

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, DECEMBER 14,**
4 **2000, AT 9:00 A.M. NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES**
5 **DISPATCH ON NOVEMBER 23 AND 30, 2000.**
6

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

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

7
8 Mr. Kirkland - Good morning, ladies and gentlemen. Welcome to the
9 December Board of Zoning Appeals meeting. Before we get started, I will have the
10 Secretary read the rules.

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

26
27 Mr. Kirkland - Mr. Secretary, do we have any requests for deferrals or
28 withdrawals on today's agenda?

29
30 Mr. Blankinship - We do, and that will take me just a second.

31
32 **A-124-2000** **RICHMOND PLASTIC SURGEONS** requests a variance from
33 Section 24-96(b)(12a) of Chapter 24 of the County Code to
34 renovate an office building to medical offices at 2008 Libbie Avenue
35 (Westwood Home Sites) (Tax Parcel 103-6-A-5), zoned O-2, Office
36 District (Three Chopt). The required number of parking spaces is
37 not met. The applicant has 33 parking spaces, where the Code

38 requires 41 parking spaces. The applicant requests a variance of 8
39 parking spaces.

40
41 Mr. Blankinship - Richmond Plastic Surgeons has requested withdrawal
42 without prejudice.

43
44 Mr. Kirkland - Do I have a motion on the A-124-2000 withdrawal without
45 prejudice.

46
47 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **granted the**
48 **withdrawal of A-124-2000 without prejudice.**

49
50 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
51 Negative: 0
52 Absent: 0

53
54 A-125-2000 **JAMES T. AND BRENDA D. CHRISTMAS** request a variance from
55 Section 24-94 of Chapter 24 of the County Code to build a sunroom
56 at 109 Adingham Court (River Place) (Tax Parcel 111-19-B-3),
57 zoned R-1, One-Family Residence District (Tuckahoe). The rear
58 yard setback is not met. The applicants have 41 feet rear yard
59 setback, where the Code requires 50 feet rear yard setback. The
60 applicants request a variance of 9 feet rear yard setback.

61
62 Mr. Blankinship - They have requested a deferral to the January meeting.

63
64 Mr. Kirkland - A-125-2000 for deferral to the next meeting in January.

65
66 Upon a motion by Mr. Balfour, seconded by Mr. Wright, the Board **granted the deferral**
67 **of A-125-2000 to the January 25, 2001 meeting.**

68
69 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
70 Negative: 0
71 Absent: 0

72
73 **UP-37-2000** **TRULIANT FEDERAL CREDIT UNION** requests a temporary
74 conditional use permit pursuant to Section 24-116(c)(1) of Chapter
75 24 of the County Code to locate a temporary bank structure at 3701
76 Cox Road (Tax Parcels 48-A-42, 43, 43A and 55 (part), zoned B-
77 2C, Business District (Conditional) (Three Chopt).

78
79 Mr. Kirkland - Is the applicant here for this case? Does anyone else wish
80 to speak on this case? If you would, sir, raise your right hand and be sworn in by the
81 Secretary.

82

83 Mr. Blankinship - Do you swear the testimony you are about to give is the
84 truth, the whole truth, and nothing but the truth, so help you God?
85
86 Mr. Steven LaPrade - I do.
87
88 Mr. Kirkland - State your name for the record, please.
89
90 Mr. LaPrade - It is Steven LaPrade.
91
92 Mr. Kirkland - Have all of your notices been turned in according to the
93 County Code?
94
95 Mr. LaPrade - Yes.
96
97 Mr. Kirkland - OK. Proceed with your case.
98
99 Mr. LaPrade - We are requesting a temporary use permit to locate a
100 temporary facility. We hope to begin construction on a permanent facility starting in,
101 ideally, 2000, if that facility is not available at the end of the year, we would like to have
102 the ability to put a temporary site or a temporary unit on that site so that we can finish
103 construction.
104
105 Mr. Blankinship - Did we understand correctly that you intend to use the trailer
106 during 2002, not 2001?
107
108 Mr. LaPrade - Yes. That is correct.
109
110 Mr. Wright - What type of facility do you propose to put on this property?
111
112 Mr. LaPrade - It would be a modular unit that would basically be, in
113 essence, like the double wide that is built for a financial institution to operate with, and
114 that would be located so that we could continue and finish the permanent site.
115
116 Mr. Wright - Do you have a picture of it?
117
118 Mr. LaPrade - I don't have it at this time.
119
120 Mr. Wright - What is the size of this structure?
121
122 Mr. LaPrade - It would be roughly 24 x 60.
123
124 Mr. Kirkland - And have you read the conditions that have been proposed
125 for this case?
126
127 Mr. LaPrade - Yes.
128

129 Mr. Kirkland - And you definitely will not need it after December 31, 2002.
130 Correct?
131
132 Mr. LaPrade - We do not plan to need it, no, sir.
133
134 Mr. Kirkland - That is the time that the conditions say this would expire,
135 December 31, 2002.
136
137 Mr. LaPrade - Yes, sir.
138
139 Mr. Kirkland - And you are aware of that?
140
141 Mr. LaPrade - Yes, sir.
142
143 Mr. McKinney - When do you plan to put it up? What is the time for this
144 place?
145
146 Mr. LaPrade - It would be very close, either November or December of next
147 year, 2001. We currently operate out of a property we have a lease on that would
148 expire the end of next year, so if we need to, we would like to be able to move into this
149 facility toward the end of next year.
150
151 Mr. McKinney - Why can't (unintelligible) the permit it will be built under?
152
153 Mr. LaPrade - We certainly hope that it will be. If it is not completed by that
154 time, then we may need this temporary unit while that permanent location gets
155 completed.
156
157 Mr. McKinney - Why don't you bring this back to us later instead of now?
158
159 Mr. LaPrade - We can certainly do that. We just kind of wanted to get the
160 bases covered and that way we have something available to us at the end of next year
161 if we are not able to have this completed project done.
162
163 Mr. McKinney - Has the land been purchased?
164
165 Mr. LaPrade - Yes, sir.
166
167 Mr. McKinney - Do you have a POD on that?
168
169 Mr. LaPrade - No, sir. We are in the process of putting that together.
170
171 Mr. Wright - Is this going to be like a Usry modular?
172
173 Mr. LaPrade - Yes, sir.
174

175 Mr. Kirkland - I don't see a condition in here that would condition this on
176 not being utilized if the permanent facility is constructed. Don't you think we should
177 have something of that nature?
178
179 Mr. Blankinship - That is a good idea. Yes, sir.
180
181 Mr. Wright - I think that would take care of it, if we put something in here
182 that says that if they have the permanent facilities constructed, they would not be able
183 to utilize this.
184
185 Mr. McKinney - It would become null.
186
187 Mr. Blankinship - Make that Condition No. 9.
188
189 Mr. McKinney - If he doesn't plan on putting it in until October or November
190 of 2001, shouldn't that be the starting date on the permit?
191
192 Mr. Blankinship - The start date is today if it is passed.
193
194 Mr. McKinney - That is what I am bringing up.
195
196 Mr. Kirkland - Like you said, why wait and do it now and come back later.
197 He has already made the application. When would you need for this to begin? What
198 would be a comfortable time for this to begin? To commence?
199
200 Mr. LaPrade - To actually have the site on there as I mentioned before,
201 there shouldn't be any problem to have that October or November or December. All we
202 want to do basically, if need be, is to be able to put the unit on there and make sure it is
203 set up and that we can operate come January 1, if necessary, and...
204
205 Mr. Wright - How about October then? Is October good? Is that going to
206 squeeze you?
207
208 Mr. LaPrade - In my eyes, I think that would be fine.
209
210 Mr. Kirkland - We could put it that it will begin October 1.
211
212 Mr. McKinney - October 1, 2001 and expire on December 31, 2002.
213
214 Mr. Wright - Yes.
215
216 Mr. Kirkland - With a further condition that if the permit facility is located on
217 the property, you would not install this trailer.
218
219 Mr. LaPrade - Yes, sir.
220

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

223
224 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board of Zoning Appeals
225 **granted** your request for the above-referenced temporary use permit subject to the
226 following conditions:

227
228 1. The property shall be developed in substantial conformance with the plan
229 filed with the application. No substantial changes or additions to the layout may be
230 made without the approval of the Board of Zoning Appeals.

231
232 2. Connections shall be made to public water and sewer.

233
234 3. The parking lot, driveways, and loading areas shall be subject to the
235 requirements of Section 24-98 of Chapter 24 of the County Code.

236
237 4. The applicant shall present a complete grading, drainage, and erosion control
238 plan prepared by a Professional Engineer certified in the state of Virginia to the
239 Department of Public Works for approval. This plan must include the necessary
240 floodplain information if applicable.

241
242 5. A detailed landscaping and lighting plan shall be submitted to the Planning
243 Office with the building permit for review and approval.

244
245 6. All exterior lighting shall be shielded to direct light away from adjacent
246 property and streets.

247
248 7. All landscaping shall be maintained in a healthy condition at all times. Dead
249 plant materials shall be removed within a reasonable time and replaced during the
250 normal planting season.

251
252 8. This permit shall take effect on October 1, 2001, and expire on December
253 31, 2002, and shall not be renewed.

254
255 9. The temporary building shall be removed within 30 days of issuance of a
256 certificate of occupancy for the permanent building.

257
258 The Board **granted** this request, as it found from the evidence presented, that
259 authorizing this temporary use permit will not be of substantial detriment to
260 adjacent property and will not materially impair the purpose of the zoning
261 regulations.

262
263 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
264 Negative: 0
265 Absent: 0

266
267 **UP-40-2000** **MCI WORLDCOM** requests a conditional use permit pursuant to
268 Section 24-12(c) of Chapter 24 of the County Code to expand the
269 existing switching station at 5156 Francistown Road (Tax Parcels
270 29-A-50 and -51), zoned A-1, Agricultural District and R-3C, One-
271 family Residence District (Conditional) (Three Chopt).
272
273 Mr. Wright - Mr. Chairman, I will disqualify myself on this case.
274
275 Mr. Kirkland - Please make a note that Mr. Wright disqualified himself on
276 this case. Is there anyone else to speak on this case? If not, would you raise your right
277 hand and be sworn in?
278
279 Mr. Blankinship - Do you swear that the testimony you are about to give is the
280 truth, the whole truth, and nothing but the truth, so help you God?
281
282 Mr. Andy Condlin - I do.
283
284 Mr. Kirkland - Would you state your name for the record, please?
285
286 Mr. Condlin - I am Andy Condlin with Williams, Mullen.
287
288 Mr. Kirkland - Have all of your notices been turned in according to County
289 Code?
290
291 Mr. Condlin - They were delivered to the Planning Office yesterday.
292
293 Mr. Kirkland - Thank you, sir.
294
295 Mr. Blankinship - Do we have an original of your receipts? I think I was
296 waiting on those.
297
298 Mr. Condlin - They were delivered on Monday, I believe, hand delivered
299 out to the Planning Office.
300
301 Mr. Kirkland - If you would, state your case.
302
303 Mr. Condlin - Mr. Chairman, members of the Board, my name is Andrew
304 Condlin and I have with me a number of folks, I am not going through the whole gallery
305 here, but a number of representatives from MCI and TIMMONS are here with the case,
306 if necessary. I think most of you are familiar with this property and its history in
307 Richmond, and some past history as recent as 1999 for its most recent phase. I have
308 with me a layout. I didn't know if the computer screen was working. I can never get that
309 to work. Do you want to put that up?
310

311 You can see on this that there is, on the darker portion up front on the Francistown
312 Road, the proposed addition of approximately 20,000 square feet. As you may
313 remember, this property in this facility contains MCI local and long-distance telephone
314 switching station and equipment serving all of Virginia and parts of other states. The
315 bottom line is that with an increase in population and, more importantly, an astounding
316 increase and demand over the past few years there is a need for additional switching
317 devices and switching equipment on this property. MCI is requesting, at this point, an
318 expansion on the front piece, as you see, in this area here, that is the darker area,
319 towards Francistown Road. The expansion will mirror the most recent phase that is
320 right behind there. A major benefit that this new phase is able to present is that we are
321 able to take advantage of the existing infrastructure serving this phase that was
322 approved most recently.

323
324 Over here you see the chilling towers, the generators, and also there are emergency
325 power generators that are inside the most recent phase, what we call Phase I, which
326 would be the addition right in this area. What we have proposed is just to be able to put
327 the buildings together to take advantage of it, so there would be no new power
328 generators or exterior chilling generators to have to serve the new facility. The new
329 facility is also a duplicate of the previous one in the fact that it attaches directly to a
330 broken pipe so there won't be any additional problem with respect to the air, noise and
331 things of that nature and certainly not traffic either.

332
333 As part of the previous improvements, there have been some major improvements
334 made at this facility to deal with the noise generated from the exterior chilling towers
335 and emergency generators. I believe that these have been very successful as proven
336 by the fact that we have had a number of meetings with the neighbors and the fact that
337 really hasn't been, I don't believe, made to the Planning Office, and as part of this
338 facility we don't have to provide any additional infrastructure to help generate this place.

339
340 As part of this request, we had to go through an amendment of the proffers recently,
341 through the Planning Commission and the Board of Supervisors. There was, in
342 between where these buildings would be located, a required proffer 25-foot no-build
343 strip. In order to be able to take advantage of the existing infrastructure, we went to the
344 Planning Commission and Board of Supervisors and received approval for amendment
345 of the proffers to be able to put the building together again to take advantage of those.

346
347 As part of that case, there was substantial, I think, improvements required by this
348 property, including a 74-foot setback for the building from Francistown Road. I would
349 like to show you this. There are also major improvements along Francistown Road. You
350 can see that the building sets quite a bit below the grade of Francistown Road, it sits
351 here, and the proposed addition would be here. The proposed addition is approximately
352 20 feet tall, but there is about 13 to 14 feet that could be seen above Francistown Road.
353 As part of our proffered conditions, we agreed to put in, to have agreed to put in, up to a
354 10-foot berm, rising at a 4 to 1 slope as you move away from Francistown Road. The
355 ultimate result is that you are looking at a building of about three to four feet above that
356 berm with landscaping and proffers, as part of the landscaping plan had already been

357 placed with the proffers, we have to be consistent with that landscape plan and actually
358 go before the Planning Commission as part of approval for that landscaping plan. So,
359 that will actually hide three to four feet of that building that you will actually see, and,
360 hopefully, it will actually improve the area. There is also, you will notice, a fence and for
361 security purposes, given the fact that the building would be so close to the, so short,
362 compared to the actual property itself, we wanted to place the fence and we proffered
363 that the fence will actually be no closer than 68 feet from Francistown Road, again, to
364 get it away from Francistown and get it behind the planting and get it down the berm.
365 The berm falls back to the building at a 2-1 flow.

366
367 Staff has proposed a number of conditions and I believe that the conditions, together
368 with the proffers that we provided in the case that was most recently approved by the
369 Board of Supervisors, together, will provide a lot of protection for the surrounding
370 neighbors. Certainly they will insure that this proposed addition will not affect the
371 health, safety and welfare of the neighboring areas, and will not increase congestion
372 from traffic and the fact that this is all high tech equipment that does not need any more
373 employees. There will be no increase in the employees because of this addition. It is
374 compatible with the Land Use Plan.

375
376 Finally, as Ben and I spoke about this, the only, we wanted to clarify one particular
377 condition with respect to this case and that was proposed by staff, which was No. 5
378 asking for no new generators or chilling facilities, and the problem with being a lawyer is
379 that I read everything and I have to interpret it ten different ways, and try to get
380 everyone confused. But our two concerns were, one was with the word "new" in that if
381 we ever have to replace a generator, it would technically be new and would ask that that
382 be changed to additional, to be no more additional generators. Again, we just didn't
383 want to get into, I see Susan laughing back there, but she has to deal with me on a daily
384 basis so I will let her do that. Also, the word chiller facilities, the word facilities
385 concerned us in that there will be, this equipment runs very hot, and it does have to
386 have air conditioning and we are concerned with equipment being interpreted as being
387 interior facilities, running cold air through the building and under the flooring underneath
388 the equipment. The concern being that, I believe the staff was getting at, and Ben will
389 correct me if I am wrong, but it was a concern having to do with any more generators
390 with noise and/or exterior facilities. So, what you were looking at and talking about
391 changing that word facilities to chiller generators or chiller towers, again, there will be
392 nothing additional exterior with respect to this proposed addition. So, again, it would be
393 no additional generators was the request we'd ask for or chiller towers or chiller
394 generators. And there is muffler and baffling systems in place in the existing facility and
395 there would be nothing new on that as far as the exterior goes, so that would be fine.
396 Other than that, that is all I would have to present, and I have a number of people here
397 to answer any questions and I will be happy to do so at this time.

398
399 Mr. McKinney - I would like to ask a question. When this started out, it
400 started out as one little small building. What are you up to now, probably 100,000
401 square feet?
402

403 Mr. Condlin - I don't know that it is, approximately it is about 60,000,
404 maybe 70,000 square feet.
405
406 Mr. McKinney - With this new addition?
407
408 Mr. Condlin - I believe that the two previous facilities were 25,000 square
409 feet each, approximately, and then this new one is about 20,000 square feet, so
410 somewhere along there, 70,000 square feet.
411
412 Mr. McKinney - You're up to 70,000 square feet. I mean a very commercial
413 building right in the middle of a residential neighborhood. It would be appear to me they
414 are kind of outgrowing this piece of property and looking for something larger in an area
415 that is zoned to accommodate this.
416
417 Mr. Condlin - Yes, sir. Well, this is a commercial enterprise, and certainly
418 the facilities now that the noise has been taken care of, it is just a exterior building with,
419 it is not a typical retail or other commercial use. This is where they need to be, within
420 the area that they serve and this is the last expansion, because, quite frankly, there is
421 no more room, no more land.
422
423 Mr. McKinney - This is the last one?
424
425 Mr. Condlin - Well, I can't tell you their plans. I can't stand up and say that
426 MCI would not do any more expansion or won't change their plans and have this facility
427 serve a smaller area and build another facility out in the western part of the state or
428 something of that nature.
429
430 Mr. McKinney - This is MCI World Com and it is their long-distance system.
431
432 Mr. Condlin - As I understand it, it is both local and long-distance.
433
434 Mr. McKinney - It is local and long distance?
435
436 Mr. Condlin - Yes, sir.
437
438 Mr. McKinney - And you are saying that this facility only serves what are?
439
440 Mr. Condlin - It is my understanding that it is simply, it covers all of Virginia
441 and parts of other areas...
442
443 Mr. McKinney - All of Virginia? You mean, you kind of indicated a few
444 months ago that it only covered the west end area where this was.
445
446 Mr. Condlin - Well, I didn't mean to indicate that. Where they are, they
447 serve all of Virginia both local and long distance, and parts of other areas. This is the
448 only station or telephone switching station of its kind in the Commonwealth of Virginia.

449
450 Mr. Kirkland - Would you raise your hand and be sworn in, sir?
451
452 Mr. Blankinship - Do you swear the testimony you are about to give is the
453 truth, the whole truth, and nothing but the truth so help you God?
454
455 Mr. Huffman - I do. Hi. My name is Ed Huffman and I am an employee at
456 World Com for 16, 17, 18 years. This facility is a switching facility and it does handle
457 traffic from throughout, it is part of our whole national, international, as far as that is
458 concerned, network. It is not limited to any single..there might be phone calls coming, I
459 think they handle something like 700 calls a minute, or something there, and so this
460 equipment receives...it is long distance and it also handles local in the fact that that call
461 may come from California, it could come from anywhere and we route it into that switch
462 and out to your house, your house. It handles the State of Virginia, and so it is not just,
463 while it does handle calls that are here, it does handle call throughout. It is a very
464 integral part of the system.
465
466 Mr. McKinney - Well, you say it handles the State of Virginia. Apparently, it
467 is handling some of California's, too.
468
469 Mr. Huffman - Well, calls to generate...
470
471 Mr. McKinney - It is national switching station?
472
473 Mr. Huffman - Yes. Yes. That is what a switching station does. Correct.
474
475 Mr. McKinney - Right in the middle of a residential neighborhood.
476
477 Mr. Huffman - That is what a switching station does, sir.
478
479 Mr. McKinney - OK.
480
481 Mr. Condlin - We would propose with the proffers and conditions that it is
482 not inconsistent with the impact upon the residential area, given the improvements
483 made over the years, and there is no adverse impact upon the items that you'd be
484 looking at for approval of the case, such as noise or the air or in fact any of the living
485 conditions of the neighbors. We would actually intend that the proposed landscaping
486 and berm on Francistown Road, that it would be an improvement in both the look of the
487 area and for the surrounding neighbors.
488
489 Mr. McKinney - Let me ask Mr. Huffman another question. Mr. Huffman, if
490 this is denied, what will MCI do?
491
492 Mr. Huffman - I don't know. I have not contemplated that they will be
493 denied.
494

495 Mr. McKinney - You haven't? You have not contemplated that will be
496 denied?

497
498 Mr. Huffman - No. Quite frankly because we have done major
499 improvements of everything the County has asked us to do. We have set the building
500 back. We have reduced it. We wanted the building to be 25,000 square feet and
501 through working with the Planning Commission and their requirement, we have reduced
502 the size, we have set the building back from the 40 square feet to 68 feet from there.
503 We put a berm, landscaping...all these things, and so I am not really sure we are not
504 adding. It would be like somebody adding a garage, a three-car or something, to their...

505
506 Mr. McKinney - No. No, don't be telling me it is like adding a three-car
507 garage when you are putting up a 20,000 square foot building. You have never seen a
508 20,000 square foot garage on a house.

509
510 Mr. Huffman - OK. Maybe that is an over simplification, but it is nothing
511 more than a square box with additional telecommunications that is the same that is
512 already in there and it doesn't add one additional car in or out of that facility, sir.

513
514 Mr. McKinney - How many employees at this facility?

515
516 Mr. Huffman - I...

517
518 Mr. Condlin - I believe it was 24 the last time I...

519
520 Mr. McKinney - Twenty-four. When it first started, I think it was six.

521
522 Mr. Huffman - I don't know. I was not here when it first started.

523
524 Mr. McKinney - Thank you.

525
526 Mr. Kirkland - Mr. Blankinship, we have not had any complaints about
527 noise like when we first had these cases?

528
529 Mr. Blankinship - No, sir, not since the recent improvement.

530
531 Mr. Kirkland - OK. Thank you. Any other questions? Does anyone else
532 wish to speak on this case? If not, that concludes the case.

533
534 Upon a motion by Mr. McKinney, a motion to deny was not seconded and therefore not
535 carried.

536
537 Upon a motion by Mr. Balfour, seconded by Mr. Nunnally, the Board of Zoning Appeals
538 **granted** the request for the above-referenced use permit subject to the following
539 conditions:

540

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

544
545 2. The applicant must present a complete grading, drainage, and erosion control
546 plan, prepared by a Professional Engineer certified in the state of Virginia, to the
547 Department of Public Works for approval. This plan must include the necessary
548 floodplain information if applicable

549
550 3. A detailed site lighting and landscape plan shall be submitted with the
551 building permit for Planning Commission review and approval.

552
553 4. The activities at this site shall be limited to those which are required to
554 properly operate this facility, and shall not be used as a sales office, a parts or
555 supplies storage area, or offices for MCI operations not being conducted on this
556 site.

557
558 5. No additional generators or outdoor chiller towers shall be included in the
559 proposed addition.

560
561 6. The entrance road shall be improved to a 24-foot paved road with curb and
562 gutter as recommended by the Department of Public Works.

563
564 The Board **granted** this request, as it found from the evidence presented, that
565 authorizing this revisions to this use permit will not be of substantial detriment to
566 adjacent property and will not materially impair the purpose of the zoning
567 regulations.

568
569 Affirmative: Balfour, Kirkland, Nunnally 3
570 Negative: McKinney 1
571 Abstained: Wright 1

572
573 **A -123-2000** **PHILIP M. MEADE, SR.** requests a variance from Sections 24-
574 95(i)(2) and (2)d. of Chapter 24 of the County Code to allow an
575 existing carport and shed to remain at 1413 Bobbiedell Lane (West
576 Forest Heights) (Tax Parcel 91-11-A-15), zoned R-3, One-
577 family Residence District (Three Chopt). The accessory structure
578 location requirement and minimum side yard setback are not met.
579 The applicant has an accessory structure in the front yard with 0
580 feet side yard setback, where the Code allows accessory structures
581 in the rear yard and requires 3 feet minimum side yard setback.

582
583 Mr. Kirkland - Is there anyone else to speak on this case? If not, would
584 you raise your right hand and be sworn in?
585

586 Mr. Blankinship - Do you swear that the testimony you are about to give is the
587 truth, the whole truth, and nothing but the truth, so help you God?
588
589 Mr. Philip Meade - I do.
590
591 Mr. Kirkland - Would you state your name for the record, please?
592
593 Mr. Meade - I am Philip Morris Meade, Sr.
594
595 Mr. Kirkland - Have all of your notices been turned in according to County
596 Code?
597
598 Mr. Meade - Yes sir.
599
600 Mr. Kirkland - Thank you, sir.
601
602 Mr. Kirkland - If you would, state your case.
603
604 Mr. Meade- I really don't know how to start into this. First of all, if you
605 would look at the evaluation in the staff report. Who made these statements? I came
606 here to talk to the Board, and it appears that the decision has already been made and
607 that I am not going to be granted by request.
608
609 Mr. Kirkland- They are reports to us by the Staff, which give us some
610 history of what the case is about. We don't make the determination from the report
611 evaluation, we listen to the testimony and decide from there.
612
613 Mr. Meade- Someone has complained about the carport that I put up,
614 which is a free standing unit. I put it over to the side of the front yard. The shed is
615 behind it on the side of my house. It has been there for many years, it houses my
616 motorcycle. No one has listened to the reasoning for putting up the carport to start with.
617 They just asked my why it was in the front yard. The reasoning is there is no way to get
618 into the back yard, from the rear, from the sides, and its evident that I need a shelter for
619 me and the lady of the house. Number one reason is that I have a lot of physical
620 problems. I also have two antique vehicles that need to be protected from the
621 elements. It has been a pleasure since I had it put up, to be able to go out there in the
622 morning and start the vehicles without scraping ice off the windshield or see tree sap all
623 over the finish. I have gout in both of my feet and my left leg, I have a highatle hernia,
624 arthritis, shingles, and with the help of this shelter caring for these vehicles has been
625 easier. I have asked for a variance, I can move the shelter back to the house, tie it into
626 the house, which would leave me approximately 20 foot from the line to the end of the
627 carport.
628
629 Mr. Balfour- What you are saying is that you can move that carport closer
630 to the house?
631

632 Mr. Meade- Yes sir. You see the awnings? I will have to take them
633 down to get the carport to fit. I will have to cut out the left side of the top of the carport
634 to join it to the house.

635
636 Mr. Wright- This is an application that we have before us, what ever you
637 are going to do you will have to revise it and see if it conforms with the code. And if it
638 didn't you would have to resubmit your request. I don't think we are in the position to
639 modify the request before us. This is what has been advertised and our concern is that
640 it is in the front yard, which the code does not permit. And if you can demonstrate a
641 hardship under the code, which I don't think you can.\

642
643 Mr. Meade- I don't know what justification of a hardship is. I don't walk
644 with a cane, I am not in a wheel chair . .

645
646 Mr. Wright- That is not the hardship the code is envisioning.

647
648 Mr. Balfour- What Mr. Wright is saying, is you have this request in front of
649 us right now to approve or disapprove, you may want to move it to the side of the
650 house, which may or may not satisfy you neighbors. If you are still violating some
651 restrictions, you will still need to notify them of such and give them a chance to come in
652 and respond to this. And that might be better for you.

653
654 Mr. Meade- The side entrance is beyond that awning on that side.

655
656 Mr. Balfour- We cannot do anything about that proposal today, we can
657 only vote on the request before us today.

658
659 Mr. Kirkland- Mr. Blankinship, are building permits suppose to be issued
660 on structures like this?

661
662 Mr. Blankinship - Should have been.

663
664 Mr. Kirkland - Was one filed for this? This would have been caught in the
665 building permit process.

666
667 Mr. Blankinship - Is this structure permanently attached to the ground?

668
669 Mr. Meade - It is just staked in. And the shed is on skids.

670
671 Mr. McKinney- Did you purchase this and erect it yourself?

672
673 Mr. Meade - No I had it placed there by the company. I have \$1500
674 invested in this canopy. I know there has been a complaint and I am trying to comply.
675 But I have only 12-foot clearance on either side of my house, which doesn't provide
676 enough room for any vehicle. The only place I have is where you see it. I can modify it

677 to comply with the building code to attach it to the house. That would leave me asking
678 for the variance for the footage.

679
680 Mr. McKinney- The company that erected this carport has performed an
681 illegal act in Virginia, it what is happened. They had no business selling you this carport
682 and putting it up with out getting the proper permits and so forth. Have you ever seen
683 one of these in a front yard anywhere else?

684
685 Mr. Meade- Yes, there are two in my neighborhood. One is across the
686 street and the other is next door to me. They are both in the side yard on the property
687 line.

688
689 Mr. Kirkland- Are they as large as this one?

690
691 Mr. Meade- One is bigger and the other is smaller.

692
693 Mr. McKinney- Mr. Meade, we have to address your request, not what is
694 happening on your neighbor's property. You are asking for relief from the side yard and
695 the front yard requirements.

696
697 Mr. Meade- All I am asking is to give me permission to have this
698 structure put in the front yard because I have no other means of putting anywhere else
699 on the property. I do need the shelter for multiple reasons. I am 60 years and have
700 been living in Henrico County 40 years of that.

701
702 Mr. McKinney- On the left side of your house, what is the distance from the
703 house to the property line?

704
705 Mr. Meade- 12 feet.

706
707 Mr. McKinney- That is wide enough for a driveway.

708
709 Mr. Meade- I have a swimming pool back there that blocks the entrance
710 in to the yard, a shed and a deck.

711
712 Mr. Kirkland- He has filled the back yard up.

713
714 Mr. McKinney- If you moved the pool and the shed, you said it was on skids,
715 then you could get your carport in the rear yard. You may have problems with the
716 number of accessory structures in the rear yard. You may have more than what the
717 code allows. You have boxed yourself in with the swimming pool and the storage shed.

718
719 Mr. Balfour- Your best bet may to come back here with revised plans
720 showing the carport on the side of the house with the shed moved farther back in to the
721 rear yard. I am not saying that we would approve it, but it might be better than what you
722 have now.

723
724 Mr. Meade- I still have only 12 feet on the side, and if I have to stay 3
725 feet from the side that leaves me only 9 feet.
726
727 Mr. Balfour- I understand that, you would still have to ask for a variance.
728
729 Mr. Meade- I would like to have these gentlemen speak on my behalf.
730
731 Mr. McKinney- Where are your antique vehicles?
732
733 Mr. Meade- One is in my shop on Clay Street that is where my business
734 is located which is a restaurant equipment repair service and a courier service. I have 9
735 vehicles licensed and tagged. If I have to get rid of this cover, the cars will go back out
736 into the street. Which is worse, a lot of cars in the street or a canopy.
737
738 Mr. Balfour- That is for us to decide.
739
740 Mr. Meade- What I am asking is the variance on the side yard, if I have
741 to move the canopy towards the house and attached to the house, it will be about 3 feet
742 from the line. If I have to move the shed, I can, and remove the awnings. I have spent
743 about \$1500.00 on this front yard.
744
745 Mr. Wright- The best thing for you to do is get a plan done first, have it
746 approved and then spend the money. Instead of putting a structure like this up and
747 finding out it does not comply with the code.
748
749 Mr. McKinney- Mr. Meade, if you want to change things around why don't
750 you ask for a deferral for 30 days, rework the plan and bring it back.
751
752 Mr. Meade- I can do that.
753
754 Mr. Kirkland- We would have to allow him to withdraw without prejudice
755 and reapply.
756
757 Mr. Wright- If he is going to change the case, it would have to be
758 readvertised.
759
760 Mr. McKinney- I will give a situation like this, there was a building on
761 Hermitage Road. He had 3 lots, 2 lots in the front and one on the side street. He built 2
762 houses according to the city code, met setbacks and everything else. The next-door
763 neighbor filed a complaint against him because it blocked the view. This went all the
764 way to the Supreme Court, and they reversed the city's ruling, the houses had to be
765 moved back and the 3rd house was removed.
766
767 Mr. Meade- I understand that, but this canopy is not in anyone's line of
768 sight.

769
770 Mr. Wright- Do you really think that looks good in your front yard?
771
772 Mr. Meade- I think it does.
773
774 Mr. Balfour- You referred to it as an eyesore a few minutes ago.
775
776 Mr. Meade- Its an eyesore if I have to move back on the property, attach
777 it to the side of the house and cut it in half.
778
779 Mr. Kirkland- Mr. Blankinship, what was the complaint?
780
781 Mr. Blankinship- The complaint was that there was a structure in the front
782 yard.
783
784 Mr. Wright- We do not enact the code; that is done by the Board of
785 Supervisors. We have to enforce the ordinance.
786
787 Mr. Meade- That is why I am here, so we can have it changed for this
788 application. This is a matter of opinion to many people.
789
790 Mr. Kirkland- Let us hear from the other gentlemen that have come this
791 morning.
792
793 Mr. Robinson- I am Jim Robinson, his next-door neighbor. I find the canopy
794 very attractive. If you had been the neighborhood as long as my wife has, what he has
795 done to this property has enhanced our property. I think it looks good and I don't have a
796 problem with it. The people on the other side have set the same thing. It conforms with
797 the appearance with the rest of the property. He has trees that create problems and the
798 location of the fence is an issue. What he has is an improvement to the neighborhood
799 and not a detriment.
800
801 Mr. Kirkland- Thank you sir.
802
803 Mr. Morris- I live across the street from Mr. Mead. I recognize that you
804 have a duty to uphold the zoning requirements. It appears that the structure was put up
805 without the proper permitting. I don't have an opinion either way of whether it should be
806 in the front yard. I know the zoning rules and regulations are for a reason. And that is
807 so people don't just go around and put structures up where ever they want. I believe he
808 has improved his property. I think it looks attractive. I will say on the opposite side of
809 my property there are carports going up. There are several that are erected just like this
810 one without permits and adjacent to the property line. I think that he has tried to
811 improve his property and the carport provides the shelter that he needs.
812

813 Mr. Kirkland- Mr. Blankinship, you did take note that he said there are
814 carports all over the neighborhood. If you would have someone cruise the
815 neighborhood and see how many there are.

816
817 Mr. Wright- This is not unusual; people do a lot of things. And until it
818 comes to our attention, we can't do anything about it.

819
820 Mr. Meade- I am not here to say what everyone else has. There are two
821 in the immediate neighborhood. I am not issuing any complaints about that. I am here
822 to ask the Board to issue me a variance for my structure. I have to shelter my
823 motorcycle, 53 Mercury, my little truck and the lady of the house's vehicle.

824
825 Mr. Kirkland- This shed that is in the rear yard, how big is that?

826
827 Mr. Meade- I would say 20 x 15 feet, approximately.

828
829 Mr. McKinney- Mr. Meade, do you have two sheds in the rear yard?

830
831 Mr., Meade- There are two sheds together in the rear by the swimming
832 pool. The other one is smaller and in the side yard.

833
834 Mr. Kirkland- So you have 3 sheds in the yard.

835
836 Mr. Meade- Yes sir. One is a workout shed; the other sheds are used for
837 storage.

838
839 Mr. McKinney- When did you erect this carport?

840
841 Mr. Meade- Sometime in July.

842
843 Mr. Kirkland- Any other questions by Board Members? Anyone else wish
844 to speak on this case? If not that concludes the case.

845
846 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **denied A-123-**
847 **2000.**

848
849 The Board **denied** the request as it found from the evidence presented that
850 authorizing this variance would be of substantial detriment to adjacent property or
851 would materially impair the purpose of the zoning regulations.

852
853 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
854 Negative: 0
855 Absent: 0

856
857 **A -126-2000 ANTHONY DI IORIO** requests a variance from Section 24-41(e) of
858 Chapter 24 of the County Code to build a screened porch at 2008

859 Rocky Point Parkway (Stony Run at Raintree) (Tax Parcel 67-5-C-
860 12), zoned RTH, Residential Townhouse District (Tuckahoe). The
861 rear yard setback is not met. The applicant has 25.5 feet rear yard
862 setback, where the Code requires 30.0 feet rear yard setback. The
863 applicant requests a variance of 4.5 feet rear yard setback.
864

865 Mr. Kirkland - Is there anyone else to speak on this case? If not, would
866 you raise your right hand and be sworn in?
867

868 Mr. Blankinship - Do you swear that the testimony you are about to give is the
869 truth, the whole truth, and nothing but the truth, so help you God?
870

871 Mr. Anthony Di Iorio - I do.
872

873 Mr. Kirkland - Would you state your name for the record, please?
874

875 Mr. Di Iorio - I am Anthony Di Iorio.
876

877 Mr. Kirkland - Have all of your notices been turned in according to County
878 Code?
879

880 Mr. Di Iorio - Yes sir.
881

882 Mr. Kirkland - Thank you, sir. If you would, state your case.
883

884 Mr. Di Iorio We have a deck that we would like to cover and create a
885 screened porch. This is something we have wanted to do for several years. WE have
886 discussed this with all of our neighbors, especially the adjacent property owners on the
887 side and in the rear. They have no objections to this proposal.
888

889 Mr. Kirkland- You are not extending the square footage, you are just
890 enclosing the existing deck.
891

892 Mr. Di Iorio- Exactly.
893

894 Mr. Wright- How would you describe the shape of your lot?
895

896 Mr. Di Iorio- It is a corner lot. The main problem arises because the rear
897 property line is not parallel to the rear of the house. It infringes on that rear corner. If
898 we want to cover that deck, we encroach into the rear yard setback. This deck is the
899 original deck constructed with the house.
900

901 Mr. Balfour- Is there a house behind your house.
902

903 Mr. Di Iorio- Yes.
904

905 Mr. Balfour- What kind of buffer do you have in the rear?
906
907 Mr. Di Iorio- We have planted some Leyland cypress to act as a screen.
908
909 Mr. Kirkland- Any other questions? Anyone else wish to speak? If not
910 that concludes the case.
911
912 Upon a motion by Mr. Balfour, seconded by Mr. Wright, the Board of Zoning Appeals
913 **granted** the request for the above-referenced variance subject to the following
914 conditions:
915
916 1. Only the improvements shown on the plan filed with the application may be
917 constructed pursuant to this approval. Any additional improvements shall comply with
918 the applicable regulations of the County Code.
919
920 The Board **granted** this request, as it found from the evidence presented, that
921 authorizing this variance will not be of substantial detriment to adjacent property and will
922 not materially impair the purpose of the zoning regulations.
923
924 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
925 Negative: 0
926 Absent: 0
927
928 **A -127-2000 MARK AND MICHELLE DEERING** request a variance from
929 Section 24-95(b)(8) of Chapter 24 of the County Code to build a
930 single family dwelling at 1000 Scott Road (Garden City) (Tax
931 Parcel 53-6-40-14), zoned A-1, Agricultural District (Fairfield). The
932 lot width requirement and total lot area requirement are not met.
933 The applicants have 28,488 square feet of total lot area, and 100
934 feet of lot width, where the Code requires 30,000 square feet of
935 total lot area and 150 feet of lot width. The applicants request
936 variances of 1,512 square feet of total lot area and 50 feet of lot
937 width.
938
939 Mr. Kirkland - Is there anyone else to speak on this case? If not, would
940 you raise your right hand and be sworn in?
941
942 Mr. Blankinship - Do you swear that the testimony you are about to give is the
943 truth, the whole truth, and nothing but the truth, so help you God?
944
945 Mr. Glen Gooding - I do.
946
947 Mr. Kirkland - Would you state your name for the record, please?
948 Mr. Gooding - I am Glen Gooding representing the applicants.
949

950 Mr. Kirkland - Have all of your notices been turned in according to County
951 Code?
952
953 Mr. Gooding - Yes sir.
954
955 Mr. Kirkland - Thank you, sir. If you would, state your case.
956
957 Mr. Gooding- The owners purchased this lot within the last year. They
958 were under the impression that a variance was not needed to construct a house on this
959 property. Now they have contracted with my company, and upon the Boards approval
960 they will be able to enjoy the custom home. The site has an old house on it. It is not
961 habitable. The intention is to place the house behind the site of the existing house. The
962 surrounding properties are zoned R-3, and the granted of this variance would be in
963 keeping with the size of those. The A-1 zoning does not allow us to build a house
964 without this variance. We do have a septic permit, and will be using public water. This
965 would make a very nice home site. We are asking the Board to consider it for approval.
966
967 Mr. Wright- You said it would be connected to public water?
968
969 Mr. Gooding- Yes sir.
970
971 Mr. Kirkland- Mr. Blankinship, this other house that is adjoining this
972 property, is that the only structure on the parcel?
973
974 Mr. Blankinship- Yes sir.
975
976 Mr. McKinney- Mr. Gooding, do you have a problem with a condition that
977 requires you to demolish the exiting dwelling on the property?
978
979 Mr. Gooding- No sir, not at all.
980
981 Mr. Kirkland- When they purchased the property, why did they have the
982 impression that they could build a new house?
983
984 Mr. Gooding- They were represented by the seller, who is now deceased,
985 that it was a buildable site. Besides that, there seems to be an error on the tax
986 assessors' records, which shows the property as R-3. Although, zoning states it is A-1.
987 Without, due representation when they purchased the lot, they went into the transaction
988 with good faith that the lot was buildable. When we pursued it on their behalf, we
989 discovered that a variance was needed.
990
991 Mr. Kirkland- Any one else have any questions? Anyone else wish to
992 speak on this case? If not that concludes the case.
993

994 Upon a motion by Mr. McKinney, seconded by Mr. Wright, the Board of Zoning Appeals
995 **granted** your request for the above-referenced variance subject to the following
996 conditions:

997
998 1. Only the improvements shown on the plan filed with the application may be
999 constructed pursuant to this approval. Any additional improvements shall comply
1000 with the applicable regulations of the County Code.

1001
1002 2. If land disturbance will exceed 2,500 square feet, the requirements of
1003 Chapter 10 of the County Code apply. At the time of building permit application,
1004 the applicant shall submit the necessary information to the Department of Public
1005 Works, to ensure compliance with the requirements of the Chesapeake Bay
1006 Preservation Act and the code requirements for water quality standards.

1007
1008 3. Approval of this request does not imply that a building permit will be issued.
1009 Building permit approval is contingent on Health Department requirements,
1010 including, but not limited to, soil evaluation for a septic drainfield and reserve area,
1011 and approval of a well location.

1012
1013 4. The existing structure shall be demolished and removed before a certificate
1014 of occupancy is issued for the new dwelling.

1015
1016 The Board **granted** this request, as it found from the evidence presented, that
1017 authorizing this variance will not be of substantial detriment to adjacent property
1018 and will not materially impair the purpose of the zoning regulations.

1019
1020 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1021 Negative: 0
1022 Absent: 0

1023
1024 On a motion by Mr. Nunnally, seconded by Mr. Balfour, the Board approved minutes
1025 of the May 22, 2000 meeting of the Henrico County Board of Zoning Appeals.

1026
1027 On a motion by Mr. Balfour, seconded by Mr. Wright, the Board approved minutes of
1028 the June 22, 2000 meeting of the Henrico County Board of Zoning Appeals.

1029
1030 There being no further business and on a motion by Mr. Nunnally, seconded by Mr.
1031 Balfour, the Board adjourned until January 25, 2001.

1032
1033

1034 Richard Kirkland,

1035 Chairman

1036

1037

1038

Benjamin Blankinship, AICP

1039

Secretary