

35 Many of us are members of different groups, whether it be the Kiwanis Club, the Lions
36 Club, the Rotary Club, and as is customary, many of us have different lapel pins that we
37 wear, and for many years, the pin that was provided to key officials and department
38 head level staff was the pin that I see some of you wearing this morning, the colorized
39 version, and it's worn proudly by all of us who are involved in the Henrico County
40 Government, and by many of our employees who are in certain level positions. We are
41 all part of the same family and proud to be a part of it. The County Manager last year
42 realized that we should not be in a position that we are not making a pin available to all
43 County staff, and so he asked that a different pin be designed so that he could provide
44 the colorized version to each and every County employee, so that they could proudly
45 wear their County Seal and signify that they are part of this family. That work is being
46 done as I speak to you now; each one of them is being provided a pin. The Manager's
47 design is a gift to you this morning, and it's the pewter pin that I have here, and I'd like
48 to come up, if you will, and present each one of you with one of those and ask that you
49 wear it proudly, as you have the other County Seal. Thank you.

50
51 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies
52 and gentlemen. The rules for this meeting are as follows. The Secretary, myself, will
53 call each case. Then the applicant will come to the podium to present the case. At that
54 time I'll ask all those who intend to speak, in favor or opposition, to stand, and they will
55 be sworn in. The applicants will then present their testimony. When the applicant is
56 finished, anyone else will be given an opportunity to speak. After everyone has spoken,
57 the applicant, and only the applicant, will be given the opportunity for rebuttal. After
58 hearing the case, and asking questions, the Board will take the matter under
59 advisement. They will render all of their decisions at the end of the meeting. If you wish
60 to know what their decision is, you may stay until the end of the meeting, or you may
61 call the Planning Office at the end of the day. This meeting is being tape recorded, so
62 we will ask everyone who speaks, to speak directly into the microphone on the podium,
63 and to state your name for the record. Out in the foyer, there are two binders, which
64 have the staff reports for each case, including the conditions suggested by the staff. In
65 two of those cases, there was a revised report printed the day before yesterday, so
66 there is one report tucked into the binder and a second one on the table. Mr.
67 Chairman?

68
69 Mr. Kirkland - Thank you sir. Mr. Secretary, do we have any requests for
70 withdrawals or deferrals?

71
72 Mr. Blankinship – No sir.

73
74 Mr. Kirkland - All right. Let's call the first case.

75
76 **A - 4-2001** **BOK NAM PARK** requests a variance from Section 24-95(i)(2) of
77 Chapter 24 of the County Code to build a garage at 407 Branway
78 Drive (Brandon West) (Tax Parcel 99-2-B-21), zoned R-2, One-
79 family Residence District (Tuckahoe). The accessory structure
80 location requirement is not met. The applicant proposes a

81 detached garage in the side yard, where the code allows a
82 detached garage only in the rear yard.

83
84 Mr. Kirkland - Is the applicant here for this case? Please come forward.
85 First, come up to the podium. Is anyone else going to speak on this case? Okay, if you
86 would, all raise your right hand and be sworn in by the Secretary, please.

87
88 Mr. Blankinship - Do you swear that the testimony you are about to give is the
89 truth, the whole truth, and nothing but the truth, so help you God?

90
91 Mr. Kirkland - Okay. Sir, have all your notices been turned in, according to
92 the County Code? Now, would you state your name for the record.

93
94 Mr. Moore - Yes sir, they have. My name is Glenn Moore, and I'm
95 representing Mr. Park today, because of an English problem.

96
97 Mr. Kirkland - Okay, proceed with your case.

98
99 Mr. Moore - What we're asking, Mr. Chairman, is that if you can see by
100 the picture that you have before you, the Code requires, they say "behind the house" is
101 actually "behind the porch," and what we were asking is if we could replace the building
102 actually behind the house proper and not the actual porch, but it would still be behind
103 the house proper, and that's the only thing that we're asking for.

104
105 Mr. Kirkland - Any questions by Board Members?

106
107 Mr. Wright - What's the size of this proposed garage?

108
109 Mr. Moore - It's 28' by 36' I believe, sir.

110
111 Mr. Wright - That's substantially larger than a normal garage would be.
112 What's the reason for the size of the garage?

113
114 Mr. Moore - No particular reason, other than that he just wanted a larger
115 garage, so that he could get his cars, and he does a lot of bonsai trees and things like
116 that. He'd like to work on his bonsai trees in the back of the garage and stuff like that.

117
118 Mr. Balfour - How many cars has he got to put in there?

119
120 Mr. Moore - He has two cars with him and his wife, and then his daughter
121 and son when they are at home.

122
123 Mr. Wright - Four cars?

124
125 Mr. Moore - Yes sir.

126

127 Mr. Balfour - So he wants to put four cars in there on occasion, as well as
128 use it for whatever he does to his trees?
129
130 Mr. Moore - Yes sir.
131
132 Mr. Balfour - In that picture we've got up there, exactly where is it going to
133 be?
134
135 Mr. Moore - It's going to be about 8 to 10 feet behind the actual house
136 proper, but not behind the porch, and I believe the rule states that the building has to
137 be behind the actual, and the rule says "the actual house," behind the porch, and what we
138 wanted to do is place it behind the house proper and not behind the porch, so we'd
139 have enough room to place the garage.
140
141 Mr. Balfour - Going to get rid of that tree, you mean?
142
143 Mr. Moore - Yes sir, the tree will be moved.
144
145 Mr. Balfour - How far back, and it probably tells me, is that the property
146 line along where the blue covered area of firewood or something is?
147
148 Mr. Moore - That is, yes sir.
149
150 Mr. Balfour - Property line runs along the edge? How far back from the
151 property line is this building going to be?
152
153 Mr. Moore - Yes sir. What that is, is an easement, and it would be just
154 inside the easement, sir.
155
156 Mr. Balfour - How much is inside – two or three feet, or five feet, or what?
157 And then how far from the house?
158
159 Mr. Moore - Just a few feet, probably one or two feet. It'll be quite a way
160 from the house, at least ten feet, as required by the Code.
161
162 Mr. Balfour - So it's going to take up, except for ten feet, most of the back
163 yard.
164
165 Mr. Moore - Yes sir, on that one side.
166
167 Mr. McKinney - Mr. Moore, this rendering from the materials company, I
168 don't know which one it is, it shows two overhead doors on one end elevation. It shows
169 no windows or service doors – is it going to have any windows?
170
171 Mr. Moore - Yes sir, it will have two windows on one side and will have a
172 service door, yes sir.

173
174 Mr. McKinney - What's the material of this garage to be?
175
176 Mr. Moore - The outside siding will be vinyl, sir.
177
178 Mr. McKinney - Are you going to have electricity to it?
179
180 Mr. Moore - Yes sir, he'll eventually have electricity attached to it so that
181 he can work out there with his trees.
182
183 Mr. McKinney - So this is basically a concrete floor, and it'll all be open
184 inside, or you'll have partition walls?
185
186 Mr. Moore - Yes sir, it'll all be open. No partitions, no sir.
187
188 Mr. Balfour - Is beyond that easement area where the Avalon Recreation
189 Association property is? What's on the Avalon Association property right at that
190 particular area – do you know?
191
192 Mr. Moore - There are some tennis courts; that's the only thing we can
193 actually see from there; there's actually a little wooded area in between.
194
195 Mr. Nunnally - There's a white utility shed on the back of the property?
196
197 Mr. Moore - Yes sir, the shed has been moved to the opposite side, as
198 you can see in the picture.
199
200 Mr. Nunnally - Just that one shed there, the other white shed is on the other
201 property?
202
203 Mr. Moore - No sir, that's the only shed there now.
204
205 Mr. Kirkland - Any other questions of the applicant?
206
207 Mr. Balfour - Was there any particular – if I were looking at this accessory
208 structure location, it doesn't appear to be behind the house – is that to scale as to where
209 it's going to be in the yard? It looks like it's pretty close to the edge of the house that's
210 going towards the cul de sac.
211
212 Mr. Moore - It's behind the line of the house proper, but it would be to the
213 side, yes sir.
214
215 Mr. Balfour - Behind the line – you mean the line of the house, or the line
216 of the – which side of the garage is going to be aligned with the house?
217

218 Mr. Moore - The front of the garage will be behind the line of the house
219 proper.
220
221 Mr. Balfour - So this thing is off scale then, a little bit?
222
223 Mr. Moore - It's probably off scale a little bit; it's about ten feet back, or
224 fairly close to that. I believe the Code required us to be ten feet from any edge of the
225 house, so what we did was come from the corner and come out a diagonal at a little
226 more than ten feet.
227
228 Mr. Balfour - How many square feet is this thing?
229
230 Mr. Moore - It's probably going to be close to 800-and-some square feet.
231 I was incorrect in the measurements I gave you before. I see by the drawing that it's 24
232 by 36. I apologize.
233
234 Mr. Wright - Twenty-four is standard size for a double garage; it's a little
235 deeper.
236
237 Mr. Moore - It is a little deeper; we wanted to go a little deeper so we'd
238 have some room in the back for him to work his trees and stuff like that, the little bonsai
239 trees.
240
241 Mr. Wright - The bottom line in this case is, if that screened porch were
242 not there, you could put the garage there.
243
244 Mr. Moore - That's correct, sir, if the porch were not there, we could put
245 the garage there.
246
247 Mr. McKinney - Mr. Moore, are you saying that this garage will
248 accommodate four cars?
249
250 Mr. Moore - I don't think it'll accommodate four cars, sir, probably two
251 cars with some room in the back for him to work on his stuff. You might be able to get
252 four cars in there, but I sincerely doubt it.
253
254 Mr. McKinney - That would make them less than 16 feet long each.
255
256 Mr. Wright - You could put Beetles in there, some very small cars.
257
258 Mr. Moore - I don't think all of Mr. Park's cars will fit in there. Two cars
259 surely, and then he'll have room in the back for his little workshop and stuff like that.
260
261 Mr. McKinney - What is your business, Mr. Moore?
262
263 Mr. Moore - I work for Mr. Park.

264
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Mr. McKinney - And what does Mr. Park do?

Mr. Moore - Mr. Park owns a martial arts school in Chesterfield County, sir.

Mr. Kirkland - Any other questions? All right. If you would, we'll listen to these other people, and you'll have time to rebut if there is opposition to rebut. Yes ma'am. If you would, state your name for the record.

Ms. Strader - Good morning. My name is Ann Matthews Strader, and with me is my husband, William R. Strader, Jr. I'm speaking first, just because until about a half an hour ago, I wasn't sure he would get away from his job to join me this morning. We live at 405 Branway Drive, the property that abuts the south end of the applicant's property. We actually have probably six issues that we would ask you to consider when you render your decision on this request. I'm a lay person, and I've never spoken before the Zoning Board, and I'm really not fully sure of all of the aspects of the Code. But I did come down here, and I picked up the folder, and I read every piece that's in the Planning folder's information on this. As a lay person, I don't see how this application meets any of the requirements for a variance. There's no hardship here; it's simply a matter of convenience, so on its merit alone, I'm not sure how there's any validity for the variance.

The second issue that we have as neighbors, is that this is a very large, imposing structure. The 36 feet length of this free-standing structure will run the length of our driveway. In other words, on the south end of this property, there's a 16-foot easement at the back, which is a utility easement. But the south end of the property, where this structure is proposed to be oriented, the 36 feet will run along the edge of our driveway, grant you on the applicant's property, but if you were to sit on our terrace and look north, we will see 36 solid feet of siding. Again, I don't know whether that is an issue for the Zoning Board, but clearly as neighbors, it's an issue for us. These houses are 30-year-old houses; they're pretty much traditional rectangle houses. We went out and measured the width of our house, front to back. It's only 27 feet, so this garage is actually going to be almost ten feet longer than the width of the house. So to us it seems to be an enormous imposing structure. Also, over the time that we have lived here, if you look back at the picture, where that tree was, behind the tree there was a small garden shed. That shed was replaced by the large shed that you now see on the north end of the property. Then there was a deck; then there was a screened porch; then the shed you see got moved from the south end of the property to the north end of the property, to now accommodate the garage. So at the very least, we would ask you to consider the recommendation in the case report that says even if you do grant the variance, to consider the history on this property. At some point you have to say, "what's going to come next?" The other thing is, since this free-standing tool shed is already there, and it's certainly large enough to accommodate anything that you would need to garden in your yard, we ask "why does the structure need to be quite so imposing." You know, recently one of our other neighbors put on an attached garage,

310 the depth of which is only 32 feet, and that's a brick garage attached to the property.
311 The other thing that I have to tell you disturbs me, in the application, in response to one
312 of the questions, the applicant says, "we feel it would not in any way affect other
313 properties because the visibility by neighbors would be minimal because of the
314 proposed location behind the house." But we're here because it's not behind the house;
315 it's in the side yard, and it's clearly visible to us as property owners on the south. So it's
316 not "minimally visible" – it's 36 feet of siding visible, should I sit on my terrace and look
317 north. I'll see nothing but siding.

318
319 The other thing that I don't know if anybody's addressed is, at the back corner, of the
320 south corner at the easement, where the utility box and all is, when it rains there's
321 standing water. Now we put a bed of rocks behind our garden shed in an effort to
322 accommodate, or improve, the drainage. I'm wondering, and I simply don't know, what
323 will happen if you pour 36 by 24 feet of concrete in that area. Should we all be
324 concerned about the drainage, particularly since that's where all these utility boxes are?
325 The only other thing I would ask you to consider is, this is an older neighborhood.
326 Nowhere else that we have seen is there a free-standing structure of this size. So
327 there's some concern, not only for ourselves, but what precedent will this set in an older
328 neighborhood, to build this large of a free-standing structure, and what will the enormity
329 of this structure potentially do to the property values in this older neighborhood. Now
330 I've covered all my six points, and probably taken up more of your time than you want,
331 but I hope that it's clear to you our concerns. Do you want to add anything?

332
333 Mr. Strader - My name is Rob Strader, and I have to say this is the first
334 time I've ever come to a County meeting, which is not very good because I was a
335 political science major in college. In fact I love politics, political science and elections; in
336 fact I'm a real nerd when we have elections, but I guess I'm here for two reasons.
337 Frankly, I didn't have a clue what the County Code was as far as building garages. All
338 of us are property owners, and if Mr. Park had wanted to build a garage, he could build
339 a garage. We all have to some degree the privilege to do whatever we want with our
340 property within in the Code. But I had no idea what the Code was. When my wife
341 brought home, and had the notice, and had the Code what the grounds were for a
342 variance, the first thing that dawned on me is that, as you read the applicant's
343 application, and as you read the Planning Commission's report, and then you glance
344 through, and as a lay person, read the Code of what the grounds are for a variance.
345 Very clearly, the applicant does not meet the technical grounds for a request for a
346 variance. The Code seems to speak pretty clearly that, for the Board to grant a
347 variance, there needs to be a clearly demonstrated hardship to the property owner,
348 such that if the Board were to strictly enforce the Code, that the property owner would
349 suffer a true hardship, if you will. In this case, the applicant, by the County Code itself,
350 is not suffering any hardship. The applicant can still use the property; the applicant can
351 still use his driveway; the applicant can still use his back yard, his deck, his rear door,
352 his front door, so there's no real clear demonstrated hardship on the applicant. Purely
353 as a citizen looking at the Code, it was kind of interesting to me that here's a case
354 where there really is no valid technical grounds upon which the Board would grant a
355 variance, so that's maybe the reason I'm here. I found it kind of intriguing that I've

356 never been exposed to this, and here's a case that, from a purely technical perspective,
357 I don't see where the applicant is proving the hardship.

358

359 From a personal perspective, I do have to say, and I would agree with my wife, that in
360 the applicant's application, making the comment that, "the structure will not in any way
361 impinge upon the neighbors or the neighborhood." As my wife pointed out, this is an
362 older neighborhood with typical square box houses, if you will. One of the things that's
363 very nice about the neighborhood, is you drive through the neighborhood; it's a very
364 open feeling type neighborhood. There are a lot of trees. There frankly, if you drove
365 through the neighborhood, are very few fences, very few privacy fences. To my
366 knowledge there are no other detached structures of this size. As you drive down the
367 street through our neighborhood, this structure would be very clearly visible. As you
368 come down in front of the applicant's house, all of a sudden, based upon the size of the
369 structure that he's building, it's going to be "whoa!" very noticeable. So not only is it
370 going to be noticeable from the street, it's going to be very noticeable from the houses
371 across the street; it's going to be significantly noticeable from our house and our
372 driveway. You know, one of the nice things now, you pull into our driveway, and you
373 can kind of see, when we moved into the house, it's very open back there because
374 there are no privacy fences; it's the woods behind the houses. As my wife pointed out,
375 when we sit in our back yard now, if this structure is built, we'll see nothing but 36 feet of
376 siding, and that garage is going to be right up against the property line. Now obviously,
377 to comply with the Code, he's going to be 3 or 4 feet over, but the structure's going to
378 be right there on our house, so from a purely personal perspective, I have concerns. I
379 guess my more important concerns are that, as a citizen, as I understand as a lay
380 person, the Code, I don't see where the applicant has met the grounds for a variance,
381 and this structure will change the nature of the neighborhood, inasmuch as there are no
382 other structures of this size. And it's going to change kind of the character of,
383 particularly our end of the neighborhood, and we do have concerns overall, for the other
384 neighbors, how it impacts property values.

385

386 Mr. Balfour - Is the picture up there taken from your side of the property?

387

388 Mr. Strader - Where that picture's taken, like if, say, I were standing in our
389 driveway, that would be our view. When we park our car, and I get out of my car, like
390 when we got in our car this morning to come here, that's the view that we have right
391 now.

392

393 Mr. Balfour - Where's his driveway?

394

395 Mr. Strader - His driveway, say you're at the edge of the house, see
396 where you have like an asphalt sidewalk, that's kind of the start, right about 2 or 3 feet
397 behind that area there, is his driveway.

398

399 Mr. Balfour - So your driveways are adjacent to each other?

400

401 Mr. Strader - They are not adjacent; there's his driveway, there's a little bit
402 of yard, there's a row of shrubs, but technically.....
403
404 Mr. Balfour - That's his little shack that I see first, and the other shack is
405 on the other person's property, or is that his shack as well?
406
407 Mr. Strader - Yes, that is the other neighbor's shed.
408
409 Mr. Balfour - I guess "shack" is not as nice a word as "shed."
410
411 Mr. Strader - Originally Mr. Park, as my wife pointed out, had a smaller,
412 older tool shed, if you will, over on this side, over like on the right hand side of the tree.
413
414 Mr. Balfour - Let me ask a couple of questions – I got the picture – are
415 you saying you oppose the thing altogether, or you want a smaller, like 32 feet length, or
416 24 feet, or are you opposed to it totally, or what?
417
418 Mr. Strader - Well, my preference, my personal preference would be that
419 there be no detached garage, that would be my first personal preference. Obviously, I
420 have to recognize that, as a property owner, the applicant has a right to build a garage
421 as long as he complies with the Code. So my concern would be, that first I would rather
422 there be no garage because whatever the size. The next would be that, as a citizen, I
423 would want to be sure that if he does indeed build a garage, that he complies with the
424 Code as it is, and in this case, I don't see where he's proven a significant hardship for
425 the Board to grant a variance to the Code.
426
427 Mr. Wright - It appears to me that if we would cut ten feet off of the depth,
428 he could probably build it without violating the Code. In other words, if he could build it
429 so that it would be behind the screen porch, he would satisfy the Code requirements. It
430 may be if he would cut off 10 feet or 12 feet, he could probably build the garage, and
431 nobody could object to it.
432
433 Mr. Strader - That's true. We may prefer that it not be there, but it would
434 be within the Code.
435
436 Mr. Kirkland - Anyone else wish to speak? Come forward ma'am. State
437 your name for the record.
438
439 Ms. Nelson - Judy Nelson. I live at 409 Branway Drive. There was a
440 previous view, a little different view of this picture, put up when we first came in, which I
441 was wondering if we could get – yes, that's it. I'm sorry I didn't bring a picture from my
442 side. I am the owner of the house which you can see the top of.
443
444 Mr. Balfour - You're the lady with the cottage?
445

446 Ms. Nelson - With the cottage, yes. I see, if I put my hand down here, it
447 shows you what I'm looking at?

448
449 Ms. Nelson - Well, right now I'm looking at a lot of structure. First there
450 was a deck, and a large deck, and we thought "wow, that's big," but it was very pretty,
451 and you could see across it, and so on. And then up went the screens. Now my house
452 is fairly close to the deck, as you can see barely through the screens, so when I sit on
453 my back porch, which is just a porch, I'm really looking at a lot of screen, and most
454 recently, Mr. Park moved his shed from, as Mrs. Strader said, the south end of the
455 property to the north end of the property. I don't know if you can really see the
456 distances, but we did not build the garage that's there, and we don't use it as a garage.
457 We all have very big driveways in our neighborhood, pretty much you can park 2 cars at
458 the top of your driveway. The only problem we have is that my son likes to play
459 basketball, and we have to move them down every day, but pretty much you can fit 2,
460 even 3, cars at the top of your driveway, and with Richmond weather, we haven't even
461 felt it necessary to put any of our cars in the garage, so my husband uses that structure
462 for somewhat of a workshop and a tool shed, and we put our lawnmowers and bicycles
463 and things in there. The shed that Mr. Park moved over, which he also uses for his
464 lawn equipment, is 4 ½ feet from my property line, and when I sit on my deck, I can't
465 necessarily see it, but when I look out from any window in my house, that's what I'm
466 looking at. I went out, actually, and said, "Mr. Park, that's awfully close," and he did
467 know what the law was, and he told me what the law was, so I guess if I feel bad about
468 being here, which I kind of do, I have to remember that Mr. Park knew the law very well.

469
470 My shed, or cottage, or garage, the previous owners put it there; it's wood, it's in
471 complete keeping with the house, and we've landscaped around it, is 15 ½ feet from Mr.
472 Park's property line. I think that's a neighborly distance. It's not entirely visible from the
473 front, depending on whether you're coming up the street or down the street, but you
474 know, it's not a bad looking structure – it's got 2 windows on the front side and 1 around
475 there, and it's even got them around the back. I'm looking at a lot of building, and I now
476 know that I'm going to be looking at more building, probably no matter what we decide
477 here, I may be looking at more construction.

478
479 The reason my husband and I moved to this subdivision, we had a number of reasons,
480 nobody has one reason, but a big reason that we moved to this particular neighborhood,
481 was because we came from the Raintree subdivision, where the houses were much
482 closer, the buffers weren't as good, we liked the woods behind the house, and we liked
483 the feeling of space. This is the closest to living in the country that my husband and I
484 will ever get. The next time we move, when we can no longer maintain this property,
485 we'll probably go into a condominium or something with little or no property, so I hate to
486 impose on Mr. Park's plans for his future, but I have to tell you that he's imposing on my
487 plans for my future. This is a piece of land that we chose very carefully. We took a
488 year, looking around at all the properties adjacent to Avalon. We really did do our
489 homework; we came down to the County and looked at everything. We liked the fact
490 that we had the big buffer in the back; the 16-foot easement was fine with us. We had
491 no plans of building anything further on this house, and we really liked the openness of

492 it. I guess at the very least, I would say that Mr. Park has misunderstood the size of his
493 property in relation to the amount of building that he's doing, and I think he's
494 misunderstood the nature of the neighborhood and the impact that this will have on his
495 closest neighbors and friends. So I would have to say that my first choice would be for
496 him to remove that shed from my property line, and possibly build himself maybe a
497 bigger shed somewhere in the back of his.....

498
499 Mr. Wright - He's within his rights there.....

500
501 Ms. Nelson - Of course he is, and so, if we're talking about preferences, I
502 would just like to have less building that I have to look at, because I'll be looking at that
503 for the rest of my home-owning days. I guess I don't have anything else to say.
504 Thanks.

505
506 Mr. Kirkland - Thank you ma'am. Anyone else wish to speak? Mr. Moore,
507 would you like to rebut.

508
509 Mr. Moore - I'd like to thank Mr. Park's neighbors for coming today. Mr.
510 Park has informed me that he doesn't want to upset his neighbors, and he'd like to
511 retract his garage, just forget it, very disappointed in the neighbors, but what are you
512 going to do. He doesn't want to cause any hardship or any problems with the
513 neighbors, and he wants them to be happy as well, so he'd like to retract his variance.

514
515 Mr. Kirkland - So you're asking for a withdrawal?

516
517 Mr. Moore - Withdrawal.

518
519 Mr. McKinney - Could I ask you one quick question?

520
521 Mr. Moore - Absolutely.

522
523 Mr. McKinney - The take-off from Lowe's that you have here, is that figure
524 correct -- \$33,158.50? That equates to \$38.38 a square foot.

525
526 Mr. Moore - Yes, I think he was a little bit pricey, didn't you think? I
527 thought it was too.

528
529 Mr. McKinney - By about 3 times. But I mean he's perfectly within his rights
530 to put it to normal size and put it longwise.....

531
532 Mr. Moore - He doesn't want to offend the neighbors; he 's very careful
533 about that; I'm very sorry they feel like they do. Also, he wanted me to inform the lady
534 that he would move his shed back to the other side so that she could be happy. I thank
535 the Board, and I'm sorry for your time, and we really appreciate it. Thank you.

536

537 Mr. Kirkland - Do I have a motion here for withdrawal, and we'll go ahead
538 and do this one up.

539
540 After an advertised public hearing and on a motion by Mr. Balfour, seconded by
541 Mr. McKinney, the Board **allowed withdrawal without prejudice** of your
542 application **A-4-2001**, for a variance to build a garage at 407 Branway Drive.

543
544 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
545 Negative: 0
546 Absent: 0

547
548
549
550 **A - 14-2001** **GEORGE M. O'MARA** requests a variance from Section 24-
551 95(c)(4) of Chapter 24 of the County Code to build a front porch at
552 7815 Dalmain Drive (Woodland Hills) (Tax Parcel 72-4-A-17),
553 zoned R-4, One-family Residence District (Brookland). The front
554 yard setback is not met. The applicant has 30 feet front yard
555 setback, where the Code requires 35 feet front yard setback. The
556 applicant requests a variance of 5 feet front yard setback.

557
558 Mr. Kirkland - Does anyone else wish to speak on this case? If you would
559 sir, raise your right hand and be sworn in.

560
561 Mr. Blankinship - Do you swear that the testimony you are about to give is the
562 truth, the whole truth, and nothing but the truth, so help you God?

563
564 Mr. Kirkland - All your notices been turned in? We have them in the file. If
565 you would, state your case.

566
567 Mr. O'Mara - George M. O'Mara. I would like to build a small front porch
568 to replace a stoop that's presently there. The porch would cover the door and a window
569 and give the house a little personality. And the third thing, the "A" that projects out, has
570 step-flashing on it, which has been the source of leaks ever since I have lived there, and
571 one way of curing that, will bring that "A" down to the other roof line, and I will come out
572 4 feet. I'm respectful of my neighbors by making this porch only 4 feet deep, and also of
573 the Code. I didn't realize the Code was 35 feet, and so I've asked for a 5 foot variance
574 in order to put that 4 foot porch out there. It would be approximately 4 feet deep by 18
575 feet wide.

576
577 Mr. Kirkland - Any questions by Board members? Anyone else wish to
578 speak on this case? If not, that concludes the case.

579
580 After an advertised public hearing and on a motion by Mr. Balfour, seconded by
581 Mr. Wright, the Board **granted** your request for the above referenced variance to

582 build a front porch at 7815 Dalmain Drive. The Board granted the variance
583 subject to the following condition:

584
585 1. Only the front porch shown on the plan filed with the application may be
586 constructed pursuant to this approval. Any additional improvements shall comply with
587 the applicable regulations of the County Code.

588
589 The Board **granted** this request, as it found from the evidence presented that, due to
590 the unique circumstances of the subject property, strict application of the County Code
591 would produce undue hardship not generally shared by other properties in the area, and
592 authorizing this variance will neither cause a substantial detriment to adjacent property
593 nor materially impair the purpose of the zoning regulations.

594
595 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
596 Negative: 0
597 Absent: 0

598
599
600 **A - 16-2001 DOUGLAS A. AND JEANETTE R. BURTON** request a variance
601 from Section 24-94 of Chapter 24 of the County Code to build an
602 addition at 10939 Rickey Court (Lexington) (Tax Parcel 38-11-B-
603 10), zoned R-3AC, One-family Residence District (Conditional)
604 (Three Chopt). The rear yard setback is not met. The applicant has
605 28.5 feet rear yard setback, where the Code requires 35 feet rear
606 yard setback. The applicant requests a variance of 6.5 feet rear
607 yard setback.

608
609 Mr. Kirkland - Does anyone else wish to speak on the case? If you would,
610 sir, please stand and raise your right hand. Also the applicant to be sworn in.

611
612 Mr. Blankinship - Do you swear that the testimony you are about to give is the
613 truth, the whole truth, and nothing but the truth, so help you God?

614
615 Mr. Kirkland - Okay, you can sit down sir, and I'll call you next. If you
616 would, state your name for the record. Have all your notices been turned in? Okay, we
617 have them in the file. Okay, would you state your case.

618
619 Mr. Burton - I do. My name is Douglas A. Burton. Yes sir. We would like
620 to add a one and one-half room addition to the back of the house. I don't know if this
621 drawing is as clear as I'd like it to be. The current structure basically goes straight
622 across from the 17-foot section. The cross-hatched area would be a deck. So we are
623 essentially adding the area that is surrounding the 27 foot label there. It would be an
624 extension to the existing kitchen, plus a 12- by 10-foot room behind what is now the
625 dining room.

626

627 Mr. Wright - I'm a little confused as to what you're adding from this plan
628 here.

629
630 Mr. Burton - Okay, if you look across the deck, and you see the cantilever
631 under the second floor, and the short, say 5-foot section, that comes out from the back
632 of the house, it is our intention to extend that wall out 10 feet and go across to the other
633 end of the house. All the way across the back.

634
635 Mr. Wright - So you're just going to add a 10-foot addition onto the back
636 of the house? Now this diagram that we have, we had it on the screen a moment ago –
637 could we put that back on that.

638
639 Mr. Wright - Is this the present house?

640
641 Mr. Burton - No sir, this is our proposal.

642
643 Mr. Balfour - Oh, that shows the addition on it? I think the confusion thing
644 is, is that the deck where the hand is, or is

645
646 Mr. Burton - The cross-hatched area is where we propose to put the
647 deck.

648
649 Mr. Wright - Oh that's going to be a new deck? So due to the shape of
650 the lot, just the corner of the deck violates the code, is that correct?

651
652 Mr. Burton - Yes, and the corner of the proposed addition exceeds the
653 setback requirement by about three feet.

654
655 Mr. Kirkland - Any other questions? Sir, would you like to speak. If he's in
656 opposition, you'll have a few minutes to rebut afterwards.

657
658 Mr. Stone - My name is Frank Stone. I live in the adjoining property right
659 behind Mr. Burton, and I've been there for about 40 years. It used to be country when I
660 moved out there. But anyway, according to Mr. Burton's request, he will not bother me
661 one way or another, because when I talked to him personally, I said, "as long as you
662 keep your stuff on your side of the fence, I'll keep mine on mine, no problem."

663
664 Mr. Kirkland - Okay sir, thank you very much. Do you have anything you'd
665 like to add? No further questions? Anyone else wish to speak? That concludes the
666 case.

667
668 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
669 Nunnally, the Board **granted** your request a variance to build an addition at 10939
670 Rickey Court (Tax Parcel 38-11-B-10). The Board **granted** the request subject to the
671 following condition:

672

673 1. Only the addition shown on the plan filed with the application may be constructed
674 pursuant to this approval. Any additional improvements shall comply with the applicable
675 regulations of the County Code.

676
677 The Board **granted** this request, as it found from the evidence presented, that due to
678 the unique circumstances of the subject property, strict application of the County Code
679 would produce undue hardship not generally shared by other properties in the area, and
680 authorizing this variance will neither cause a substantial detriment to adjacent property
681 nor materially impair the purpose of the zoning regulations.

682
683
684 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
685 Negative: 0
686 Absent: 0

687
688 Mr. Blankinship - The next two are companion cases.

689
690 Mr. Kirkland - If you would, call them together, please.

691
692
693 **A - 17-2001** **ANNIE C. VON GRAY** requests a variance from Section 24-94 of
694 Chapter 24 of the County Code to build single family dwelling at
695 8201 Turner Road (Scenic View) (Tax Parcels 250-3-A-5A and
696 250-A-43 (part)), zoned A-1, Agricultural District (Varina). The lot
697 width requirement is not met. The applicant has 61 feet minimum lot
698 width, where the Code requires 150 feet minimum lot width. The
699 applicant requests a variance of 89 feet minimum lot width.

700
701 **A - 18-2001** **ANNIE C. VON GRAY** requests a variance from Section 24-9 of
702 Chapter 24 of the County Code to build a single family dwelling at
703 4020 Camp Holly Drive (Tax Parcel 250-A-43 (part)), zoned A-1,
704 Agricultural District (Varina). The public street frontage requirement
705 is not met. The applicant has 0 feet public street frontage, where
706 the Code requires 50 feet public street frontage. The applicant
707 requests a variance of 50 feet public street frontage.

708
709 Mr. Kirkland - Is the applicant here? If you would sir, raise your right hand
710 and be sworn in. Does anyone else wish to speak on this case? Also raise your right
711 hand.

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

715
716 Mr. Kirkland - State your name for the record. Have all your notices been
717 turned in according to the Code? We have them in the file.

718 Mr. Kelly - My name is Mike Kelly, and I'm here to represent Annie Von
719 Gray. Yes sir. Ms. Von Gray could not be here today; she is in the hospital as we
720 speak. She's 83 years old, and what she is requesting is a variance to build a structure
721 at 8201 Turner Road, and it does not meet the setback requirement for the first one.
722 She has owned the property since 1954; she's lived there, down the street, all her life.
723 She was born and raised on Turner Road. Back before 1987 the property was, the
724 setback was different than it is at today's date, and it was conforming with the Code
725 back then. So now of course, it's got to be 150 feet wide and 50 feet back, which we do
726 not have. We do have 150 feet, plus some more, over 180 feet at the proposed building
727 site now, where we propose to build a home. We just request a variance to build that
728 home at that site.

729
730 Mr. Nunnally - Mr. Kelly, Ms. Von Gray, is she selling this property
731 to.....are you in the building business?
732

733 Mr. Kelly - I am a real estate agent and in the building business. I am
734 her great nephew, and she kind of depends on me for everything she does. She wants
735 to sell the property, and I have a contract to buy the property. She wants to move to an
736 assisted living facility. She needs money to do that, so that's why I'm requesting this
737 variance for her.
738

739 Mr. Nunnally - In other words, you're buying the property, subject to the
740 variance to build two spec homes.
741

742 Mr. Kelly - Yes sir. She lives at 8147 Turner, which is north, that power
743 line actually goes through her back yard.
744

745 Mr. Wright - So she doesn't live on the property?
746

747 Mr. Kelly - No sir. They actually owned all that property at one point in
748 time and built homes on it.
749

750 Mr. Wright - This is vacant land?
751

752 Mr. Kelly - This is vacant land, yes sir. Continuing to the next
753 parcel..... The next parcel is right there where we are looking at on the screen.
754 That fronts Camp Holly Drive, which is a private road. According to the engineers and
755 title research, the property does come in 7 feet of the private right-of-way. So there is
756 right-of-way to this property from Camp Holly Road. And that right here, as we go back
757 right there, is 180 feet also, I believe that's what it says, of width right there, where the
758 proposed dwelling would be, at 50 feet off of the private road. It is an all wooded site,
759 and I think that's about it.
760

761 Mr. Nunnally - Have you read the conditions on these two cases, M. Kelly?
762

763 Mr. Kelly - Yes sir. I agree with them fully.

764
765 Mr. Kirkland - Any other questions of the applicant?
766
767 Mr. Wright - Yes, I want to ask Mr. Blankinship a question. Where is the
768 building line on this second lot? Where is it figured from?
769
770 Mr. Blankinship - I don't think that's to scale, so the front would be Camp Holly
771 Drive, so as long as you're satisfied that even though this is not a public road.....
772
773 Mr. Kirkland - Any other questions? Anyone else wish to speak in favor of
774 the case? Okay, sir, you'll have time to rebut after the other people. If you would, sir, if
775 you want to speak.
776
777 Mr. Farkas - Hi, how're you doing? My name is Mark W. Farkas. I am
778 the adjacent landowner, which is on the right-hand side of the long property line. Other
779 than probably, for a good number of years, not being able to maybe purchase the
780 property my own self, because the owner, she wouldn't even talk to me, but that's a
781 personal reason I guess, I was pretty much disturbed about trying to divide the property
782 in half. I don't see on there the exact size of it, but I do know that the property as a
783 whole, is somewhere in the neighborhood of 2.6 to 7 acres. The adjacent property that
784 you see that's dotted out, which my aunt once owned, that I own now, is a 3-acre parcel
785 exactly.
786
787 Mr. Wright - That's the 3.78 acres.....
788
789 Mr. Farkas - Well that's what they say, yes, but they had it surveyed. If
790 you actually had it figured how big that piece is, it's less than that, considerable less. I
791 have it figured out on paper in my own hand, but nothing legal, but I can figure it. If you
792 were to figure square footage, one property section would be about 1.45 acres, and one
793 would be maybe 1.21. You have requirements on water and sewage; there would be
794 septic tanks and wells and things like that to consider.
795
796 Mr. Wright - One acre is what that requires, so they've satisfied that
797 requirement.
798
799 Mr. Farkas - I don't know the requirements, but most of the reason that I
800 was never able to purchase property was the discrepancy in the size. I'm against it,
801 because I am a farmer; I do farm the land that's next to it, and I hate to see all the
802 agriculture being pushed out of Henrico to begin with, That's pretty much what I had to
803 say; I just wanted to make sure that the Board was probably aware of the exact size,
804 because it is not correct in the plat that you have originally in front of you, probably.
805
806 Mr. Nunnally - How much land do you farm down there, Mr. Farkas?
807
808 Mr. Farkas - Presently about 70 acres; I rent some.....
809

810 Mr. Nunnally - Adjoining to this property?
811
812 Mr. Farkas - No, it's only about 17 actually adjoins that that I actually own.
813 That's pretty much what I want to say.
814
815 Mr. Phaup - How do you do – I'm Philip Phaup; I'm an adjoining property
816 owner 3 houses up from the bottom on the left-hand side. All those houses are built on
817 half-acre lots, whatever the Code was then at the time, when they were built roughly 30
818 years ago. Mr. Farkas and I have both walked the property, and like he said, we had
819 measured it, and it was a concern about the sizes of it on the actual acreage of it.
820 Everybody in the neighborhood was basically concerned about value of their homes,
821 etc. We have tried to purchase the land from Mr. Von Gray. Mr. Kelly and I have been
822 friends for years; we hunt together, he's come by my house several times in the last few
823 years. I've made offers on the land; Mr. Farkas has made offers on the land; several
824 people in the area. Mr. Kelly assessed the land himself, just from his knowledge, at
825 around \$26,000. Ms. Von Gray wanted \$40,000 for it, would never give anybody the
826 opportunity to purchase it, to add it to our property, and we just basically don't want the
827 houses there if we can help it. It's personal.
828
829 Mr. Wright - What would you use it for if you bought it?
830
831 Mr. Phaup - Just to add it to the land that I currently have; that's it. I
832 would not build anything. I know there was concern; I've checked into all of that, and I
833 know the well and septic works, but the wells behind each house is roughly 20 feet off
834 the lines, and I thought all that was pretty close. And that's each house going up
835 through there; the wells are in the same spot, roughly 20 feet from the property lines.
836 We just wanted to add it to the properties we had, already, for nothing else, if we could
837 have gotten it for fair market value, but she wanted almost double. That's all I've got;
838 thank you.
839
840 Mr. Kirkland - Thank you sir. Any other questions? Mr. Kelly, do you have
841 anything else you'd like to add?
842
843 Mr. Kelly - Yes sir. I do want to make mention to Mr. Farkas. The
844 property is 2.78 acres. The deed says 3.78; it must have been construed a long time
845 ago, but it is 2.78 acres, which is still an acre for each parcel, which is suitable for well
846 and septic in Henrico County. As far as Mr. Phaup is concerned, he's exactly right; he
847 did make offers to buy the property behind his property. The only problem that Ms. Von
848 Gray had was going in, and if you look, and subdividing each parcel off behind the
849 homes. If she did that, Mr. Phaup might have carried through with his contract. The
850 other people, what happens if, let's just say, one of them died? Now she is stuck with a
851 piece of property that nobody's going to buy, and the configuration is all messed up, and
852 now she's out more money than she had even thought about. So that's the only reason
853 why that came about. The wells and septic I know, no building permit is issued until
854 the health department looks at them, and we have done soil work back there, and the

855 soil work does look good, and it will be the appropriate distance from the wells and
856 septic. I think that's about all I have to say. If you have any questions?

857
858 Mr. Kirkland - Does anyone else wish to speak? That concludes the case.
859 Thank you sir.

860
861 **A-17-2001**

862
863 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
864 Mr. Wright, the Board **granted** your request for a variance to build a single family
865 dwelling 8201 Turner Road. The Board granted the use permit subject to the
866 following conditions:

867
868 1. The property shall be developed in substantial conformance with the plan filed
869 with the application. No substantial changes or additions to the layout may be made
870 without the approval of the Board of Zoning Appeals.

871
872 2. At the time of building permit application, the applicant shall submit the
873 necessary information to the Department of Public Works to ensure compliance with the
874 requirements of the Chesapeake Bay Preservation Act and the code requirements for
875 water quality standards.

876
877 3. Approval of this request does not imply that a building permit will be issued.
878 Building permit approval is contingent on Health Department requirements, including,
879 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
880 of a well location.

881
882 The Board granted this request, as it found from the evidence presented that, due to the
883 unique circumstances of the subject property, strict application of the County Code
884 would produce undue hardship not generally shared by other properties in the area, and
885 authorizing this variance will neither cause a substantial detriment to adjacent property
886 nor materially impair the purpose of the zoning regulations.

887
888 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
889 Negative: 0
890 Absent: 0

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937

A-18-2001

1. The property shall be developed in substantial conformance with the plan filed with the application. No substantial changes or additions to the layout may be made without the approval of the Board of Zoning Appeals.
2. At the time of building permit application, the applicant shall submit the necessary information to the Department of Public Works to ensure compliance with the requirements of the Chesapeake Bay Preservation Act and the code requirements for water quality standards.
3. Approval of this request does not imply that a building permit will be issued. Building permit approval is contingent on Health Department requirements, including, but not limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well location.
4. The applicant must present proof with the building permit application that a legal access to the property has been obtained.
5. The owners of the property, and their heirs or assigns, shall accept responsibility for maintaining access to the property until such a time as the access is improved to County standards and accepted into the County road system for maintenance.

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

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

A - 19-2001

WILLIAM P. AND CHERYL F. TILLEY request a variance from Section 24-9 of Chapter 24 of the County Code to build a single family dwelling at 3206 Fontaine Lane (Tax Parcel 22-A-13B (part)), zoned A-1, Agricultural District (Brookland). The public street frontage requirement is not met. The applicant has 0 feet public street frontage, where the Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet public street frontage.

Mr. Blankinship - Mr. Chairman, this is one of the cases where I handed out a revised staff report. One condition was changed, and another was added. The condition on, I believe it's # 5 that requires the applicant to provide proof of legal access, specifies that that access has to go out to Fontaine Lane; that is what they

938 showed on their plat, but when I discussed this with some of the senior staff in the
939 department, they suggested that that be added as a requirement. Also, a sixth
940 condition was added, requiring that the proposed house be connected to public water
941 and sewer, which was made available out there when Shepherd's Way was developed.
942 Beyond # 4, which had mentioned the Health Department requirements had changed to
943 require a connection to public water and sewer.

944
945 Mr. Kirkland - All right sir. If you will please stand and raise your right
946 hands.

947
948 Mr. Blankinship - Do you swear that the testimony you are about to give is the
949 truth, the whole truth, and nothing but the truth, so help you God?

950
951 Mr. Kirkland - Who's going to put on the case, applicant? If you would,
952 state your name, please. Have all your notices been turned in, according to County
953 Code? We have them in the file.

954
955 Mr. Tilley - My name is William Paul Tilley. My wife, Cheryl, could not
956 make it today.

957
958 Mr. Kirkland - Okay, now you can proceed with your case.

959
960 Mr. Tilley - Good morning. My grandfather, Roy Blanchard, owns some
961 property, you can kind of see it on the screen right there. We would like to build a 2-
962 story house, my family and I, on that property. He would like to give us one acre of land
963 so we can do so. But checking out through Planning and all the different red tape we've
964 had to go through, we've had to find out that I needed a variance for 50 feet public road
965 frontage, and that's why I'm here this morning.

966
967 Mr. Kirkland - Did you understand the conditions that Mr. Blankinship
968 stated that we've added to the case?

969
970 Mr. Tilley - Yes sir, I understand about the water and sewer, yes sir, and
971 then about the right-of-way through the piece of property, it shows there, that would be
972 on the deed my grandfather will give me access across his property to get to my piece
973 of land.

974
975 Mr. Kirkland - That's what it means. It will be in the deed.

976
977 Mr. Wright - How wide is that access going to be? It doesn't show on the
978 plat.

979
980 Mr. Tilley - I guess

981
982 Mr. Kirkland - Grandfather says – 15 feet – it needs to be big enough for a
983 fire truck to get back there.

984
985 Mr. Wright - I take it you would be the only one using that access to this
986 property. Nobody else would be using it?

987
988 Mr. Tilley - Myself and my family, yes sir.

989
990 Mr. McKinney - Mr. Tilley, how close is the water and sewage to this
991 property?

992
993 Mr. Tilley - Right there at the bottom of the screen, is where my
994 grandfather's water meter is. You see there, right on Fontaine Lane, the water starts
995 right there, and the sewage is behind the property, if you go all the way down.

996
997 Mr. McKinney - How far is that to your property? How long is that road?

998
999 Mr. Tilley - How far distance wise? Two hundred feet, more or less.

1000
1001 Mr. McKinney - So it's within the three hundred feet? Okay.

1002
1003 Mr. Kirkland - Any other questions? Anyone else wish to speak? That
1004 concludes the case, sir.

1005
1006 After an advertised public hearing and on a motion by Mr. McKinney, seconded
1007 by Mr. Wright, the Board **granted** your request for a variance to build a single
1008 family dwelling at 3206 Fontaine Lane (Tax Parcel 22-A-13B (part)). The Board
1009 granted the use permit subject to the following conditions:

1010
1011 1. The property shall be developed in substantial conformance with the plan filed
1012 with the application. No substantial changes or additions to the layout may be made
1013 without the approval of the Board of Zoning Appeals.

1014
1015 2. At the time of building permit application, the applicant shall submit the
1016 necessary information to the Department of Public Works to ensure compliance with the
1017 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1018 water quality standards.

1019
1020 3. At the time of building permit application the owner shall demonstrate that the
1021 parcel created by this division has been conveyed to members of the immediate family,
1022 and the subdivision ordinance has not been circumvented. If this condition cannot be
1023 met, the owner shall submit a subdivision plat for review and approval by the Planning
1024 Office.

1025
1026 4. Connections shall be made to public water and sewer.

1027

1028 5. The applicant must present proof with the building permit application that a legal
1029 access to the property has been obtained from Fontaine Avenue. Access shall not be
1030 provided to the private drive to the south.

1031
1032 The Board granted this request, as it found from the evidence presented that, due to the
1033 unique circumstances of the subject property, strict application of the County Code
1034 would produce undue hardship not generally shared by other properties in the area, and
1035 authorizing this variance will neither cause a substantial detriment to adjacent property
1036 nor materially impair the purpose of the zoning regulations.

1037
1038 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1039 Negative: 0
1040 Absent: 0

1041
1042 **UP- 3-2001 WEST SAND & GRAVEL CO., INC.** requests a conditional use
1043 permit pursuant to Sections 24-52(d) and 24-103 of Chapter 24 of
1044 the County Code to continue extraction operations at 8558 Strath
1045 Road (Tax Parcels 248-A-24, 38 and 258-A-14), zoned A-1,
1046 Agricultural District (Varina).

1047
1048 Mr. Chairman, this is the other one where there is a revised condition. It is number 25; I
1049 had used the standard condition, and the applicant called me the day before yesterday
1050 and requested that I substitute the condition that was approved by this Board in 1998,
1051 so that's what we did. The text of # 25, in the revised condition, is exactly what was in
1052 the previous use permit that's being renewed.

1053
1054 Mr. Kirkland - Does anyone else wish to speak on this case? All right, sir,
1055 raise your right hand and be sworn in.

1056
1057 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1058 truth, the whole truth, and nothing but the truth, so help you God?

1059
1060 Mr. Kirkland - State your name for the record.

1061
1062 Mr. Cline - I do. My name is Bryan Cline; I'm here as a representative
1063 for West Sand & Gravel.

1064
1065 Mr. Kirkland - Have your notices been turned in. Yes, we have them in the
1066 file. Thank you sir.

1067
1068 Mr. Cline - I'd just like to continue the operation that we currently have
1069 at this site. It's currently in the latter phases of this site. I believe this site has been in
1070 place for at least the last 30 years, and we're just in the final stages, as I said, wrapping
1071 it up, working on reclamation, filling in a deep hole that was created by the previous
1072 extraction activities, and we'd just like to have the option of being able to extract fill

1073 materials if the opportunity arises. There are no extraction operations at this site at this
1074 time.

1075
1076 Mr. Kirkland - Mr. Blankinship, I see we haven't had any complaints since
1077 1998; is that correct?

1078
1079 Mr. Blankinship - That's correct. They haven't been as active as they were
1080 previously.

1081
1082 Mr. Cline - Like I said, we're just in the final stages, wrapping it up,
1083 hoping that this is the last permit we'll have to have on this site.

1084
1085 Mr. Wright - So you think it's coming to an end?

1086
1087 Mr. Cline - Yes.

1088
1089 Mr. Balfour - What's your time frame, when do you expect it to be
1090 through?

1091
1092 Mr. Cline - Ideally, I'd like to have final reclamation pretty well
1093 completed next year.

1094
1095 Mr. Balfour - 2002?

1096
1097 Mr. Cline - 2002, yes.

1098
1099 Mr. Kirkland - Any other questions?

1100
1101 Mr. Nunnally - Yes, I'd like to ask, how's Mr. McCaul? Back on the job?

1102
1103 Mr. Cline - He's fine. As far as I know; I spoke to him about this, and he
1104 seems to be just fine.

1105
1106 Mr. Kirkland - All right, no other questions? Does anyone else wish to
1107 speak? If you would, come down front, sir. Would you state your name for the record
1108 sir. Were you sworn in?

1109
1110 Mr. Highsmith - My name is Joseph Highsmith, and I own the property, I
1111 guess it's south of West Sand and Gravel, and basically I'm just here for information.
1112 I'm not opposing. It's my understanding that to transport sand and gravel for 895, they
1113 wanted to go through Varina Road, am I correct?

1114
1115 Mr. Blankinship - That was the original request. In our review we suggested
1116 they not do that; they agreed with that, and it's in the condition now that they have to
1117 use Strath.

1118

1119 Mr. Highsmith - Okay, that's all.
1120
1121 Mr. Kirkland - Any other questions? Would you like to rebut that sir?
1122 That's a big one.
1123
1124 Mr. Cline - I have no problem with that.
1125
1126 Mr. Kirkland - No other questions, no other comments? That concludes
1127 the case.
1128
1129 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
1130 Mr. McKinney, the Board **granted** you're your request to renew the above
1131 referenced conditional use permit to continue extraction operations at 8558
1132 Strath Road (Tax Parcels 248-A-24, 38 and 258-A-14).
1133
1134
1135 The Board granted the use permit subject to the following conditions:
1136
1137 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of
1138 the County Code.
1139
1140 2. Before beginning any work, the applicant shall provide a financial guaranty in an
1141 amount of \$2,000 per acre for each acre of land to be disturbed, for a total of \$89,000,
1142 guaranteeing that the land will be restored to a reasonably level and drainable condition.
1143 This permit does not become valid until the financial guaranty has been approved by the
1144 County Attorney. The financial guaranty may provide for termination after 90 days notice
1145 in writing to the County. In the event of termination, this permit shall be void, and work
1146 incident thereto shall cease. Within the next 90 days the applicant shall restore the land
1147 as provided for under the conditions of this use permit. Termination of such financial
1148 guaranty shall not relieve the applicant from its obligation to indemnify the County of
1149 Henrico for any breach of the conditions of this use permit. If this condition is not
1150 satisfied within 90 days of approval, the use permit shall be void.
1151
1152 3. Before beginning any work, the applicant shall submit erosion control plans to the
1153 Department of Public Works for review and approval. Throughout the life of the
1154 operation, the applicant shall continuously satisfy the Department of Public Works that
1155 erosion control procedures are properly maintained, and shall furnish plans and bonds
1156 that the department deems necessary. The applicant shall provide certification from a
1157 licensed professional engineer that dams, embankments and sediment control
1158 structures meet the approved design criteria as set forth by the State. If this condition is
1159 not satisfied within 90 days of approval, the use permit shall be void.
1160
1161 4. Before beginning any work, the applicant shall obtain a mine license from the
1162 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
1163 within 90 days of approval, the use permit shall be void.
1164

- 1165 5. Before beginning any work, the areas approved for mining under this permit shall
1166 be delineated on the ground by five-foot-high metal posts at least five inches in diameter
1167 and painted in alternate one foot stripes of red and white. These posts shall be so
1168 located as to clearly define the area in which the mining is permitted. They shall be
1169 located, and their location certified, by a certified land surveyor. If this condition is not
1170 satisfied within 90 days of approval, the use permit shall be void.
1171
- 1172 6. In the event that the Board's approval of this use permit is appealed, all
1173 conditions requiring action within 90 days will be deemed satisfied if the required actions
1174 are taken within 90 days of final action on the appeal.
1175
- 1176 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
1177 state and local regulations administered under such act applicable to the property, and
1178 shall furnish to the Planning Office copies of all reports required by such act or
1179 regulations.
1180
- 1181 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings
1182 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.
1183
- 1184 9. No operations of any kind are to be conducted at the site on Saturdays, Sundays,
1185 or national holidays.
1186
- 1187 10. All means of access to the property shall be from the established entrance onto
1188 Strath Road.
1189
- 1190 11. The applicant shall erect and maintain gates at all entrances to the property.
1191 These gates shall be locked at all times, except when authorized representatives of the
1192 applicant are on the property.
1193
- 1194 12. The applicant shall post and maintain a sign at the entrance to the mining site
1195 stating the name of the operator, the use permit number, the mine license number, and
1196 the telephone number of the operator. The sign shall be 12 square feet in area and the
1197 letters shall be three inches high.
1198
- 1199 13. The applicant shall post and maintain "No Trespassing" signs every 250 feet
1200 along the perimeter of the property. The letters shall be three inches high. The applicant
1201 shall furnish the Chief of Police a letter authorizing the Division of Police to enforce the
1202 "No Trespassing" regulations, and agreeing to send a representative to testify in court
1203 as required or requested by the Division of Police.
1204
- 1205 14. Standard "Truck Entering Highway" signs shall be maintained on Strath Road on
1206 each side of the entrances to the property.
1207
- 1208 15. The applicant shall maintain a standard stop sign at the entrance to Strath Road.
1209

- 1210 16. The applicant shall provide a flagman to control traffic from the site onto the
1211 public road, with the flagman yielding the right of way to the public road traffic at all
1212 times. This flagman will be required whenever the Division of Police deems necessary.
1213
- 1214 17. All roads used in connection with this use permit shall be effectively treated with
1215 calcium chloride or other wetting agents to eliminate any dust nuisance.
1216
- 1217 18. The operation shall be so scheduled that trucks will travel at regular intervals and
1218 not in groups of three or more.
1219
- 1220 19. Trucks shall be loaded in a way to prevent overloading or spilling of materials of
1221 any kind on any public road.
1222
- 1223 20. The applicant shall maintain the property, fences, and roads in a safe and secure
1224 condition indefinitely, or convert the property to some other safe use.
1225
- 1226 21. If, in the course of its preliminary investigation or operations, the applicant
1227 discovers evidence of cultural or historical resources, or an endangered species, or a
1228 significant habitat, it shall notify appropriate authorities and provide them with an
1229 opportunity to investigate the site. The applicant shall report the results of any such
1230 investigation to the Planning Office.
1231
- 1232 22. If water wells located on surrounding properties are adversely affected, and the
1233 extraction operations on this site are suspected as the cause, the effected property
1234 owners may present to the Board evidence that the extraction operation is a contributing
1235 factor. After a hearing by the Board, this use permit may be revoked or suspended, and
1236 the operator may be required to correct the problem.
1237
- 1238 23. Open and vertical excavations having a depth of 10 feet or more, for a period of
1239 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
1240 public safety.
1241
- 1242 24. Topsoil shall not be removed from any part of the property outside of the area in
1243 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
1244 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
1245 within the authorized mining area and provided with adequate erosion control
1246 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought
1247 to the site to provide the required five-inch layer of cover. All topsoil shall be treated
1248 with a mixture of seed, fertilizer, and lime as recommended by the County after soil
1249 tests have been provided to the County.
1250
- 1251 25. Off-site generated materials may be brought to and deposited on the mining site
1252 only for reclamation. Such materials shall consist only of clean soils and inorganic
1253 materials free of refuse, debris, biodegradable materials, toxic or sanitary waste, or any
1254 other material that may adversely affect the quality of ground waters. West Sand &
1255 Gravel Co., Inc. shall be responsible for obtaining certifications that all such materials

1302
1303 Mr. Kirkland - Okay, we have some minutes on the docket here.
1304
1305 On a motion by Mr. Nunnally, seconded by Mr. Wright, the Board **approved** the
1306 Minutes of the August 24 and September 28, 2000, Henrico County Board of
1307 Zoning Appeals meetings.
1308
1309 There being no further business, and on a motion by Mr. Nunnally, seconded by
1310 Mr. Wright, the Board adjourned until March 22, 2001, at 9:00 am.
1311
1312
1313
1314
1315
1316 Richard Kirkland,

1317 Chairman

1318

1319

1320 Benjamin Blankinship, AICP

1321 Secretary

1322