

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 18,**
4 **2003, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**
5 **TIMES-DISPATCH ON NOVEMBER 27 AND DECEMBER 4, 2003.**
6

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

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

7
8 Mr. Wright - Ladies and gentlemen, welcome to the December meeting of
9 the Board of Zoning Appeals of Henrico County. Would you please stand and join me in
10 the **Pledge of Allegiance to our Flag**. Ladies and gentlemen, before we begin, I'd like
11 to make just one short statement. I know most of you have gotten materials that have
12 been prepared by the staff, and I just want to say that the opinions evidenced there by
13 the staff, are not necessarily the opinions of the Board of Zoning Appeals. Of course we
14 make our decisions after we hear all of the evidence as presented, and we will decide
15 the cases later on. Mr. Secretary, would you give us the guidelines for the meeting.
16

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

33 **27-2003 HOLIDAY BARN KENNEL, and A-143-2003 SUNTECH HOMES**, at 10600
34 Sherwin Place, in Magnolia Ridge.

35
36 Mr. Wright - All right. Let's do A-143 first -- do I hear a motion on that?
37 And the other one is UP-27 -- do I hear a motion on that? Okay, please call the first
38 case, Mr. Secretary.

39
40 **Deferred from Previous Meeting**

41
42 **A -133-2003** **MORGAN DAY** requests a variance from Section 24-94 of Chapter
43 24 of the County Code to build a two-story addition at 9310 Newhall
44 Road (Pinedale Farms) (Parcel 751-749-9502), zoned R-2A, One-
45 family Residence District (Tuckahoe). The front yard setback,
46 minimum side yard setback, rear yard setback, and total side yard
47 setback are not met. The applicant has 43 feet front yard setback,
48 11 feet minimum side yard setback, 25 feet total side yard setback
49 and 42 feet rear yard setback, where the Code requires 45 feet
50 front yard setback, 12 feet minimum side yard setback, 30 feet total
51 side yard setback and 45 feet rear yard setback. The applicant
52 requests a variance of 2 feet front yard setback, 1 foot minimum
53 side yard setback, 5 feet total side yard setback and 3 feet rear
54 yard setback.

55
56 Mr. Wright - Please state your names for the record. Do we have any
57 others who intend to testify in this matter? Would you raise your right hands, stand, and
58 be sworn please?

59
60 Mr. Blankinship - Do you swear that the testimony you are about to give is the
61 truth, the whole truth, and nothing but the truth, so help you God?

62
63 Mr. T. Day - Travis Day.

64
65 Ms. Day - I am Pam Day.

66
67 Mr. L. Day - I am Lawrence Day. We'd like to build this addition so my
68 sons can have two comfortable-sized bedrooms. The Newhall house has four
69 bedrooms, with one I wouldn't call a bedroom. It's more like a postage stamp, and it's
70 probably eight by six, if it's that. It's enough room for my son to get his bed in. It's a
71 two-bathroom house, or a bath and a half, and what we're trying to do is add two
72 bedrooms, add a large computer room where we can have the air conditioning set for
73 the computers. The boys and their friends have six computers in one room at the house
74 at the moment, and that's pretty much their hobby. They do play on their computers.
75 The two boys living with them are more like brothers to them. It's a family unit; it's a
76 new generation. A lot of kids now group around their computers and play in
77 tournaments. Morgan's best friend Jock, who lives with them, has been to Dallas,
78 Texas, several times. Morgan's been there. They go to these games. It's amazing to

79 see fifteen hundred kids in one room with all computers. Basically, we're trying to build
80 a nice addition, keep it in the neighborhood, and there's not a lot else I can say.

81
82 Mr. Wright - Is this your home, Mr. Day?

83
84 Mr. L. Day - My sons' home, sir.

85
86 Mr. Wright - Your sons' home? And who lives there with them?

87
88 Mr. L. Day - They have two of their best friends living with them, Clay and
89 Jock.

90
91 Mr. Wright - How many would be occupying the residence?

92
93 Mr. L. Day - Four. They were in a rental house with some other friends in
94 Henrico. Matter of fact, somebody reported them; they thought they were terrorists
95 because they never came out of the house; they only played their computers. One of
96 the other boys went and bought a house, and our son came to us, and since they were
97 going to VCU, and we had put the money away for college, we decided that the best
98 investment for the boys was to buy a home with the college money, since they were
99 going to VCU; it's not that much out of pocket, versus other things. So Morgan and
100 Travis went, we looked, we found this home in Pinedale. We really liked it. I
101 immediately was informed that we should build an addition so that we could get a larger
102 computer room and bedrooms. Basically, that's what we're after, is the computer room
103 and two more bedrooms, with two baths. It will be an all brick structure. It will be a nice
104 home; it will be set up for them and for the computers, and if you've ever been in a
105 computer room, it gets extremely hot. Basically, the original house has got air
106 conditioning, but it's inadequate for what they need. The new room would give them a
107 large downstairs room with the computer room. The computer room will become the TV
108 room.

109
110 Mr. Balfour - What do your neighbors say?

111
112 Mr. L. Day - I haven't heard anything from the ones that I've spoken with.
113 The only time that any of them get to speak, they speak with Travis occasionally; he's
114 the only one who goes outside, and he smokes. The other boys stay in the house all
115 the time.

116
117 Mr. Balfour - We'll see what they say.

118
119 Mr. Wright - They're already living there, right?

120
121 Mr. L. Day - Yes sir, it's just that

122
123 Mr. Wright - So whether this is built or not, they're already living there.
124 Adding on is not a condition for their moving into the house.

125
126 Mr. L. Day - No sir.
127
128 Mr. Balfour - All we decide is whether or not you can slant this thing a little
129 bit from looking at the map.
130
131 Mr. L. Day - No, it's whether I have to slant the addition, or whether I can
132 build the addition straight out; the addition will be built. Something will be put in, and my
133 son would like to speak, but in construction, we like to have everything square.
134
135 Mr. Balfour - I understand; I saw what your plan was.
136
137 Mr. T. Day - Like my dad was saying, it's mostly just, yes, I'm the smoker.
138 I talk to the neighbors a lot when I'm outside smoking. They're usually out doing yard
139 work or something; they're really nice people, and aside from the gentleman he
140 mentioned, I hadn't heard anything about anyone having a problem with it. I'd talked
141 about it with a couple of them, and they were, well, that's nice.
142
143 Mr. Wright - How long have you been living there, Travis?
144
145 Mr. T. Day - September.
146
147 Mr. Wright - Since September of this year? Any complaints from any of
148 the neighbors about what you all do up till now?
149
150 Mr. T. Day - No sir. My brother, after we had last month's meeting, I was
151 like, what is this about the guy, I didn't hear this, and he was like, I was just out one day,
152 and the guy thought it was going to be a boarding home. I was like, what -- it was going
153 to be a boarding home? Aside from that gentleman talking to my brother one time,
154 that's the only thing I'd ever heard. The variance is just because we wanted to line it up
155 with the side of the house so that everything ran flush, and it would line up with the
156 current roofing and what-not, and we'd talked about moving it over before we had
157 decided we had to come here, and we wanted to keep it where it was, because if we
158 had to shift it over a little, when you were in the kitchen, if you looked out the kitchen
159 window, you would just see nothing but the addition if we had to move it any.
160
161 Mr. McKinney - Mr. Day, do you, Clay and Jock, I understand live with you,
162 do you charge them rent?
163
164 Mr. T. Day - Yes sir, they live with us; they pay part of the utilities, that's
165 it.
166
167 Mr. McKinney - That's all? They don't pay you any rent, they just share in
168 the utilities?
169
170 Mr. T. Day - Yes sir. We all split the utilities four ways. My brother and I

171 pay the mortgage.
172
173 Mr. McKinney - You don't split the mortgage? Who pays the mortgage?
174
175 Mr. T. Day - No sir. Me and my brother.
176
177 Mr. L. Day - The mortgage is really not that much sir; we put a large
178 down payment.
179
180 Mr. Wright - All right. Ms. Day, did you want to say a few words

181
182 Ms. Day - The only thing that was mentioned last month was our sons
183 said they wanted to buy a house; my husband built the house that we've been in for
184 twenty-five years, which is where they were born and raised. It started out at about
185 1800 square feet, and he likes projects, so it's over 4,000 square feet, and that's what
186 they're used to, is their dad always having a project. So when we were looking at a
187 house that we could afford, it was with the understanding that because he can build
188 additions for less that if you'd go out and pay a contractor for, we would buy what we
189 could afford, and then take some money we'd set aside to get the addition the way we
190 were looking for. To have bought a home with that much square footage would have
191 put us in a much higher price range when we were house shopping.
192

193 Mr. Wright - All right, is there anything further you'd like to state in favor
194 of your case?
195

196 Mr. L. Day - I understand that the gentleman would be worried about four
197 boys living in the house. We have neighbors that have a house that is rental property,
198 and they've rented it out to fraternities, and keg parties are going on all the time. These
199 boys don't drink; they don't make a lot of noise. They are in on their computers. They
200 don't park in their neighbors' front yards unless they have friends over. They had one
201 friend visiting with them who is in Baghdad now; he was home on leave. These are
202 quiet young men. They go to school; they work. They don't bother anybody. They are
203 in the house, playing their computers, and it's amazing to see. I should have brought a
204 picture of all five of them sitting down at the house at the time, playing with their
205 computers, and they have other friends that have the same situation throughout Henrico
206 County. This is a new generation of young people; they get together on their
207 computers. Like we used to go play football, they go in and play computers.
208

209 Mr. McKinney - Mr. Day, where'd the other one come from? It was four; you
210 said five.
211

212 M. L. Day - Ben just visited; he wasn't living there – he was just at the
213 house.
214

215 Mr. McKinney - So you've got five computers in the house?
216

217 Mr. L. Day - I think they've got six. They have computers that belong to
218 friends of ours, but the boys don't live there.

219
220 Mr. McKinney - All of them are using the same service?
221

222 Mr. L. Day - Yes sir. They're quite into it; they're quite technical with their
223 computers. They upgrade their computers every six months. Jock has been to San
224 Francisco; Morgan's been with him. They go all over the country, to these computer
225 tournaments. They play these games on the internet. I go over, and I watch, and I'm
226 amazed. They're into these things; they have friends all over the country. When they
227 were younger, we'd have internet parties at the house, with thirty people there, coming
228 in from all over the United States.

229
230 Mr. McKinney - All of them have different majors? Or are all of them
231 computer majors?

232
233 Mr. L. Day - Different majors.

234
235 Mr. McKinney - They're not computer majors?
236

237 Mr. L. Day - Morgan, but not Travis. I went to the first one up in D. C.,
238 and like I said, I was amazed to go in the auditorium and see all these young men
239 playing on these computers. The Canadians were there, doing a documentary. I talked
240 to the people there. The Intel people were saying that this is where they get their
241 computer techs from, the boys who are into these games, who play these games. They
242 are wholeheartedly into it. They have friends in California that they stay up late, so they
243 can play with them. The fun part was when we had the boy from Texas, and his mother
244 knew we were axe murderers and inviting her child to come to Virginia. But she finally
245 allowed him to come, and he had a ball.

246
247 Mr. Wright - Anything further? Now we'll hear from the opposition.
248

249 Mr. Marlles - Good morning, Mr. Chairman, members of the Board. My
250 name is John Marlles, and I'm Director of Planning. At your last meeting, you deferred
251 this case in order to give staff an opportunity to review the floor plans, you recall. I think
252 it's pointed out in the staff report. Our review of the floor plans does indicate that these
253 new rooms are not going to be fully integrated into the house. I think the County
254 Administration actually has a couple of concerns about this request. One is, it has been
255 our experience that when groups of college students rent homes or live in homes in
256 single-family districts, that it does lead to enforcement issues, both with noise and
257 maintenance of the property. From a staff standpoint, it is very difficult to deal with
258 these situations. The County Administration has received some calls from neighbors
259 expressing concerns with a group of college students renting homes in a single-family
260 district. That's what we're talking about here, is a single-family, residential district.

261
262 Mr. Wright - Is that the issue here?

263
264 Mr. Marlles - I believe the intent of the zoning district is an issue, yes sir.
265
266 Mr. Wright - He can build this without a variance. Now what are you
267 going to do? Are you going to shut him down?
268
269 Mr. Marlles - No sir. I think the issue here
270
271 Mr. Wright - **(Interrupted, unintelligible)** I'd like the Code to answer –
272 what is the definition of a single-family residence? Would you give me that? That's
273 what we – in this staff report, it says the testimony “indicates that the use will not be
274 consistent with the intent of the one-family (single-family) residence” What is
275 the definition in the Code of a single-family residence.
276
277 Mr. Marlles - Well sir, I don't believe four college students living together
278 generally meets the definition of a family as we would like to see it in Henrico County.
279
280 Mr. Wright - That's as you would like to see it; I want to know what the
281 definition of a single-family residence is.
282
283 Mr. Marlles - Mr. Blankinship can read it from the Code.
284
285 Mr. Wright - I had this problem years ago. I sold my house over in
286 College Hills, to an individual. I didn't know he was going to put his son and other
287 college students in there, and they raised Cain, and I tried to get out of the contract on
288 that basis. I got no help from the Planning Office. When I tried to say, “is this a proper
289 use,” they said “well, we can't say it isn't.” So what's the difference?
290
291 Mr. Marlles - Again, Mr. Blankinship can read that definition
292
293 Mr. Wright - I tried to get the County to help me get out of the contract,
294 and I couldn't do it.
295
296 Mr. Marlles - I think the other
297
298 Mr. McKinney - Suppose it was four brothers living in there?
299
300 Mr. Marlles - I think the other issue here, and again, I think it's pointed out
301 in the staff report, as to whether or not there is a hardship in this case, and obviously
302 from the staff report and the County Administration, I think would agree with this, sir
303
304
305 Mr. Wright - That's for us to decide. That's not for the staff to decide.
306
307 Mr. Marlles - the County Administration, sir, and staff believes
308 that there is not a hardship here.

309
310 Mr. Wright - So you're making a legal decision?
311
312 Mr. Marlles - No sir. It is our recommendation and our opinion.
313
314 Mr. Wright - Everybody's got an opinion, but you're not the court.
315
316 Mr. Marlles - No sir.
317
318 Mr. Wright - What's the definition, Mr. Blankinship?
319
320 Mr. Blankinship - The definition of "family," I think, is the most pertinent thing
321 here. It's defined as "a person living alone, or any number of persons living together as
322 a single housekeeping unit, including domestic servants, caregivers, foster children and
323 adults, and supervisory personnel in a group care facility." The term "family" "shall not
324 include a fraternity, sorority, club, convalescent or nursing home," and it goes on.
325
326 Mr. Wright - Well, have you said anything that would indicate that this
327 wouldn't be proper? I don't see anything there that says you can't have four individuals
328 living in a home. They don't have to be married; my golly, nowadays you've got people
329 living together, man and woman not married – is that against the intent of a one-family
330 residence?
331
332 Mr. Blankinship - It can be a difficult judgment call for us to make, whether a
333 group is living together as a single housekeeping unit. As you pointed out, it is the
334 Board that has that discretion.
335
336 Mr. Wright - Well I don't know. It's being done all over the County, and I
337 don't know what you all are going to do about it. Are you going to go in and root these
338 people out, where you've got individuals living, rather than married couples living in a
339 house. Are you going to say "you can't do that, because that violates the intent of a
340 one-family, single-family residence."
341
342 Mr. Marlles - All staff is trying to point out is, this situation has led to
343 enforcement issues in other
344
345 Mr. Wright - I understand that.
346
347 Mr. Marlles - single-family neighborhoods. There are other parts
348 of the community where we think it is appropriate for groups of college students and this
349 type of situation to exist. Single-family districts, though, it does lead to problems.
350
351 Mr. Wright - I understand, you can have problems, especially if they
352 throw parties, etc., but you could have that problem with a family living in there when
353 they have the children in and have parties, you know, you could have all those
354 problems. Than doesn't really distinguish it; it probably means that it's more prevalent.

355
356 Mr. Marlles - Staff would agree with that.
357
358 Mr. Wright - Okay. Anything else?
359
360 Mr. Marlles - No sir.
361
362 Mr. Wright - Oh, thanks. Now, anyone else desire to speak in
363 opposition? Hearing none, then the proponents, you have a right to rebut.
364
365 ***(Unintelligible, away from microphone)***
366
367 Mr. T. Day - The only thing I wanted to say is in regards to what he's
368 referring to, four college students living together, we don't even have people over,
369 really. We've had maybe one cook-out since we moved in. Like my dad was saying,
370 we spend most of our time with our head-phones on, playing on our computers. It's not
371 a frat house. What we're doing, the reason the addition, upstairs the addition isn't tied
372 in is because my parents said that it would be easier down the road for resale if the
373 addition was built and could be used as an in-law suite, so there's a full bath upstairs
374 and the two bedrooms, but no walk-through door. The walk-through door that leads
375 from the house to the addition is downstairs where the laundry room is.
376
377 Mr. Wright - You only have one kitchen in the

378
379 Mr. T. Day - Yes sir.
380
381 Mr. Wright - In my understanding of a single-family dwelling, you can only
382 have one kitchen.
383
384 Mr. Blankinship - That's correct. There's no space shown in the plan that
385 would easily be converted to a kitchen either; that's another thing we reviewed for.
386
387 Mr. T. Day - The addition is just for us, my brother's bedroom. Right now
388 he has his bed in; that's it. He's got maybe a foot or two walking room, to move around,
389 but when we moved in, we were planning on putting the addition on the house. That's
390 kind of what we were thinking.
391
392 Mr. Wright - All right. Mr. Day, do you have something further you want
393 to say in rebuttal?
394
395 Mr. L. Day - Basically, the reason that there's only one door into the
396 addition downstairs, is that we all know that if you cut up a bedroom and have a
397 bedroom into an entry of an addition, you lose value in the property. If I thought that it
398 would be to the County's advantage, I would have put a doorway upstairs, but I didn't
399 see anywhere that I wanted to lose space for a staircase. The staircase going up, and
400 the hall take up six feet off the addition, right off the bat, more than that really.

401 Basically, when you start looking at the twenty-eight feet, we're cutting it down to
402 twenty-two feet, and there is no plan for a kitchen. The kitchen has already been
403 remodeled. We've already done extensive work to this home. We've remodeled both of
404 the bathrooms; we've done the kitchen; I've done recessed lighting in the den, fans and
405 lights in all the upstairs, recessed lighting in the kitchen. This is not an investment
406 property as I would think of as a rental property that I've bought. This is my sons' home.
407 This is not a frat house. Again, I repeat, my sons' home.

408
409 Mr. McKinney - When did you buy this, Mr. Day?

410
411 Mr. L. Day - In September, and we've already remodeled the kitchen.
412 The kitchen's been refaced with

413
414 Mr. McKinney - At the first part of September?

415
416 Mr. L. Day - September 11.

417
418 Mr. McKinney - Because you've got plans dated September 29, so you got
419 right on it.

420
421 Mr. L. Day - Yes sir. If you saw the bedroom that my youngest is - he
422 put his friends, because he knew we were going to build the addition, in the larger
423 bedrooms, and he took the postage stamp, that once the addition is built, will be turned
424 over into a study room or an office. It's basically a walk-in closet, compared to my
425 house. Thank you.

426
427 Mr. Wright - All right. Anything else? That concludes the testimony.
428 Thank you very much, everybody for appearing. The Board will make a decision at the
429 end of the docket.

430
431 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
432 McKinney, the Board **granted** application **A-133-2003** for a variance to build a two-story
433 addition at 9310 Newhall Road (Pinedale Farms) (Parcel 751-749-9502). The Board
434 granted the variance subject to the following conditions:

435
436 1. Only the improvements shown on the plan filed with the application may be
437 constructed pursuant to this approval. No substantial changes or additions to the layout
438 may be made without the approval of the Board of Zoning Appeals. Any additional
439 improvements shall comply with the applicable regulations of the County Code.

440
441 2. The new construction shall match the existing dwelling as nearly as practical.

442
443 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

444 Negative: 0

445 Absent: 0

446

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

452

453 **New Applications**

454

455 **A -140-2003** **CAROLYN KLOPSTEIN** requests a variance from Section 24-
456 95(i)(1) of Chapter 24 of the County Code to build a covered stoop
457 at 3709 Huntmaster Court (Foxhall) (Parcel 729-758-8565), zoned
458 R-2AC, One-family Residence District (Conditional) (Three Chopt).
459 The front yard setback is not met. The applicant has 40 feet front
460 yard setback, where the Code requires 45 feet front yard setback.
461 The applicant requests a variance of 5 feet front yard setback.

462

463 Mr. Wright - Does anyone else desire to speak? Would you raise your
464 right hand and be sworn please?

465

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

468

469 Mr. Klopstein - I do. Michael Klopstein. Just want to tell you about the
470 property we're building, and would love to have Carolyn here, my wife. She's got a lot
471 more passion about building her dream house and her dream of an up front porch, so
472 clearly, as we stated in the beginning, there's a 5-foot setback that's the difference here,
473 and clearly that's the dream that we have, is to have a front porch, just for protection in
474 terms of kids coming in and out for the front porch access for the property that we plan
475 to live in for a very, very long time.

476

477 Mr. Wright - Tell us just what you propose to do.

478

479 Mr. Klopstein - The plan is similar to the one in the neighbor's right next to
480 us. There are two homes right next to us, and I don't know if they took a picture of the
481 cul-de-sac we're on, but it would be to the right of the picture you're looking at there, but
482 there are two other homes right next to that which have front porches almost exactly
483 how we're looking to build ours.

484

485 Mr. Wright - What type construction will this porch be? How will it be
486 constructed? Will it be something that will be consistent with the house?

487

488 Mr. Klopstein - Absolutely, yes. There will be pillars in the front. There will
489 be steps going up; they're not constructed as of yet, but you see in this picture here, the
490 steps going up to the two front doors there, and then directly above those steps, there
491 will be a landing area, and then right above that will be the front porch. So consistent
492 connected right with the front porch, so it's an overhang stoop that will simply keep you

493 protected from the elements and the rain and whatnot.
494
495 Mr. Wright - I understand you may have some problem with the
496 Chesapeake Bay Resource Protection Act, as to where the house was located on the
497 lot.
498
499 Mr. Klopstein - I'm not familiar with that sir. Oh yes, on the back side, the
500 Colonial Home Crafters, there is a marsh on the back side, so it's actually a pretty steep
501 drop-off, and for kids and what-not, he's had to push it up a little bit to kind of get that
502 back yard so it wasn't a complete drop-off in the back of the marsh, that's correct sir.
503
504 Mr. Wright - So that would necessitate the house being constructed
505 further forward on the lot.
506
507 Mr. Klopstein - That's the way I understand it. Any of the builders could
508 certainly articulate that much better, but that's when he built the home, his intention was
509 to maximize at least a little bit of back yard for the kids and kind of a playground in back.
510 The porch is simply protection.
511
512 Mr. Wright - What is the exact size of this proposed porch?
513
514 Mr. Klopstein - I do not have the exact size. If you go back to the picture of
515 the front, it would be exactly the two front doors that you see there, it would simply just
516 be a landing area in front of there, and then the stoop would just carry over those two
517 front doors, almost exactly alongside where the two sides of that door is, would just be a
518 stoop right underneath of that window on top and on top of the doors.
519
520 Mr. McKinney - So it would not exceed six feet?
521
522 Mr. Klopstein - No sir.
523
524 Mr. Wright - So you could build a four-by-six porch, Mr. Blankinship,
525 without a variance?
526
527 Mr. Blankinship - Yes sir, a six-foot wide porch can extend up to four feet into
528 the setback. He's going five feet, so I guess that's the difference.
529
530 Mr. Wright - This says a five-foot front yard setback. I thought if he's
531 exceeds it by one foot, he's got to get the whole five feet approved.
532
533 Mr. Blankinship - Right, as long as we're doing the variance, it's the same.
534
535 Mr. Wright - So it's actually one foot into the

539 Mr. Klopstein - Correct, correct sir.
540
541 Mr. Wright - Any further questions of members of the Board?
542
543 Mr. Blankinship - May I ask one question, Mr. Chairman? How many of the
544 other houses on that street have got similar front porches, do you know?
545
546 Mr. Klopstein - I couldn't give you the exact number; there's three homes
547 going that way, if you look at this picture. All the other ones in the cul-de-sac, three of
548 them do, one of them does not. The one right next to us does have a front porch on it.
549
550 Mr. Blankinship - I meant to photograph that while we were on the site.
551
552 Mr. Wright - Is it the same size porch that he's proposing to build that
553 they've got?
554
555 Mr. Klopstein - Yes, the entry is pretty much the same. Colonial Home
556 Crafters has a similar plan, so their front porches would look pretty close to what the
557 neighboring properties look like.
558
559 Mr. Wright - Does the cul-de-sac impact this at all, Mr. Blankinship? I
560 was just trying to see that from the plat.
561
562 Mr. Blankinship - I don't believe so.
563
564 Mr. Wright - Any further questions of members of the Board or the staff?
565 Anyone here in opposition to this request?
566
567 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
568 McKinney, the Board **granted** application **A-140-2003** for a variance to build a covered
569 stoop at 3709 Huntmaster Court (Foxhall) (Parcel 729-758-8565). The Board granted
570 the variance subject to the following conditions:
571
572 1. The new construction shall match the existing dwelling as nearly as practical.
573
574 2. The property shall be developed in substantial conformance with the plan filed
575 with the application. No substantial changes or additions to the layout may be made
576 without the approval of the Board of Zoning Appeals.
577
578 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
579 Negative: 0
580 Absent: 0
581
582 The Board granted this request, as it found from the evidence presented that, due to the
583 unique circumstances of the subject property, strict application of the County Code
584 would produce undue hardship not generally shared by other properties in the area, and

585 authorizing this variance will neither cause a substantial detriment to adjacent property
586 nor materially impair the purpose of the zoning regulations.

587
588 **UP- 27-2003** **HOLIDAY BARN KENNEL** requests a conditional use permit
589 pursuant to Section 24-52(c) of Chapter 24 of the County Code to
590 expand the existing kennel at 3800 Mountain Road (Parcel 765-
591 771-4745), zoned A-1, Agricultural District (Brookland).

592
593 Upon a motion by Mr. Kirkland, seconded by Mr. Nunnally, the Board **deferred**
594 application **UP-27-2003** for a conditional use permit to expand the existing kennel at
595 3800 Mountain Road (Parcel 765-771-4745). The case was deferred from the
596 December 18, 2003, until the January 22, 2004, meeting at the request of the applicant
597 for additional time to prepare a variance request.

598
599 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
600 Negative: 0
601 Absent: 0

602
603 **A -141-2003** **MAVIS AGYEMANG AND GEORGE DJIMAH** request a variance
604 from Section 24-94 of Chapter 24 of the County Code to build a
605 sunroom and deck at 2304 Woodman Hills Court (Woodman Hills)
606 (Parcel 774-764-6665), zoned R-3C, One-family Residence District
607 (Conditional) (Fairfield). The rear yard setback is not met. The
608 applicants propose 28 feet rear yard setback for the sunroom,
609 where the Code requires 40 feet rear yard setback. The applicants
610 request a variance of 12 feet rear yard setback. The applicants
611 also propose 28 feet rear yard setback for the deck, where the
612 Code requires 30 feet rear yard setback. The applicants request a
613 variance of 2 feet rear yard setback.

614
615 Mr. Wright - Does anyone else desire to speak? Would you raise your
616 right hand and be sworn please?

617
618 Mr. Blankinship - Do you swear that the testimony you are about to give is the
619 truth, the whole truth, and nothing but the truth, so help you God?

620
621 Mr. Britt - I do. George Britt, with Melani Bros.; we're the contractor for
622 the applicant. Very simply, George and Mavis would like to build a sunroom. The
623 sunroom in this project is located on their existing deck, a size of ten by twelve. Looking
624 from the back of the house, to the left of that sunroom, they want to add a twelve by
625 twelve additional deck, since we're covering up the existing deck that they have. They
626 just want to build a reasonably sized sunroom on their home, ten by twelve, and have
627 some deck left over.

628
629 Mr. Wright - Is that the deck you're referring to right there?

630

631 Mr. Britt - Yes, that is exactly where the actual room will go.
632
633 Mr. Wright - So you want to put the sunroom where the deck is, is that it?
634
635 Mr. McKinney - So they'll be the same size?
636
637 Mr. Britt - Exactly the same size as the deck, and then the additional
638 deck goes directly adjacent to it.
639
640 Mr. Wright - What's located to the rear of your property?
641
642 Mr. Britt - It looks like nothing but woods back there. There's another
643 dwelling, fairly large lot it looks like.
644
645 Mr. Wright - Is there any screening to the rear of your property? Between
646 your property and the other property?
647
648 Mr. Britt - Of course this isn't my property, but the property. There's
649 woods, a little barrier of woods that's through there.
650
651 Mr. McKinney - The houses behind you also have woods.
652
653 Mr. Britt - It looks like, not including the applicant's property , about
654 another 40-so feet of woods in that area before you get to a clearing where the other
655 dwelling's located.
656
657 Mr. Wright - What type of construction did you propose for this addition?
658
659 Mr. Britt - First of all, it will match according to the homeowners
660 association, as far as siding, there's an 18-inch knee-wall. It's of course a sunroom.
661 You'll have glass all the way around, with glass transoms, shingles to match the roof and
662 per County requirements, brick piers will be added.
663
664 Mr. Wright - You notice there is a condition suggested for this case, if it's
665 approved, that new construction will match the existing dwelling as near as practical.
666
667 Mr. Britt - Yes, and according to the requirements of the homeowners
668 association, this will be the exact siding to match, the exact shingle roofline structure, will
669 match the existing structures in the neighborhood.
670
671 Mr. Wright - Is it a one-story addition?
672
673 Mr. Britt - One story sir, yes.
674
675 Mr. Wright - Any further questions of members of the Board or the staff?
676 Anyone here in opposition to this request?

677
678 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
679 Kirkland, the Board **granted** application **A-141-2003** for a variance to build sunroom
680 and deck at 2304 Woodman Hills Court (Woodman Hills) (Parcel 774-764-6665). The
681 Board granted the variance subject to the following conditions:

- 682
683 1. The new construction shall match the existing dwelling as nearly as practical.
684
685 2. The property shall be developed in substantial conformance with the plan filed
686 with the application. No substantial changes or additions to the layout may be made
687 without the approval of the Board of Zoning Appeals.
688

689 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
690 Negative: 0
691 Absent: 0
692

693 The Board granted this request, as it found from the evidence presented that, due to the
694 unique circumstances of the subject property, strict application of the County Code
695 would produce undue hardship not generally shared by other properties in the area, and
696 authorizing this variance will neither cause a substantial detriment to adjacent property
697 nor materially impair the purpose of the zoning regulations.
698

699 **A -142-2003** **THOMAS P. OGDEN** requests a variance from Section 24-94 of
700 Chapter 24 of the County Code to build a screened porch on the
701 existing deck at 10901 Hunting Hollow Court (Deer Springs) (Parcel
702 770-769-3291), zoned R-2AC, One-family Residence District
703 (Conditional) (Brookland). The rear yard setback is not met. The
704 applicant has 37 feet rear yard setback, where the Code requires
705 45 feet rear yard setback. The applicant requests a variance of 8
706 feet rear yard setback.
707

708 Mr. Wright - Does anyone else desire to speak? Would you raise your
709 right hand and be sworn please?
710

711 Mr. Blankinship - Do you swear that the testimony you are about to give is the
712 truth, the whole truth, and nothing but the truth, so help you God?
713

714 Mr. Ogden - I do. Thomas P. Ogden. We would like to put a twelve by
715 twelve porch on our existing deck; the existing deck is 12 by 24. That will be all vinyl to
716 match the house. The issue is the setback; it is not met by approximately eight feet.
717 We've notified all the adjacent neighbors with a memo that we wrote to them back in
718 mid-November. We've heard from two of them, the one immediately behind us, that's
719 the Thornes, and they have no problem with it, and the person to the immediate right,
720 looking at the house, and he had no problem with it.
721

722 Mr. Wright - Is there any screening between your house and the house to

723 the rear of you? Trees, bushes, etc.?
724
725 Mr. Ogden - Yes there is. You can see in the picture that it's quite dense
726 in there, and the neighbor has a fence also there too.
727
728 Mr. Wright - Might be difficult for the neighbor to see the rear of your
729 house there.
730
731 Mr. Ogden - Only the one directly behind us has a view of the house.
732
733 Mr. Wright - What type of construction will be proposed?
734
735 Mr. Ogden - It will be white vinyl to match the siding on the house, and
736 the shingles will be to match the shingles on the top of the two-story house.
737
738 Mr. Wright - This will be a two-story addition?
739
740 Mr. Ogden - No, one story, twelve by twelve on the left side as you're
741 looking from the front of the house. It's a screened in porch, not a sunroom. It will not
742 have glass, just screen.
743
744 Mr. Wright - Any further questions of members of the Board or of the
745 staff? Anyone here in opposition to this request?
746
747 Mr. Blankinship - Mr. Chairman, I did receive one phone call from one of the
748 people in the subdivision to the rear of this property, expressing concern about the
749 wetlands. He just asked that I make sure that the matter came before the Board. I
750 explained to him that, and let me just confirm with the applicant, you're not changing the
751 structure on the ground. The same piers that are there now are going to be there in the
752 future. Do you plan on building a fence? He was very concerned about building a
753 fence, and I told him that wasn't a matter before the Board, but he was very concerned.
754
755 Mr. Ogden - No. That is one of the issues for the screened porch,
756 because the wetlands draw a lot of mosquitoes and insects back there. If you went
757 there right now, you'd see water above the ground right now.
758
759 Mr. Wright - It sounds like there is nothing that you're proposing to do
760 that would affect the wetlands.
761
762 Mr. Blankinship - That's my opinion, but he was very concerned that it be
763 brought before you.
764
765 Mr. Wright - All right. Thank you very much for appearing. That
766 concludes the case.
767

768 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
769 McKinney, the Board **granted** application **A-142-2003** for a variance to build a screened
770 porch on the existing deck at 10901 Hunting Hollow Court (Deer Springs) (Parcel 770-
771 769-3291). The Board granted the variance subject to the following conditions:

772
773 1. Only the improvements shown on the plan filed with the application may be
774 constructed pursuant to this approval. No substantial changes or additions to the layout
775 may be made without the approval of the Board of Zoning Appeals. Any additional
776 improvements shall comply with the applicable regulations of the County Code.

777
778 2. The new construction shall match the existing dwelling as nearly as practical.
779

780
781 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
782 Negative: 0
783 Absent: 0
784

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

790
791 **A -143-2003** **SUNTECH HOMES** requests a variance from Section 24-95(q)(5)
792 of Chapter 24 of the County Code to build a one-family dwelling at
793 10600 Sherwin Place (Magnolia Ridge) (Parcel 781-769-9301),
794 zoned R-3AC, One-family Residence District (Conditional)
795 (Fairfield). The lot width requirement is not met. The applicant has
796 56 feet lot width, where the Code requires 60 feet lot width. The
797 applicant requests a variance of 4 feet lot width.
798

799 Upon a motion by Mr. Balfour, seconded by Mr. McKinney, the Board **deferred**
800 application **A-143-2003** for a variance to build a one-family dwelling at 10600 Sherwin
801 Place (Magnolia Ridge) (Parcel 781-769-9301). The case was deferred from the
802 December 18, 2003, until the January 22, 2004, meeting at the request of the applicant.
803

804 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
805 Negative: 0
806 Absent: 0
807

808 **A -144-2003** **RCI BUILDERS** requests a variance from Sections 24-95(k) and
809 24-95(2) of Chapter 24 of the County Code to build a one-family
810 dwelling at 1800 Terrace Avenue (Hermitage Club Terrace) (Parcel
811 782-750-2829), zoned R-2, One-family Residence District
812 (Fairfield). The minimum side yard setback on a reverse corner
813 and rear yard setback are not met. The applicant has 17 feet rear

814 yard setback, and 23 feet side yard setback, where the Code
815 requires 25 feet rear yard setback and 25 feet side yard setback.
816 The applicant requests a variance of 8 feet rear yard setback and 2
817 feet side yard setback.
818

819 Mr. Wright - Would the applicant please come down to the podium. Does
820 anyone else desire to speak with respect to this case. Would you all please raise your
821 right hand and be sworn at the same time.
822

823 Mr. Blankinship - Do you swear that the testimony you are about to give is the
824 truth, the whole truth, and nothing but the truth, so help you God?
825

826 Mr. Rogers - I do. My name is Todd Rogers, with RCI Builders. We're
827 requesting this variance to the side yard and rear setback. It's an irregular-shaped lot.
828 The staff has done an excellent job in describing the whole situation, but just to highlight
829 it a little bit, due to the 25-foot side yard along Club Road, which is unimproved at this
830 point, it makes it a very small building envelope. We're proposing to build a 30 by 24,
831 two-story on that lot, which would be somewhat the size and so forth of other houses in
832 the neighborhood. As you can tell by the plat, the buildable area, with the dotted line
833 through there, we are encroaching a couple of feet on the side yard and about 7.7 feet
834 on the rear yard of one corner. The other corner of the house actually fits within the
835 building setback. Due to the irregular shape of the lot and it being a corner lot, it does
836 push us into the side and rear yard setbacks.
837

838 Mr. Wright - Mr. Blankinship, could they build a house on this particular
839 lot without needing a variance?
840

841 Mr. Blankinship - It would be a small and oddly shaped house, but it would be
842 possible, yes.
843

844 Mr. Wright - It wouldn't be in keeping with the neighborhood?
845

846 Mr. Blankinship - Probably not. I don't have a scale on here. You're looking
847 at something about 18 to 20 feet deep, which would probably be out of place.
848

849 Mr. Wright - Just looking at the picture, these look like fairly large houses.
850

851 Mr. Kirkland - Mr. Rogers, are you purchasing this lot pending this
852 variance?
853

854 Mr. Rogers - Yes sir.
855

856 Mr. Kirkland - You don't own it already then?
857

858 Mr. Rogers - No sir.
859

860 Mr. McKinney - How many square feet in this house, Mr. Rogers?
861
862 Mr. Rogers - There will be 1440 square feet in the house.
863
864 Mr. Wright - Any smaller than that, and you couldn't turn around in it.
865
866 Mr. McKinney - I just finished one over there that was 1256.
867
868 Mr. Wright - Any further questions of the Board or the staff?
869
870 Mr. McKinney - Will this be vinyl siding?
871
872 Mr. Rogers - Yes sir.
873
874 Mr. McKinney - How about the foundation?
875
876 Mr. Rogers - Brick foundation.
877
878 Mr. Wright - If there is anyone here in opposition, please come forward.
879
880 Ms. Genier - Good morning. My name is Judy Genier; I've lived in this
881 neighborhood, my family home, for 50 years. Presently I'm taking care of my 87-year-
882 old father. Most of the houses in this neighborhood have been here for 50 years, and
883 they're brick. Our house happens to have a brick front and siding on it. This is a very
884 small lot. Along one edge there's not even a County road; there's just a driveway that
885 goes down to Deloris Hartman's little property, and she has had hip surgery and so she
886 could not attend today. She's not willing to give up any of her land, because she
887 doesn't have but a little bit to begin with, and she's leaving it to her son and her
888 grandson. She already does not want it to encroach on her property because it will go
889 into her little driveway that she's got in this little cottage down here. If it's a two-story
890 house, it won't match the neighborhood, because all the rest of the houses are one
891 story. It also will sit right on Belmont Golf Course, and there will be golf balls in the
892 windows constantly, because we pick up golf balls all along that area every day. The
893 golfers just hit their balls into the property.
894
895 Mr. Wright - I couldn't believe that.
896
897 Ms. Genier - Sir, I'll bring you some golf balls.
898
899 Mr. Wright - I'm being facetious; I'm a golfer.
900
901 Ms. Genier - I know, because I saw you out on the golf course the other
902 day.
903
904 Mr. Kirkland - What is the address of where you are?
905

906 Ms. Genier - I'm at 1805 Terrace Avenue, which would be right across the
907 street; that's why I'm here, because my sister and I own the three pieces of property
908 that are right across the street from the wooded piece of property. When my mother
909 passed away, she left the three lots that we had bought when we bought all of those lots
910 to build the family home. Our three lots actually could have a house put on them, and
911 we've never considered it, because again, it would be sitting right on the golf course in
912 line.
913
914 Mr. Kirkland - Was that 1801? What's the address of those three lots?
915
916 Ms. Genier - Yes, it's 1801, because my house is the 1805 house, and
917 1801 would be the three lots that we have right beside our house, and then across the
918 street is the wooded lot.
919
920 Mr. Wright - You say yours is a single-family, one floor?
921
922 Ms. Genier - Yes, it's a one floor, because like I said, I'm taking care of
923 my father, and I have to have him in a wheelchair.
924
925 Mr. Wright - Do you use the upstairs any?
926
927 Ms. Genier - There is only an attic, and we never go up in it, but there is
928 an attic up there.
929
930 Mr. McKinney - There are no two-story houses in that neighborhood at all?
931
932 Ms. Genier - No sir.
933
934 Mr. Wright - That's unusual. Looks like there are some that have
935 dormers on them; I'm just looking down on them.
936
937 Ms. Genier - What are dormers sir?
938
939 Mr. Blankinship - Little windows up on the roof.
940
941 Ms. Genier - They are.
942
943 Mr. Nunnally - They build it so that you can use that area up in the peak of
944 the roof by putting dormers, if you have a house like that.
945
946 Ms. Genier - Yes sir. A lot of the houses on the street that we're on are
947 very, very small, single-family houses that were built in the '50's when we built our
948 house. Our house is probably one of the largest houses in the area, because my father
949 built it. They're just all small brick homes that have been there forever.
950
951 Mr. Wright - There's not a house on 1802 either, is there, across the

952 street from you. The trees are heavy there.
953
954 Ms. Genier - Yes sir, there's a house there. The only open lot is this little
955 corner lot at the end. There are houses all around there, and like I said, the house at
956 the back, Mrs. Hartman's house, she's been there as long as we have, and she's really
957 not willing. I don't understand, on a variance, does she receive money for this land, or
958 does she just have to give it away, whether she wants to or not?
959
960 Mr. Blankinship - There's no land going to change hands, ma'am. The only
961 thing that's changing is, the Code requires certain setbacks and so forth, and the Board
962 has the authority to relieve that requirement on these builders, but nobody's property
963 lines are going to move, and no land is going to change hands.
964
965 Ms. Genier - Okay, so where will the cars go down this dirt road, and this
966 is a blind corner here. Where will, there's a lot of traffic on this blind corner here.
967
968 M. Wright - Which dirt road are you referring to?
969
970 Ms. Genier - The dirt road goes down in front of the house; it's not a
971 paved road. Club Road becomes dirt right there at the corner; it is not paved.
972
973 Mr. Blankinship - It won't change as a result of this hearing.
974
975 Mr. Wright - Nothing will change on that.
976
977 Ms. Genier - Okay, so if we have another house on that corner, how are
978 we going to alleviate the already problems of the blind corner and people coming
979 around there. Won't that make more congestion instead of less.
980
981 Mr. Blankinship - Probably.
982
983 Mr. McKinney - Mr. Secretary, what's the minimum lot size for R-2A or just
984 R-2?
985
986 Mr. Blankinship - I was just looking it up. Is there a house at 7104, that little
987 slender lot, or not? I guess there is not, is that right?
988
989 Ms. Genier - I would think that Deloris' house is on this 102, and then the
990 Chandler house is on this big piece of property; I don't know what that little 104 is. It is
991 a lot?
992
993 Mr. Blankinship - Minimum lot size is 18,000 square feet.
994
995 Mr. McKinney - No, I'm talking about the house.
996
997 Mr. Blankinship - That's, I think, 1200.

998
999 McKinney - 1200? Is it 1100 or 1200?
1000
1001 Mr. Blankinship - R-2 would be actually 1500.
1002
1003 Mr. McKinney - Then he's not actually building enough.
1004
1005 Mr. Blankinship - R-3 is 1100.
1006
1007 Mr. McKinney - He said the house's square footage is 1440.
1008
1009 Mr. Kirkland - So he's 60 under.
1010
1011 Mr. Blankinship - We haven't reviewed a building permit or anything, but that
1012 was not part of the variance application, so he would be required to meet the Code
1013 requirements.
1014
1015 Mr. McKinney - So he's got to go up another 60 square feet somewhere.
1016 How many square feet are in your house, Ms. Genier?
1017
1018 Ms. Genier - I really don't know sir. My father built it; it's a three-bedroom
1019 brick house, and he's got an addition on the back of it that he built a long time ago for
1020 my mother. A lot of this happened after I left. I'm only back now to take care of him.
1021
1022 Mr. McKinney - So that was his house, and you moved back in to take care
1023 of him?
1024
1025 Ms. Genier - Yes sir, this is the house that my sister and I were raised in,
1026 in the 50's, and then of course we went off and had our life, and now he either goes into
1027 a nursing home or I come back and take care of him, so I've been back three years.
1028
1029 Mr. Wright - Is there much traffic on Club Road, on that dirt road?
1030
1031 Ms. Genier - Yes sir, no, not on that dirt road, there wouldn't be any traffic
1032 except somebody going to visit Deloris. The problem is this corner right here, because,
1033 people like to come and stop and park down beside the golf course. They like to park
1034 there at night, and there's a blind corner right here at the end. Our bushes are causing
1035 part of the blind corner, but they've gotten out of control.
1036
1037 Mr. Wright - These other houses, 7102, and 7104, and 7156, all use Club
1038 Road for access?
1039
1040 Ms. Genier - No sir, what happened was when you go down past the
1041 empty lot and then you go to Deloris's at 7102, at 7101 there's a fence because this is a
1042 dirt road back down in there. To get to the other part of Club Road you have to come
1043 around from the other side and come in. You cannot go straight through Club Road.

1044
1045 Mr. McKinney It's blocked off?
1046
1047 Ms. Genier - Yes sir.
1048
1049 Mr. McKinney - So you're talking about the site distance between Terrace
1050 Avenue and Deloris's house at 7102?
1051
1052 Ms. Genier - Yes sir. According to what you have here on the map, from
1053 the end of Terrace to Deloris's house, is a little driveway, a graveled road, and then
1054 they've got a fence up, the Chandler's have got a fence up, and there's like a ditch, and
1055 the rest of Club Road swings around from the other part of
1056
1057 Mr. Wright - So you can't access 7104 from Club Road. You have to
1058 come around.
1059
1060 Mr. McKinney - According to this aerial view we have, we have a sight
1061 distance from Hilliard Road all the way to Terrace Avenue. When you get to Terrace
1062 Avenue, there's certainly no site distance to 7102.
1063
1064 Ms. Genier - I'm not understanding your question. See how the road
1065 ends right there?
1066
1067 Mr. McKinney - You said it ends at 7102, correct?
1068
1069 Ms. Genier - The picture right there is where it ends; the dirt road begins
1070 right where the hard-surface road ends, which is right at that corner. Terrace Road
1071 stops right there, and Club Road begins right at that little corner.
1072
1073 Mr. Kirkland - Mr. Blankinship, is 7104 and 7102 one lot?
1074
1075 Mr. Blankinship - It looks like it. It looks like the buildings actually straddles
1076 that.
1077
1078 Mr. Kirkland - In the aerial, I see the car and the house sticking over that.
1079
1080 Ms. Genier - Oh, yes sir, I guess it is. I see Deloris's
1081
1082 Mr. Kirkland - The fence line across Club would be at the 7104 line?
1083
1084 Ms. Genier - Yes sir, I see Deloris's little house now.
1085
1086 Mr. McKinney - And you said it's a fence across Club Road?
1087
1088 Ms. Genier - You have to understand that when you get to the corner of
1089 7104, there's a ditch there, which is the end of Deloris's property, and that's the

1090 Chandler's house there, and yes, there is a fence there, and you cannot drive a car
1091 through.

1092
1093 Mr. McKinney - Who put the fence up?

1094
1095 Ms. Genier - I don't know. I thought the Chandlers had the right to put the
1096 fence up there.

1097
1098 Mr. McKinney - But this is a private road, I presume.

1099
1100 Mr. Blankinship - It's not a County road. It's shown as a County right-of-way.
1101 It's not maintained, but it shows on the map as a County road.

1102
1103 Mr. Kirkland - It would definitely be closer for a fire truck to go one end to
1104 the other.

1105
1106 Mr. McKinney - That's what I say. If a fire truck comes down off Hilliard
1107 Road, they'd get in there and run into a fence.

1108
1109 Ms. Genier - You're right, and this past year, they did come in and they
1110 upgraded our water system, because we weren't even up to standards on our fire
1111 hydrants, and so everything has been upgraded in there, and if necessary, the fire truck
1112 could just ride right through the wooden fence, but I don't want to be a part of that.
1113 That's a whole another story.

1114
1115 Mr. McKinney - Mr. Blankinship, you said that the applicant could build a
1116 smaller house on this lot if he wasn't granted a variance. How could he build a smaller
1117 lot?

1118
1119 Mr. Blankinship - He would have to meet the minimum, 1500 square feet.

1120
1121 Mr. McKinney - Are you saying that he could build a 1500 square-foot
1122 house.?

1123
1124 Mr. Blankinship - I'm not really prepared to answer that question. If you want,
1125 we can do some research into that.

1126
1127 Mr. Wright - It does look like the line, it cuts across, you've got sort of
1128 corners that are in violation. That would be an odd-looking house if you had to make it
1129 to fit that envelope.

1130
1131 Ms. Genier - I just want to know where they would park the cars, because
1132 there is no space to park the cars on that dirt road, so where are we going to park cars?

1133
1134 Mr. McKinney - I'm sure he'll address that, probably with a driveway
1135

1136 Mr. Wright - He'd have to have a driveway into his place.
1137
1138 Ms. Genier - No, there's not enough room in there for a driveway, not if
1139 he's going to use all of the land for a house.
1140
1141 Mr. McKinney - He's not going to use all the land.
1142
1143 Mr. Wright - See that map up there? A driveway could be put in off of
1144 Terrace right back to the house, right there. I don't see where that would present a
1145 problem. That's up to him. Thank you very much. Anyone else in opposition? Hearing
1146 none, then you have a chance to rebut.
1147
1148 Mr. Rogers - Yes sir, we were under the impression, obviously wrong, that
1149 this was in an R-2 Exception area, which was, my understanding is, recorded prior to
1150 the '50's, which allows for smaller lots, and therefore, the 11,000 square-foot lot
1151 requirement is what the County Assessors Office said that it was, in an R-2 Exception
1152 area, which we interpreted that to be under today's R-3 house size area. That's why the
1153 difference, and that's our misunderstanding if we're incorrect as far as the house size
1154 goes.
1155
1156 **(unintelligible – too many voices)**
1157
1158 Mr. Blankinship - No, the exception standards do relieve the lot area, but it
1159 states in there that the square footage.
1160
1161 Mr. Rogers - Again, that's our mistake. One thing we can do with this,
1162 and again, someone stated that we'd have to be back through you guys again because
1163 of that, we have a plan that's the same building envelope, but we add a third floor on it.
1164 It's a dormered-type third floor that would certainly be more than the required 60 more
1165 square feet without making our building envelope any larger and therefore not
1166 encroaching any more on the setbacks.
1167
1168 Mr. McKinney - Mr. Rogers, would you like to defer this and get that squared
1169 away and come back to us so you don't have to pay an extra \$300?
1170
1171 Mr. Rogers - If that would be good. What I'm saying is if a 2 ½-story
1172 would work, then we can use the same building envelope. Again, I think the planner
1173 has said at this point, they haven't reviewed the building plans yet, so that's not part of
1174 the request today, and if we could have a 2 ½-story, which would finish at least 60 more
1175 square feet in the third floor, which obviously it would be much more than that, because
1176 you wouldn't just finish a small 60 square feet somewhere, we wouldn't impact the
1177 building area at all, so the variance would still be okay as far as through you, and then
1178 we'd have to get the plan approved through the normal building permit process.
1179
1180 Mr. Blankinship - Let me just throw out that one third of that finished floor area
1181 can be unfinished, but able to be finished.

1182
1183 Mr. Rogers - On the back side of the house, if you noticed, there's a little
1184 offset coming on the back there. That's actually an outside storage area, which we
1185 could actually make that, and again it's shown as part of the building footprint, and I
1186 believe that's eight by five right now, so that wasn't included in the 1440 that I said
1187 before.
1188
1189 Mr. Blankinship - You could extend that without increasing the degree of the
1190 variance.
1191
1192 Mr. Rogers - Correct. We could extend that to the right maybe and make
1193 that ten by five, and that would get us, we could increase it to the point where we could
1194 get the 1500 square feet.
1195
1196 Mr. Kirkland - Where do you intend to put the driveway?
1197
1198 Mr. Rogers - The driveway would come off of Terrace and come to either
1199 the left side of the house or the right side of the house, depending on, this is a
1200 symmetrical house, so we could put it either way. Normally when we have a situation
1201 like this, we put the driveway the furthest away from the intersection, so it would be on
1202 the left side of the house.
1203
1204 Mr. Wright - So you wouldn't be using Club Road?
1205
1206 Mr. Rogers - No sir, we wouldn't affect anything on Club Road.
1207
1208 Mr. McKinney - What will this house market for?
1209
1210 Mr. Rogers - Somewhere in the \$160's.
1211
1212 Mr. McKinney - Mr. Blankinship, what he's proposing now, does he need to
1213 come back to us?
1214
1215 Mr. Blankinship - It's up to him. Personally, I like your suggestion that he
1216 defer, take a month to figure this thing out, and then make sure that everyone knows
1217 what they're going to do when the vote is taken, but that's at the Board's discretion. I
1218 think he could find a solution to these problems.
1219
1220 Mr. Wright - I think that we ought to know what he's going to put up, and
1221 how it would impact on the surrounding properties.
1222
1223 Mr. McKinney- Have you had an opportunity to meet with Ms. Genier?
1224
1225 Mr. Rogers - No sir, I have not. I hadn't heard of any opposition.
1226
1227 Mr. McKinney - If you defer this for a month, maybe you could sit down and

1228 come to some terms. Would you like to defer it?

1229

1230 Mr. Rogers - Sure, I'd love to defer it.

1231

1232 Upon a motion by Mr. Nunnally, seconded by Mr. McKinney, the Board **deferred**
1233 application **A-144-2003** for a variance to build a one-family dwelling at 1800 Terrace
1234 Avenue (Hermitage Club Terrace) (Parcel 782-750-2829). The case was deferred from
1235 the December 18, 2003, until the January 22, 2004, meeting at the request of the
1236 applicant for additional time to prepare a variance request.

1237

1238 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1239 Negative: 0

1240 Absent: 0

1241

1242 **A -145-2003** **BILLY E. STANDLEY, JR.** requests a variance from Section 24-
1243 95(i)2 of Chapter 24 of the County Code to allow the accessory
1244 building to remain at 10007 Falconbridge Drive (Raintree East)
1245 (Parcel 747-750-1684), zoned R-2A, One-family Residence District
1246 (Tuckahoe). The accessory structure location requirement is not
1247 met. The applicant proposes to build an addition that will result in
1248 the existing garage being in the side yard. The Code allows
1249 accessory structures in the rear yard. The applicant requests a
1250 variance to allow the existing garage to remain.

1251

1252 Mr. Wright - Does anyone else desire to speak? Would you raise your
1253 right hand and be sworn please?

1254

1255 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1256 truth, the whole truth, and nothing but the truth, so help you God?

1257

1258 Mr. Standley - I do. My name is Billy E. Standley, Jr. Good morning,
1259 Gentlemen. My wife and I and our family have lived in this home for approximately
1260 twelve years. It's a four-bedroom, two-story Colonial saltbox type of dwelling, and we
1261 are at a point of making a decision in regards to our home. We have seven children, so
1262 it's become rather crowded as they have gotten larger. We looked at moving, but we
1263 like the neighborhood. Our kids are in the Raintree Swim Team, Deep Run Park is right
1264 across Ridgefield Parkway, so we like the area and have become attached to it. What
1265 we're proposing is to build a 20 by 24, two-story extension, which will "T" with the main
1266 portion of the house, to create a larger family room, allow us to convert the current
1267 family room to a dining room and then there's a side portion of the house that's one
1268 story, where the current family room is, and to dormer that to make an additional
1269 bedroom. The difficulty we were posed with is the original owner, Mr. Whitaker, in 1988,
1270 built a detached garage, which is pretty much exactly ten feet behind and offset from the
1271 side of the house. I was informed that to build the addition, we would then be in
1272 violation of the Code, in that it would change the detached in the rear of the home
1273 characterization for the garage. What we're petitioning for is a variance to allow us to

1274 build the addition on the home, but change the characterization of the detached garage,
1275 since it will no longer be behind the back plane of the home.

1276
1277 Mr. Balfour - The plan, it looks like, is to remove the pool and leave the
1278 deck, not the deck around the pool, but the deck at the corner of the house.

1279
1280 Mr. Standley - Yes sir, that's correct. My five- and seven-year-olds are
1281 aghast at the idea of losing the pool, but it's served its purpose. It's fifteen years old,
1282 and the intent is we'll have a deck that will extend from the family room on the side,
1283 such that it will be the deck area, and the main structure will "T" in with the two-story
1284 portion of the home.

1285
1286 Mr. Balfour - How much beyond the deck is it extended? I can't quite tell
1287 from your plans. You've got a deck already there, and you've got the addition coming
1288 out beside the deck. The plans look like it extends slightly beyond the deck, but even
1289 with the garage, is that right? I'm looking at your plans; it's the last page.

1290
1291 Mr. Standley - Correct. It won't touch the garage; it'll be approximately
1292 twelve feet away from the garage. The only other comment I have is that I spoke with
1293 Mr. Blankinship before the meeting, and I may have erred when I was looking, because
1294 we haven't employed an architect yet, because we wanted to make sure we could
1295 proceed before we did so, but part of the plan was to have a country wrap-around porch
1296 on the front and side next to the driveway. On side setback, I'm okay, but I am
1297 concerned now that perhaps I'm not going to meet the front setback with that front
1298 porch.

1299
1300 Mr. Wright - What size of front porch did you envision?

1301
1302 Mr. Standley - A six-foot wide covered porch that would elbow around the
1303 front and then the side of the driveway, and that way we would have cover over both the
1304 side door adjacent to the home at the driveway, and where it shows the current brick
1305 stoop.

1306
1307 Mr. Wright - Is he saying, Mr. Blankinship, that the porch would meet the
1308 Code, or that it would not meet it?

1309
1310 Mr. Blankinship - It does not sound like it would, and he came in this morning
1311 to discuss deferring to have that advertised and notified along with this part of the
1312 request.

1313
1314 Mr. Standley - That was definitely my error, because my neighbors have a
1315 porch, and I erroneously assumed that that was not a spacing issue, because we're
1316 directly in plane with them, but I am desirous not to have to come back again and pay
1317 another \$300.

1318
1319 Mr. Wright - Do you want to defer the case?

1320
1321 Mr. McKinney - You don't have to pay \$300 if you want to defer it.

1322
1323 Mr. Standley - I believe that is the most appropriate to determine where I
1324 stand on the porch.

1325
1326 Upon a motion by Mr. Balfour, seconded by Mr. McKinney, the Board **deferred**
1327 application **A-145-2003** for a variance to allow the accessory building to remain at
1328 10007 Falconbridge Drive (Raintree East) (Parcel 747-750-1684. The case was
1329 deferred from the December 18, 2003, until the January 22, 2004, meeting at the
1330 request of the applicant for additional time to prepare a variance request.

1331
1332 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1333 Negative: 0
1334 Absent: 0

1335
1336 **A -146-2003** **C B RICHARD ELLIS** requests a variance from Section 24-
1337 104(g)(2)(5) of Chapter 24 of the County Code to Install directional
1338 signs at 1501 Santa Rosa Road (Koger Office Center) (Parcels
1339 758-744-8530, 758-743-8194, 759-745-5902, 759-744-3417 and
1340 758-743-7963), zoned O-2, Office District (Three Chopt). The sign
1341 area requirement is not met. The applicant proposes five
1342 directional signs up to 17 square feet in area totaling 63 square
1343 feet, where the Code allows directional signs up to 3 square feet
1344 totaling up to 30 square feet. The applicant requests variances of
1345 14 square feet in area for each sign and 33 square feet in
1346 aggregate area for the five signs.

1347
1348 Mr. Wright - Mr. Secretary, I have to disqualify myself on the next case,
1349 so I'm going to ask Mr. Nunnally to take over, and I will leave the premises.

1350
1351 Mr. Nunnally - Do we have any other people here to are incident to this
1352 matter, or against? Please come forward. Would you raise your right hand and be
1353 sworn please?

1354
1355 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1356 truth, the whole truth, and nothing but the truth, so help you God?

1357
1358 Mr. Foley - I do. I'm Jay Foley, and I work for Carousel Signs, and I'm
1359 representing C. B. Richard Ellis on this matter. Mr. Blankinship may be able to explain
1360 this a little better. Basically, the office park is allowed directional signage. The sum of
1361 that signage in terms of square footage is thirty square feet. Obviously, in this case,
1362 we've gone over. The sum of what we're providing is 63. In your packet, we're looking
1363 for five directional signs that would have labeled the actual building numbers. The issue
1364 is, we can put multiple smaller signs and be allowed to do that. May I send you some
1365 paperwork that I brought?

1366
1367 Mr. McKinney - Mr. Foley, why does this sign say "Forest Office Park"? Is it
1368 being sold?
1369
1370 Mr. Foley - That is the name of the office park now.
1371
1372 Mr. McKinney - That's the new name of it?
1373
1374 Mr. Foley - Yes sir. In fact, there's one large ID sign out on Three Chopt
1375 right now that reads " Forest Office Park," and that's really the only signage identifying
1376 the entire park.
1377
1378 Mr. McKinney - There are a lot of buildings in there you can't find.
1379
1380 Mr. Foley - It's pretty tough. Just to let you know, I believe there is a
1381 new owner. I'm just dealing with C. B. Richard Ellis; they represent the owner, and I
1382 believe he is really trying to upgrade this property, as far as making it easier for people
1383 to get around. What I'm going to send is the design of what we want to do, versus what
1384 we could be allowed to do. If we are allowed to do this, there would be a total of 22 7-
1385 inch by 21-inch directional signs, versus what we're proposing, would be five. We've
1386 also taken pictures and superimposed what the signs would look like legally, or by
1387 Code, and what we would like to do.
1388
1389 Mr. McKinney - Do you have five sets of those?
1390
1391 Mr. Foley - No sir.
1392
1393 Mr. Kirkland - Are these signs going to be lit at night?
1394
1395 Mr. Foley - Right now, no sir. If they are, that would be up to them to
1396 pull in an electrician. Each building, we have applied for and obtained permits for each
1397 building to have its own ID sign. This is what that will look like. These will be installed
1398 over the next month, so every building will have its own ID, to see how this ties in to the
1399 directional signage. The map with the 22's on it, that would be 22 smaller directional
1400 signs.
1401
1402 Mr. Kirkland - Mr. Blankinship, all these signs won't be in any site distance,
1403 or is there anything when they are placed, will they?
1404
1405 Mr. Blankinship - That's one of the conditions that I think that we've proposed,
1406 that they would be required to keep them out of the site distance triangle and out of the
1407 right-of-way.
1408
1409 Mr. Nunnally - You say you're going to put a total of five signs out there?
1410
1411 Mr. Foley - Yes sir, we're looking to do five.

1412
 1413 Mr. Balfour - You've read the conditions?
 1414
 1415 Mr. Foley - Yes sir. In fact, when we set these out on the site map,
 1416 they're all outside of the 20-foot site triangle.
 1417
 1418 Mr. Nunnally - Any other questions from the Board? Staff? Do we have
 1419 any opposition?
 1420

1421 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
 1422 McKinney, the Board **granted** application **A-146-2003** for a variance to Install
 1423 directional signs at 1501 Santa Rosa Road (Koger Office Center) (Parcels 758-744-
 1424 8530, 758-743-8194, 759-745-5902, 759-744-3417 and 758-743-7963). The Board
 1425 granted the variance subject to the following conditions:
 1426

1427 1. Only the signs shown on the plan filed with the application may be constructed
 1428 pursuant to this approval. No substantial changes or additions to the layout may be
 1429 made without the approval of the Board of Zoning Appeals. Any additional
 1430 improvements shall comply with the applicable regulations of the County Code.
 1431

1432 2. The signs shall be located outside the street rights-of-way, and shall not interfere
 1433 with sight distance at the intersections.
 1434

1435 Affirmative:	Balfour, Kirkland, McKinney, Nunnally	4
1436 Negative:		0
1437 Abstain:	Wright	1

1438
 1439 The Board granted this request, as it found from the evidence presented that, due to the
 1440 unique circumstances of the subject property, strict application of the County Code
 1441 would produce undue hardship not generally shared by other properties in the area, and
 1442 authorizing this variance will neither cause a substantial detriment to adjacent property
 1443 nor materially impair the purpose of the zoning regulations.
 1444

1445 On a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **approved** the
 1446 Minutes of the **August 28, 2003**, Henrico County Board of Zoning Appeals meeting.
 1447

1448 There being no further business, and on a motion by Mr. Kirkland, seconded by Mr.
 1449 McKinney, the Board adjourned until **January 22, 2004**, at 9:00 am.
 1450

1451
 1452
 1453
 1454
 1455
 1456

Russell A. Wright,
 Chairman

Benjamin Blankinship, AICP
 Secretary