

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF  
2 HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE  
3 HENRICO COUNTY GOVERNMENT COMPLEX, ON THURSDAY, FEBRUARY 28,  
4 2002 AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND  
5 TIMES-DISPATCH ON FEBRUARY 7 AND 14, 2002.  
6

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

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

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

11  
12 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board,  
13 ladies and gentlemen. The rules for this meeting are as follows. As Secretary, I  
14 will call each case. At that time the applicant should come down to the podium to  
15 present the case. I will ask all those who intend to speak, in favor or in opposition,  
16 to stand, and they will be sworn in. The applicants will then present their  
17 testimony. When the applicant is finished, anyone else will be given an opportunity  
18 to speak. After everyone has spoken, the applicant, and only the applicant, will  
19 have an opportunity for rebuttal. After hearing the case, and asking questions, the  
20 Board will take the matter under advisement. They will render all of their decisions  
21 at the end of today's meeting. If you wish to know what their decision is on a  
22 specific case, you may stay until the end of the meeting, or you may call the  
23 Planning Office later this afternoon. This meeting is being tape recorded, so we  
24 will ask everyone who speaks, to speak directly into the microphone on the  
25 podium, and to state your name. Out in the foyer, there are two binders, which  
26 contain the staff report for each case, including the conditions suggested by the  
27 staff. Mr. Chairman, I am not aware of any deferrals or withdrawals?  
28

29 Mr. Balfour - There being none, will you call the first case please.

30  
31 **A - 11-2002 DAVID AND TAMMY ROTH** request a variance from Section 24-

32 95(i)(2)f of Chapter 24 of the County Code to build a swimming  
33 pool at 1231 Archie Lane (Osborne Heights) (Parcel 802-687-  
34 9819), zoned A-1, Agricultural District (Varina). The accessory  
35 structure location requirement is not met. The applicants wish  
36 to locate a swimming pool in the side and rear yard, where the  
37 Code allows swimming pools in the rear yard.  
38

39 Mr. Balfour - Are there any others who expect to testify in this matter?  
40 Would you raise your right hand please?  
41

42 Mr. Blankinship - Do you swear that the testimony you are about to give is  
43 the truth, the whole truth, and nothing but the truth, so help you God?  
44

45 Mr. Balfour - Would whoever's going to speak, state your name please.  
46

47 Mrs. Roth - I do. My name is Tammy Roth. We're asking for a  
48 variance to put a swimming pool behind our house. Our house is L-shaped, and  
49 according to the Code, it says that a pool must be behind the furthest part of the  
50 house, and yet we would like to put it in the L-shaped part, which I guess  
51 constitutes the side yard. From the road, approximately 8 to 10 feet, the edge of  
52 the pool will be extending past the house. The landscape plans that we proposed  
53 to put around it would hide all the view from the road and from the neighbor in lot  
54 8. The neighbors behind us live down the hill on Mill Road, and you can just barely  
55 see the tops of their houses, so they would not be able to see whether or not we  
56 have a pool. They see the top of our house. The neighbor on the other side of us,  
57 Mr. Leake, he cannot see at all, because of the shape of the house. The  
58 landscaping that we propose to put in will hide all the views of the pool. As far as  
59 putting it anywhere else on the lot, the drainage field is on the left there, as you  
60 can see, and on the right is where there's alternate designated area for a septic  
61 tank in the future if we need it.  
62

63 Mr. Balfour - Any questions of Mrs. Roth?  
64

65 Mr. Nunnally- Mrs. Roth, you say you cannot see it from Archie  
66 Lane?  
67

68 Mrs. Roth - You will not be able to see it once we put the  
69 landscaping up. We want to put a short brick wall, with kind of an earth berm in  
70 it, and have plantings of ornamental grasses. There will be a black wrought iron  
71 fence on top of the wall, so you will not be able to see the pool itself from Archie  
72 Lane, nor will the neighbors in the adjacent lot be able to see it unless they get up  
73 on their roof.  
74

75 Mr. Balfour - Are there any other questions?

76  
77 Mr. Wright- Mrs. Roth, have you read the conditions proposed for this  
78 case?  
79  
80 Ms. Roth- Are you speaking of the Code that involves this?  
81  
82 Mr. Wright- Yes, there were 2 suggested conditions; I didn't know  
83 whether you had seen those. I want to make sure that if this were approved, that  
84 you were in accord with the conditions.  
85  
86 Mrs. Roth - I'm not aware of that, no, I'm sorry. No, I did not receive  
87 this in the mail, but I understand these 2 conditions, and I agree to them, yes.  
88  
89 Mr. Wright- I just wanted to make sure that you are aware that there  
90 are 2 conditions proposed.  
91  
92 Mrs. Roth - Yes, that's acceptable to me.  
93  
94 Mr. Nunnally- Mrs. Roth, how tall is that brick wall that goes around  
95 there, 3 feet, 4 feet, 5 feet, how tall is it?  
96  
97 Mrs. Roth - It's going to be about, it's hard to explain. At the  
98 beginning of it, which will be to the left of the heat pump, it's going to circle  
99 around. At the beginning it's going to be approximately about 5 or 6 bricks high,  
100 and then as it comes around the pool, it will become shallower, because the grade  
101 goes up a little bit. Also, on the inside, where the pool is, there will be another  
102 brick wall, a short one, and it's going to be leveled off with dirt in it, like a large,  
103 wide, landscaping area, and from there I'll put the ornamental grasses and other  
104 plantings, so you will not be able to see the water or even the lawn chairs or  
105 anything from the road and the neighbor. You will be able to see the side of my  
106 house; it won't be that tall. I understand that there are some Code restrictions on  
107 how high walls and fences need to be, so I'm planning on doing it within those  
108 restrictions too.  
109  
110 Mr. Balfour - Any other questions? Thank you Mrs. Roth.  
111  
112 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
113 Mr. Wright, the Board **granted** application **A-11-2002** for a variance to build a  
114 swimming pool at 1231 Archie Lane (Osborne Heights) (Parcel 802-687-9819).  
115 The Board granted the variance subject to the following conditions:  
116  
117 1. Only the improvements shown on the plan filed with the application may be  
118 constructed pursuant to this approval. Any additional improvements shall comply  
119 with the applicable regulations of the County Code.

120  
121 2. If land disturbance will exceed 2,500 square feet, the requirements of  
122 Chapter 10 of the County Code apply. At the time of building permit  
123 application, the applicant shall submit the necessary information to the  
124 Department of Public Works to ensure compliance with the requirements of  
125 the Chesapeake Bay Preservation Act and the code requirements for water  
126 quality standards.

127  
128 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
129 Negative: 0  
130 Absent: 0

131  
132 The Board granted this request, as it found from the evidence presented that, due  
133 to the unique circumstances of the subject property, strict application of the  
134 County Code would produce undue hardship not generally shared by other  
135 properties in the area, and authorizing this variance will neither cause a substantial  
136 detriment to adjacent property nor materially impair the purpose of the zoning  
137 regulations.

138  
139 **A - 12-2002** **DAVE DUONG** requests a variance from Section 24-94 of  
140 Chapter 24 of the County Code to build a deck at 4400  
141 Hungary Glen Terrace (Hungary Glen) (Parcel 762-760-8771),  
142 zoned R-3AC, One-family Residence District (Conditional)  
143 (Brookland). The rear yard setback is not met. The applicant  
144 has 12.5 feet rear yard setback, where the Code requires 25  
145 feet rear yard setback. The applicant requests a variance of  
146 12.5 feet rear yard setback.

147  
148 Mr. Balfour - Are there any others who expect to testify in this matter?  
149 Would you raise your right hand please?

150  
151 Mr. Blankinship - Do you swear that the testimony you are about to give is  
152 the truth, the whole truth, and nothing but the truth, so help you God?

153  
154 Mr. Balfour - State your name please. Proceed.

155  
156 Mr. Duong - Yes I do. Yes, first name Dave, "D-a-v-e," last name  
157 Duong, "D-u-o-n-g. We bought the house in March of 2000. This is a corner lot,  
158 and we used to have a deck on the back of the house, and later on we built a  
159 screened room. The room was built by American Brother; Melani Brothers built the  
160 screened room. Melani Brothers applied for a variance to build the sunroom on the  
161 back because the setback from the house to the property line was about 35 feet at  
162 that time, and we needed to apply for a variance, and Melani applied for it. After  
163 the sunroom was built, once we had a deck on the back, and the sun would be on

164 the deck. We don't have a deck any more on the back, and we would like to have  
165 a deck on the back for my kid and my nephew so they can stay for a time on the  
166 deck. We have not applied for permission to build a deck, and after the deck was  
167 built, the inspector who inspected the sunroom found it, and said, "oh, you need to  
168 apply for a permission to build the deck." The deck was built by Mr. Chuck  
169 Hopkins, contractor in Henrico. All the safety and all the codes were followed  
170 properly. The inspector told us we needed to stop by the County of Henrico to  
171 apply for the permit and the variance because the setback from the property line to  
172 the house is only 25 feet, and the deck was built approximately 12.5 feet from the  
173 sideline of the sunroom to the end of the deck, and that means 12.5 feet is the  
174 variance we need to apply for, to get the permit to build the deck. But the deck  
175 has been built. Again I apologize for not doing the permit before we built the deck,  
176 and the contractor and I were not aware that we needed to apply for the permit  
177 before we build the deck, and that's why Mr. Chuck Hopkins and I. We decided  
178 we'd build a deck, and it should be okay at that point, and when I came to the  
179 building department, I needed to do the variance, so I ask the Board for permission  
180 to keep the deck as it is. I believe the safety and everything is good, because it  
181 was built by a licensed contractor. Mr. Hopkins is a very good contractor and built  
182 the deck excellent.

183  
184 Mr. Balfour - Did you plan to put the deck on the back of the porch  
185 when you covered the porch, or did the deck come later.?

186  
187 Mr. Duong - Yes, we were planning to build the deck behind the porch  
188 all along.

189  
190 Mr. Balfour - You just didn't get permission last summer when you got  
191 the variance to put the screened porch over the old deck, is that what you're  
192 saying?

193  
194 Mr. Duong - That's correct, and we talked to Melani Bros. before we  
195 built the sunroom; we did mention we were going to build a sunroom here, and  
196 after that we would extend about 10 feet to build a deck to replace the missing  
197 deck.

198  
199 Mr. Balfour - Is that the same contractor?

200  
201 Mr. Duong - It's a different contractor. Melani Bros. built the  
202 sunroom, but Mr. Chuck Hopkins, different contractor built the deck.

203  
204 Mr. Balfour - We get the picture. Are there any questions by members  
205 of the Board?

206  
207 Mr. Kirkland - You tell that contractor he needs to get a building permit

208 from now on.

209  
210 Mr. Duong - Yes, he will sign on a paper, and we just wait for  
211 variance; I will send on the application to the zoning department for permit for the  
212 deck.

213  
214 Mr. Balfour - Any other questions? Thank you Mr. Duong.

215  
216 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by  
217 Mr. Wright, the Board **granted** application **A-12-2002** for a variance to build a deck  
218 at 4400 Hungary Glen Terrace (Hungary Glen) (Parcel 762-760-8771). The Board  
219 granted the variance subject to the following condition:

220  
221 1. Only the improvements shown on the plan filed with the application  
222 may be constructed pursuant to this approval. No substantial changes or  
223 additions to the layout may be made without the approval of the Board of  
224 Zoning Appeals. Any additional improvements shall comply with the  
225 applicable regulations of the County Code.

226  
227 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
228 Negative: 0  
229 Absent: 0

230  
231 The Board granted this request, as it found from the evidence presented that, due  
232 to the unique circumstances of the subject property, strict application of the  
233 County Code would produce undue hardship not generally shared by other  
234 properties in the area, and authorizing this variance will neither cause a substantial  
235 detriment to adjacent property nor materially impair the purpose of the zoning  
236 regulations.

237  
238

239 **A - 13-2002** **GAYNELL M. AND JOHN W. GRUBBS** request a variance from  
240 Sections 24-95(i)(2), 24-95(i)(2)c and 24-95(i)(2)d of Chapter  
241 24 of the County Code to build a detached carport at 2912  
242 Pinehurst Road (Pinehurst Gardens) (Parcel 776-747-1397),  
243 zoned R-4, One-family Residence District (Brookland). The  
244 accessory structure location requirement, minimum distance  
245 from dwelling, and minimum side yard setback are not met.  
246 The applicants propose a carport in the side yard with 0.75-foot  
247 side yard setback and 1.5 feet setback from the principal  
248 structure, where the Code allows a carport in the rear yard and  
249 requires 3 feet side yard setback and 10 feet setback from the  
250 principal structure. The applicants request a variance of 2.25  
251 feet side yard setback and 8.5 feet setback from the principal

252 structure.

253

254 Mr. Balfour - Are all those standing the ones who intend to testify in  
255 this matter? Are there any others? Would you raise your right hand please?

256

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

259

260 Mr. Balfour - Are you here in favor or opposed to it? Then the  
261 procedure would be that you will get to speak, then they will have a chance to  
262 speak, and you'll have a chance to respond to them, and that will be the case.  
263 Whoever's speaking first, state your name please.

264

265 Mrs. Grubbs - I do. Gaynell Grubbs. We wanted to build a carport on  
266 the side of our home. I was laid off from work in November, and we're trying to  
267 get everything straight as quickly as possible. We went on and got our van. I  
268 have been told by my doctor that possibly within 3 years, I'll be in a wheelchair,  
269 and I do have my handicap sticker that I'm already using because of my health.  
270 We went over and talked with Mrs. Baughan before we started anything, and she  
271 said she had a concern about the carport draining over, so I went back and we  
272 talked it over again, and then we went back and talked to Mrs. Baughan, our next-  
273 door neighbor, and I told her that we were going to put gutters along the side of  
274 the carport and put a drain and put a rubber thing and drain it back into our yard,  
275 so there would be no chance of drainage into her yard. We know we can put it  
276 from the side of the house over, as long as it's within 3 feet of the lot, but it  
277 doesn't leave enough room for the van and a wheelchair to get through, in the  
278 event that what the doctors have told me is true. I'm just asking that we get the  
279 variance so that we can go ahead and start doing all this and pay a little bit at a  
280 time while we do this.

281

282 Mr. Balfour - Do we have any questions from members of the Board?

283

284 Mr. Kirkland - Mrs. Grubbs, the entrance to this carport - would you  
285 still use the front entrance of your house? I can't tell from the photo - is there a  
286 door on the side of the house to gain entrance to this carport?

287

288 Mrs. Grubbs - No, there is no door; it would have to be in the front.

289

290 Mr. Balfour - Are there any other questions?

291

292 Mr. Wright- Did you say why you couldn't attach it to your house?

293

294 Mrs. Grubbs - Well if you come in the 3 feet, it's not going to give you  
295 as much room, because if you have the open one, you have more room for opening

296 car doors. It'll put it back closer to the house so that the car door will not open as  
297 far.

298

299 Mr. McKinney- You've already started construction on it?

300

301 Mrs. Grubbs - Yes we did. We didn't realize we needed a car permit.

302

303 Mr. McKinney- Who's building it?

304

305 Mrs. Grubbs - Family members.

306

307 Mr. Balfour- And there's no door there on the side of the house?

308

309 Mrs. Grubbs - No.

310

311 Mr. Wright- It's going to be open on the rear also?

312

313 Mrs. Grubbs - It's going to be completely open. We were trying to put  
314 the A-shape so it would match the house and have the siding up on the A-shape  
315 and then gutters on the side with a drainpipe going over into our yard.

316

317 Mr. Balfour - All right; let's hear from these ladies, and then back to  
318 you. One of you want to testify? You need to come over to the microphone. Are  
319 both of you going to testify? We have a long docket, so I ask, and this applies to  
320 everyone, if several people are going to speak, we ask that you not be repetitive.  
321 We'll hear you the first time; if the second person who wants to speak has  
322 something to add that's new or not heard before, that's fine, but we ask that you  
323 not get up and repeat what someone ahead of you has already said. Thank you.  
324 Go ahead.

325

326 Ms. Beverage - My name is Gail Beverage. My mother is Margaret  
327 Baughan. She lives directly next, on the right-hand side, to the Grubbs house, and  
328 the carport directly affects her. My mother is in physical therapy this morning, but  
329 she's at home recuperating from hip replacement surgery, so she's asked me to  
330 read something in her behalf. It says,

331

332 "To Whom it May Concern:

333

334 I do not approve of the carport that is being built at  
335 2912 Pinehurst Road. I originally signed a paper giving my approval,  
336 but had second thoughts and asked for the signed paper back. The  
337 Grubbs would only give me a copy. The structure that they are  
338 currently building would detract from the looks and value of my home.  
339 To me it looks like a covered bridge. I'm also afraid that water will  
drain on to my yard and flood it.



340 I'm currently recuperating from hip replacement  
341 and cannot attend this hearing.  
342 I'm asking my daughter, Gail Beverage, to speak in  
343 my behalf.

344 Margaret B. Baughan  
345 2910 Pinehurst Road  
346 Richmond, VA 23228"  
347 Ph. 266-3982  
348

349 Ms. Beverage - Also I'd like to state that the numbers on this variance  
350 are just numbers, but the structure is right on top of the line. This overhang right  
351 here, comes slightly over the fence; it doesn't appear on here because there's no  
352 contrast between the buildings out back. But it does go slightly over the line. I  
353 brought pictures, but they don't show any more than what we've got right here,  
354 other than that it's a little closer.  
355

356 Mr. Balfour - Your point is, that if it's over the line, obviously water  
357 will drain on your property, or if it fills up with leaves, it's going to go over the  
358 gutter.  
359

360 Ms. Beverage - Right. Even with gutters. Everybody knows that if it's a  
361 good solid rain, the gutters don't catch every bit of rain; it goes right on the  
362 ground. May I approach?  
363

364 Mr. Balfour- You have to leave this picture with us if you give us a  
365 picture.  
366

367 Ms. Beverage - That's fine. This shows how close it is to the fence and  
368 overlapping the line. I really need to state also that my mother's 83 years old, so  
369 having second thoughts within 24 hours is kind of reasonable for somebody who's  
370 that old. Any questions?  
371

372 Mr. Balfour - Does anyone have some questions of this lady? Next?  
373 You'll need to state your name.  
374

375 Ms. Deal - Basically all that I had to say, -- I'm sorry, my name is  
376 Diane Deal; I'm also Ms. Baughan's daughter -- our main concern was that mama  
377 initially did not want to do this. After Ms. Grubbs came back over to her house  
378 again and pleaded on her sympathies, she went on ahead and signed the  
379 paperwork, but she does not want this; she didn't want it to begin with; she felt  
380 guilty; she couldn't sleep over the whole thing, so finally she just went on ahead  
381 and signed it. We just feel like she should have been able to rescind; she should  
382 have been able to get back her original document that she signed. Thank you.  
383

384 Mr. Balfour - Just a minute; let's see if they have any questions. Are  
385 there any questions by members of the Board?

386  
387 Mr. McKinney - No, other than the fact that this property cannot protrude  
388 over the line.

389  
390 Mr. Blankinship - I didn't pick up on that, Mr. Chairman, but the sketch  
391 apparently shows from the supports, 9/10<sup>th</sup> of a foot from the supports to the  
392 property line, but it looks like there's a 1-foot overhang on that building, which is  
393 actually .....

394  
395 Mr. McKinney - And then you're going to put a fascia board and you're  
396 going to put a gutter on it, which is going to come over top of the line.

397  
398 Ms. Grubbs - No, he's going to cut the overhang off after he had the  
399 whole thing set up.

400  
401 Mr. Balfour - You're Ms. Grubbs again, right?

402  
403 Ms. Grubbs - He has the overhang now, while he's building, but he  
404 was going to cut it even with the board going around and put the gutter on there,  
405 so there's not going to be any overhang at all. When he puts his finishing touches,  
406 that is not going to be there. We put the gutter there in compliance with what she  
407 had asked.

408  
409 Mr. McKinney - Ms. Grubbs, do you intend on putting a handicapped  
410 ramp on the front of your home?

411  
412 Ms. Grubbs - Yes, at the time that I have to go into a wheelchair, we'll  
413 have to run one off of the porch. I mean if I live that long; you don't ever know.

414  
415 Mr. McKinney - Have you ever thought of putting it in the rear? No,  
416 because we never use the rear door. We would have to build a whole new porch  
417 and everything out back if we did that.

418  
419 Mr. Kirkland - Why did you locate it in this position, since it was not  
420 near a door. Why didn't you put it in the back yard, closer to an exit?

421  
422 Mr. Grubbs - Like I said the back door, the porch is very, very small, as  
423 small as this thing here, or smaller, and we would have to build a whole new back  
424 porch and everything in order to do it. Also, the electrical wires in the back are  
425 very, very low; we wouldn't be able to have any kind of a roof on it; it would have  
426 to be a flat roof, which to me doesn't drain as well as one that you could drain.

427

428 Mr. Balfour - Thank you.

429  
430 Upon a motion by Mr. Kirkland, seconded by Mr. Wright, the Board **denied**  
431 application **A-13-2002** for a variance to build a detached carport at 2912 Pinehurst  
432 Road (Pinehurst Gardens) (Parcel 776-747-1397). The Board denied your request  
433 as it found from the evidence presented that authorizing this variance would be of  
434 substantial detriment to adjacent property or would materially impair the purpose of  
435 the zoning regulations.

436  
437 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
438 Negative: 0  
439 Absent: 0

440  
441 Mr. Balfour - Next case.

442  
443 **A - 14-2002** **BRAD KITE** requests a variance from Section 24-94 of Chapter  
444 24 of the County Code to build a 2-story addition at 2326  
445 Thousand Oaks Drive (Thousand Oaks) (Parcel 762-749-4475),  
446 zoned R-3, One-family Residence District (Three Chopt). The  
447 total side yard setback is not met. The applicant has 27.5 feet  
448 total side yard setback, where the Code requires 30 feet total  
449 side yard setback. The applicant requests a variance of 2.5 feet  
450 total side yard setback.

451  
452 Mr. Balfour - Do we have any others who expect to testify in this  
453 matter? The ones who are, would you raise your right hand please?

454  
455 Mr. Blankinship - Do you swear that the testimony you are about to give is  
456 the truth, the whole truth, and nothing but the truth, so help you God?

457  
458 Mr. Balfour - All right sir.

459  
460 Mr. Kite - Yes sir. I'm Brad Kite. My wife and I have put in a lot of  
461 planning to have this structure built. What we're trying to achieve is something  
462 that the architecture is going to compliment the existing. We've chosen that  
463 location due to minimized tree removal, as well as not to obstruct any of the  
464 neighbors' views from mainly the back of the lot. The living space above the  
465 garage will be an office space, which I'm going to have a lot of my computer  
466 equipment, actually all of my computer equipment, up there, which will help me  
467 out quite a bit. My wife and I have a new addition to my family, my young son.  
468 Basically at this point he's learning how to crawl, and he's been going through a lot  
469 of the wires of the computer, and we're constantly pulling him away, and it's a  
470 pretty rough distraction when you're trying to get your work done.

471

472 Mr. Blankinship - Does he push the reset button? My six-year-old was  
473 fascinated with the reset button.

474  
475 Mr. Kite - He hasn't done that yet. I'm just waiting for a toy to go  
476 in the computer disk slot. We're also looking to storage with the addition of a  
477 child, we have really just run out of space. What we're hoping to do is at the very  
478 top of this addition, is actually have storage just from all types of family items. It  
479 will be the only attic that you can actually walk in. For the most part, we've kept  
480 all of our neighbors in the area updated. We've told them exactly how this  
481 structure would be built. We've pretty much kept everyone updated as far back as  
482 November, and partly too, I've gone to all of the neighbors on the street. We've  
483 had 3 people that could not sign a sheet for support for this building, but on my  
484 street, Thousand Oaks Drive, I have about 37 signatures of neighbors who are in  
485 favor of this structure as a home improvement, to keep up property value as well  
486 as resale value. As far as the structure goes, it's become a necessity to my wife  
487 and I, to have the additional storage space, as well as the office space, which  
488 relates strongly to my advances in my career.

489  
490 Mr. Balfour- Are there trees between you and the next house, where  
491 this addition will be?

492  
493 Mr. Kite - Are there trees between? There are trees.

494  
495 Mr. Balfour - Any questions by members of the Board?

496  
497 Mr. Wright- Yes, how close is that house to their line?

498  
499 Mr. Kite - Their house to their line? I would say at the closest, 15  
500 feet. That would be my guess.

501  
502 Mr. Wright- What's the sideline requirement, Mr. Blankinship?

503  
504 Mr. Blankinship - The minimum would be 12. 30 is the total.

505  
506 Mr. Kite - We do have the minimum on both sides of the lot.

507  
508 Mr. Wright- You're not too close to the line; you just don't have the  
509 total side yard?

510  
511 Mr. McKinney - What's your ceiling height in your garage, Mr. Kite?

512  
513 Mr. Kite - The ceiling height is probably going to be about 9 feet  
514 max; you're probably looking at a minimum of 8, as well as the room above would  
515 have 8 feet floor to ceiling.

516  
517 Mr. McKinney - Are you going o use the same siding.  
518  
519 Mr. Kite - Yes sir, cedar, as well as the new structure is going to  
520 match the existing house with materials. Even the front window there is going to  
521 be recycled from a part of the house that we're having – that window on the front  
522 would actually be coming from an existing side of the house, so our main goal is to  
523 make it appear that this structure has always been there. We want it to integrate  
524 well with not only our house, but as well as the neighborhood.  
525  
526 Mr. Balfour - Any other questions? Thank you.  
527  
528 Ms. Edwards - Hello. My name is Sharon Edwards. I'm the President of  
529 our Homeowners Association, and I guess I'm here on part of our neighbors. We  
530 are very much interested in home improvement in our neighborhood. I have done a  
531 lot of it. Brad has done amazing stuff since he bought this house. We want our  
532 property value to increase. We're in a classy neighborhood; we have wonderful  
533 huge lots. He has done wonderful drawings. We are for this; we want home  
534 improvement. It looks nice, neat, and I represent the majority of our people; we  
535 want home improvement.  
536  
537 Mr. McKinney- Ms. Edwards, you're going to get improved property  
538 values by our real estate department.  
539  
540 Ms. Edwards - I just got a tax assessment; mine went up 50%, so I  
541 know.  
542  
543 Mr. Blankinship - You don't want too much improvement.  
544  
545 Ms. Edwards - We don't want too much, but I want my house to be  
546 worth it too.  
547  
548 Mr. Balfour - Thank you.  
549  
550 Mr. Forserpio Hello, my name is John Forserpio; I'm a neighbor, also  
551 the builder for this structure. We do meet the 12-foot requirement to the property  
552 line; I don't know if that was clear before. That's all I wanted to say.  
553  
554 Mr. Balfour - Yes, we understand.  
555  
556 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
557 McKinney, the Board **granted** application **A-14-2002** for a variance to build a 2-  
558 story addition at 2326 Thousand Oaks Drive (Thousand Oaks) (Parcel 762-749-  
559 4475), The Board granted the variance subject to the following condition:

560  
561 1. Only the addition shown on the plan filed with the application may be  
562 constructed pursuant to this approval. No substantial changes or additions to  
563 the layout may be made without the approval of the Board of Zoning Appeals.  
564 Any additional improvements shall comply with the applicable regulations of  
565 the County Code.

566  
567 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
568 Negative: 0  
569 Absent: 0

570  
571 The Board granted this request, as it found from the evidence presented that, due  
572 to the unique circumstances of the subject property, strict application of the  
573 County Code would produce undue hardship not generally shared by other  
574 properties in the area, and authorizing this variance will neither cause a substantial  
575 detriment to adjacent property nor materially impair the purpose of the zoning  
576 regulations.

577  
578 **A - 15-2002 RICHMOND METROPOLITAN HABITAT FOR HUMANITY, INC.**  
579 requests a variance from Section 24-95(b)(6) of Chapter 24 of  
580 the County Code to build a one-family dwelling at 5916  
581 Edgelawn Street (Edgehill Lawn) (Parcel 806-709-6539), zoned  
582 R-4, One-family Residence District (Varina). The lot width  
583 requirement is not met. The applicant has 46.5 feet lot width,  
584 where the Code requires 50 feet lot width. The applicant  
585 requests a variance of 3.5 feet lot width.

586  
587 **A - 16-2002 RICHMOND METROPOLITAN HABITAT FOR HUMANITY, INC.**  
588 requests a variance from Section 24-95(b)(6) of Chapter 24 of  
589 the County Code to build a one-family dwelling at 1661  
590 Darbytown Road (Edgehill Lawn) (Parcel 806-709-7748), zoned  
591 R-4, One-family Residence District (Varina). The lot width  
592 requirement is not met. The applicant has 46.5 feet lot width,  
593 where the Code requires 50 feet lot width. The applicant  
594 requests a variance of 3.5 feet lot width.

595  
596 Mr. Balfour - Are there any others who expect to testify in this matter?  
597 Would you raise your right hand please?

598  
599 Mr. Blankinship - Do you swear that the testimony you are about to give is  
600 the truth, the whole truth, and nothing but the truth, so help you God?

601  
602 Mr. Balfour - State your name please.  
603

604 Ms. Wood - I do. Hello. My name is Susan Wood; I'm the Director  
605 for Richmond Metropolitan Habitat. I'm here to request a variance on these lots in  
606 Edgehill Lawn Community. We recently gained purchase control of 6 lots in a  
607 block here together. The other 4 are in compliance. These 2 are 3 ½ feet short of  
608 the zoning requirements for the lots. When these lots were drawn, back in the  
609 1920's, every lot that lines along Louisa Street was 3 ½ feet short of the current  
610 requirements. If a variance was approved, it would allow us to build 2 homes, one  
611 on each lot, single family dwellings, on these lots for families.

612  
613 Mr. Balfour - Do we have questions from members of the Board?  
614 Apparently not. Do you want to speak too?

615  
616 Mr. Junes - Yes sir, just a moment. My name is Bobby Junes; I'm  
617 the Project Director for Habitat for Humanity. What we have also done, is we have  
618 had Balzar and Associates go ahead and draw a footprint of what a housing  
619 structure would look like on these lots. I've got 5 copies which I will pass to you,  
620 just so you can see that we would also, if we're allowed to go forward, would  
621 have the remainder setback requirements within the R-4 zoning code.

622  
623 Mr. Nunnally- Let me ask you one question, please Susan. What size  
624 house are you planning on building there, square footage wise?

625  
626 Ms. Wood - About 1,050 square feet.

627  
628 Mr. Balfour - Any other questions? Thank you.

629  
630 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
631 Mr. Kirkland, the Board **granted** application **A-15-2002** for a variance to build a  
632 one-family dwelling at 5916 Edgelawn Street (Edgehill Lawn) (Parcel 806-709-  
633 6539). The Board granted the variance subject to the following condition:

634  
635 1. This variance applies only to the lot width requirement. All other applicable  
636 regulations of the County Code shall remain in force.

637  
638 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
639 Negative: 0  
640 Absent: 0

641  
642 The Board granted this request, as it found from the evidence presented that, due  
643 to the unique circumstances of the subject property, strict application of the  
644 County Code would produce undue hardship not generally shared by other  
645 properties in the area, and authorizing this variance will neither cause a substantial  
646 detriment to adjacent property nor materially impair the purpose of the zoning  
647 regulations.

648  
649 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
650 Mr. Kirkland, the Board **granted** application **A-16-2002** for a variance to build a  
651 one-family dwelling at 1661 Darbytown Road (Edgehill Lawn) (Parcel 806-709-  
652 7748), The Board granted the variance subject to the following condition:

653  
654 1. This variance applies only to the lot width requirement. All other applicable  
655 regulations of the County Code shall remain in force.

656  
657 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
658 Negative: 0  
659 Absent: 0

660  
661 The Board granted this request, as it found from the evidence presented that, due  
662 to the unique circumstances of the subject property, strict application of the  
663 County Code would produce undue hardship not generally shared by other  
664 properties in the area, and authorizing this variance will neither cause a substantial  
665 detriment to adjacent property nor materially impair the purpose of the zoning  
666 regulations.

667  
668 **UP- 3-2002 FRANK PARSONS** requests a conditional use permit pursuant to  
669 Section 24-116(c)(1) of Chapter 24 of the County Code to  
670 conduct a turkey shoot at 10022 Elk Pass Lane (Parcel 750-  
671 768-4929), zoned A-1, Agricultural District (Three Chopt).

672  
673 Mr. Balfour - Anyone else expect to testify? Would you raise your  
674 right hand please?

675  
676 Mr. Blankinship - Do you swear that the testimony you are about to give is  
677 the truth, the whole truth, and nothing but the truth, so help you God?

678  
679 Mr. Balfour - State your name please.

680  
681 Mr. Parsons - I do. My name is Frank Parsons, and I represent  
682 Richmond Elks Lodge No. 45. We're applying for a special use permit to conduct a  
683 turkey shoot. We do this to raise funds to support the charitable activities we  
684 carry on every year. We've been doing this for several years, and we've never had  
685 any complaints from our neighbors or the police department.

686  
687 Mr. Balfour- Mr. Blankinship, this berm is at the back I suppose, and is  
688 between 6 and 10 feet tall?

689  
690 Mr. Parsons - Yes, it backs up the target area.

691



692 Mr. Balfour- How come it's 6 to 10? I hope it's 10 closer to where  
693 your shots are going to land.

694  
695 Mr. Parsons - It's taller than I am, so it's tall.

696  
697 Mr. Wright- You say you've been conducting this for a number of  
698 years. Have the office structures been there for the last several years you've been  
699 conducting this shoot? So that hasn't created any problem.

700  
701 Mr. Parsons - When they constructed our lodge building, we were the  
702 only ones out there, but that was quite some time ago, and we've been doing this  
703 with all of those larger buildings around us.

704  
705 Mr. Balfour-- You've read the conditions, which I assume are similar to  
706 last year?

707  
708 Mr. Parsons - We're going to do the same as last year.

709  
710 Mr. Balfour- Your conditions, though, for conducting a turkey shoot -  
711 you've read those and are satisfied with them? No drinking and things of that  
712 nature, restroom provided. And the permit will be from September 6, 2002,  
713 through March 27, 2004, 2 years.

714  
715 Mr. Parsons - That's correct.

716  
717 Mr. McKinney - Mr. Parsons, what's the time that you have these turkey  
718 shoots?

719  
720 Mr. Parsons - They start at 7 pm, and we're through by 10 pm.

721  
722 Mr. McKinney - 7 pm to 10 pm. Is that 7 days a week?

723  
724 Mr. Parsons - That's one day a week; that's every Friday.

725  
726 Mr. McKinney - Every Friday. And that's the only time you'll do it? So  
727 you don't have a problem with a condition for that? Want to make that condition  
728 number 8, Mr. Secretary?

729  
730 Mr. Blankinship - Certainly.

731  
732 Mr. Balfour - Do we have any other questions?

733  
734 Mr. Wright- I do. It said in the information that you wanted to  
735 conduct these on Saturdays also, is that correct?

736  
737 Mr. Parsons - We've just been doing it on Friday, and I presume we're  
738 only going to do it on Friday.  
739  
740 Mr. Wright - Where did this Saturday come from, Mr. Blankinship?  
741  
742 Mr. Blankinship - I do not know, Mr. Wright. I'm trying to catch up with  
743 you. Where does it say that?  
744  
745 Mr. Wright - In our notes it says on Fridays from 5 to 10, and then on  
746 Saturdays from 5 to 10. That was in your application, sir, that you wanted to  
747 conduct them also on Saturdays.  
748  
749 Mr. Blankinship - I presume that we took that from the previous permit.  
750  
751 Mr. McKinney - This is a background; it's not a condition. Now we can  
752 make it that.  
753  
754 Mr. Wright - And you say 5 pm rather than 7 pm; I think you said 7  
755 pm.  
756  
757 Mr. Blankinship - That probably gives them 2 hours to set up.  
758  
759 Mr. McKinney - This is actually for shooting time, that I'm speaking of,  
760 which I would think the office would be closed. You wouldn't have anyone there,  
761 except maybe someone working late. In your application you asked for Saturdays  
762 too. Do you want to leave Saturdays in there?  
763  
764 Mr. Parsons - I'm at a loss, because my term of office expires the 31<sup>st</sup>  
765 of March. If you can leave it in there, leave it in there.  
766  
767 Mr. McKinney - But the hours of operation for the shooting time would be  
768 the same?  
769  
770 Mr. Parsons - They start firing at 7, and of course we have to get ready  
771 for them.  
772  
773 Mr. Wright - Our conditions don't even say when they're going to do  
774 it.  
775  
776 Mr. McKinney - I say we put it in now. Put Friday and Saturday, shooting  
777 times will be 7 pm to 10 pm. That's just in case you might want to do it on  
778 Saturday.  
779

780 Mr. Parsons - That's correct.

781

782 Mr. Balfour - Are there any other questions or comments?

783

784 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
785 Nunnally, the Board **granted** application **UP-3-2002** for a temporary conditional use  
786 permit to conduct a turkey shoot at 10022 Elk Pass Lane (Parcel 750-768-4929).  
787 The Board granted the variance subject to the following conditions:

788

789 1. The land shall be properly posted to show the particular area where the  
790 shooting is to occur and where the impact area is located.

791

792 2. No alcoholic beverages may be consumed in the area of the turkey shoot. A  
793 sign to this effect must be conspicuously posted in the immediate vicinity of the  
794 shooting area.

795

796 3. No inebriated person or person under the influence of alcohol may be  
797 permitted in the shooting area.

798

799 4. Restrooms shall be provided.

800

801 5. The turkey shoot shall only involve the use of shotguns no larger than 12  
802 gauge and low powered shells containing No. 8 shot.

803

804 6. A 6-foot high shot barrier of straw, hay bales, or mounded dirt shall be  
805 erected behind the targets as an added precaution. This barrier shall be located a  
806 maximum of 10 feet behind the targets and extend 10 feet beyond each end of the  
807 target line.

808

809 7. This permit allows the turkey shoot on Fridays and Saturdays, 7:00 - 10:00  
810 PM, from September 6, 2002 through March 27, 2004.

811

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

813 Negative: 0

814 Absent: 0

815

816 The Board granted this request as it found from the evidence presented that  
817 authorizing this use permit will not be of substantial detriment to adjacent property  
818 and will not materially impair the purpose of the zoning regulations.

819

820 Mr. Blankinship - Mr. Chairman, again the next 2 cases are companions.  
821 Shall I call them together?

822

823 **A - 17-2002 ROBERT R. AND SHIRLEY MERHIGE** request a variance from

824 Sections 24-95(i)(2), 24-95(i)(2)d and 24-94 of Chapter 24 of  
825 the County Code to allow the existing improvements to remain  
826 at 3 Kanawha Road (Chatham Hills) (Parcel 764-730-7792  
827 (part)), zoned R-1, One-family Residence District (Tuckahoe).  
828 The accessory structure location, accessory structure setback,  
829 lot width requirement, and minimum side yard setback are not  
830 met. The dwelling has 60 feet lot width and 10.47 feet  
831 minimum side yard setback, and an accessory structure is  
832 located in the side yard with 0 feet setback from the property  
833 line. The Code requires 150 feet lot width and 20 feet  
834 minimum side yard setback for the dwelling, and allows  
835 accessory structures in the rear yard with a 3-foot setback from  
836 the property line. The applicants request a variance of 90 feet  
837 lot width, 9.53 feet minimum side yard setback, accessory  
838 structure in the side yard and 3 feet setback from the property  
839 line.

840  
841 **A - 18-2002** **ROBERT R. AND SHIRLEY MERHIGE, JR.** request a variance  
842 from Sections 24-95(i)(2) and 24-94 of Chapter 24 of the  
843 County Code to allow the existing dwelling to remain at 5  
844 Kanawha Road (Chatham Hills) (Parcel 764-730-7792 (part)),  
845 zoned R-1, One-family Residence District (Tuckahoe). The  
846 accessory structure location requirement and rear yard setback  
847 are not met. The applicants have .03 feet rear yard setback  
848 and an accessory structure located in the front yard, where the  
849 Code requires 50 feet rear yard setback and allows accessory  
850 structures in the rear yard. The applicants request a variance of  
851 49.97 feet rear yard setback and an accessory structure located  
852 in the front yard.

853  
854 Mr. Balfour - Are there any others who expect to testify in this matter?  
855 Would you raise your right hand please?

856  
857 Mr. Blankinship - Do you swear that the testimony you are about to give is  
858 the truth, the whole truth, and nothing but the truth, so help you God?

859  
860 Mr. Balfour - State your name please.

861  
862 Mr. Lebar - Good morning; I'm Robert Lebar, representing the  
863 Merhiges. Most of these abnormalities surfaced when we had the survey done for  
864 what was our original plan for subdividing the 2 lots to allow the 2 existing lots to  
865 remain. One of them is occupied by the Judge and his wife, and that can be  
866 shown right here; that's the main dwelling house. Over here at the top is the  
867 second dwelling house, which is occupied by the Judge's son and his wife and

868 family. For quite some time now they have had co-existing utilizes, and what they  
869 would like to do is divide off this property at the top so that Mark Merhige and his  
870 wife and family will be able to have a separate address, separate utilities, that type  
871 of thing. The problem that we encountered was the lot width. This is an unusual  
872 area because of the rise and fall – there is a current existing driveway that goes to  
873 the property, and what we had projected with our survey – this is a view of  
874 Kanawha here, and this is looking down towards the Kanawha Canal, and the  
875 house would be over here on the left-hand side. In the overview here, the dotted  
876 line is where the property division is planned. There is an existing driveway there,  
877 and what we'd like to do, keep the driveway part of the dominant property, the  
878 original main house, and have an easement that would allow ingress and egress to  
879 the other property through the existing driveway. All of this would mean that the  
880 property would remain just as it is, with respect to any of the neighbors. There  
881 would be no changes whatsoever. When the survey was drawn, and we submitted  
882 the information over here, we found out that there were some additional problems,  
883 and they will, of course, be contemplated in our request for variance. We wanted  
884 to clean up the whole property as best we could when we came in here today.  
885 One of those is the location of the tennis court, which you can see down here in  
886 the bottom portion of the property. This was put in, in the mid-70's, by a  
887 contractor. None of these zoning problems were done with any complicity by the  
888 judge and his family. They either existed at the time that the property was  
889 purchased, or were performed by licensed architects and contractors. The tennis  
890 court is technically in the front of the house, but the way that the property is  
891 situated, it's the side of the house. The front door of the house actually faces  
892 north. You can see here in this photo, the side of the house faces onto Kanawha.  
893 Down here at the bottom, where the cursor is now, is where the tennis court is  
894 located. So for everybody's thinking who lives in the neighborhood area around  
895 there, this is really the side area of the house, although technically it is considered  
896 the front yard. The other problem that is addressed, is on the backside of the main  
897 dwelling house, right here. There is a 3-car garage that is attached to the house.  
898 That was there when the house was purchased in the mid-'60's. Now we learn it  
899 is not in compliance with the rear setback that should be. We are requesting that  
900 that be corrected as well. Two other areas are, where the accessory building is to  
901 the son's house. Is there a picture of the accessory building? This is the son's  
902 house, right here. This accessory building was here when the house was  
903 purchased. It was part of the original property, and I understand this was the  
904 manor house for the area, and this was an attached building for that. I don't know  
905 what its function was at the time. It, as well, has been here since the property  
906 was purchased, and we're now finding out that, because of its location, it is not in  
907 compliance with the zoning laws. What we're asking is that property be allowed to  
908 remain there, as well as the tennis court, and then the third and final area is a small  
909 encroachment next to the side setback right here attached to the son's house. I  
910 don't know whether there's a picture of that or not, but it's right on the line. We  
911 would like for a variance to allow that to remain as well. We're asking for the 2

912 accessory buildings to be allowed to remain, the setbacks on the main house,  
913 garage portion, to be allowed to be in compliance, as well as the other small  
914 building, and then we're also asking that the width requirements be allowed to be  
915 varied to enable us to divide off this other piece of property within the family.

916

917 Mr. Balfour - Do we have any questions of Mr. Lebar?

918

919 Mr. McKinney - I've got a question. You were talking about that garage  
920 that sits in the city?

921

922 Mr. Lebar - This is a strange piece of property. A very small portion  
923 of it is in the City; the majority of the property is in the County. The water comes  
924 from the City, while the sewer services come from the County. It's right in that  
925 area where there's just enough confusion that this was included in here. If we  
926 have to go to the City, we will, but our attempt is to take care of it in the County  
927 since it is attached to the main dwelling house that is definitely within the County's  
928 parameter.

929

930 Mr. McKinney - We can't rule on anything in the City.

931

932 Mr. Blankinship - There's one question here that I think is a little confusing.  
933 Susan, could you show our site plan, not the vicinity map, but the other map.

934

935 Mr. McKinney - We have some buildings in the County that are half in the  
936 County and half in the City. As you go down Broad Street, Richmond Ford is one  
937 of them. The old Lowe's is another. I don't know how that's handled, but I say  
938 that our jurisdiction is only in Henrico County, so I don't know how we can address  
939 any part of it that goes into the City. I think you'd have to take it to them.

940

941 Mr. Blankinship - Susan, would you please indicate the 3-car attached  
942 garage? The yellow is what we're talking about. The little white square, that's on  
943 the next property. That's not part of this request.

944

945 Mr. Lebar - That is the adjacent property owner's property there; I'm  
946 sorry for the confusion.

947

948 Mr. Balfour - Are there any other questions by Board members? Thank  
949 you Mr. Lebar.

950

951 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
952 McKinney, the Board **granted** application **A-17-2002** for a variance to allow the  
953 existing improvements to remain at 3 Kanawha Road (Chatham Hills) (Parcel 764-  
954 730-7792 (part)). The Board granted the variance subject to the following  
955 condition:

956  
957 1. This variance applies only to the lot width, minimum side yard setback  
958 and the location and setback of the accessory structure requirement. All other  
959 applicable regulations of the County Code shall remain in force.

960  
961 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
962 Negative: 0  
963 Absent: 0

964  
965 The Board granted this request, as it found from the evidence presented that, due  
966 to the unique circumstances of the subject property, strict application of the  
967 County Code would produce undue hardship not generally shared by other  
968 properties in the area, and authorizing this variance will neither cause a substantial  
969 detriment to adjacent property nor materially impair the purpose of the zoning  
970 regulations.

971  
972 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
973 McKinney, the Board **granted** application **A-18-2002** for a variance to allow the  
974 existing dwelling to remain at 5 Kanawha Road (Chatham Hills) (Parcel 764-730-  
975 7792 (part)). The Board granted the variance subject to the following condition:

976  
977 1. This variance applies only to the rear yard setback and location of the tennis  
978 court requirement. All other applicable regulations of the County Code shall  
979 remain in force.

980  
981 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
982 Negative: 0  
983 Absent: 0

984  
985 The Board granted this request, as it found from the evidence presented that, due  
986 to the unique circumstances of the subject property, strict application of the  
987 County Code would produce undue hardship not generally shared by other  
988 properties in the area, and authorizing this variance will neither cause a substantial  
989 detriment to adjacent property nor materially impair the purpose of the zoning  
990 regulations.

991  
992 **A - 19-2002**            **STEVE THOMPSON** requests a variance from Section 24-  
993 95(r)(3) of Chapter 24 of the County Code to build a one-family  
994 dwelling at 2404 Sterlingwood Trace (Sterling) (Parcel 741-756-  
995 8603), zoned R-2, One-family Residence District (Tuckahoe).  
996 The lot width requirement is not met. The applicant has 80 feet  
997 lot width, where the Code requires 100 feet lot width. The  
998 applicant requests a variance of 20 feet lot width.  
999

1000 Mr. Balfour - Are there any others who expect to testify in this matter?  
1001 All right, sir, would you stand please and be sworn with these gentlemen. Anyone  
1002 who plans to testify, would you raise your right hand please?

1003  
1004 Mr. Blankinship - Do you swear that the testimony you are about to give is  
1005 the truth, the whole truth, and nothing but the truth, so help you God?

1006  
1007 Mr. Balfour - Do you intend to testify for or against the proposition?  
1008 The procedure here is that the proponents will speak first, and then anyone  
1009 opposed will speak, and then the proponents may follow it up. State your name  
1010 please.

1011  
1012 Mr. Lester - My name is John Lester; I'm with the engineering firm of  
1013 E. D. Lewis & Associates, and I represent the builder, the owner, and the applicant,  
1014 Steve Thompson. We request a variance for the lot from 100 feet width at the  
1015 building line, to an 80-foot building line, in order that the house may be more  
1016 compatible to the neighborhood. If the house were set back at a 100-foot lot  
1017 width, it would be looking into the rear of lot # 13. By moving the house forward  
1018 to an 80-foot building line, the house would come approximately 31 feet forward.  
1019 The design of the house, the desirable location of the house, would encroach into  
1020 the rear yard if it had to sit back at a 100-foot lot width. I think the staff report  
1021 explains exactly what's going on, and we would like to move it forward to the 80-  
1022 foot building line, so it would be more compatible with the adjacent 2 lots and  
1023 almost be in the middle of lot # 13, which would be on its right side, looking at it  
1024 from the street. The condition is that the variance only applies to the lot width,  
1025 and no other portions of the Code can be met. The builder, the applicant and the  
1026 owner, Steve Thompson, is here. The contract buyers, Mr. and Mrs. Stevens, are  
1027 here, and the house designer, Mr. Jim Bodie, is here, if anybody's got any  
1028 questions for them.

1029  
1030 Mr. Wright- The house could be put back far enough to meet the  
1031 requirement and all of the lot requirements, is that right?

1032  
1033 Mr. Lester - No sir, if it's pushed back to 100 feet lot width, the rear  
1034 of the house would encroach into the building area of the yard.

1035  
1036 Mr. Wright- Then you would have a violation of the rear property line.

1037  
1038 Mr. Lester - Correct, then you would have a violation in the rear.  
1039 Rather than ask for a variance in the rear, we prefer to move the house forward, so  
1040 that it will be more compatible going around the cul-de-sac.

1041  
1042 Mr. Balfour- The size of the planned home is similar to others in the  
1043 neighborhood? In other words, you don't want to decrease your size because then



1044 it would be smaller than the other homes in the neighborhood?  
1045  
1046 Mr. Lester - No sir, it is not a smaller home.  
1047  
1048 Mr. Balfour- I understand. That was my question. It is not a smaller  
1049 home then. Any further questions? All right, do the others wish to speak? Let's  
1050 see, we have the owner, the designer, and someone else you said?  
1051  
1052 Mr. Lester - We have the contract buyers, Mr. and Mrs. Stevens, the  
1053 designer of the home, Mr. Jim Bodie, and the builder, Mr. Jim Thompson, if  
1054 anybody's got any questions.  
1055  
1056 Mr. Balfour - Does anyone on the Board have any questions before we  
1057 hear from the gentleman in the rear? What we'll do is hear from him, and then if  
1058 one of you want to respond, you can.  
1059  
1060 Mr. Fisher - Good morning. I'm Carl Fisher. My wife and I own the  
1061 property adjacent to Steve Thompson's property; we're at lot 15, to the right. We  
1062 received a notice from Mr. Thompson, requesting this variance, and we met with  
1063 him, walked the site. As a practical matter, we don't necessarily disagree with  
1064 bringing the house forward. I think it would improve everyone's site down there,  
1065 including the appearance of this house. The only request we made, and I'm not  
1066 sure this is the forum to do it, but we had asked that the driveway be placed on  
1067 the right-hand side as you look at the property. In an earlier plan that he had with  
1068 the house set back, he had the driveway on the right-hand side. With this plan he  
1069 has it on the left-hand side. The reason why we request that, he's planning to do a  
1070 basement, and he's going to have to do a considerable amount of cut on the left-  
1071 hand side next to us, so we said to him that we would support this variance  
1072 provided he would put the driveway on the right-hand side of the property.  
1073  
1074 Mr. Balfour- What's Mr. 13 think about that?  
1075  
1076 Mr. Fisher - Mr. who? Oh, it's owned by the developer. Mr.  
1077 Thompson owns it, so we'd asked that to be done.  
1078  
1079 Mr. Balfour - And that's the only question? We've got a little bit of a  
1080 problem here, because you may want to respond to what he says, but if you want  
1081 to come up and respond to that right now, maybe I can solve your problem.  
1082 Identify your self please.  
1083  
1084 Mr. Thompson - My name is Steve Thompson. I'm the owner of lot 13,  
1085 as well as lot 14. The only problem with putting the driveway on the left side, it's  
1086 a pie-shaped lot, and the curb frontage is maybe only 25 or 30 feet, and if you  
1087 could see where the storm sewer is, putting the driveway on the right side would

1088 mean starting it on the left side and then swinging it to the right and following it  
1089 down the right side, and with the pie shape of the lot, your front yard is pretty  
1090 much going to be all blacktop and I don't feel that's appealing to the current or  
1091 prospective homeowner.

1092  
1093 Ms. Stevens - Good morning; my name is Anne Stevens; I'm the  
1094 potential homeowner here. My husband and I live about a mile on Church Road,  
1095 presently in Morgan Run Subdivision. We love it; we've been there almost 4 years,  
1096 and we love our house so much that we've worked with Jim and Steve, and  
1097 they've designed pretty much the same house that we have, with a basement  
1098 underneath, and the addition of an office, since I work out of my home. I'd like to  
1099 add also that we currently have a 15-month old son, and our house presently in  
1100 Morgan Run, the back yard of it backs up to Church Road. At this point my  
1101 husband and I do not feel that it's the type of lifestyle we want to raise our son in.  
1102 There is a proposal on the table, that you well know, to take Church and Cox Road  
1103 and all of that, so at the time we'd be building a jungle gym for our son, you'd be  
1104 tearing down our fence and our trees and widening that road and making  
1105 exchanges. So this is the perfect opportunity for us to take our current home,  
1106 make some slight modifications to it, and have a wonderful back yard for our son  
1107 to play in, which is a common area, no streets, no roads. I just wanted to point  
1108 that out. The floor plan would totally need to be reversed, not to mention the  
1109 sewer grate. My husband and I just don't feel that aesthetically it would work with  
1110 how the house is presently, and what it's supposed to be with the garage  
1111 underneath it and the basement.

1112  
1113 Mr. Balfour - All right, I think we got a little bit ahead of ourselves. I  
1114 wanted to ask the builder a question. Mr. Fisher, I understood, was concerned  
1115 about the digging for the basement – what about that?

1116  
1117 Mr. Thompson - Putting the driveway on the left side would require a cut  
1118 because of the shape of the lot. I would like to work something out with them; I  
1119 told them I'd build a retaining wall to hold dirt and make it look the best we can for  
1120 what we have to do.

1121  
1122 Mr. Balfour - It looks like the Board has a comment. I understand that  
1123 we don't have anything to do with where the driveway goes anyway. Our concern  
1124 is the setback questions, which we'll take up, but I do think you and Mr. Fisher  
1125 ought to get together. I think he heard you, I assume; whether he agreed or not  
1126 about why you want the driveway on that side, but she just gave an answer that  
1127 may or may not suit him about your variance. Are there any other questions from  
1128 Board members? Thank you.

1129  
1130 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
1131 Nunnally, the Board **granted** application **A-19-2002** for a variance to build a one-

1132 family dwelling at 2404 Sterlingwood Trace (Sterling) (Parcel 741-756-8603) The  
1133 Board granted the variance subject to the following condition:

1134  
1135 1. This variance applies only to the lot width requirement. All other applicable  
1136 regulations of the County Code shall remain in force.

1137  
1138 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1139 Negative: 0  
1140 Absent: 0

1141  
1142 The Board granted this request, as it found from the evidence presented that, due  
1143 to the unique circumstances of the subject property, strict application of the  
1144 County Code would produce undue hardship not generally shared by other  
1145 properties in the area, and authorizing this variance will neither cause a substantial  
1146 detriment to adjacent property nor materially impair the purpose of the zoning  
1147 regulations.

1148  
1149 Mr. Blankinship - Mr. Chairman, we have a little procedural irregularity  
1150 here. When the next case was applied for, there are 2 adjoining lots, and changing  
1151 the one affects the other, and so after we had reviewed the applications, we asked  
1152 the applicant to submit a second application for the other lot. That's not unusual;  
1153 the unusual thing is one of them got scheduled for 9:00 o'clock, and the other got  
1154 scheduled for 10:00 o'clock.

1155  
1156 Mr. Balfour - So you're suggesting we move the 10:00 o'clock up and  
1157 take it right now?

1158  
1159 Mr. Blankinship - Well, yes, it'll be 10:00 o'clock in 2 minutes, so it you  
1160 wanted to take your break now, we could call both of those cases together.

1161  
1162 Mr. Balfour - Why don't we do that, because that's probably the  
1163 correct way, and that's the last one on this docket anyway, so we'll take a 10-  
1164 minute recess.

1165  
1166 Mr. Balfour - I call the Board of Zoning Appeals, please, and ask the  
1167 Secretary to read the rules for the new people who may be in the audience since  
1168 the first session.

1169  
1170 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board,  
1171 ladies and gentlemen. The rules for this meeting are as follows. As Secretary, I  
1172 will call each case. At that time the applicant should come down to the podium to  
1173 present the case. I will ask all those who intend to speak, in favor or in opposition,  
1174 to stand, and they will be sworn in. The applicants will then present their  
1175 testimony. When the applicant is finished, anyone else will be given an opportunity

1176 to speak. After everyone has spoken, the applicant, and only the applicant, will be  
1177 given an opportunity for rebuttal. After hearing the case, and asking questions, the  
1178 Board will take the matter under advisement. They will render all of their decisions  
1179 at the end of the meeting. If you wish to know what their decision is on a specific  
1180 case, you may stay until the end of the meeting, or you may call the Planning  
1181 Office late this afternoon. This meeting is being tape recorded, so we will ask  
1182 everyone who speaks, to speak directly into the microphone on the podium, and to  
1183 state your name. Out in the foyer, there are two binders, which contain the staff  
1184 reports for each case, including the conditions suggested by the staff.

1185  
1186 Mr. Balfour - Mr. Secretary, I understand that the last case on the last  
1187 docket and one of the cases on this docket are companion cases. Would you call  
1188 both of them please.

1189  
1190 **A - 20-2002** **KHALED KHODR** requests a variance from Section 24-95(b)(5)  
1191 of Chapter 24 of the County Code to build a one-family dwelling  
1192 at 4006 Bremner Boulevard (Bonnie Brae) (Parcel 772-750-  
1193 3229), zoned R-3, One-family Residence District (Brookland).  
1194 The lot width requirement is not met. The applicant has 63 feet  
1195 lot width, where the Code requires 65 feet lot width. The  
1196 applicant requests a variance of 2 feet lot width.

1197  
1198 **A - 34-2002** **KHALED KHODR** requests a variance from Section 24-95(b)(5)  
1199 of Chapter 24 of the County Code to allow the existing dwelling  
1200 to remain at 4004 Bremner Boulevard (Bonnie Brae) (Parcel 772-  
1201 750-3229), zoned R-3, One-family Residence District  
1202 (Brookland). The lot width requirement is not met. The  
1203 applicant has 62 feet lot width, where the Code requires 65  
1204 feet lot width. The applicant requests a variance of 3 feet lot  
1205 width.

1206  
1207 Mr. Balfour - Are there any others who expect to testify in this matter?  
1208 Would you raise your right hand please?

1209  
1210 Mr. Blankinship - Do you swear that the testimony you are about to give is  
1211 the truth, the whole truth, and nothing but the truth, so help you God?

1212  
1213 Mr. Balfour - State your name and address for both matters.

1214  
1215 Mr. Khodr - Khaled Khodr, 4004 Bremner Boulevard. I bought that  
1216 house with the lot next to it, about 6 years ago, and I would like to build another  
1217 house on the lot next to it so that my brother can move next to me. It's just like 2  
1218 feet short from the side. That's why I'm asking for a variance, and that will give  
1219 the County more revenue too. This empty lot, there is nothing on it now, and it

1220 will make the area look better.

1221

1222 Mr. Balfour - Are there any questions by members of the Board?

1223

1224 Mr. McKinney - What type of home are you going to build.

1225

1226 Mr. Khodr - It's going to be 3 bedrooms, 2 stories, about 1700  
1227 square feet.

1228

1229 Mr. Balfour - Are there any other questions? I hear none.

1230

1231 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by  
1232 Mr. McKinney, the Board **granted** application **A-20-2002** for a variance to build a  
1233 one-family dwelling at 4006 Bremner Boulevard (Bonnie Brae) (Parcel 772-750-  
1234 3229). The Board granted the variance subject to the following condition:

1235

1236 1. This approval is for the lot width only. Any additional improvements shall  
1237 comply with the applicable regulations of the County Code.

1238

1239 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1240 Negative: 0

1241 Absent: 0

1242

1243 The Board granted this request, as it found from the evidence presented that, due  
1244 to the unique circumstances of the subject property, strict application of the  
1245 County Code would produce undue hardship not generally shared by other  
1246 properties in the area, and authorizing this variance will neither cause a substantial  
1247 detriment to adjacent property nor materially impair the purpose of the zoning  
1248 regulations.

1249

1250 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by  
1251 Mr. McKinney, the Board **granted** application **A-34-2002** for a variance to allow the  
1252 existing dwelling to remain at 4004 Bremner Boulevard (Bonnie Brae) (Parcel 772-  
1253 750-3229). The Board granted the variance subject to the following condition:

1254

1255 1. This approval is for the lot width only. Any additional improvements shall  
1256 comply with the applicable regulations of the County Code.

1257

1258 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1259 Negative: 0

1260 Absent: 0

1261

1262 The Board granted this request, as it found from the evidence presented that, due  
1263 to the unique circumstances of the subject property, strict application of the

1264 County Code would produce undue hardship not generally shared by other  
1265 properties in the area, and authorizing this variance will neither cause a substantial  
1266 detriment to adjacent property nor materially impair the purpose of the zoning  
1267 regulations.

1268  
1269

1270 **A - 21-2002**            **CHARLES HALL** requests a variance from Section 24-9 of  
1271 Chapter 24 of the County Code to build a one-family dwelling at  
1272 12615 Heather Grove Road (Parcel 733-772-1639 (part)),  
1273 zoned A-1, Agricultural District (Three Chopt). The public street  
1274 frontage requirement is not met. The applicant has 0.00 feet  
1275 public road frontage, where the Code requires 50 feet public  
1276 road frontage. The applicant requests a variance of 50 feet  
1277 public road frontage.

1278

1279 Mr. Balfour -                    Anyone else here to testify in this matter? All right,  
1280 would you three raise your right hands please?

1281

1282 Mr. Blankinship -            Do you swear that the testimony you are about to give is  
1283 the truth, the whole truth, and nothing but the truth, so help you God?

1284

1285 Mr. Balfour -                    The procedure, as you may recall is to allow the  
1286 proponent to speak first. Then if either of you would like to speak after that, that  
1287 would be fine. State your name please.

1288

1289 Mr. Hall -                        I do. Good morning, members of the Board. My name is  
1290 Charles Hall. I'm the purchaser of the land up here. I purchased about 14 acres of  
1291 land that's being split into 2 parcels. One of those parcels has an existing dwelling  
1292 on it that faces out on Kain Road. The other parcel, I plan to build a single family  
1293 home for my family. I'm here today to request a variance for building this home on  
1294 12615 Heather Grove Road. This road currently dead-ends at my property line  
1295 with an existing cul-de-sac. Because the roadway dead-ends, under current County  
1296 Code, the right-of-way extending from my property onto this cul-de-sac does not  
1297 count at public road frontage. My request of the Board is to grant me a variance of  
1298 50 feet to allow me to extend a driveway from this cul-de-sac, using my existing  
1299 50-foot right-of-way. In talking with the County zoning planners, I understanding  
1300 for this code requirement is that the County wants to prevent flagstaff lots. Your  
1301 approval of this request does not go against this goal, as the lot with my proposed  
1302 access would not qualify as a flagstaff lot. I would like to also point out that  
1303 development of this parcel into several large estate lots is consistent with the  
1304 development of nearby areas adjacent to Shady Grove Estates. It also minimizes  
1305 the impact to land by requiring fewer septic drainfields and avoiding potential  
1306 issues in the future with failed drainfields on overstressed land. My proposed  
1307 development of this parcel provides minimal impact to all adjacent property owners.

1308 No obstructive roadway would need to be built adjacent to any property lines,  
1309 which could adversely affect neighboring property values. I have met individually  
1310 with the property owners living in houses adjacent to this property, and I have their  
1311 support and approval of this variance. In addition, I have spoken with the Shady  
1312 Grove Homeowners Association regarding this request, and have their full support  
1313 and believe my proposed development of this parcel is in their homeowners' best  
1314 interest. Included in your package, you will find a letter of the signatures that I've  
1315 obtained from neighbors that I've spoken with, as well as a letter from the  
1316 Association.

1317  
1318 Mr. Balfour - Are there any questions?

1319  
1320 Mr. Wright Which way will your house face?

1321  
1322 Mr. Hall - My house will face down toward the back side of the  
1323 property, which would be towards Heather Grove Road, the cul-de-sac.

1324  
1325 Mr. Wright- So the back of your house would then be towards Kain  
1326 Road?

1327  
1328 Mr. Hall - Yes that's correct

1329  
1330 Mr. Wright- Have you given any thought to possibly having an  
1331 easement off of Kain Road into the property, rather than running it off of the end of  
1332 Heather Grove Road?

1333  
1334 Mr. Hall - Yes, any sort of easement like that would require a very  
1335 long extended driveway to get to the back side of the parcel. It would also most  
1336 likely abut the adjacent property owners down against Shady Grove Estates, and  
1337 I'm sure none of them want a driveway easement going back across the back side  
1338 of their property. The way the driveway would come off Heather Grove Road, it  
1339 would minimize and not run adjacent to any adjacent land.

1340  
1341 Mr. Wright- What access do you have for the house that's already  
1342 there?

1343  
1344 Mr. Hall - There's an existing driveway that goes up in the middle  
1345 towards the side of that one house that's to the right of 1237 Kain Road.

1346  
1347 Mr. Wright- The driveway is not along the property line?

1348  
1349 Mr. Hall - It's only along the property line for about 25 feet at the  
1350 property as it faces out to Kain, and then it snakes into the middle of the property,  
1351 where that existing structure is.

1352  
1353 Mr. Wright- Who occupies that house that's already there?  
1354  
1355 Mr. Hall - There's nobody living there right now.  
1356  
1357 Mr. McKinney- What do you intend to do with it?  
1358  
1359 Mr. Hall - My intention is to resell the property.  
1360  
1361 MR. McKinney- Resell the property? For development?  
1362  
1363 Mr. Hall - For either development or if somebody wants to put a  
1364 single family home there.  
1365  
1366 Mr. McKinney- Would the property where you're asking for this variance  
1367 - is all that property just to be for you? Do you intend to develop that?  
1368  
1369 Mr. Balfour - Any other questions? Thank you Mr. Hall. There were 2  
1370 more people who were interested in talking? Would you state your name please.  
1371  
1372 Mr. Parsons - My name is Colin Parsons. The reason that I'm here is I  
1373 wouldn't like him to build behind my house, and the reason for that is, I wouldn't  
1374 really want someone living directly behind me and on all sides, and there's also a  
1375 rare plant back there. It's not protected, but it's called running cedar, and there is  
1376 a lot of it back there.  
1377  
1378 Mr. Wright- Miss Parsons, where do you live?  
1379  
1380 Mr. Parsons - 5228 Willane Road.  
1381  
1382 Mr. Wright- I see it.  
1383  
1384 Mr. Balfour - Are there any other questions? Thank you; you did a nice  
1385 job.  
1386  
1387 Ms. Goss - Good morning. I'm Julie George Goss; I'm President of  
1388 Shady Grove Estates Homeowners Association. I believe what Mr. Hall has  
1389 proposed is probably the best thing that could happen right there with that lot that  
1390 was for sale. I agree with Mr. Parsons that nobody wants anybody in their own  
1391 back yard. Some of the other things that I have heard and seen might be proposed  
1392 for that area, would be 1-acre lots, which is stressing an area which has a hard  
1393 time right now with well and septic. So I think this is probably the best case  
1394 scenario for the area, having one home, behind those homes on Willane, and  
1395 possibly 2 other homes coming off of Kain Road in the future. I think that would



1396 help the area instead of having 12 to 15 1-acre lots up in there, and trying to find  
1397 the well and septic for that. So the Homeowners Association does support Mr.  
1398 Hall's proposal for the variance off of Heather Grove Road.

1399  
1400 Mr. Balfour- Is your Homeowners Association where Willane Road is?

1401  
1402 Ms. Goss - Yes, I live on Heather Grove Road, actually directly across  
1403 from the end of Willane, and the Homeowners Association does cover all of  
1404 Willane, Heather Grove, and the rest of Shady Grove Estates.

1405  
1406 Mr. Balfour - Okay. Any questions by members of the Board? Mr.  
1407 Hall, do you want to make any further comment? Okay. Thank you.

1408  
1409 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
1410 Kirkland, the Board **granted** application **A-21-2002** for a variance to build a one-  
1411 family dwelling at 12615 Heather Grove Road (Parcel 733-772-1639 (part)). The  
1412 Board granted the variance subject to the following condition:

1413  
1414 1. This variance applies only to the public street frontage requirement. All  
1415 other applicable regulations of the County Code shall remain in force.

1416  
1417 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1418 Negative: 0  
1419 Absent: 0

1420  
1421 The Board granted this request, as it found from the evidence presented that, due  
1422 to the unique circumstances of the subject property, strict application of the  
1423 County Code would produce undue hardship not generally shared by other  
1424 properties in the area, and authorizing this variance will neither cause a substantial  
1425 detriment to adjacent property nor materially impair the purpose of the zoning  
1426 regulations.

1427  
1428 **A - 22-2002** **MILDRED MARTIN** requests a variance from Section 24-94 of  
1429 Chapter 24 of the County Code to build a sunroom addition at  
1430 5613 Burberry Court (Kimberwick) (Parcel 735-776-3512),  
1431 zoned R-3, One-family Residence District (Three Chopt). The  
1432 rear yard setback is not met. The applicant has 34 feet rear  
1433 yard setback, where the Code requires 40 feet rear yard  
1434 setback. The applicant requests a variance of 6 feet rear yard  
1435 setback.

1436  
1437 Mr. Balfour - Anyone else to speak on this matter? Would you raise  
1438 your right hand please?

1439

1440 Mr. Blankinship - Do you swear that the testimony you are about to give is  
1441 the truth, the whole truth, and nothing but the truth, so help you God?

1442  
1443 Mr. Balfour - State your name please.

1444  
1445 Mr. Hart - I do. My name is Craig Hart. I apologize that Mrs. Martin  
1446 couldn't make it here today. She just recently had a knee replacement surgery,  
1447 and she's still recovering from that. The knee replacement surgery has a little bit  
1448 to do with what she's trying to do here. This is not a small home that we're trying  
1449 to add this onto, and she's aware of that, but what she's trying to do is add some  
1450 square footage to the bottom floor for herself so she doesn't have to climb the  
1451 stairs near as often. I'm trying to help her out in that respect. She anticipates it as  
1452 being rather uncomfortable to have to climb a lot of stairs often. We're also aware  
1453 that she obviously has stairs to climb in and out of the home in the front, which is  
1454 2 or 3 steps, and on the back, off the deck, she's going to have a few steps, but  
1455 it's nothing compared to climbing up and down those steps going to the second  
1456 floor. Any questions? That's really all the information that I have.

1457  
1458 Mr. Wright - I take it there's no screening between this addition and  
1459 the property to the rear?

1460  
1461 Mr. Hart - No sir, it's quite open between all these pieces of  
1462 property. Really the only thing I would have to add as far as the property shapes, I  
1463 noticed, not in the conditions, but in the comments from staff, it was talking about  
1464 the typical home having to be further back from the front property line due to a pie  
1465 shape, and that is quite typical, but I will add that the property directly behind this  
1466 particular home, due to its location on the cul-de-sac opposite to it, seems to kind  
1467 of bunch these 2 pieces of property a little closer to each other than others. If you  
1468 notice the curve off of the cul-de-sac on the home behind it, seems to have these 2  
1469 pushed a little closer to each other than anyone off to the sides. They have a little  
1470 more room between them than these folks do.

1471  
1472 Mr. Balfour - Any other questions? Thank you sir.

1473  
1474 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
1475 Nunnally, the Board **granted** application **A-22-2002** for a variance to build a  
1476 sunroom addition at 5613 Burberry Court (Kimberwick) (Parcel 735-776-3512).  
1477 The Board granted the variance subject to the following condition:

1478  
1479 1. Only the improvements shown on the plan filed with the application  
1480 may be constructed pursuant to this approval. Any additional improvements  
1481 shall comply with the applicable regulations of the County Code.

1482  
1483 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1484 Negative: 0  
1485 Absent: 0

1486  
1487 The Board granted this request, as it found from the evidence presented that, due  
1488 to the unique circumstances of the subject property, strict application of the  
1489 County Code would produce undue hardship not generally shared by other  
1490 properties in the area, and authorizing this variance will neither cause a substantial  
1491 detriment to adjacent property nor materially impair the purpose of the zoning  
1492 regulations.

1493  
1494  
1495 **A - 23-2002**      **HERBERT L. CASANOVA** requests a variance from Section 24-  
1496 94 of Chapter 24 of the County Code to build a screened porch  
1497 over the existing deck at 10804 Rimbey Court (Lexington)  
1498 (Parcel 751-761-9098), zoned R-3A, One-family Residence  
1499 District (Three Chopt). The rear yard setback is not met. The  
1500 applicant has 34 feet rear yard setback, where the Code  
1501 requires 35 feet rear yard setback. The applicant requests a  
1502 variance of 1-foot rear yard setback.

1503  
1504 Mr. Balfour -                      Are there any others who expect to testify in this matter?  
1505 Would you raise your right hand please?

1506  
1507 Mr. Blankinship -                  Do you swear that the testimony you are about to give is  
1508 the truth, the whole truth, and nothing but the truth, so help you God?

1509  
1510 Mr. Balfour -                      State your name please.

1511  
1512 Mr. Casanova -                      I do. My name is Herbert L. Casanova. I'm requesting a  
1513 1-foot rear yard setback to screen in an existing deck. Actually it's less than a  
1514 foot, but I'm asking for a foot. The proposed project is one of convenience, and in  
1515 my opinion, will have no detrimental impact on adjacent property. I've gotten  
1516 approval from the community architectural board and have had no problems with  
1517 any of the neighbors in that area with this project.

1518  
1519 Mr. Balfour -                      Any questions by Board members?    Apparently not, sir.  
1520 Thank you.

1521  
1522 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
1523 McKinney, the Board **granted** application **A-23-2002** for a variance to build a  
1524 screened porch over the existing deck at 10804 Rimbey Court (Lexington) (Parcel  
1525 751-761-9098). The Board granted the variance subject to the following  
1526 condition:

1527

1528 1. Only the improvements shown on the plan filed with the application may be  
1529 constructed pursuant to this approval. No substantial changes or additions to the  
1530 layout may be made without the approval of the Board of Zoning Appeals. Any  
1531 additional improvements shall comply with the applicable regulations of the County  
1532 Code.

1533  
1534 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1535 Negative: 0  
1536 Absent: 0

1537  
1538 The Board granted this request, as it found from the evidence presented that, due  
1539 to the unique circumstances of the subject property, strict application of the  
1540 County Code would produce undue hardship not generally shared by other  
1541 properties in the area, and authorizing this variance will neither cause a substantial  
1542 detriment to adjacent property nor materially impair the purpose of the zoning  
1543 regulations.

1544  
1545 **A - 24-2002** **SUSAN H. DICKINSON** requests a variance from Section 24-94  
1546 of Chapter 24 of the County Code to build a two-story addition  
1547 at 13112 Densmore Place (Ridgemere at Wellesley) (Parcel 733-  
1548 758-9890), zoned R-4AC, One-family Residence District  
1549 (Conditional) (Three Chopt). The rear yard setback is not met.  
1550 The applicant has 30 feet rear yard setback, where the Code  
1551 requires 35 feet rear yard setback. The applicant requests a  
1552 variance of 5 feet rear yard setback.

1553  
1554 Mr. Balfour - Are there any others who expect to testify in this matter?  
1555 Would you raise your right hand please?

1556  
1557 Mr. Blankinship - Do you swear that the testimony you are about to give is  
1558 the truth, the whole truth, and nothing but the truth, so help you God?

1559  
1560 Mr. Balfour - State your name please.

1561  
1562 Ms. Dickinson - I do. Good morning. My name is Susan Dickinson. I am  
1563 the owner of the property, together with my husband. We would like to put an  
1564 addition on the rear of our house to put a sunroom on the first floor and a  
1565 bathroom and bedroom up on the second floor. We have 3 children. As they get  
1566 bigger, we find that we need more space. This is actually not our yard; it's a  
1567 different view up on the screen. Right now we can go out 10 feet from the  
1568 existing house before we reach the rear setback. The problem that we find is, in  
1569 the available space, it will be difficult to fit a bedroom and bathroom with a 10-foot  
1570 depth on the addition, and so we were thinking we would like to go out 14 feet on  
1571 the interior, and so then allowing for the exterior wall, we are asking to go out 15

1572 feet, and with the 10-foot setback that we have currently, that's a 5-foot variance  
1573 that we are requesting. We have spoken with many of our neighbors, and they're  
1574 all happy and fine with it.

1575  
1576 Mr. Balfour - Your existing deck is going to be removed?

1577  
1578 Ms. Dickinson - Yes. We'll take out the deck that's there, and then  
1579 probably put a patio over to the right, but as I understand it, the setback for the  
1580 patio and the deck would be different from an addition.

1581  
1582 Mr. Blankinship - That can extend up to 10 feet into the setback.

1583  
1584 Mr. Wright- This will be a 2-story addition?

1585  
1586 Ms. Dickinson - Correct.

1587  
1588 Mr. Wright - I notice your rear property line comes in at one point.

1589  
1590 Ms. Dickinson - That's right. It's kind of at an angle in the back there. I  
1591 think the issues more to the right-hand side, as you look at that, than over on the  
1592 left.

1593  
1594 Mr. Wright- The left-hand side probably doesn't cause any problem;  
1595 you probably have the distance there.

1596  
1597 Mr. Balfour - Any other questions?

1598  
1599 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
1600 Kirkland, the Board **granted** application **A-24-2002** for a variance to build a two-  
1601 story addition at 13112 Densmore Place (Ridgemere at Wellesley) (Parcel 733-758-  
1602 9890). The Board granted the variance subject to the following condition:

1603  
1604 1. Only the addition shown on the plan filed with the application may be  
1605 constructed pursuant to this approval. No substantial changes or additions to the  
1606 layout may be made without the approval of the Board of Zoning Appeals. Any  
1607 additional improvements shall comply with the applicable regulations of the County  
1608 Code.

1609  
1610  
1611 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1612 Negative: 0  
1613 Absent: 0

1614  
1615 The Board granted this request, as it found from the evidence presented that, due

1616 to the unique circumstances of the subject property, strict application of the  
1617 County Code would produce undue hardship not generally shared by other  
1618 properties in the area, and authorizing this variance will neither cause a substantial  
1619 detriment to adjacent property nor materially impair the purpose of the zoning  
1620 regulations.

1621  
1622 **A - 25-2002**            **GRIFFENT E. YANCEY** requests a variance from Section 24-94  
1623 of Chapter 24 of the County Code to build an addition at 8416  
1624 Wilshire Place (Brittany) (Parcel 764-761-8835), zoned R-2AC,  
1625 One-family Residence District (Conditional) (Brookland). The  
1626 rear yard setback is not met. The applicant has 42 feet rear  
1627 yard setback, where the Code requires 45 feet rear yard  
1628 setback. The applicant requests a variance of 3 feet rear yard  
1629 setback.

1630  
1631 Mr. Balfour -                    Are there any others who expect to testify in this matter?  
1632 Would you raise your right hand please?

1633  
1634 Mr. Blankinship -                Do you swear that the testimony you are about to give is  
1635 the truth, the whole truth, and nothing but the truth, so help you God?

1636  
1637 Mr. Balfour -                    State your name please.

1638  
1639 Mr. Yancey -                    I do. My name is Griffent Yancey. My wife and 2 kids  
1640 live at 8416 Wilshire Place. As you can see, my property line turns where I would  
1641 like to put my addition, and it's 42 feet right now, off of the property line and I'd  
1642 like to ask for 3 feet.

1643  
1644 Mr. Balfour-                    This addition is next to the street, it looks like, too, is  
1645 that correct?

1646  
1647 Mr. Wright-                    This would be a 2-story or just 1-story?

1648  
1649 Mr. Yancey -                    Just one story.

1650  
1651 Mr. Balfour -                    Any other questions? Thank you sir.

1652  
1653 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by  
1654 Mr. McKinney, the Board **granted** application **A-25-2002** for a variance to build a  
1655 addition at 8416 Wilshire Place (Brittany) (Parcel 764-761-8835). The Board  
1656 granted the variance subject to the following condition:

1657  
1658 1. Only the addition shown on the plan filed with the application may be  
1659 constructed pursuant to this approval. No substantial changes or additions to the

1660 layout may be made without the approval of the Board of Zoning Appeals. Any  
1661 additional improvements shall comply with the applicable regulations of the County  
1662 Code.

1663  
1664 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1665 Negative: 0  
1666 Absent: 0

1667  
1668 The Board granted this request, as it found from the evidence presented that, due  
1669 to the unique circumstances of the subject property, strict application of the  
1670 County Code would produce undue hardship not generally shared by other  
1671 properties in the area, and authorizing this variance will neither cause a substantial  
1672 detriment to adjacent property nor materially impair the purpose of the zoning  
1673 regulations.

1674  
1675 **A - 26-2002 HAZEL B. GARRETT** requests a variance from Section 24-94 of  
1676 Chapter 24 of the County Code to build a one-family dwelling at  
1677 14 Orams Lane (Parcel 814-726-9949), zoned R-2, One-family  
1678 Residence District (Varina). The total lot area requirement is not  
1679 met. The applicant has 16,900 square feet total lot area,  
1680 where the Code requires 18,000 square feet total lot area. The  
1681 applicant requests a variance of 1,100 square feet total lot  
1682 area.

1683  
1684 Mr. Balfour - Are there any others who expect to testify in this matter?  
1685 Three more? Would you raise your right hands please?

1686  
1687 Mr. Blankinship - Do you swear that the testimony you are about to give is  
1688 the truth, the whole truth, and nothing but the truth, so help you God?

1689  
1690 Mr. Balfour - State your name please.

1691  
1692 Mr. Williams - I do. Good morning, gentlemen. My name is Rodney  
1693 Williams. I'm a home builder. I plan to buy this lot from Ms. Garrett, the owner,  
1694 who's also here in attendance with us. I'd like to buy the lot in order to build a  
1695 house. The Code requires 18,000 square feet of lot area. We have 16,900 square  
1696 feet of lot area. Therefore, we're here asking today for an 1100 square foot  
1697 variance. That is the case in a nutshell.

1698  
1699 Mr. Nunnally- Mr. Williams, is there any land available on either side of  
1700 your property that you could purchase? What size house do you plan on putting  
1701 there?

1702  
1703 Mr. Williams - No sir. I have 2 options. I'm looking at either a 1500

1704 square foot Cape Cod or possibly an 1800 square foot Colonial. The minimum  
1705 square foot requirement on the house in this R-2 zoning area is 1500 square feet.

1706  
1707 Mr. Nunnally - Mr. Williams, are there other houses built on lots in that  
1708 area of the same size as this lot.

1709  
1710 Mr. Williams - Yes sir. Several of the houses in this area are actually  
1711 smaller than the house I'm intending to build, but there are other houses adjacent  
1712 to this lot that are roughly 1500 square feet.

1713  
1714 Mr. Nunnally - How about the lot size?

1715  
1716 Mr. Williams - The lot size? Most of the other lots within the R-2 zoning  
1717 area have the minimum required 18,000 square feet. We are just a bit short here  
1718 with 16,900.

1719  
1720 Mr. Balfour - Depending on the size of your home, how much siding  
1721 distance are you going to have on each side of the house. Are you going to be  
1722 within the setback lines on the sides.

1723  
1724 Mr. Williams - Yes sir. The setbacks should be no issue here.

1725  
1726 Mr. McKinney - Mr. Williams, do you know how this lot wound up being  
1727 smaller than the others?

1728  
1729 Mr. Williams - Yes sir. Ms. Garrett sold a portion of the lot to the rear  
1730 of it that actually fronts Bayard Road. She sold off a portion of the lot in 1997,  
1731 and the sale of this lot was unrepresented by an engineer, and basically sold off  
1732 18,000 square feet to her neighbor, Ms. Hockaday, and in doing so, she created a  
1733 nonconforming situation with the lot in question here today, the lot on Orams Lane.

1734  
1735 Mr. McKinney - That was in 1997? And apparently that was to build Ms.  
1736 Hockaday's house on Bayard Road?

1737  
1738 Mr. Balfour - Any other questions? All right, you'll have a chance to  
1739 respond if these people are opposed to you. Which one of you would like to speak  
1740 first?

1741  
1742 Ms. Hockaday - Good morning. I'm Ms. Hockaday. I thank you for the  
1743 opportunity to express my opinion concerning the variance being requested by Ms.  
1744 Garrett. I oppose the variance for several simple reasons, but they're important to  
1745 me. I live in the back of the lot area that is the subject of the request, and would  
1746 like the existing requirements by the County Code governing the area and request.

1747



1748 Mr. Balfour- You face Bayard Road?  
1749

1750 Ms. Hockaday - Yes. I would like the existing requirements by the County  
1751 Code governing the area and request to remain in effect. I think it's a good code.  
1752 Simply, I like the space the lot area for a family. I think this means that we have a  
1753 little more privacy, less crowding, and it creates a more peaceful environment. My  
1754 question is, does the lot size affect one-family residential districts? I think so. I  
1755 also have been told that a small subdivision will be built one street over from where  
1756 I live, and I think that there's already enough construction going on in the area  
1757 around, and I think that it affects the privacy of the citizens in the area. Also, if  
1758 you allow variance for 16,000 square feet, vs. the 18,000 square feet, which is  
1759 required by the Code, my concern is what about other people requesting a variance  
1760 for an even smaller lot size. Where do you draw the line? A denial of the variance  
1761 does not prohibit the selling of the lot, it only prohibits the proximity of the  
1762 structures in the area. I recalled when I purchased the lot from Ms. Garrett, I think  
1763 she was pretty much familiar with the Code; it had been explained to us that we  
1764 had to increase the lot size, and I questioned her about the lot that was behind me,  
1765 also the lot that's behind her, and she was not interested in selling at that time  
1766 because she enjoyed her privacy, and she stated that she liked the way things  
1767 were around there, and so do I. I would like to keep it that way. My concern also  
1768 is this is a type of suburban living as opposed to urban, and I think that's a plus,  
1769 the larger the lot sizes. Thank you.  
1770

1771 Mr. Balfour - Are there any questions? You do understand that if this  
1772 lot is not built on, apparently it's not going to be available for any other use either  
1773 and have to stay vacant?  
1774

1775 Ms. Hockaday - I understand that, but that does not mean it cannot be  
1776 sold.  
1777

1778 Mr. Wright- Why would it be sold?  
1779

1780 Ms. Hockaday - The land itself, I would purchase the land; it's right  
1781 behind me. I have children; they could play there, whatever. It can be sold.  
1782

1783 Mr. McKinney- Are you saying you'd purchase the land for the same  
1784 price that it's under contract for now?  
1785

1786 Ms. Hockaday - I don't know what it's under contract for now, but she  
1787 sold the lot to me. What I was going to do with it, I don't think was of any  
1788 concern to her. She just wanted to sell the land, and I bought the land for  
1789 \$15,000 at that time. I don't know what she's been offered for the land that's  
1790 behind me. I would think if she's moving out or she's selling all her land, that's of  
1791 no concern to her. It's of concern to most of the citizens who live in that area.

1792  
 1793 Mr. Wright- When did you purchase your lot?  
 1794  
 1795 Ms. Hockaday - It was back in '97.  
 1796  
 1797 Mr. Balfour - Any other questions? Thank you. Next.  
 1798  
 1799 Ms. Baldwin - Hello. My name is Kristin Baldwin. I live on the lot right  
 1800 next to it, at 12 Orams, and I appreciate being able to speak here today. I am also  
 1801 opposed to the variance. I've heard about lot sizes in the area. I know that  
 1802 18,000 that Ms. Hockaday has, being the exact amount required, is actually small  
 1803 for the area. I personally have 20,000. Just by looking, I know that the lot next  
 1804 door is even larger than that, plus the lots behind us are just as large. The lot next  
 1805 to mine, at 10 Orams, is also open, which is one of the reasons I bought in that  
 1806 area. I talked to one of the neighbors in the area, and one of the things I was told  
 1807 was that there wasn't going to be much construction around there, because I also  
 1808 appreciate the privacy. I like having the space to move around in and not having  
 1809 people to every side of me. I'm also concerned because I do notice that across the  
 1810 street on Orams, has already been zoned R-3, which means the lot sizes in front  
 1811 are going to be 63 feet across Orams, where currently we have 100 feet, so that's  
 1812 already going to crowd a number of houses across the street from me. I find that  
 1813 very concerning also because of the number of septic problems we have in the East  
 1814 End. It's already gotten a little crowded for that. I'm opposed to that just for the  
 1815 space and not wanting too many people building.

1816  
 1817 Mr. Balfour - Anyone else to speak? Mr. Williams, do you have  
 1818 anything else to say? Thank you.

1819  
 1820 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
 1821 Mr. McKinney, the Board **granted** application **A-26-2002** for a variance to build a  
 1822 one-family dwelling at 14 Orams Lane (Parcel 814-726-9949). The Board granted  
 1823 the variance subject to the following condition:

1824  
 1825 1. This variance applies only to the minimum total area requirement. All other  
 1826 applicable regulations of the County Code shall remain in force.

1827  
 1828 2. Approval of this request does not imply that a building permit will be issued.

1829  
 1830 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
 1831 Negative: 0  
 1832 Absent: 0

1833  
 1834 The Board granted this request, as it found from the evidence presented that, due  
 1835 to the unique circumstances of the subject property, strict application of the

1836 County Code would produce undue hardship not generally shared by other  
1837 properties in the area, and authorizing this variance will neither cause a substantial  
1838 detriment to adjacent property nor materially impair the purpose of the zoning  
1839 regulations.

1840

1841 **A - 27-2002**            **SHELIA ARRINGTON** requests a variance from Section 24-94 of  
1842 Chapter 24 of the County Code to build a two-story addition at  
1843 100 Culpeper Road (Westham Ridge) (Parcel 757-732-5692),  
1844 zoned R-1, One-family Residence District (Tuckahoe). The rear  
1845 yard setback is not met. The applicant has 40 feet rear yard  
1846 setback, where the Code requires 50 feet rear yard setback.  
1847 The applicant requests a variance of 10 feet rear yard setback.

1848

1849 Mr. Balfour -                            Are there any others to speak on this matter? Would you  
1850 raise your right hand please?

1851

1852 Mr. Blankinship -                    Do you swear that the testimony you are about to give is  
1853 the truth, the whole truth, and nothing but the truth, so help you God?

1854

1855 Mr. Balfour -                            State your name please.

1856

1857 Mr. Hugo -                                I do. My name is Jay Hugo; I'm with Bond Hugo Farley,  
1858 the architects on this project for Tom and Shelia Arrington, the homeowners at 100  
1859 Culpeper Road. They propose a 2-story addition. It's actually 2 floors of useable  
1860 space, but it's set into grade, so It actually is more like a 1-story addition from the  
1861 high side and from the primary public views. The upper story will be a new kitchen  
1862 and informal seating space, about 700 square feet of living area; the lower story  
1863 will be a garage. The Arringtons have been residents in the area for a while, and  
1864 they're continuing a commitment to the house and to the neighborhood. We're  
1865 proposing an addition that is of quality materials and details.

1866

1867 We've got a slightly unusual condition here where the house actually faces the side  
1868 yard. There are a couple of graphics here. That elevation is actually the Culpeper  
1869 Road elevation, which is the side yard, and what you see peeking out to the left is  
1870 the extent of the addition to what is called the rear yard, which actually appears to  
1871 be the side yard. We've got a condition where we're trying to abide by a rear yard  
1872 setback, which is 50 feet; we're proposing 40 feet, but in effect it's functioning  
1873 like a side yard. The reason why the addition is located where it is, is for  
1874 adjacency to the existing dining room and to hold the addition back off the existing  
1875 face of the garage that's underneath of the footprint of the house and allow an  
1876 adequate back-out space for the new garage, so that's what's pushed it further to  
1877 the south. The other thing that we think it helps out, is to break up the wall plane  
1878 on the south side, so that it doesn't present quite as much mass along that wall.

1879

1880 The Arringtons have met with the adjacent property owners. I understand them to  
1881 be in support of it, and we request a 10-foot variance for the rear yard setback.

1882  
1883 Mr. Balfour - Questions?

1884  
1885 Mr. Wright- Is there any screening between this proposed addition  
1886 and the house to the rear?

1887  
1888 Mr. Hugo - There is existing landscape screening between the 2, but  
1889 there is no new proposed screening.

1890  
1891 Mr. Wright- There are some trees in that area. You will have to  
1892 remove some trees.

1893  
1894 Mr. Hugo - Are you asking if there is any screening that will be  
1895 removed? I didn't understand the question. There are 2 trees that will be cut  
1896 down. One's an existing pine, and one's an existing maple back there, I believe,  
1897 that are between the existing property and the neighbor behind.

1898  
1899 Mr. Balfour - Any other questions? Thank you sir.

1900  
1901 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
1902 McKinney, the Board **granted** application **A-27-2002** for a variance to build a two-  
1903 story addition at 100 Culpeper Road (Westham Ridge) (Parcel 757-732-5692). The  
1904 Board granted the variance subject to the following condition:

1905  
1906 1. Only the improvements shown on the plan filed with the application  
1907 may be constructed pursuant to this approval. No substantial changes or  
1908 additions to the layout may be made without the approval of the Board of  
1909 Zoning Appeals. Any additional improvements shall comply with the  
1910 applicable regulations of the County Code.

1911  
1912 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1913 Negative: 0  
1914 Absent: 0

1915  
1916 The Board granted this request, as it found from the evidence presented that, due  
1917 to the unique circumstances of the subject property, strict application of the  
1918 County Code would produce undue hardship not generally shared by other  
1919 properties in the area, and authorizing this variance will neither cause a substantial  
1920 detriment to adjacent property nor materially impair the purpose of the zoning  
1921 regulations.

1922  
1923 **UP- 4-2002 JEWISH COMMUNITY CENTER, INC.** requests a conditional use

1924 permit pursuant to Section 24-52(a) of Chapter 24 of the  
1925 County Code to allow temporary access from West Franklin  
1926 Street at 5403 Monument Avenue (Parcel 770-736-3957),  
1927 zoned A-1, Agricultural District (Brookland).  
1928

1929 Mr. Balfour - Are there any others who expect to testify in this matter?  
1930 Would you raise your right hand please?  
1931

1932 Mr. Blankinship - Do you swear that the testimony you are about to give is  
1933 the truth, the whole truth, and nothing but the truth, so help you God?  
1934

1935 Mr. Balfour - State your name please.  
1936

1937 Mr. Weinberg - Mr. Chairman, members of the Board, I'm Jay Weinberg,  
1938 and I represent the Jewish Community Center. With us today are Richard  
1939 November, who's in charge of this construction, Mr. Chuck Howard, and Mr. Dan  
1940 Niccolucci, and Alan Sataloff, the Executive Director. As the Board may remember,  
1941 on May 24 you granted a conditional use permit UP-17-2001, to allow for the  
1942 expansion of the Jewish Community Center. This is a request to amend condition  
1943 number 7, in order to allow for temporary access from West Franklin Street to the  
1944 Center, during the construction period. In planning the construction phase, the  
1945 applicant realized that their access to and from Monument Avenue had to be  
1946 blocked off for several months. Accordingly, an alternate access to the property is  
1947 required during this construction period. Also, our engineers have advised us that  
1948 it's extremely important to separate the construction traffic, which consists of  
1949 trucks and equipment, from staff and membership traffic, which is basically  
1950 automobiles, in the interest of public safety. Accordingly, we've met several times  
1951 with your professional staff and also with our neighbors, to explain the situation to  
1952 them and to be certain that we keep to a minimum any inconvenience to the  
1953 residents on West Franklin Street. Last week we met with Mrs. Zachary, Mr.  
1954 Rudenko, and Mr. Tate, all of whom are here this morning, in order to review our  
1955 plans and walk the site, so we would all know exactly what we were talking about.  
1956 In order to reduce the inconvenience to them and their tenants, we have reached a  
1957 number of agreements, which are basically contained in my letter to them of  
1958 February 21, 2002, a copy of which is on file with the case in the Planning Office,  
1959 and which are specifically set forth in conditions 12-16, suggested by staff. I  
1960 might add that all of the conditions recommended by staff are acceptable to the  
1961 Center. Very briefly stated, these agreements may be summarized as follows:  
1962

1963 1. The existing sidewalk from the rear entrance of the JCC to the  
1964 existing entrance and the fence at West Franklin Street must be removed at the  
1965 commencement of construction, and the JCC's rear entrance will be kept closed  
1966 and will be eliminated completely after the renovation is completed.  
1967

1968 2. The current condition of the use permit states that upon  
1969 completion of the expansion, a wooden fence, 7 feet in height, will be provided  
1970 along the eastern boundary line of the apartments and across West Franklin street  
1971 with no openings in the gates. We have mutually agreed with our neighbors to  
1972 request a change in this condition, so that the fence would be a 7-foot, solid vinyl  
1973 fence, rather than a wooden fence. Our neighbors, and we, believe that one, it will  
1974 be more attractive; two, require less maintenance, and it's more durable and we  
1975 mutually agree on this change.

1976  
1977 3. The above mentioned fence will be erected prior to the  
1978 construction of any building, for its entire length, except for leaving an opening for  
1979 access to the site from West Franklin Street, but only during the construction.  
1980 Upon completion of the construction and prior to the issuance of a certificate of  
1981 occupancy, the balance of the fence would be installed so as to completely close  
1982 off any access to or from West Franklin Street, to or from the site. The Jewish  
1983 Community Center has also agreed that, upon completion of construction, West  
1984 Franklin Street would be in at least as good a condition as it is today. The County  
1985 has agreed with the JCC, to take photographs of the street, and the sidewalks at  
1986 this time, to document their condition, so to make sure we put it back in the right  
1987 condition, and we have further agreed to send Ms. Zachary copies of those  
1988 photographs. Upon completion of construction, the existing sidewalk in front of  
1989 Ms. Zachary's and Mr. Rudenko's house, as well as Mr. Tate's properties, would  
1990 be repaired. That's in addition to that condition in which we would add the  
1991 sidewalks in front of 5307 through 5311 West Franklin Street, which would also  
1992 be repaired, so we'd handle it on both sides of the street.

1993  
1994 Let me say that our neighbors have been extremely cooperative and very sensitive  
1995 to our problem during the construction period, and we in turn want to be sensitive  
1996 and accommodating to their concerns. We respectfully submit that this request  
1997 complies with all of the jurisdictional conditions precedent, for the Board to grant  
1998 the request for the following reasons:

1999  
2000 1. Because of the care that we've taken to reach mutual  
2001 agreement with our neighbors, and the 16 conditions recommended by staff, the  
2002 request for an amendment to our use permit will not adversely affect the health,  
2003 safety, or welfare of persons residing or working on the premises or in the  
2004 neighborhood.

2005  
2006 2. It will not unreasonably impair the adequate supply of light and  
2007 air to adjacent properties, as we have observed all of the required setbacks and  
2008 have a very large parcel of land with substantial open space.

2009  
2010 3. Our proposal should not increase the congestion in the streets,  
2011 in view of the fact that we are providing substantially more on-site parking, and the

2012 traffic during construction is divided into 2 access points, and construction traffic  
2013 for all but 5 months is confined to Monument Avenue, not West Franklin Street. It  
2014 will not increase the danger from fire or otherwise unreasonably affect public  
2015 safety, nor impair the character of the adjacent districts, because we are  
2016 modernizing and completely renovating the facility, which has been at this location  
2017 for over 40 years, and which serves the community in which it is located by  
2018 providing recreational, leisure, cultural and educational opportunities for our  
2019 citizens.

2020  
2021 4. Next, because of the care we have taken by meeting with the  
2022 County's traffic engineer, the Board's professional staff, and our neighbors, our  
2023 request should not be incompatible with the general plans or objectives of the  
2024 official land use plan of the County, nor be likely to reduce or impair the value of  
2025 buildings or properties in the surrounding area.

2026  
2027 I would also like to pay special thanks to Nina Zachary, Mike Rudenko, and Butch  
2028 Tate, for their willingness to meet with us on several occasions and to walk this  
2029 property, and to mutually agree on conditions to protect our respective properties.  
2030 I also thank them in advance for their patience during the construction period. For  
2031 all of the forgoing reasons, we would respectfully submit that the use is  
2032 substantially in accordance with the general purposes and the objectives of the  
2033 County Code, and respectfully request that the Board grant the amendment to UP-  
2034 17-2001, subject to the 16 conditions recommended by staff, which we readily  
2035 accept. I'll be happy to answer any questions.

2036  
2037 Mr. Wright- That would change condition # 7 to remove the words  
2038 "an opaque wooden privacy fence to a solid vinyl fence."

2039  
2040 Mr. Weinberg - That's correct sir.

2041  
2042 Mr. Blankinship - We have actually distributed to you a revised set of  
2043 conditions. It does incorporate Mr. Weinberg's recommendations. He and the  
2044 applicants have had an opportunity to review those.

2045  
2046 Mr. Nunnally - Mr. Weinberg, what's the timetable for this  
2047 construction?

2048  
2049 Mr. Weinberg - Well, we would hope to start with March, and there's a  
2050 schedule there, and it's phased as to each phase of it.

2051  
2052 Mr. Kirkland - Mr. Weinberg, would you have any problems with  
2053 construction vehicles being limited to Monday through Friday, going through the  
2054 Franklin Street entrance?

2055

2056 Mr. Weinberg - As opposed to none on Saturday or Sunday?  
2057  
2058 Mr. Kirkland - That's correct.  
2059  
2060 Mr. Weinberg - I don't believe that's a problem, is it, Richard or Chuck?  
2061  
2062 Mr. Kirkland - And that the hours be 7:30 to 5:30.  
2063  
2064 Mr. Weinberg - I would say that would be agreeable, except in case of  
2065 emergency, if we could add that. In other words, if you're doing a concrete  
2066 pouring. I would not have a problem with that.  
2067  
2068 Mr. Balfour - Any other questions? Any of the 4 of you feel the need  
2069 to speak? All right sir, and no others stood up, so I guess that's the case. Oh, are  
2070 there; I didn't look to the right. I'm sorry.  
2071  
2072 Mr. Tate - I'm Butch Tate. I know they're going to use it, and they  
2073 need to use this street. The only thing I'd like, is for it to revert back as soon as  
2074 possible to a residential street. In other words, one of their planning things said  
2075 "up to 2 years, and I was just wondering, once they got the major construction  
2076 done, could they reopen the entrance to Monument Avenue as soon as possible.  
2077 Once they get to a point where they can open up to use Monument Avenue.  
2078  
2079 Mr. Balfour - I think they'll do that. Thank you.  
2080  
2081 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
2082 Kirkland, the Board **granted** application **UP-4-2002** for a conditional use permit to  
2083 allow temporary access from West Franklin Street at 5403 Monument Avenue  
2084 (Parcel 770-736-3957). The Board granted the variance subject to the following  
2085 conditions:  
2086  
2087 1. The property shall be developed in substantial conformance with the plan  
2088 submitted at the hearing, including the landscaped berm and the preservation of  
2089 existing trees. No substantial changes or additions to the layout may be made  
2090 without the approval of the Board of Zoning Appeals.  
2091  
2092 2. The applicant shall submit a schedule of required and provided parking  
2093 spaces consistent with Section 24-96 of the County Code. The parking lot,  
2094 driveways, and loading areas shall be subject to the requirements of Section 24-98  
2095 of Chapter 24 of the County Code.  
2096  
2097 3. The applicant shall present a complete grading, drainage, and erosion control  
2098 plan prepared by a Professional Engineer certified in the state of Virginia to the



2099 Department of Public Works for approval. This plan must include the necessary  
2100 floodplain information if applicable.

2101  
2102 4. A detailed landscaping and lighting plan shall be submitted to the Planning  
2103 Office with the building permit for review and approval.

2104  
2105 5. All exterior lighting shall be shielded to direct light away from adjacent  
2106 property and streets.

2107  
2108 6. All landscaping shall be maintained in a healthy condition at all times. Dead  
2109 plant materials shall be removed within a reasonable time and replaced during the  
2110 normal planting season.

2111  
2112 7. Fire lanes shall be marked and maintained in accordance with the Fire  
2113 Prevention Code in effect.

2114  
2115 8. Parking spaces shall be marked on the pavement surface with four inch wide  
2116 painted lines. All lane lines shall be white in color with the exception that those  
2117 dividing traffic shall be yellow.

2118  
2119 9. All traffic control signs shall be fabricated as shown in the Virginia Manual of  
2120 Uniform Traffic Control Devices for Streets and Highways.

2121  
2122 10. All trash shall be in closed containers with regular pickups. The area shall be  
2123 kept clean, and the containers shall be properly screened.

2124  
2125 11. Noise at the property line shall not exceed 60 decibels.

2126  
2127 12. The existing sidewalk from the rear entrance of the JCC to the existing  
2128 entrance in the fence at West Franklin Street shall be removed with the  
2129 commencement of construction. The rear entrance doors of the JCC have already  
2130 been locked and will be removed.

2131  
2132 13. Upon completion of the expansion, an opaque vinyl fence seven feet in  
2133 height shall be provided along the eastern property line adjacent to the brick  
2134 apartments and across West Franklin Street, with no openings or gates. The fence  
2135 shall be constructed prior to the construction of any buildings, except for leaving an  
2136 opening for temporary access. The fence will be completed prior to the issuance of  
2137 a final Certificate of Occupancy for the expansion.

2138  
2139 14. Upon completion of construction, JCC shall ensure that the condition of  
2140 West Franklin Street will be at least as good as it was prior to construction. Staff  
2141 from the JCC and Henrico County will take photographs of the street and sidewalk  
2142 prior to construction to document its condition.

2143  
2144 15. Upon completion of construction, JCC shall ensure that the sidewalks on  
2145 both sides of the street in front of 5307 - 5311 West Franklin Street will be  
2146 repaired.

2147  
2148 16. The use of the temporary access from West Franklin Street shall be limited  
2149 to Monday - Friday, 7:30 AM - 5:30 PM, during the time periods and for types of  
2150 traffic stated in the schedule provided by JCC. Minor adjustments to that schedule  
2151 may be authorized by the Director of Planning.

2152  
2153 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2154 Negative: 0  
2155 Absent: 0

2156  
2157 The Board granted this request as it found from the evidence presented that  
2158 authorizing this use permit will not be of substantial detriment to adjacent property  
2159 and will not materially impair the purpose of the zoning regulations.

2160  
2161 **A - 28-2002 COMFORT SUITES HOTEL** requests a variance from Section 24-  
2162 104(3)c.1. of Chapter 24 of the County Code to install two  
2163 signs at 4051 Innslake Drive (Parcel 749-761-3214), zoned O-  
2164 3C, Office District (Conditional) (Three Chopt). The signage  
2165 requirement is not met. The applicant proposes a 48-square  
2166 foot attached sign and a 22-square foot freestanding sign,  
2167 where the Code allows only one 30-square foot sign. The  
2168 applicant requests a variance for the number of signs and 40  
2169 square feet of signage.

2170  
2171 Mr. Balfour - We have 2 who expect to testify, is that right? Would  
2172 you raise your right hand?

2173  
2174 Mr. Blankinship - Do you swear that the testimony you are about to give is  
2175 the truth, the whole truth, and nothing but the truth, so help you God?

2176  
2177 Mr. Balfour - State your name please.

2178  
2179 Mr. Tweak - Good morning, members of the Board. My name is Allen  
2180 Tweak, with Holiday Signs, representing the owner of Comfort Suites. Everything  
2181 laid out in your document is correct. The Comfort Suites, being part of a national  
2182 chain, is going through a re-imaging program, where they're changing their logo  
2183 style and type style. That necessitates us to take the 30 square foot sign that  
2184 presently is on the building, down, and put up new letters to coincide with the new  
2185 re-imaging program. The reason we're adding the word "Hotel" is because it's not  
2186 uncommon for people, because it's in such a business park area, is to confuse

2187 Comfort Suites with office suites. We're requesting the additional square footage  
2188 to accommodate the word "Hotel."

2189  
2190 The other part of the variance being requested is to place a monument sign at the  
2191 front entrance demarcating the entrance to the hotel property because along that  
2192 stretch of road there are a number of driveways, and it's real easy for people to  
2193 pull into the wrong driveway. So really what we're looking for is to enhance and  
2194 improve our way-finding to people coming into that area. A lot of people are  
2195 coming in; it's the first time they've been in the area. They're looking for the  
2196 Comfort Inn, or the Comfort Suites, and if they're going down that road, it's easy  
2197 for them to take the wrong driveway. That necessitates people making U-turns in  
2198 driveways, getting back out on the road, cutting across traffic, and the monument  
2199 sign is something that's pretty commonplace out there. It just happens that we  
2200 happen to be in an office zoning, and we're really looking at it from a way-finding  
2201 viewpoint, more so that from an advertising, because you really can't see the  
2202 monument sign until you approach the driveway area. The sign has gone through  
2203 the approval process of the Innsbrook Association; they have approved it. There  
2204 are some things that I needed to resubmit to them as far as some of the colors on  
2205 the base of the sign, but once that is changed, they've indicated in letter form that  
2206 they would be allowed to put up a monument sign, providing we were able to get  
2207 the Board of Zoning Appeals to approve our variance.

2208  
2209 Mr. Balfour - Any questions?

2210  
2211 Mr. Balfour- I thought Holiday signs was going to have some trouble  
2212 using Holiday Inn signs, but that's your company, not the name of the sign.

2213  
2214 Mr. Wright- The problem I have with this is that you're asking us to  
2215 amend the County ordinance – how do you get around that?

2216  
2217 Mr. Tweat - The monument sign I think is something that enhances  
2218 public safety. It just makes way-finding more enhanced. The hotel, we would be  
2219 willing -- the extra square footage on the building -- if that's something that's a big  
2220 hurdle for us, we would be willing to concede and just not do the hotel letters on  
2221 the building; it would just remain "Comfort Suites." As far as a hardship, there're a  
2222 lot of other hotel properties out there that are in business zoning, and they have  
2223 the monument signage. We're sort of back off on Innslake Drive there; there is a  
2224 property right across the street from us that has a monument sign, so it more or  
2225 less brings us up to par, but again I want to emphasize, not so much from an  
2226 advertising perspective or point of view, but from a way-finding, public safety. So  
2227 I know that it does ask for more than the zoning ordinance allows, but being the  
2228 environment out there, and that similar properties have monument signs, and this is  
2229 not some big obtrusive, it's a low-profile monument sign. Do you have a diagram  
2230 of it?

2231  
2232 Mr. McKinney - Mr. Blankinship, can they apply to the Board of  
2233 Supervisors for a conditional zoning case to get that they want, rather than try to  
2234 get us to amend the ordinance? Why don't they go for a B-2C only for the purpose  
2235 of the sign?  
2236  
2237 Mr. Blankinship - I believe they could do that, yes.  
2238  
2239 Mr. McKinney - We can't amend the ordinance. If they need more  
2240 signage, they could apply to the Board of Supervisors to rezone it under a  
2241 conditional zoning case, and proffer that the only change is going to use the office  
2242 zoning that they have, only, except for the sign.  
2243  
2244 Mr. Blankinship - That's been done before.  
2245  
2246 Mr. Tweak - I didn't explore that or approach that. From the front  
2247 lines of talking to the Planning people, they recommended that, and I don't know  
2248 what costs are involved or procedures are involved.  
2249  
2250 Mr. McKinney - You might have to spend some more money, Mr. Tweak.  
2251  
2252 Mr. Tweak - Any other questions that I can address? Again, if we do  
2253 away with the hotel verbiage, we'd be in conformance building signage wise, and  
2254 I'm not sure what kind of leeway you have as the Board of Zoning Appeals, but to  
2255 address the monument from a perspective of enhancing public safety, enhancing  
2256 way-finding.  
2257  
2258 Mr. McKinney - The Code is very clear. It allows only one 30-foot square  
2259 foot sign.  
2260  
2261 Mr. Tweak - Yes, and I think it's a matter of when you read that  
2262 ordinance, and I don't have it in front of me, but is it being interpreted as being one  
2263 or the other, just one sign, or is there language in there that would allow us to have  
2264 a 30-square-foot monument sign.  
2265  
2266 Mr. McKinney - The interpreter for that would be the Planning Director.  
2267  
2268 Mr. Tweak - It wouldn't be the Board of Zoning Appeals for an  
2269 interpretation - I know that wasn't part of my application.  
2270  
2271 Mr. Blankinship - Do you just want to read the paragraph into the record?  
2272  
2273 Mr. Wright - "104(g)(3)c. 1. One detached or attached sign. One  
2274 detached or attached sign, identifying the project, shall not exceed 30 square feet

2275 in area. The detached sign shall not exceed 15 feet in height. Where there is  
2276 frontage on more than one public street, one sign for each street frontage is  
2277 permitted if the signs are at least 75 feet apart, but the aggregate total area for  
2278 these signs shall not exceed 36 square feet.”

2279  
2280 Mr. Balfour - Any other questions or comments? Thank you sir. Was  
2281 there someone else here too, to speak?

2282  
2283 Mr. Bowen - Good morning. My name is Tom Bowen. I'm Vice  
2284 President of Operations for Shamin Hotels, the owner of Comfort Suites. I would  
2285 reiterate what Allen had asked for in the sense that as far as people finding their  
2286 way and requesting a monument sign, we're adjacent to an office building, and  
2287 with no clear lack of signage, we have a number of people on a weekly basis,  
2288 turning into the office building, thinking that in turn is their destination. As that  
2289 continues to go on, we've got 3 other hotels, 2 directly across the street from us,  
2290 and one on the other side of Innslake, that people have become frustrated with,  
2291 and at times, give up trying to find the hotel and go to a competitor. There is an  
2292 issue of way-finding there, but also I feel that we've got a distinct competitive  
2293 disadvantage, as we're the only hotel operation out there without a monument  
2294 sign, so I would ask your indulgence to consider giving us a monument sign out  
2295 there.

2296  
2297 Mr. McKinney - Mr. Bowen, how long has this hotel/motel been there?

2298  
2299 Mr. Bowen - I just joined the company in July, but I believe it's been  
2300 there 2-2 ½ years. It has been an ongoing problem.

2301  
2302 Mr. McKinney - Well I think we gave you an out, if you go to the Board of  
2303 Supervisors, to rezone.

2304  
2305 Mr. Balfour - Any other questions? Thank you.

2306  
2307 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **denied**  
2308 application **A-28-2002** for a variance to install two signs at 4051 Innslake Drive  
2309 (Parcel 749-761-3214). The Board denied the request as it found from the  
2310 evidence presented that approving the permit would be of substantial detriment to  
2311 adjacent property or would materially impair the purpose of the zoning regulations.

2312  
2313 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2314 Negative: 0  
2315 Absent: 0

2316  
2317 Mr. Balfour - Next case.

2318

2319 **A - 29-2002**            **RICHARD AND WANDA WRIGHT** request a variance from  
2320 Sections 24-94 and 24-9 of Chapter 24 of the County Code to  
2321 build a one-family dwelling at 7453 Willson Road (Parcel 812-  
2322 692-8185 (part)), zoned A-1, Agricultural District (Varina). The  
2323 lot width requirement and public street frontage requirement are  
2324 not met. The applicant has 0 feet lot width and 0 feet public  
2325 street frontage, where the Code requires 150 feet lot width and  
2326 50 feet public street frontage. The applicant requests a  
2327 variance of 150 feet lot width and 50 feet public street  
2328 frontage.  
2329

2330 Mr. Balfour -                    Are there any others who expect to testify in this matter?  
2331 Would you raise your right hand please?  
2332

2333 Mr. Blankinship -            Do you swear that the testimony you are about to give is  
2334 the truth, the whole truth, and nothing but the truth, so help you God?  
2335

2336 Mr. Balfour -                    State your name please.  
2337

2338 Mr. Ilch -                        I do. My name is Mike Ilch; I represent A. W. Groome,  
2339 General Contractors, Richard and Wanda Wright, and Howard and Shirley Garrett,  
2340 Wanda's parents. Wanda's parents built a house on this long narrow lot. Their  
2341 parents gave them a parcel of land. Over the years they ended up building a  
2342 house. Now the daughter would like to build a house behind the parents. They  
2343 don't have the requirements that are required, but we have read the suggested  
2344 conditions attached to the paperwork, and they don't have any problems with that.  
2345 That's pretty much it.  
2346

2347 Mr. Balfour -                    Any questions?  
2348

2349 Mr. Wright -                    How would they access this property?  
2350

2351 Mr. Ilch -                        there's an existing gravel drive from Willson Road into the  
2352 parents' lot, and they're just going to extend from their parents' lot, a 30-foot  
2353 right-of-way to the back portion of that lot.  
2354

2355 Mr. Wright -                    Have they read the conditions?  
2356

2357 Mr. Ilch -                        Yes sir, they have, and we've started to take care of  
2358 those at this time, meeting with the surveyor and attorney.  
2359

2360 Mr. Balfour -                    Any other questions? Thank you sir.  
2361

2362 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
2363 Mr. Wright, the Board **granted** application **A-29-2002** for a variance to build a one-  
2364 family dwelling at 7453 Willson Road (Parcel 812-692-8185 (part)). The Board  
2365 granted the variance subject to the following conditions:

2366  
2367 1. This variance applies only to the lot width and public street frontage  
2368 requirements. All other applicable regulations of the County Code shall remain in  
2369 force.

2370  
2371 2. At the time of building permit application, the applicant shall submit the  
2372 necessary information to the Department of Public Works to ensure compliance  
2373 with the requirements of the Chesapeake Bay Preservation Act and the code  
2374 requirements for water quality standards.

2375  
2376 3. Approval of this request does not imply that a building permit will be issued.  
2377 Building permit approval is contingent on Health Department requirements,  
2378 including, but not limited to, soil evaluation for a septic drainfield and reserve area,  
2379 and approval of a well location.

2380  
2381 4. The applicant shall present proof with the building permit application that a  
2382 legal access to the property has been obtained.

2383  
2384 5. The owners of the property, and their heirs or assigns, shall accept  
2385 responsibility for maintaining access to the property until such a time as the access  
2386 is improved to County standards and accepted into the County road system for  
2387 maintenance.

2388  
2389 6. At the time of building permit application, the owner shall demonstrate that  
2390 the parcel created by this division has been conveyed to members of the immediate  
2391 family, and the subdivision ordinance has not been circumvented.

2392  
2393 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2394 Negative: 0  
2395 Absent: 0

2396  
2397 The Board granted this request, as it found from the evidence presented that, due  
2398 to the unique circumstances of the subject property, strict application of the  
2399 County Code would produce undue hardship not generally shared by other  
2400 properties in the area, and authorizing this variance will neither cause a substantial  
2401 detriment to adjacent property nor materially impair the purpose of the zoning  
2402 regulations.

2403  
2404 **A - 30-2002 TRINITY EVANGELICAL LUTHERAN CHURCH** requests a  
2405 variance from Section 24-96(b)(3) of Chapter 24 of the County

2406 Code to build a new sanctuary at 2315 N Parham Road (Parcel  
2407 756-751-3532), zoned R-3, One-family Residence District  
2408 (Three Chopt). The parking requirement is not met. The  
2409 applicant has 59 parking spaces, where the Code requires 146  
2410 parking spaces. The applicant requests a variance of 87 parking  
2411 spaces.

2412  
2413 Mr. Balfour - Are there any others who expect to testify in this matter?  
2414 Would you raise your right hand please?

2415  
2416 Mr. Blankinship - Do you swear that the testimony you are about to give is  
2417 the truth, the whole truth, and nothing but the truth, so help you God?

2418  
2419 Mr. Balfour - State your name please.

2420  
2421 Mr. Koontz - Yes I do. Good morning, Mr. Chairman, members of the  
2422 Board. My name is Greg Koontz. I represent the applicant, Trinity Evangelical  
2423 Lutheran Church. Trinity Evangelical Lutheran Church has been a part of our  
2424 community at their current location for over 40 years. During these years of  
2425 service to the community, Trinity has been blessed with continuous growth,  
2426 requiring the addition of a new, larger sanctuary. The variance request before you  
2427 today is to allow Trinity the use of an adjacent, off-site parking facility to meet the  
2428 County parking requirements, thereby permitting the construction of a new  
2429 sanctuary.

2430  
2431 Approximately 15 years ago, Trinity recorded an agreement with the adjacent  
2432 landowner, Dr. Cametas, in Henrico Circuit Court, allowing Trinity the use of the  
2433 parking spaces at the adjacent office complex for Sundays, evening worships, and  
2434 holidays. This recorded agreement is set up so that it will run with the land,  
2435 regardless of owner. Dr. Cametas has reaffirmed this commitment to the mission  
2436 of Trinity in the form of a letter, written in support of this variance request, and  
2437 you should have a copy of that. The church has been using the adjacent parking  
2438 lot in the same capacity that we are requesting for a formal approval from the  
2439 County today. They've been using it this way for over 10 years. No change in the  
2440 use of the parking at the adjacent facility is expected to take place.

2441  
2442 The approval of this variance will allow Trinity to move forward with current plans  
2443 for expansion with almost no impact to adjacent residential neighbors. The church  
2444 will be able to preserve the majority of existing trees in the center green space area  
2445 and along the eastern property line. The variance will basically eliminate the  
2446 construction of additional impervious area, minimizing environmental impacts of  
2447 any proposed construction. The main structure of the addition will also be able to  
2448 be constructed behind the existing church, shielding the view from most of the  
2449 adjacent residential neighbors. As a long-standing member of this community,



2450 Trinity respectfully requests your consideration and approval of this variance.

2451  
2452 I do have just a couple of comments concerning the conditions. The very first  
2453 condition that staff had on there says, "Only the improvements shown on the plan  
2454 filed with the application may be constructed pursuant to this approval....."  
2455 We're really just requesting a variance for the parking, and that has to go through  
2456 the POD process, so they'll have to meet all the County's setbacks for the building.  
2457 There are quite a few – the only addition on the church that requires anything with  
2458 parking really is the sanctuary, so I don't know if you really want anything that this  
2459 church does in the future to come back before you, because it's going to be  
2460 controlled by a POD process anyway. I would recommend that that be deleted, if  
2461 it's possible, because the approval that we're trying today would fit within the  
2462 setbacks. That's a preliminary sketch of where it's going to go, but it shouldn't  
2463 need any variances for setbacks on the addition.

2464  
2465 The other thing, when we made the request, we made it for a specific number of  
2466 parking spaces, and I talked to Mr. Blankinship for just a second, just to try to find  
2467 out, the parking spaces we're allowed to use on the adjacent property, it's  
2468 approximately 250 parking spaces over there. The concept drawing that we have  
2469 from the architect, showing this sanctuary, covered up a certain number of spaces,  
2470 which we put on the drawing, just to see how many it was, and if possible, if the  
2471 variance request, if it's granted, could be for the use of the adjacent parking, which  
2472 we have a recorded document to cover, if it could be for that, not with a specific  
2473 number, as we go through this process and come up with exact seating in the  
2474 sanctuary, the Planning staff can make sure that we have enough parking over  
2475 there to meet the requirements between the combination of our property and the  
2476 ones that we have a recorded agreement for adjacent to us, it would provide us  
2477 with a little flexibility in the design process as we go through it.

2478  
2479 Mr. McKinney- Mr. Koontz, you say you have a letter from Dr. Cametas  
2480 – we don't have that in our file.

2481  
2482 Mr. Koontz - I've got copies right here if you'd like to see them. I  
2483 actually have a copy of a letter from Dr. Cametas and a copy of the actual deed as  
2484 it was recorded in the courthouse.

2485  
2486 Mr. McKinney - This new proposal – how many parking spaces is that  
2487 eliminating, Mr. Koontz?

2488  
2489 Mr. Koontz - I think by the drawing that we have on there, it's  
2490 probably about 15 spaces. We have enough parking there now for approximately  
2491 320-seat sanctuary. The new addition only eliminates about somewhere between  
2492 15 and 20, I believe, but the adjacent parking that we have the ability to use, is  
2493 approximately 250 spaces, and we've been using them from an ongoing basis

2494 through this agreement for about 10-15 years.  
2495  
2496 Mr. McKinney - How many seats would be in the new sanctuary  
2497  
2498 Mr. Koontz - Right now it's just slightly below 600, is what's shown  
2499 on the conceptual plan by the architect. I think the number on there was 581, but  
2500 that was on the conceptual floor plan.  
2501  
2502 Mr. McKinney - How many copies of the letter did you say you got?  
2503  
2504 Mr. Koontz - I think 5 – get lost on the way.  
2505  
2506 Mr. Wright - Ben, the variance would just grant them the privilege of  
2507 using that adjacent area of parking; it doesn't say how many, does it.  
2508  
2509 Mr. Blankinship - I don't think we need to be tied to a specific number of  
2510 spaces, and I don't think we need to be tied to this specific floor plan. If the Board  
2511 has a clear expression of how much flexibility you want to give the staff in terms  
2512 of administrative approval of change. That's fine with me, and as we've done in  
2513 the past, we can bring it back to you informally, if we're uncertain.  
2514  
2515 Mr. McKinney - What you could do is, you've got 250 parking spaces  
2516 over there. You could build up to a sanctuary of X number of seats.  
2517  
2518 Mr. Koontz - That parking is just on the adjacent property, not  
2519 counting the ones we have, would allow you to go to a 1,000-seat sanctuary,  
2520 which we really are not trying to do.  
2521  
2522 Mr. McKinney - Would you have any objection to putting a limit of a  
2523 1,000-seat sanctuary? Wouldn't that solve it?  
2524  
2525 Mr. Koontz - No sir. Yes sir.  
2526  
2527 Mr. McKinney - Would you have any problem with eliminating condition #  
2528 1?  
2529  
2530 Mr. Blankinship - I'm not sure I want to eliminate it; we can certainly re-  
2531 write it to that extent.  
2532  
2533 Mr. Koontz - I guess my question about # 1 was, say we want to  
2534 expand the kitchen or something which doesn't affect any parking at all. Based off  
2535 of this, it would have to come back before the Board of Zoning Appeals, and I  
2536 don't think you want to see that.  
2537

2538 Mr. Wright - Could you limit that to the sanctuary, would that do it?

2539

2540 Mr. Koontz - That would be fine.

2541

2542 Mr. Balfour - Are there any other questions?

2543

2544 Mr. Koontz - We'd like to acknowledge that there are quite a few  
2545 people here in support of this variance request, if you want to stand up so they can  
2546 see who's here. You can rest easy now.

2547

2548 Mr. Balfour- We wondered; we didn't think you came just to look at  
2549 us.

2550

2551 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
2552 McKinney, the Board **granted** application **A-30-2002** for a variance to build a new  
2553 sanctuary at 2315 N Parham Road (Parcel 756-751-3532), zoned R-3, One-family  
2554 Residence District (Three Chopt). The Board granted the variance subject to the  
2555 following conditions:

2556

2557 1. This variance applies only to the parking requirement. All other applicable  
2558 regulations of the County Code shall remain in force.

2559

2560 2. This approval is subject to all conditions that may be placed on the proposed  
2561 Plan of Development by the Planning Commission.

2562

2563 3. The parking lot, driveways, and loading areas shall be subject to the  
2564 requirements of Section 24-98 of Chapter 24 of the County Code.

2565

2566 4. Church activities shall be scheduled such that they exceed the capacity of  
2567 the on-site parking only when off-site parking is available.

2568

2569 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2570 Negative: 0

2571 Absent: 0

2572

2573 The Board granted this request, as it found from the evidence presented that, due  
2574 to the unique circumstances of the subject property, strict application of the  
2575 County Code would produce undue hardship not generally shared by other  
2576 properties in the area, and authorizing this variance will neither cause a substantial  
2577 detriment to adjacent property nor materially impair the purpose of the zoning  
2578 regulations.

2579

2580 **A - 31-2002 GLEN ALLEN COMMUNITY CHURCH** requests a variance from  
2581 Sections 24-94, 24-96(A), 24-94(A), 24-96(C) and 24-95 of

2582 Chapter 24 of the County Code to build a church at 11807  
2583 Nuckols Road (Parcel 741-776-2242), zoned C-1C,  
2584 Conservation District (Conditional) and R-2C, One-family  
2585 Residence District (Conditional) (Three Chopt). The lot width  
2586 requirement, off-site parking, parking in 25' side yard, and  
2587 parking lot location requirement are not met. The applicant has  
2588 280 feet lot width, off-site parking, and on-site parking in the  
2589 front yard and the required side yard. The Code requires 400  
2590 feet lot width and on-site parking, and prohibits parking in the  
2591 front yard and required side yard. The applicant requests a  
2592 variance of 120 feet lot width and to allow parking as  
2593 submitted.  
2594

2595 Mr. Balfour - Are there any others who expect to testify in this matter?  
2596 Would you raise your right hand please?  
2597

2598 Mr. Blankinship - Do you swear that the testimony you are about to give is  
2599 the truth, the whole truth, and nothing but the truth, so help you God?  
2600

2601 Mr. Balfour - Mr. Koontz, you are ecumenical today.  
2602

2603 Mr. Koontz - Yes I do. Yes sir, back to back; that makes it pretty nice.  
2604 Good morning, Mr. Chairman, Members of the Board. My name is Greg Koontz,  
2605 and I represent the applicant, Glen Allen Community Church. I might take a minute  
2606 to provide you with some background information on Glen Allen Community  
2607 Church, and the process that has brought us to these variance requests. Glen  
2608 Allen Community Church. Glen Allen Community Church was founded about 8  
2609 years ago by pastor Rich McDaniel and a handful of new members. Today the  
2610 church has grown to approximately 600 members, and currently worships at  
2611 Springfield Elementary School. During the last 8 years of growth, the church has  
2612 been very active in our community, even to the point of receiving an award from  
2613 Henrico County for the participation in County programs.  
2614

2615 Approximately 3 years ago the church started searching for a permanent home and  
2616 began the process of purchasing the subject property from H. H. Hunt. Feasibility  
2617 studies were done, meetings with every department of the County were held, all  
2618 confirming the viability of a church site on this property. During the process, the  
2619 approximate location of the concept road was identified bisecting the property  
2620 generally as shown on the site plan in your package. Exact road alignment could  
2621 not be provided by the County at this time, and the road was identified as a 2-lane  
2622 road. The church then retained Jack Debardlow, Jr., a nationally renown architect  
2623 from Phoenix, to work on this project, not only due to his creative talent as a  
2624 architect, but also for his sites specific designs and sensitivity to existing  
2625 conditions. In an effort to identify and resolve potential site issues, the church

2626 delayed preparation of POD documents and went through a preliminary site plan  
2627 review process. This delayed the POD submittal process by about 2 months. POD  
2628 documents were then prepared and submitted for approval. It was during the POD  
2629 process and at the end of the preliminary site plan review process, that the church  
2630 was directed to defer the POD and obtain variances before they could move  
2631 forward. The site is the result of months of work with, and has been presented to  
2632 members of the Wyndham Commercial Concourse Review Committee, Wyndham  
2633 Board of Directors, Wyndham Modification Committee, Henrico staff, Planning  
2634 Commissioner and Supervisor for the District. The church is currently in a situation  
2635 where the property, as purchased, meets all the requirements for a church.  
2636 However, to develop the property, the church must dedicate and construct a 4-lane  
2637 portion of the concept road as shown on Henrico's major thoroughfare plan,  
2638 effectively dividing the property into 2 parcels. The County's requirement for the  
2639 construction of the concept road, the final alignment, and ultimately the size of the  
2640 road are the root cause of the hardship making necessary these variance requests.

2641  
2642 The first variance request is for reduced frontage to 280 feet from the 400  
2643 normally as required. The division of the property by the concept road changes the  
2644 church frontage from Nuckols Road, with approximately 1,050 feet, to the  
2645 proposed concept road, with only 280 feet. Once the concept road is constructed,  
2646 the remaining parcel with the church building will still have approximately 540 feet  
2647 of frontage on Nuckols Road.

2648  
2649 The next portion of the variance request involves parking setbacks. The current  
2650 site plan is a product of 9 months of work with the aforementioned groups, trying  
2651 to work out a building size, shape, and location with respect to the Nuckols  
2652 Road/Wyndham Park Drive intersection. Subsequently, the area left defines where  
2653 the parking can go, based off these meetings. In an effort to preserve as many  
2654 trees as possible along Nuckols Road, the proposed building has been set back an  
2655 additional 20-25 feet from the setback lines, and retaining walls will be constructed  
2656 to also minimize grading. This agreed-upon building position increases the amount  
2657 of parking in front of the building line on the concept road side and also pushes the  
2658 parking toward the rear of the site. Space for landscaping consistent with other  
2659 projects along Nuckols Road has been provided for the project on the concept road.

2660  
2661 The final variance request is for the use of additional off-site parking across the  
2662 concept road. The church is providing more than the County-required minimum  
2663 parking on the building side of the road. It is, however, expected, that additional  
2664 parking will be required as the church continues to grow in this great location.  
2665 Currently, there are sidewalks leading to a pedestrian crosswalk at the Nuckols  
2666 Road/Wyndham Park Drive intersection. There is pedestrian traffic crossing at this  
2667 intersection without the benefit of a traffic signal on Nuckols Road. The County  
2668 traffic engineer is in the process of designing a traffic signal for this intersection.  
2669 We have coordinated our site plan and entrance with this proposed signal. The

2670 traffic signal, as currently designed, will be equipped with pedestrian crossing  
2671 buttons to facilitate pedestrian traffic at this intersection. The church will also  
2672 provide landscaping and berms, to direct all pedestrian traffic, from the proposed  
2673 parking lot, to the pedestrian crosswalk at the traffic signal. In summary, church  
2674 has gone to great expense working with architects, engineers, local citizen groups,  
2675 and County personnel, to design a site that is not just another building, but one  
2676 that will be asset to the community. We respectfully request your consideration  
2677 and approval of this variance, allowing Glen Allen Community Church to move  
2678 forward with the construction of their church.

2679  
2680 Mr. Balfour - Thank you, Mr. Koontz. Are there any questions?

2681  
2682 Mr. Wright - Do I understand that initially you will not need this  
2683 additional parking, is that what you're telling us?

2684  
2685 Mr. Koontz - Yes sir, it's actually shown on that site plan is a Phase  
2686 Two Parking Facility. We have enough parking on the other side to actually meet  
2687 the County requirement.

2688  
2689 Mr. Wright - So you want us now to approve it all so you wouldn't  
2690 have to come back, is that the idea?

2691  
2692 Mr. Koontz - Yes sir, we're not allowed to even show it on our site  
2693 plan unless it's been granted a variance, and site plans are good for 5 years, so we  
2694 would like to have that approved, if possible, at this time, and then we would not  
2695 have any other public hearings to build Phase Two.

2696  
2697 Mr. Wright- Are you going to actually construct that parking lot now,  
2698 or will hold off till you need it.?

2699  
2700 Mr. Koontz - I think they would hold off till they needed it.

2701  
2702 Mr. Wright - Once it's constructed and in use, are you saying that  
2703 people who park there would have to walk towards Nuckols Road to where the  
2704 light signal would be?

2705  
2706 Mr. Koontz - Yes sir. We'll actually try to take from the area where  
2707 the entrance is, going back toward Nuckols Road, we would put in landscaping and  
2708 some berming in there, and a sidewalk or something, to try to direct the traffic up  
2709 toward the intersection.

2710  
2711 Mr. Wright- How would you prohibit people from walking right out of  
2712 the entrance, just directly across the road, into the other parking lot?

2713

2714 Mr. Koontz - I don't know if I could prohibit it.  
2715  
2716 Mr. Wright- That's what I'm saying. This is a nice idea, but I don't  
2717 know whether it would help you.  
2718  
2719 Mr. Kirkland - That's a 4-lane road, correct? That would be a 4-lane  
2720 concept road?  
2721  
2722 Mr. Koontz - It's only 4 lanes there, starting to taper down to 2 lanes.  
2723 The church has a 4-lane part, due to the ride in and ride out.  
2724  
2725 Mr. Wright- It's true, once the light is there, that would stop traffic,  
2726 so it would give people an opportunity to cross.  
2727  
2728 Mr. Koontz - I don't know if it's applicable, but Sunday mornings  
2729 typically do have the least amount of traffic. Pastor Rick has a lot of work  
2730 increasing traffic.  
2731  
2732 Mr. Balfour - Any other questions?  
2733  
2734 Rev. McDaniel - I'm Rev. Rick McDaniel; I'm the senior pastor of the  
2735 church. I just wanted to clarify for a moment, want you to know that we did a  
2736 feasibility study to make sure that we wouldn't have to have something like this, in  
2737 terms that we met all the qualifications. We didn't understand that this concept  
2738 road would actually be treated as a real road, in the sense that it would change  
2739 things, so we just want you to know that we did our homework, we didn't want to  
2740 make difficulties. We thought we had everything covered and weren't aware that  
2741 they would change it in the way that it did.  
2742  
2743 Mr. Wright- How long have you owned the property?  
2744  
2745 Rev. McDaniel - Two years.  
2746  
2747 Mr. Wright- When you bought it, did you know the concept road was  
2748 there.  
2749  
2750 Rev. McDaniel - We knew the concept road, weren't happy about that  
2751 one, wanted it to go away, but didn't know that it would be, thought that it would  
2752 be treated as our entrance, a driveway, because there is no plan for it to continue  
2753 because the owner behind doesn't have any interest in development, so I never  
2754 heard in any discussions or meetings that it would be treated like it was a road, in  
2755 the sense that it would change things, more like a driveway for a future road that  
2756 would go over to Pouncey Tract. Thank you.  
2757

2758 Mr. Balfour - Any other questions?

2759  
2760 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
2761 Kirkland, the Board **granted** application **A-31-2002** for a variance to build church at  
2762 11807 Nuckols Road (Parcel 741-776-2242). The Board granted the variance  
2763 subject to the following condition:

2764  
2765 1. This variance applies only to the lot width requirement, on-site parking  
2766 requirement and parking lot location. All other applicable regulations of the County  
2767 Code shall remain in force.

2768  
2769 2. This approval is subject to all conditions that may be placed on the proposed  
2770 Plan of Development by the Planning Commission.

2771  
2772 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2773 Negative: 0  
2774 Absent: 0

2775  
2776 The Board granted this request, as it found from the evidence presented that, due  
2777 to the unique circumstances of the subject property, strict application of the  
2778 County Code would produce undue hardship not generally shared by other  
2779 properties in the area, and authorizing this variance will neither cause a substantial  
2780 detriment to adjacent property nor materially impair the purpose of the zoning  
2781 regulations.

2782  
2783 **A - 32-2002 ANTHONY E. SMITH** requests a variance from Section 24-95(k)  
2784 of Chapter 24 of the County Code to build a pool house at  
2785 8730 Higginbotham Place (Country Side) (Parcel 752-735-  
2786 4416), zoned R-1, One-family Residence District (Tuckahoe).  
2787 The accessory structure setback requirement is not met. The  
2788 applicant has 3 feet rear yard setback, where the Code requires  
2789 20 feet rear yard setback. The applicant requests a variance of  
2790 17 feet rear yard setback.

2791  
2792 Mr. Balfour - Are there any others who expect to testify in this matter?  
2793 Would you raise your right hand please?

2794  
2795 Mr. Blankinship - Do you swear that the testimony you are about to give is  
2796 the truth, the whole truth, and nothing but the truth, so help you God?

2797  
2798 Mr. Balfour - State your name please.

2799  
2800 Mr. Smith - I do. My name is Anthony Smith; I'm the homeowner at  
2801 8730 Higginbotham Place. In August of this past year, we decided to put a pool in



2802 our back yard, and in conjunction with that, we contracted with the pool builder,  
2803 and I decided to try to figure out where we might put a pool house out there to  
2804 service the pool. I came to the County Planning Office with an initial design that  
2805 showed the pool house between the pool and our home. I met one of the Planning  
2806 representatives, and he said "Well, you can't build it here because it's not 10 feet  
2807 from your house." I asked about down the back yard, along the back line. He said  
2808 I could build it there, but would have to stay 8 feet off the easement; I could build  
2809 to the easement, not on it, and I'd have to stay 3 feet from the sideline there. So  
2810 we went ahead and designed the pool, laid it out, got the pool built, the apron in,  
2811 and the retaining wall around the pool. There's an opening in the retaining wall  
2812 that was put there to go to the pool house that was to be 3 feet off the line. I  
2813 brought the plans on in, had the plans drawn up, the site elevations and all that,  
2814 came back in about the 3<sup>rd</sup> week in January to get the plans approved, not thinking  
2815 there was any problem, and met a second planning person who told me it would  
2816 have to be a 20-foot offset there. I went back to the first person, and he said "no,  
2817 it's 3 feet," and then he came back out and told me I'd made a mistake, it's got to  
2818 be 20 feet.

2819  
2820 I did respect the planning process, and I tried to get this thing laid out properly  
2821 from the beginning, and I understand mistakes are made, but we've built  
2822 everything that's been designed to incorporate this pool house. The pool is in, the  
2823 decking is in, and everything's done. My back yard is somewhat tight in terms of  
2824 space because our house is set on a hill and back on the lot. We have a tree  
2825 natural area to the left as you're looking at the house there. That's our neighbor's  
2826 house behind it; it's back over in that area. We made that little grassy area there,  
2827 and the pool house would be right where that fencing is there. It would come right  
2828 along the side in a line directly with the pool, and you can see the little opening  
2829 there where you step through to the pool house. The change in design would  
2830 really put the pool house between the Begin's house, who are behind us, and our  
2831 house. It would cut what yard there is there in half, and it would destroy the flow  
2832 that we designed for this pool house. The Begins live in the house behind us there,  
2833 and they're the only adjacent property owner, other than Jones Construction,  
2834 which owns the lot next door. Jeffrey Begin was going to come this morning and  
2835 speak in favor of this proposal, but he called me and said he was in a meeting and  
2836 couldn't make it, and that he would supply a letter or anything that might be  
2837 necessary to strongly encourage that the variance be granted. I've talked to all the  
2838 neighbors who received mail from the County on this issue. I went out and met  
2839 with Clark Jones; he has a complete copy of all the plans. He called me yesterday  
2840 morning and says he has no objection to this.

2841  
2842 The vacant parcel next to mine slopes down about, that's where I want to put that  
2843 pool house, next to that parcel, it slopes down about 15 or 20 feet, so it would be  
2844 very difficult, you can see the slope; it just disappears. That's a car down the hill  
2845 in the back there. That's actually their pool up in the front end of the picture on

2846 the right side, so you can see there's a deep slope there, to anybody who builds,  
2847 on that lot. I'm going to have a 6 to 8-foot fence right along the pool there. I built  
2848 14 years ago, and that lot was still available, probably because of that slope. I  
2849 can't imagine this obstructing them at all. When they build on that lot, they can  
2850 build 3 feet from my line along that line. I respectfully request that this variance be  
2851 granted.

2852  
2853 Mr. Balfour - Any questions?  
2854

2855 Mr. Wright- Why couldn't you put the pool house on the other side of  
2856 the pool?  
2857

2858 Mr. Smith - Because that's in the front yard, and you have a road  
2859 requirement there; you have to be back 72 feet or something like that.  
2860

2861 Mr. Wright- So you'd have to have a variance if you did that, is that  
2862 correct?  
2863

2864 Mr. Smith - Oh that would really be in the front yard. My neighbors  
2865 across the street are fully in favor of being back where I want to put it. It's out of  
2866 everybody's way where I'm putting it.  
2867

2868 Mr. Balfour - Any other questions?  
2869

2870 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
2871 McKinney, the Board **granted** application **A-32-2002** for a variance to build a pool  
2872 house at 8730 Higginbotham Place (Country Side) (Parcel 752-735-4416). The  
2873 Board granted the variance subject to the following condition:  
2874

2875 1. Only the improvements shown on the plan filed with the application may be  
2876 constructed pursuant to this approval. No substantial changes or additions to the  
2877 layout may be made without the approval of the Board of Zoning Appeals. Any  
2878 additional improvements shall comply with the applicable regulations of the County  
2879 Code.  
2880

2881 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
2882 Negative:		0
2883 Absent:		0

2884  
2885 The Board granted this request, as it found from the evidence presented that, due  
2886 to the unique circumstances of the subject property, strict application of the  
2887 County Code would produce undue hardship not generally shared by other  
2888 properties in the area, and authorizing this variance will neither cause a substantial  
2889 detriment to adjacent property nor materially impair the purpose of the zoning

2890 regulations.

2891

2892 **A - 33-2002**      **LAWRENCE L. AND GINA SMITH** request a variance from  
2893 Section 24-95(i)2) of Chapter 24 of the County Code to build a  
2894 detached garage at 7608 Glendale Acres Place (Glendale Acres)  
2895 (Parcel 855-691-5005), zoned A-1, Agricultural District  
2896 (Varina). The accessory structure location requirement is not  
2897 met. The applicants wish to build a garage in the side yard,  
2898 where the Code allows accessory structures in the rear yard.  
2899 The applicants request a variance for the location requirement  
2900 for their accessory structure.

2901

2902 Mr. Balfour -                      You need to be sworn in first. Would you raise your right  
2903 hand please?

2904

2905 Mr. Blankinship -                Do you swear that the testimony you are about to give is  
2906 the truth, the whole truth, and nothing but the truth, so help you God?

2907

2908 Mr. Balfour -                      Go ahead.

2909

2910 Mr. Boykin -                        I do. Good morning. My name is Jim Boykin. I'm with  
2911 Heartland Industries; I'm the contractor. This is Gina Smith; she's the homeowner.  
2912 We're requesting a variance due to a little quirk in the way the County decided  
2913 their side lines and rear lines. This house was built 3 years ago, and a matching  
2914 foundation was put in for a detached garage. You can see it on the plan there. It  
2915 has a brick veneer, and actually as you come up the driveway, it does sit behind  
2916 the house. The Smiths purchased this property about a year ago, intending to build  
2917 a detached garage on that existing foundation, which, by the way, was inspected  
2918 by the County when the home was built, and approved. The quirk comes because  
2919 the rear property line is not parallel to the house; therefore, the measurement  
2920 directly closest to the house creates a different rear line, which puts this garage on  
2921 the side instead of the rear, but it really does sit behind the house as it is now. If  
2922 they were to move this foundation, it would create a hardship, number one, the  
2923 expense of having to move it, tear it up and rebuild it, but also as you get further  
2924 back on their property, there is a septic system and drainfield back there. So we  
2925 respectfully request a variance so that they can go forward with constructing the  
2926 detached garage.

2927

2928 Mr. Balfour -                        Any questions of Mr. Boykin. Thank you Mr. Boykin.  
2929 Since these people are here, would you like to start from the rear?

2930

2931 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by  
2932 Mr. Kirkland, the Board **granted** application **A-33-2002** for a variance to build

2933 detached garage at 7608 Glendale Acres Place (Glendale Acres) (Parcel 855-691-  
2934 5005). The Board granted the variance subject to the following condition:

2935  
2936 1. This variance applies only to the accessory structure location requirement.  
2937 All other applicable regulations of the County Code shall remain in force.

2938  
2939 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2940 Negative: 0  
2941 Absent: 0

2942  
2943 The Board granted this request, as it found from the evidence presented that, due  
2944 to the unique circumstances of the subject property, strict application of the  
2945 County Code would produce undue hardship not generally shared by other  
2946 properties in the area, and authorizing this variance will neither cause a substantial  
2947 detriment to adjacent property nor materially impair the purpose of the zoning  
2948 regulations.

2949  
2950 On a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **approved** the  
2951 Minutes of the July 26, 2001, Henrico County Board of Zoning Appeals meeting.

2952  
2953 There being no further business, and on a motion by Mr. Nunnally, seconded by  
2954 Mr. Kirkland, the Board adjourned until March 28, 2002, at 9:00 am.

2955

2956

2957 Daniel T. Balfour,

2958 Chairman

2959

2960 Benjamin Blankinship, AICP

2961 Secretary

2962