 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings  
1264 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.  
1265

1266 9. No operations of any kind are to be conducted at the site on Sundays or national  
1267 holidays.  
1268

1269 10. All materials shall be shipped over the applicant's rights of way to the James  
1270 River as outlined on the map filed with the application.  
1271

1272 11. [Deleted]  
1273

1274 12. The applicant shall post and maintain a sign at the entrance to the mining site  
1275 stating the name of the operator, the use permit number, the mine license number, and

1276 the telephone number of the operator. The sign shall be 12 square feet in area and the  
1277 letters shall be three inches high.

1278  
1279 13. All roads used in connection with this use permit shall be effectively treated with  
1280 calcium chloride or other wetting agents to eliminate any dust nuisance.

1281  
1282 14. The applicant shall maintain the property, fences, and roads in a safe and secure  
1283 condition indefinitely, or convert the property to some other safe use.

1284  
1285 15. If, in the course of its preliminary investigation or operations, the applicant  
1286 discovers evidence of cultural or historical resources, or an endangered species, or a  
1287 significant habitat, it shall notify appropriate authorities and provide them with an  
1288 opportunity to investigate the site. The applicant shall report the results of any such  
1289 investigation to the Planning Office.

1290  
1291 16. If water wells located on surrounding properties are adversely affected, and the  
1292 extraction operations on this site are suspected as the cause, the effected property  
1293 owners may present to the Board evidence that the extraction operation is a contributing  
1294 factor. After a hearing by the Board, this use permit may be revoked or suspended, and  
1295 the operator may be required to correct the problem.

1296  
1297 17. Open and vertical excavations having a depth of 10 feet or more, for a period of  
1298 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the  
1299 public safety.

1300  
1301 18. Topsoil shall not be removed from any part of the property outside of the area in  
1302 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for  
1303 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled  
1304 within the authorized mining area and provided with adequate erosion control  
1305 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought  
1306 to the site to provide the required five-inch layer of cover. All topsoil shall be treated  
1307 with a mixture of seed, fertilizer, and lime as recommended by the County after soil  
1308 tests have been provided to the County.

1309  
1310 19. No offsite-generated materials shall be deposited on the mining site without prior  
1311 written approval of the Director of Planning. To obtain such approval, the operator shall  
1312 submit a request stating the origin, nature and quantity of material to be deposited, and  
1313 certifying that no contaminated or hazardous material will be included. The material to  
1314 be deposited on the site shall be limited to imperishable materials such as stone, bricks,  
1315 tile, sand, gravel, soil, asphalt, concrete and like materials, and shall not include any  
1316 hazardous materials as defined by the Virginia Hazardous Waste Management  
1317 Regulations.

1318  
1319 20. A superintendent, who shall be personally familiar with all the terms and  
1320 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms  
1321 and conditions of this use permit, shall be present at the beginning and conclusion of

1322 operations each work day to see that all the conditions of the Code and this use permit  
1323 are observed.

1324  
1325 21. A progress report shall be submitted to the Board on June 30, 2005. This  
1326 progress report must contain information concerning how much property has been  
1327 mined to date of the report, the amount of land left to be mined, how much rehabilitation  
1328 has been performed, when and how the remaining amount of land will be rehabilitated,  
1329 and any other pertinent information about the operation that would be helpful to the  
1330 Board.

1331  
1332 22. Excavation shall be discontinued by June 30, 2006, and restoration  
1333 accomplished by not later than June 30, 2007, unless a new permit is granted by the  
1334 Board of Zoning Appeals.

1335  
1336 23. The rehabilitation of the property shall take place simultaneously with the mining  
1337 process. Rehabilitation shall not be considered completed until the mined area is  
1338 covered completely with permanent vegetation.

1339  
1340 24. All drainage and erosion and sediment control measures shall conform to the  
1341 standards and specifications of the Mineral Mining Manual Drainage Handbook. Any  
1342 drainage structures in place prior to October 14, 1992 and which do not conform to the  
1343 Mineral Mining Manual Drainage Handbook may remain in place until such time as any  
1344 reconstruction is required at which time said structures shall be brought into  
1345 conformance with the Mineral Mining Manual Drainage Handbook.

1346  
1347 25. Failure to comply with any of the foregoing conditions shall automatically void this  
1348 permit.

1349  
1350 The Board approved the request as it found from the evidence presented that approving  
1351 the permit would not be of substantial detriment to adjacent property nor would  
1352 materially impair the purpose of the zoning regulations.

1353  
1354 Mr. Wright- The Board will take a 10-minute recess until we hear the  
1355 10:00 a.m. docket.

1356  
1357 ***The Board reconvened-***

1358  
1359 Mr. Wright- Mr. Secretary, are there any deferrals?

1360  
1361 Mr. Blankinship- Yes, sir. The last case.

1362  
1363 Mr. Wright- Is there anyone here in opposition to the deferral?

1364  
1365 Mr. Andy Condlin- Mr. Wright, I'd like to request a 90 day deferral, as this is tied  
1366 to a zoning case. Staff is encouraging us to do the zoning first, and if we get the  
1367 requested zoning we may not even need the variance.

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**A-60-2004**

**JOSEPH P. MARCHETTI, JR.** requests a variance from Section 24-94 of Chapter 24 of the County Code to allow the existing building to remain at 3301 Church Road (Parcel 746-757-7922), zoned A-1, Agricultural District (Three Chopt). The minimum side yard setback is not met. The applicant has 7 feet minimum side yard setback, where the Code requires 20 feet minimum side yard setback. The applicant requests a variance of 13 feet minimum side yard setback.

On a motion by Mr. McKinney, seconded by Mr. Nunnally, the Board **deferred** application **A-60-2004** for variance to allow the existing building to remain at 3301 Church Road (Tax Parcel 746-757-7922), from the May 27, 2004 meeting to the August 26, 2004 meeting.

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

Mr. Wright- Mr. Secretary, would you read the rules for anyone new.

Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each case. Then at that time the applicant should come down to the podium. I will then ask all those who intend to speak, in favor or in opposition to the case, to stand and be sworn in. The applicants will then present their testimony. After the applicant has finished, anyone else who intends to speak will be given the opportunity. After everyone has spoken, the applicant, and only the applicant, will be given the opportunity for rebuttal. After hearing the case, and asking questions, the Board will take the matter under advisement. They will make all of their decisions at the end of the meeting. If you wish to know their decision on a specific case, you can either stay until the end of the meeting, or you can call the Planning Office later this afternoon, or you can check the Planning Office website. This meeting is being tape recorded, so we will ask everyone to speak directly into the microphone on the podium, and to state your name, and please spell your last name for the record. And finally, out in the foyer, there are two binders that contain the staff report for each case, including the conditions that have been recommended by the staff.

**A-57-2004**

**THIRU G. SRIRAM** requests a variance from Section 24-94 of Chapter 24 of the County Code to build a garage and front porch at 5621 Eagle Lake Drive (Elinor Springs) (Parcel 756-768-7439), zoned R-3C, One-family Residence District (Conditional) (Brookland). The front yard setback and rear yard setback are not met. The applicant has 34 feet front yard setback and 25 feet rear yard setback, where the Code

1414 requires 40 feet front yard setback and 40 feet rear yard  
1415 setback. The applicant requests a variance of 6 feet front  
1416 yard setback and 15 feet rear yard setback.  
1417

1418 Mr. Wright- Is there anyone else here who desires to speak with  
1419 reference to this case? Please raise your right hand and be sworn.  
1420

1421 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1422 whole truth and nothing but the truth, so help you God?  
1423

1424 Mr. Thiru Sriram- I do. We built this house in 2002, and at that time we were  
1425 not aware of the limitations of the lot. We asked the builder about the addition of a  
1426 garage and he said that upon completion of the house we could apply to the County for  
1427 a variance and build the garage.  
1428

1429 The shape of our lot is somewhat odd. The plat shows that there is a severe limitation  
1430 for me to meet the County requirements for the garage. We have consulted our  
1431 neighbors, and one has given us a letter of support.  
1432

1433 We have quite a bit of land on the right side of the house and when we add the garage it  
1434 will give fullness to the neighborhood and make it look nice.  
1435

1436 Mr. Wright- It looks like you have an odd shaped lot. Will the porch  
1437 extend across the entire front of the house?  
1438

1439 Mr. Sriram- I have contacted one builder and asked for suggestions.  
1440 That is one thing I'm thinking of – adding a porch in line with the front of the garage.  
1441

1442 Mr. Wright- Does the garage also violate the front yard setback, or just  
1443 the porch?  
1444

1445 Mr. Blankinship- It isn't clear on the drawings.  
1446

1447 Mr. Sriram- I believe I need 5 feet variance on the front.  
1448

1449 Mr. Wright- You need 40 feet setback from the cul-de-sac. It looks like  
1450 the garage will violate it.  
1451

1452 Mr. Kirkland- Mr. Blankinship, did they get a variance to build this house?  
1453 It says they got a variance in 2003 and the house was built in 2002? Did they wait  
1454 around a year?  
1455

1456 Mr. Wright- Where did you see that?  
1457

1458 Mr. Kirkland- On page 2 of 3. We've already given them a variance to  
1459 build the house.

1460 Mr. Sriram- The builder may have requested the variance because the  
1461 house was not meeting the rear setback. We did get a utility easement behind our  
1462 house vacated last year.  
1463  
1464 Mr. Kirkland- So they vacated a utility easement behind the house.  
1465  
1466 Mr. Wright- What is to the rear of your property?  
1467  
1468 Mr. Sriram- The proposed new Springfield Road is supposed to come  
1469 there.  
1470  
1471 Mr. Wright- So this won't impact any houses?  
1472  
1473 Mr. Sriram- No.  
1474  
1475 Ms. Dwyer- Some of the numbers don't seem to fit. According to the  
1476 plat, there's 34.7 foot distance between the corner of your house and the property line.  
1477 The other drawing says the corner of the garage will be 35 feet. It looks like from your  
1478 drawing that the garage will be closer, which would make the setback less than 34 feet,  
1479 and not more.  
1480  
1481 Mr. Sriram- Let me explain this. I fall short by approximately 15 feet, of  
1482 the required 40 rear yard setback if I add the garage.  
1483  
1484 Ms. Dwyer- So that would be 25 feet? Oh, that's a "25" and not a "35?"  
1485  
1486 Mr. Sriram- Yes. I'd like to add that once I get the variance, there will not  
1487 be a substantial alteration and everything will match. If I should choose not to build the  
1488 porch, is that a substantial alteration? Do I need to come back?  
1489  
1490 Mr. Blankinship- I'd say that if it is approved, and you choose not to build it,  
1491 that's fine.  
1492  
1493 Mr. Dwyer- Mr. Secretary, how do you measure the distance from the  
1494 garage to the cul-de-sac, given the angle? It is not clear to me that a variance is  
1495 needed for the garage.  
1496  
1497 Mr. Blankinship- Nearest corner of the garage to the nearest point of the  
1498 street.  
1499  
1500 Mr. Wright- I think it is just the corner that's the problem.  
1501  
1502 Mr. Blankinship- It may be just the front porch.  
1503  
1504 Mr. Wright- Anyone else here to speak? Any opposition? Hearing none,  
1505 that concludes the case.

1506 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
1507 McKinney, the Board **approved** application **A-57-2004** for variance to construct a front  
1508 porch and garage at 5621 Eagle Lake Drive (Tax Parcel 756-768-7439). The approval  
1509 is subject to the following conditions:

1510  
1511 Affirmative: Dwyer, Kirkland, McKinney, Nunnaly, Wright 5  
1512 Negative: 0  
1513 Absent: 0

- 1514  
1515 1. The new construction shall match the existing dwelling as nearly as practical.  
1516  
1517 2. The property shall be developed in substantial conformance with the plan filed  
1518 with the application. No substantial changes or additions to the layout may be made  
1519 without the approval of the Board of Zoning Appeals.

1520  
1521 The Board approved the request as it found from the evidence presented that approving  
1522 the permit would not be of substantial detriment to adjacent property nor would  
1523 materially impair the purpose of the zoning regulations.

1524  
1525 **A-58-2004** **DONALD TALLEY** requests a variance from Section 24-9 of  
1526 Chapter 24 of the County Code to build a one-family dwelling  
1527 at 426 Evanrude Lane (Parcel 833-722-5464), zoned A-1,  
1528 Agricultural District (Varina). The public street frontage  
1529 requirement is not met. The applicant has 0 feet public street  
1530 frontage, where the Code requires 50 feet public street  
1531 frontage. The applicant requests a variance of 50 street  
1532 public road frontage.

1533  
1534 Mr. Wright- Is there anyone else here who desires to speak with  
1535 reference to this case? Please raise your right hand and be sworn.

1536  
1537 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1538 whole truth and nothing but the truth, so help you God?

1539  
1540 Mr. Donald Talley- I do. I was given this land by my mother in 1967. At the  
1541 time, it was subdivided by a different owner, and I don't remember the circumstances,  
1542 but he came back and said 'my plans aren't going to work out, do you want your money  
1543 back?' My mother said, "no, we'll just hold on to it." He had already sold several lots on  
1544 this road. His wife later sold the property.

1545  
1546 I left Henrico in 1982, and in 1987 the subdivision was put in and they moved the road.  
1547 I now own a lot that's land-locked and I can't do it. I've paid taxes on it for nearly 40  
1548 years and I'd like to do something with it.

1549  
1550 Mr. Wright- You have 1 acre?

1551

1552 Mr. Talley- Yes, sir.  
1553  
1554 Mr. Wright- Have you read the conditions suggested for the case?  
1555  
1556 Mr. Talley- No, I haven't.  
1557  
1558 Mr. Wright- If it is approved, it would be approved subject to them.  
1559  
1560 Mr. Talley- I've had a soil scientist do a study of it, and it has already  
1561 passed a perc test in three places, for a three bedroom dwelling. I've had it surveyed.  
1562  
1563 Mr. McKinney- What we're asking is whether you've read the conditions and  
1564 understand them.  
1565  
1566 Mr. Talley- Oh, yes, I misunderstood. I don't have a problem with them.  
1567  
1568 Mr. Wright- Is there anyone here in opposition? Hearing none, that  
1569 concludes the case.  
1570  
1571 After an advertised public hearing and on a motion by Mr. Nunnaly, seconded by Mr.  
1572 McKinney, the Board **approved** application **A-58-2004** for variance to construct a one  
1573 family dwelling at 426 Evanrude Lane (Tax Parcel 833-722-5464). The approval is  
1574 subject to the following conditions:  
1575  
1576 Affirmative: Dwyer, Kirkland, McKinney, Nunnaly, Wright 5  
1577 Negative: 0  
1578 Absent: 0  
1579  
1580 1. This variance applies only to the public street frontage requirement. All other  
1581 applicable regulations of the County Code shall remain in force.  
1582  
1583 2. At the time of building permit application, the applicant shall submit the  
1584 necessary information to the Department of Public Works to ensure compliance with the  
1585 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
1586 water quality standards.  
1587  
1588 3. Approval of this request does not imply that a building permit will be issued.  
1589 Building permit approval is contingent on Health Department requirements, including,  
1590 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval  
1591 of a well location.  
1592  
1593 4. The owners of the property, and their heirs or assigns, shall accept responsibility  
1594 for maintaining access to the property until such a time as the access is improved to  
1595 County standards and accepted into the County road system for maintenance.  
1596  
1597 The Board approved the request as it found from the evidence presented that approving

1598 the permit would not be of substantial detriment to adjacent property nor would  
1599 materially impair the purpose of the zoning regulations.

1600  
1601 **A-59-2004**                                **STEPHEN AND KIM WINSTON** request a variance from  
1602 Section 24-94 of Chapter 24 of the County Code to build an  
1603 addition at 5716 Shady Mill Way (Shady Mill at Millstone)  
1604 (Parcel 737-778-6183), zoned R-3C, One-family Residence  
1605 District (Conditional) (Three Chopt). The rear yard setback is  
1606 not met. The applicants have 35 feet rear yard setback,  
1607 where the Code requires 40 feet rear yard setback. The  
1608 applicants request a variance of 5 feet rear yard setback.

1609  
1610 Mr. Wright-                                Is there anyone else here who desires to speak with  
1611 reference to this case? Please raise your right hand and be sworn.

1612  
1613 Mr. Blankinship-                        Do you swear that the testimony you are about to give is the  
1614 whole truth and nothing but the truth, so help you God?

1615  
1616 Mr. Stephen Winston-                I do. Thank you for hearing our request. My wife and I  
1617 would like to build an addition on the rear of our residence. It will require a 5 foot  
1618 variance to the rear yard setback.

1619  
1620 This addition is going to be 20 x 15, and will not extend past an existing deck. There  
1621 are other properties behind us, however; it will still be a significant distance to the  
1622 nearest house – approximately 75 feet. We have selected a builder that has built other  
1623 additions, and we've submitted the plans to the HOA.

1624  
1625 Mr. Wright-                                This will be a 2 story addition?

1626  
1627 Mr. Winston-                              No, sir. One story.

1628  
1629 Mr. Wright-                                Will the deck remain?

1630  
1631 Mr. Winston-                              We'll have to remove a portion of it. But it won't be any  
1632 further into the yard.

1633  
1634 Mr. Wright-                                Will it match the existing house?

1635  
1636 Mr. Winston-                              Yes, the foundation brick, siding, windows, and landscaping  
1637 will all match.

1638  
1639 Mr. Wright-                                Any questions from members of the Board? Anyone in  
1640 opposition? Hearing none, that concludes the case.

1641  
1642 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
1643 McKinney, the Board **approved** application **A-59-2004** for variance to construct an

1644 addition at 5716 Shady Mill Way (Tax Parcel 737-778-6183). The approval is subject to  
1645 the following conditions:

1646  
1647 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1648 Negative: 0  
1649 Absent: 0

- 1650  
1651 1. The new construction shall match the existing dwelling as nearly as practical.  
1652  
1653 2. The property shall be developed in substantial conformance with the plan filed  
1654 with the application. No substantial changes or additions to the layout may be made  
1655 without the approval of the Board of Zoning Appeals.

1656  
1657 The Board approved the request as it found from the evidence presented that approving  
1658 the permit would not be of substantial detriment to adjacent property nor would  
1659 materially impair the purpose of the zoning regulations.

1660  
1661 **MINUTES APPROVED**

1662  
1663 On a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **approved**  
1664 the Minutes of the **October 23, 2003**, Henrico County Board of Zoning Appeals  
1665 meeting. Ms. Dwyer abstained.

1666  
1667 On a motion by Mr. Kirkland, seconded by Mr. Nunnally, the Board **approved** the  
1668 Minutes of the **November 20, 2003**, Henrico County Board of Zoning Appeals  
1669 meeting. Ms. Dwyer abstained.

1670  
1671 **DISCUSSION OF BZA RULES OF PROCEDURE CHANGE**

1672  
1673 Mr. Wright- Mr. Blankinship, you have something to discuss about  
1674 a change in the rules?

1675  
1676 Mr. Blankinship- Yes, sir. At our work session there was a question  
1677 about the expiration of a variance after 1 year. The suggestion was made to  
1678 change it to 2 years. When I looked at the rules, it reads "**All permits**  
1679 **needed...**" I didn't realize that **all** permits required for the variance had to be  
1680 obtained within 1 year, so I showed that language as struck out, but did not show  
1681 you a substitute. I just wanted to get that on the table.

1682  
1683 Mr. Wright- Give us some reasons...I can understand that  
1684 circumstances change over time, but there needs to be a cutoff as to when the  
1685 person needs to apply to carry out whatever they need. I don't know that a year  
1686 is so magic. Has it proved difficult for folks?

1687  
1688 Mr. Blankinship- I've seen, just in the past couple of years, that people  
1689 are taking 11 or 13 months. Particularly when it has to go through a HOA,

1690 sometimes those get lengthy. They can request design changes, and in some  
1691 cases it can take awhile. We don't gain anything by seeing those permits expire.  
1692 There are cases, particularly like the one on Old Memorial this morning, where I  
1693 can see that the Board doesn't want to be in the position of granting speculative  
1694 variances, and so if there isn't any motion it may be to everyone's advantage to  
1695 hold a second hearing. Particularly if there have been changes in the intervening  
1696 time.

1697  
1698 Mr. Wright- Is your suggestion that we change "1 year" to "2  
1699 years?" and leave the other language alone?

1700  
1701 Mr. Blankinship- I think that would be an improvement, but I don't know  
1702 what you want to do with the other language. "All necessary permits..." There  
1703 have been cases where someone has come to me and said, "I just got my Health  
1704 permit, but I'm not ready to get a building permit." In a case like that, does the  
1705 Board want to say "You're clearly pursuing this, so there's no sense in letting it  
1706 expire."

1707  
1708 Mr. Wright- So what would you do? Assuming we go with a time  
1709 extension, how would we apply it?

1710  
1711 Ms. Dwyer- We need some information on how the permit system  
1712 works, what other benchmarks are there?

1713  
1714 Mr. Kirkland- If someone gets a building permit, how long is it good  
1715 for if they don't start any work?

1716  
1717 Mr. McKinney- 6 months.

1718  
1719 Mr. Blankinship- My understanding is that to keep a building permit  
1720 active, you just have to call for an inspection every 6 months.

1721  
1722 Ms. Dwyer- Could you just say "building permit?" But not every  
1723 case needs a building permit.

1724  
1725 Mr. Blankinship- That's the other issue. Some uses don't require  
1726 permits, and some use permits they aren't pulling any permits

1727  
1728 Ms. Dwyer- You can argue that 2 years is a pretty long time, and  
1729 if, at the end of 2 years, they still haven't done anything perhaps they should be  
1730 coming back here.

1731  
1732 Mr. Wright- That's my thought. Could you foresee something that  
1733 would cause difficulty if we said, "All permits must be applied for within 2 years."  
1734 That's a long period of time, and it seem like they should have applied for it within  
1735 that time.

1736  
1737 Mr. Blankinship- Going to 2 years may be fine.  
1738  
1739 Mr. Kirkland- That would cover churches, too, because churches  
1740 have a hard time raising funds.  
1741  
1742 Mr. Blankinship- That's a good example. They may hire an architect to  
1743 do a master plan, but take 3 years to raise the funds.  
1744  
1745 Mr. Wright- Let's just change it from "1 year" to "2 years."  
1746  
1747 Mr. McKinney- Can we ask them to come back at the end of 1 year  
1748 and do a review, with a fee? A year's a long time. If they haven't done anything  
1749 they could pay a fee to extend it for another year?  
1750  
1751 Mr. Wright- I'm not so worried about getting any money. Let's just  
1752 change it to "2 years" and that covers just about everything.  
1753  
1754 Mr. Blankinship- Two years to apply? The rules say "the permits shall  
1755 be taken out," and that can take awhile.  
1756  
1757 Mr. Wright- I think "applied for." And make it 2 years. If there are  
1758 problems with it, come back and tell us.  
1759  
1760 On a motion by Mr. McKinney, seconded by Mr. Kirkland, the Rules of the  
1761 Henrico County Board of Zoning Appeals were amended to **require that all**  
1762 **permits necessary be applied for within 2 years of the granting of the**  
1763 **variance or use permit.**  
1764  
1765 Mr. Wright- Before we adjourn, I'd like to welcome Mr. Dave  
1766 O'Kelly. If, at any time during our meetings, you have any suggestions we'd be  
1767 glad to hear from you. We're trying to get the best results for the citizens.  
1768  
1769 **ADJOURNED**  
1770 There being no further business, and on a motion by Mr. McKinney, seconded by  
1771 Mr. Kirkland, the Board adjourned until **June 24, 2004**, at 9:00 am.  
1772  
1773 Russell A. Wright, Esq.  
  
1774 Chairman  
  
1775  
  
1776 Benjamin Blankinship, AICP  
  
1777 Secretary