

MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF HENRICO COUNTY HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE HENRICO COUNTY GOVERNMENT COMPLEX ON THURSDAY, FEBRUARY 25, 1999 AT 9:00 A.M. NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES DISPATCH ON, FEBRUARY 4, 1999, AND FEBRUARY 11, 1999.

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

Also Present: Randall R. Silber, Secretary
Susan W. Blackburn, County Planner II
Kay S. Lam, Recording Secretary

Mr. McKinney- Good morning, ladies and gentlemen, and welcome to the February, 1999 meeting of the Board of Zoning Appeals. We are glad to have you. To my immediate right is our new Acting Secretary of the BZA. I really don't know what his status is at the present time, but he is going to help us out. He will explain the rules and regulations. Mr. Silber.

Mr. Silber- Thank you, Mr. Chairman, members of the Board, and audience. Yes, I am the Acting Secretary, at this point. The County is in the process of recruiting to fill this position, but I will be serving in this capacity for several months probably. I think the position is going to be filled shortly, but during the period of transition, I will continue to fill this position.

With that, let me go over the Board of Zoning Appeals procedures, rules and regulations on conduction of business. The Secretary, myself, will call the case. The applicant will come forward to present its case. All of those speaking in favor of or in opposition to the case will be sworn in at one time, and the applicant will present its notices to me at that time, notices of giving documentation that adjoining property owners have been notified. The applicant will then give testimony on behalf of its case, and, at that time if there is any opposition, the opposition is given an opportunity to speak on the request.

Following that the applicant is given time for rebuttal, and only the applicant is given time for rebuttal. Any questioning will take place at that time and the Board will take the case under advisement at that point. Their decision is rendered at the meeting, so anyone who wants to stay around to listen to the outcome of the case may do so. If you prefer to leave, that's fine also. You can call the Planning Office later this afternoon to find out the decision on the case.

With that, Mr. Chairman, we can proceed with the agenda. I am prepared to tell you that there is one request for a deferral on page four of the agenda.

Mr. McKinney- I would like to add that Mr. Silber has been with the County for quite a number of years, and he has acted in all kinds of capacities, Planning Director on down. Also, do we have the conditions in the rear of the room, Mr. Silber?

Mr. Silber- Yes, we have the staff reports and conditions and a copy of the agenda at the rear of the room if anyone needs those.

Mr. McKinney- Okay, did you say we have a deferral, Mr. Silber?

Mr. Silber- Yes, sir, Mr. Chairman. This being UP-8-99, Holland Aggregates, LLC request for a conditional use permit to extract materials from the earth at 3801 Darbytown Road. The property is zoned A-1, Agricultural District.

Mr. McKinney- Is there anyone in opposition to the deferral of UP-8-99? Do I hear a motion?

UP-8-99 *Holland Aggregates, L.L.C.* request for a conditional use permit pursuant to Sections 24-52(d) and 103 of Chapter 24 of the County Code to extract materials from the earth at 3801 Darbytown Rd (Tax Parcel 239-A-1) zoned A-1, Agricultural District (Varina).

On a motion by Mr. Wright, seconded by Mr. Kirkland, the Board granted deferral of this request.

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

REASON: The Board deferred this request from the February 25, 1999 meeting to the March 25, 1999 meeting at the request of the applicant.

DEFERRED FROM THE JANUARY 28, 1998 MEETING

A-4-99

David Keogh request for a variance from Section 24-94 of Chapter 24 of the County Code to build a screened porch on an existing deck at 12517 Cambie Place (Sutton) (Tax Parcel 66-24-C-5), zoned R-4C, One Family Residence District (Conditional) (Tuckahoe). The rear yard setback is not met. The applicant has 25 feet rear yard setback where the Code requires 35 feet rear yard setback. The applicant is requesting a variance of 10 feet rear yard setback.

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Mr. Keogh- Yes, sir. I'm David Keogh. My wife and I bought this home which is about a year and a half old about six months ago, and it has an existing 12 foot by 12 foot deck on the rear of the house, and we would like to screen that in if the Board would grant us a variance due to the fact that the rear setback is not met. Currently, it is 37 feet from the house and the deck, being 12 by 12, would require a ten-foot variance.

There is an easement at the rear of our yard and the neighbors directly behind us who have signed the notice have got considerably more yard area back there. It is approximately 75 feet setback that they have, so there is considerable distance between the homes behind ours. However, the way the lot is structured, and we are on a cul-de-sac, our home was not able to be set any further to the front of our yard. So, that would require a ten-foot variance.

Mr. McKinney- Any questions of Mr. Keogh by Board members?

Mr. Wright- Mr. Keogh, you will screen in the existing deck? You will not extend it in any way.

Mr. Keogh- The existing deck, yes, sir.

Mr. Kirkland- Does this existing deck have a roof on it already?

Mr. Keogh- No, sir.

Mr. Kirkland- Does this tie into the roof that is there now?

Mr. Keogh- Yes, sir. It is going to be the same roof as the existing home.

Mr. McKinney- Any other questions? Is there anyone here in the audience to speak in reference to A-4-99? Hearing none, That concludes the case.

After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr. Wright, the Board granted a variance of 10 feet rear yard setback.

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

REASON: The Board **granted** this request as it found from the evidence presented that authorizing this variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the zoning regulations. The Board granted this request subject to the following condition:

1. This approval is only for the rear yard setback for the screened porch requested in this case. Any future improvements to the property shall comply with the applicable regulations of the County Code.

A-11-99 **Steve W. and S. S. R. Thomas** request for a variance from Section 24-95(c)(1) of Chapter 24 of the County Code to build an attached garage and addition at 7708 Sunderland Road (Westham) (Tax Parcel 101-17-SS-16), zoned R-3, One Family Residence District (Tuckahoe). The minimum and total side yard setbacks are not met. The applicant has 3.1 feet minimum side yard setback and 13.6 feet total side yard setback where the Code requires 10.5 feet minimum side yard setback and 30.0 feet total side yard setback. The applicant is requesting a variance of 7.4 feet minimum side yard setback and 16.4 feet total side yard setback.

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Mr. Thomas- Yes, sir. My name is Steve W. Thomas, and the reason we want to do this is we have got several large trees in our backyard. If I took those down, we could probably put the garage in the backyard. We are trying to save the trees for the shade. Personally, I would rather have it attached to the house for just the convenience of not having to deal with the weather when you come home. That's basically it.

Mr. McKinney- Any questions of Mr. Thomas by Board members?

Mr. Wright- Mr. Thomas, you could build this garage without any problems where you want to put it except for the breezeway. Do you understand that?

Mr. Thomas- Yes, sir.

Mr. Wright- Why do you need the breezeway?

Mr. Thomas- I don't, but I don't want to tear it down to build the garage.

Mr. Wright- It's already there?

Mr. Thomas- It has been there for a year or two.

Mr. Wright- The breezeway has?

Mr. Thomas- Yes. It was done prior to us deciding to build the garage.

Mr. Wright- Are you going to attach the garage with the breezeway?

Mr. Thomas Yes, sir, with another walkway.

Mr. Wright- Is the breezeway closed in, or is it just another roof?

Mr. Thomas- It is just a roof with a concrete patio under it.

Mr. Wright- And the sides are open?

Mr. Thomas- Yes, sir.

Mr. Nunnally- Are you going to do this yourself, Mr. Thomas?

Mr. Thomas- Yes, sir.

Mr. Nunnally- Are you a contractor?

Mr. Thomas- No, sir, but I do construction work.

Mr. Kirkland- Is this a one-story garage?

Mr. Thomas- Yes, sir.

Mr. McKinney- Is this garage only going to be used for parking automobiles,
Mr. Thomas?

Mr. Thomas- That and various yard equipment.

Mr. McKinney- Any other questions? Is there anyone here in opposition to this
request? Hearing none, that concludes the case.

After an advertised public hearing and on a motion by Mr.Balfour, seconded by Mr. Wright, the Board granted a variance of 7.4 feet minimum side yard setback and 16.4 feet total side yard setback.

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

REASON: The Board **granted** this request as it found from the evidence presented that authorizing this variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the zoning regulations. The Board granted this request subject to the following condition:

1. This approval is only for the addition illustrated in the plans and documents filed with this case. All future improvements to the property shall comply with the applicable regulations of the Code.

UP-1-99 NationsBank request for a use permit pursuant to Section 24-50.20(b) from Chapter 24 of the County Code to construct a softball field at 8011 Villa Park Drive (Tax Parcel 63-16-A-1), zoned O/SC, Office/Service District (Conditional) (Brookland).

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Mr. Mulkey- Yes, sir. I'm David Mulkey representing NationsBank. With me is Ms. Nancy Butler also with NationsBank.

This softball field will be used as a practice field only for recreational use of the NationsBank employees only. We plan to use this field two or three times a week possibly during afternoon hours.

There aren't going to be any lights on the field, and they will not be utilizing the field during the evening hours. It may be used on an occasional weekend during NationsBank events, and NationsBank may have two or three picnics during the course of the year.

The field is to be built by the current landscaping company that currently handles and maintains the Villa Park properties, and it will be included in the weekly maintenance to insure that the safety as well as the aesthetic value factors of the field are maintained.

The Board had two concerns that I would like to address at this time. The first one is that the area is not fenced in or screened from view or hard hit balls. In the building plans itself is a backstop, which will take care of any foul balls coming back. As far

as we are concerned about the hard hit balls as pertains to the parking lot and the building. The closest parking lot is about 600 feet plus away from the home plate area. The closest building structure is over 500 feet away from the home plate area. To put this into perspective, Mark McGuire's longest home run was about 512 feet, and with all due respect if we have anybody on that team who hits a ball that far, they should be playing professional ball.

The second issue was the POD which should be amended to provide for parking, traffic control, sanitation facilities, and other amenities normally required and associated with league play. As I stated before, the field is being built for only recreational use of the employees of the bank, and to refer to the last sentence in that final paragraph of the appeals case reports does say that the field is going to be a recreation site for the employees and such expensive improvements are not provided and the documents submitted with this request are reasonable.

Due to the fact that the NationsBank – Villa Park is a call center it is a 24-hour, 7-day week operation, there's a 24-hour security patrol on board, so there's no problem with anyone trying to utilize the field after hours, or not during normal business hours. The employees do have access to that facility 24-hours a day for any type of sanitation operations that they might need.

Mr. McKinney- Mr. Mulkey, does the bank intend in the future to lease this field or let anyone else use it? Like the little leagues or anything like that?

Mr. Mulkey- No, sir. That's not the intent.

Mr. McKinney- I guess my concern is the parking if that should happen.

Mr. Mulkey- We have one softball team right now utilizing Henrico County's League, and you may have additional teams to play within the league, and that's the only intent that this softball field is made for other than the possibility of using it for picnics or things along those lines. Interbank use only. In other words, only bank employees will be using it.

Mr. McKinney- So, only NationsBank is involved. So, if another bank decides to get their own up, you won't play them?

Mr. Mulkey- Oh, no, that's not the situation. Again, it would be only for an event type of thing. If we were having a picnic and Capital One wanted to play us that day, we could use it for something like that, but Villa Park holds three different buildings and there's probably close to 2,000 employees there, and there's adequate parking all around the building.

Mr. McKinney- Mr. Silber, is there adequate parking facilities if another bank should come in and plays NationsBank?

Mr. Silber- I would think, Mr. McKinney, that there probably is adequate parking, because I would think that those events would take place during non-peak times that this is being used.

Mr. Mulkey- That is correct. Only on weekend hours.

Mr. McKinney- Any other questions of Mr. Mulkey by Board Members?

Mr. Kirkland- You wouldn't be setting up any portable refreshment stands or anything like that during these games would you?

Mr. Mulkey- No, sir. The building structure that's closest to where we propose the field is a cafeteria. If someone wanted something, they could certainly go in there.

Mr. Kirkland- And your restrooms in those buildings are adequate for all of these people playing ball?

Mr. Mulkey- Absolutely. There's multiple rest rooms on the first floor of the building.

Mr. Kirkland- How far are the restrooms from the field?

Mr. Mulkey- It is a little over 500 feet.

Mr. Kirkland- It would be open all the time?

Mr. Mulkey- All NationsBank employees have access into the building, and once you get into the building there's restrooms within that lobby area, and you don't need any further access.

Mr. McKinney- Any other questions? Anyone else to speak in reference to UP-1-99?

Mr. Silber- I have one question. You are agreeable to these conditions?

Mr. Mulkey- Yes.

Mr. Wright- that. The fencing and etc. The field will be fenced; you understand that.

Mr. Mulkey- Well, the proposed fencing is the backstop behind the fence, or behind the home plate, as I was discussing earlier the link of space between structure and parking lots extends the building.

Mr. Wright- I understand that, but this condition says the field shall be fenced, and that would mean that you would have a fence. I just want to make sure you understand. If that's not what you want, now is the time to speak up.

Mr. Mulkey That's not what we had intended.

Mr. Wright- You will have the usual backstop to keep, but you don't intend to fence it all around the outfield?

Mr. Mulkey- No, sir. That's a large open field, and we had no intentions of fencing it.

Mr. Kirkland- Are you going to fence it from home plate up to first, up third...

Mr. Mulkey- We do have plans to probably do that next year because of budget constraints at this point and time.

Mr. Kirkland- I was just thinking about safety.

Mr. Mulkey- Yes. Certainly, if we have playing all of the people are sitting back of the backstop area, but we do not have plans to do that next year. We will do that next year, but right now we don't have the budget.

Mr. Balfour- (Unintelligible)

Mr. Mulkey- If, in fact, that was the intention, which I was unaware of. Yes, I am asking that.

Mr. McKinney- Do you have that, Mr. Silber?

Mr. Silber- Yes. I think that was the intentions, so if the Board determines that there is adequate space between the field and parking and buildings, and feels that that condition is not necessary, it should be deleted.

Mr. McKinney- Well, I think the condition should be changed to clarify...

Mr. Silber- Modify.

Mr. McKinney- ...from home plate to third base, home plate, first base. If you have got spectators, they should be behind that fence.

Mr. Kirkland- Can you live with that Mr. Mulkey?

Mr. Mulkey- Yes, sir. We will have to talk to the powers that be regarding the budget.

Mr. Silber- It is also condition #3 that deals with the landscape plan. You are okay with that?

Mr. Mulkey- Yes.

Mr. McKinney- Mr. Silber, that probably, rather than say fence, an adequate fence that's used for the facility.

Mr. Wright- Yes. They don't have to be too high.

Mr. Mulkey- No. Four feet.

Mr. McKinney- Four feet?

Mr. Mulkey- Normally they are about four feet, below chest level.

Mr. McKinney- What I was saying is about 10 feet or 8 feet, because if you foul a ball off and somebody is sitting behind that fence, four feet is not going to be very good for them.

Mr. Mulkey- Yes, sir. Would eight feet be adequate? Normally, you will see a large bench for the team to sit, and there will be a large fence in front of that. If there isn't, there's just a four-foot fence down the lines.

Mr. Silber- I would think, Mr. Chairman, that a six-foot fence would be enough to cover the average person. I would also, perhaps, add that this fence should probably be a black vinyl covered fence so that it blends in somewhat with the natural environment. We can deal with that administratively if you prefer. Maybe setting some type of requirement for fence height would be preferred.

Mr. McKinney- Anyone else to speak on UP-1-99? Hearing none, that concludes the case.

After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr. Wright, the Board granted this request.

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

REASON: The Board **granted** this request as it found from the evidence presented that authorizing this use permit with appropriate conditions will not be detrimental to adjacent properties nor will its design and operation be detrimental to

the community or purposes of the zoning regulations. The Board granted this request subject to the following conditions:

1. This approval is only for the softball field depicted on the documents submitted with this case. All future improvements on the property shall comply with applicable regulations and procedures specified in the County Code.
2. The softball field shall be fenced along the first and third base lines with a 6-foot high fence and landscape screening must be provided adjacent to parking areas and roadways.
3. A detailed landscape plan shall be submitted with the building permit for review by the Planning Office.
4. The construction of the facility shall satisfy all requirements of the County.

NEW CASES

A-16-99 **C. Richard and S. K. Tiffen** request for a variance from Section 24-94 of Chapter 24 of the County Code to build a room addition at 9204 Timbers Edge CT (The Timbers)(Tax Parcel 29-5-A-6), zoned R-3AC, One Family Residence District (Conditional) (Three Chopt). The rear yard setback is not met. The applicant has 25 feet rear yard setback where the code requires 35 feet rear yard setback. The applicant is requesting a variance of 10 feet rear yard setback.

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Mr. Tiffen- Yes, sir. I'm C. Richard Tiffen. We are looking to get a variance to add an addition to the back rear of the house. Concerning the way that the lot is shaped, the people that came out and looked at it realizing it is pie-shaped, it is a little bit more difficult than most places, but there appears to be plenty of adequate room in the rear to not be intrusive on any of the neighbors.

Mr. Wright- What is the size of the proposed room?

Mr. Tiffen- It should be somewhere around 18 feet by 20 feet.

Mr. Wright- What would it be used for?

Mr. Tiffen- It is more of a rec room, family room off the kitchen.

Mr. McKinney- Any others questions of Mr. Tiffen? Is there anyone here in opposition to this request? Hearing none, that concludes the case.

After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr. Wright, the Board granted a variance of 10 feet rear yard setback.

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

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

A-17-99 **John M. III and J.H.C. Hillsman**, request for a variance from Section 24-95(i)(2)d. of Chapter 24 of the County Code to build a detached garage at 6319 Colebrook Rd (Chamberlayne Farms)(Tax Parcel 64-3-F-10), zoned R-2A, One Family Residence District (Fairfield). The minimum side yard setback is not met. The applicant has 0.5 feet of minimum side yard setback where the Code requires 3.0 feet. The applicant is requesting a variance of 2.5 feet minimum side yard setback.

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Mr. Hillsman- Yes, sir. I'm John M. Hillsman, III, and I plan to build a 24 feet by 24 feet brick garage. I have an existing driveway that runs to the exact line to the rear of the house, and also the problem of trying to put the garage behind there is that we have got an underground oil tank as well as power lines and phone lines that would interfere with moving it in that position.

Logically, it should fit right up to the highway, which is already sitting there. I do have a side yard problem. I need the variance there.

My next door neighbors has no problem with it. I have statements from my neighbor across the street and directly behind there. None of them have any problems; I talked to all of the neighbors. I think the garage will be an asset to the house. I have a similar garage two doors down. It is brick and the same type garage I plan to have on my property.

Mr. McKinney- All right, do you have anything else to add?

Mr. Hillsman- That's it.

Mr. McKinney- Any question of Mr. Hillsman by Board members?

Mr. Wright- Mr. Hillsman, I notice from this photograph that we have from your property that there is a shed back there...

Mr. Hillsman- Yes, sir.

Mr. Wright- Will...how close will this garage be to that shed?

Mr. Hillsman- It will be over seven feet...seven feet and about four inches. I measured it to be sure.

Mr. Wright- How far is that shed from your property line?

Mr. Hillsman- That shed is just inside by three foot.

Mr. Wright- So, this garage will be closer to the property line than the shed?

Mr. Hillsman- Yes, sir, because of the width, and the way the line comes through there, it is real tight in there. That's the problem. The rear edge of the garage is going to be the one that's the problem. It's six inches right there. You have more room than that on the front of the garage but the rear, because it is pie-shaped.

Mr. Wright- You say it is pie-shaped.

Mr. Hillsman- Yes, the line kind of cuts in on an angle. It goes from 120 feet to across the front to 100 feet in the back so....

Mr. Wright- So, your lot has that divergence which causes the rear to be closer than it would be ordinarily.

Mr. Hillsman- That's right, sir. There is no existing buildings on my neighbor's property. The closest building is to the side of the garage...about 30 feet away. There's not any problem there. No fences or anything like that.

Mr. Wright- This will be well behind your neighbor's house.

Mr. Hillsman- Yes.

Mr. Wright- There's no fence between you and your neighbor at that point.

Mr. Hillsman- No, sir.

Mr. Wright- It is pretty well open there.

Mr. Hillsman- It is very open. All of the neighborhood is like that. We don't have any fences around there.

Mr. McKinney- Any other questions by Board members?

Mr. Kirkland- Mr. Hillsman, is this a one-story garage?

Mr. Hillsman- Yes, sir. And it will have an existing roofline similar to the house...same pitch; same type shingles.

Mr. Kirkland- Thank you.

Mr. Hillsman- Yes, sir.

Mr. McKinney- Does the staff have any comment? Anyone else to speak in reference to A-17-99? That concludes the case.

After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Wright, the Board granted a variance of 2.5 feet minimum side yard setback.

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

REASON: The Board **granted** this request as it found from the evidence presented that authorizing this variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the zoning regulations. The Board granted this request subject to the following condition:

1. This approval is only for the detached garage shown on documents submitted with this case. Any future improvements to the Property shall comply with all the applicable regulations of the County Code.

A-18-99 **John D. and Catherine Golden** request for a variance from Section 24-95(i)(2) of Chapter 24 of the County Code to build a detached carport at 8657 Riverwood Dr (Sleepy Hollow)(Tax Parcel 112-5-E-9), zoned R-1, One Family Residence District, (Tuckahoe). The location of the detached carport is not met. The applicant proposes to locate the detached carport in the front yard where the Code requires the detached carport in the rear yard. The applicant is requesting a variance to locate the detached carport in the front yard.

Mr. McKinney- Have all the adjoining and adjacent property owners been notified of this request according to the County Code?

Mr. Golden- Yes, sir. I have the signature of seven property owners who are adjacent to my property and they have signed off.

Mr. Silber- We have those signatures in the file.

Mr. Golden- It is our intention, if the Board approves, to put a carport that would be parallel to Sleepy Hollow Road.

Mr. McKinney- Excuse me just a minute, Mr. Golden. Mr. Silber, the notices are not in the file. That's fine. I apologize. Go ahead, sir.

Mr. Golden- River Wood Drive is five blocks in from River Road right parallel to River Road. It is a short street approximately one block long.

Our front yard faces River Wood Drive. The left side of our house is on Sleepy Hollow Road. Due to a quirk in the regulations of Henrico, our side yard is two feet shorter than our front yard, as we call it, so based on your regulations the short side on a corner lot should be the front yard.

Now, as I mentioned, we are five blocks in. Of those five blocks, four of the streets have the citing the same as ours. That is, the house faces the appropriate street that they are on. So, we are sort of caught by that two feet that is in your statutes, and we would like relief from it.

Now, I gave Mr. Silber a copy of the proposed plan that we would like to build. It is just a sketch by the architect, and also a picture of what the finished product would be like, that one of my neighbors has built on the same siting that I have, except he is on Sierra, which is one block from River Road. His garage is probably 100 feet from River Road, and would be the same thing that we have.

Mr. Wright- This picture here is....

Mr. Golden- That is existing, and we will make it similar to that.

Mr. Wright- The sides and the rear would be open.

Mr. Golden- You have a blueprint there of that.

Mr. McKinney- Mr. Golden, do you have anything else to add, sir?

Mr. Golden- No. This is my first try at one of these, so I am not sure if there is anything else that I am supposed to do.

Mr. McKinney- Any questions of Mr. Golden by Board members?

Mr. Wright- There seems to be a lot of trees and bushes and screening around....

Mr. Golden- Existing, yes. We have on the side a large hedge, plus an oak tree, and to the front a large American Holly. The carport will practically be screened from Sleepy Hollow. It will run parallel to Sleepy Hollow.

Mr. Balfour- Mr. Golden, you are not going to have to remove trees, etc.?

Mr. Golden- I am going to remove one oak tree directly in the center of the end. That will allow me to tuck that back in probably another four feet to get it back more so it will be screened by the hedge. There still will be approximately four large oaks and a pine around it.

Mr. McKinney- Any other questions of Mr. Golden by Board members? Does the staff have any comments?

Mr. Silber- Mr. Chairman, maybe one comment. Mr. Golden is correct that there is a two-foot difference in the road frontages in this case. Sleepy Hollow is determined to be the front yard, but in either case, whether you use River Wood Drive or Sleepy Hollow Road as a front, in either case, this would be in violation of the front yard requirement.

Mr. McKinney- All right. Anyone else to speak in reference to A-18-99? Hearing none, that concludes the case.

After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr. Wright, the Board granted a variance permitting a detached carport in the front yard.

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

REASON: The Board **granted** this request as it found from the evidence presented that authorizing this variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the zoning regulations. The Board granted this request subject to the following conditions:

1. This approval is only for the carport described in documents submitted with this case. Any future improvements to the Property shall comply with all applicable regulations of the County Code.
2. A landscape plan shall be submitted with the building permit to illustrate what screening will be provided between the structure and Sleepy Hollow Dr.

A-19-99

William J.P. and C.N. Still request for a variance from Section 24-94 of Chapter 24 of the County Code to build a room addition at 13520 Cotley Ln (Foxhall)(Tax Parcel 45-2-B-19), zoned R-2AC, One Family Residence District (Conditional)(Three Chopt). The rear yard setback is not met. The applicant has 39.0 feet of the rear yard setback where the Code requires 45.0 feet of rear yard setback. The applicant is requesting a variance of 6.0 feet rear yard setback.

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Mrs. Still- Yes, sir. I'm Carlon N. Still, and I am here today for a request for a variance. We have lived in this house six and a half years. We have three children; we need more room. We want to extend our kitchen and then also on top of that my middle daughter's room, which is about the size of a nursery now, so it would be a two-story addition.

With the proposed addition, we would need a six foot variance because Foxhall is a 45-foot rear yard setback, and with the proposed addition it would be a 39 foot rear yard setback

Mr. Wright- What's the size of the proposed addition?

Mrs. Still- The size is 12 feet by 13 feet.

Mr. Wright- I also notice from your plat that your rear line seems to cut in across the back.

Mrs. Still- Right.

Mr. Wright- If it were parallel to the front, it probably wouldn't be any problem.

Mrs. Still- Right, it is an odd shaped lot. My contractor, who is going to be doing the work is here with me today.

Mr. Wright- Right.

Mr. McKinney- Any other questions of Mrs. Still? Is there anyone here in opposition to this request? Hearing none, that concludes the case.

After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr. Kirkland, the Board granted a variance of 6.0 feet rear yard setback.

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

REASON: The Board **granted** this request as it found from the evidence presented that authorizing this variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the zoning regulations. The Board granted this request subject to the following condition:

1. This approval is only for the addition described in documents submitted with this case. Any future improvements to the Property shall comply with all applicable regulations of the County Code.

A-20-99 **Jeffrey D. and S. L. Staton** request for a variance from Section 24-95(q)(5) of Chapter 24 of the County Code to build a room addition at 9013 Runyon Dr (Dunncroft)(Tax Parcel 39-2-E-35), zoned R-3 CD, One Family Residence District (Controlled Density)(Brookland). The minimum side yard setback is not met. The applicant has 5.0 feet of minimum side yard setback where the code requires 8.0 feet of minimum side yard setback. The applicant is requesting a variance of 3.0 feet minimum side yard setback.

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Mr. Staton- I'm Jeffrey D. Staton, and all adjacent property owners have been notified but one. The property to the rear of our house is a rental property, and the owner of that property is with the Red Cross and she is out of the Country, and I was not able to notify here.

Mr. McKinney- Did you send a registered letter to her?

Mr. Staton- I have not.

Mr. McKinney- Mr. Staton, the Code requires you to...you don't have to get a receipt back, but just to show that you made an attempt to get in touch with that landowner. And if you have not gotten in touch with that landowner, and don't have a receipt where you mailed something to her, we cannot hear the case.

All you have to do is find out who owns the property and send them a registered letter...certified letter. If you have not done that, by law we cannot hear your case.

Mr. Staton- Okay, that was the problem I ran into. I was unable to find out who the property owner was before we were able to come to this meeting.

Mr. McKinney- Well, you can call Mr. Silber, and he can give you that information and we can defer this for one month.

On a motion by Mr. Balfour, seconded by Mr. Wright, the Board deferred this request to March 25, 1999.

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

REASON: The Board deferred this request from the February 25, 1999 meeting to the March 25, 1999 meeting due to lack of notification.

A-22-99 **Patricia L. McCall** request for a variance from Section 24-94 of Chapter 24 of the County Code to build a room addition at 13009 Trinity CT (Ridgemere at Wellesley)(Tax Parcel 46-1-B-28), zoned R-4AC, One Family Residence District (Conditional)(Three Chopt). The rear yard setback is not met. The applicant has 26.5 feet of rear yard setback where the Code requires 35.0 feet of rear yard setback. The applicant is requesting a variance of 8.5 feet of rear yard setback.

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Ms. McCall- Yes sir. I'm Patricia McCall, and I have a large deck behind my house and I would like to enclose part of that deck to extend my kitchen and make a family room, which I don't have on my first floor. It is only part of the deck that we are taking in; it is 13.6 by 20.0 feet, so there will still be some remaining deck.

Mr. Nunnally- What size is the deck now, Ms. McCall?

Ms. McCall- I don't know if I know the exact measurements, but it is about half. It goes all the way over to the back door of the house.

Mr. Nunnally- What size is the addition then if you had planned on....

Ms. McCall- There's a dormer on the second floor of my house, and so....

Mr. Wright- I got it. There's a picture of the new addition, which will be 13.6 by 20 feet. I take it then that the deck is 20 feet deep of that.

Ms. McCall- That's true.

Mr. Wright- It looks like it is almost rectangular in shape.

Ms. McCall- It is rectangular. The utility room goes out on the drawing so that remaining part of the deck would be there.

There's another house in the subdivision that did it on construction, and I have seen hers and that's my plan.

Mr. Wright- I take it your house is located on a cul-de-sac?

Mr. McCall- That's right.

Mr. Wright- Therefore, the house had to be set back further than it normally would if you had had a straight line.

Ms. McCall- Yes. And there are trees screening the deck. There is a row of pine trees back across the back of the lot.

I have a picture if you would like to see what the room will look like.

Mr. McKinney- Anybody like to see it?

Mr. Balfour- That's fine. I think we have got an idea of what it will look like.

Ms. McCall- Okay.

Mr. McKinney- Do you have anything else to add Ms. McCall?

Ms. McCall- No, sir.

Mr. McKinney- Anyone else to speak in reference to A-20-99? Hearing none, that concludes the case.

On a motion by Mr. Wright, seconded by Mr. Kirkland, the Board granted a variance of 8.5 feet rear yard setback.

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

REASON: The Board **granted** this request as it found from the evidence presented that authorizing this variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the zoning regulations. The Board granted this request subject to the following condition:

1. This approval is only for the family room addition shown on documents in this case. Any future improvements to the property shall comply with all the applicable regulations of the County Code.

UP-8-99 **Holland Aggregates, L.L.C.** request for a conditional use permit pursuant to Sections 24-52(d) and 103 of Chapter 24 of the County Code to extract materials from the earth at 3801 Darbytown Rd (Tax Parcel 239-A-1) zoned A-1, Agricultural District (Varina).

Mr. Silber Mr. Chairman, we have a request for a deferral on this request by the applicant.

Mr. McKinney- Do I hear a motion?

On a motion by Mr. Nunnally, seconded by Mr. Wright, the Board granted deferral of this request from the February 25, 1999 meeting to the March 25, 1999 meeting.

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

REASON: The Board deferred this request from the February 25, 1999 meeting to the March 25, 1999 meeting at the request of the applicant.

A-24-99 **Thomas H. Jr and C. Tullidge** request for a variance from Section 24-94 of Chapter 24 of the County Code to build a room addition at 104 Thomashire CT (River Place)(Tax Parcel 111-19-B-18), zoned R-1, One Family Residence District (Tuckahoe). The rear yard setback is not met. The applicant has 36.5 feet of rear yard setback where the Code requires 50.0 feet of rear yard setback. The applicant is requesting a variance of 13.5 feet rear yard setback.

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Mr. Irby- Yes, sir. I'm Jim Irby, and I am the architect for the Tullidge's.

Mr. Tullidge, Jr.- And I am Thomas H. Tullidge, Jr.

Mr. Irby- We are asking for a variance of the rear yard. If you will look on page 4 I believe, which is the site plan. The site is trapezoidal in shape, one leg is 167.97 feet and the other leg is 150 feet; possibly a 17.97 feet difference between the two side property lines. Because of that, it creates a trapezoidal building setback. We want to construct a rear yard addition, that if you took a parallel line from the front yard and extended it back holding it 50 feet off of the longest property line. It would show how this could comply if it were a rectangular lot. That is the hardship that we are asking that the variance be granted on.

Mr. McKinney- Anything else to add Mr. Irby?

Mr. Irby- No, sir.

Mr. McKinney- Do you have any comments Mr. Tullidge?

Mr. Balfour- Thank you for calling it a hardship. A lot of people forget that that's part of the requirement. You were the first one to use that phrase today, I think.

Mr. Wright- Also the first one to address to the legal requirements.

Mr. McKinney- Are there any questions of Mr. Irby or Mr. Tullidge by Board members? Is there anyone here in opposition to this request? Hearing none, that concludes the case.

After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr. Wright, the Board granted a variance of 13.5 feet rear yard setback.

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

REASON: The Board **granted** this request as it found from the evidence presented that authorizing this variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the zoning regulations. The Board granted this request subject to the following condition:

1. This approval is only for the garage/bedroom addition shown on documents submitted with this case. Any future improvements to the property shall comply with all applicable regulations of the County Code.

A-25-99

Cassandra M. Gray et als request for a variance from Section 24-94 of Chapter 24 of the County Code to build a dwelling at 571 Dabbs House Rd. (John Jasper Gardens)(Tax Parcel 140-2-1-6), zoned A-1, Agricultural District (Varina). The lot width is not met. The applicant has 130.0 feet of lot width where the Code requires 150.0 feet of lot width. The applicant is requesting a variance of 20.0 feet of lot width.

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Ms. Richardson- Yes, sir. I'm Latrelle Richardson, and my daughter is Cassandra Gray. This property has 130 feet lot width and it needs 150 feet, and I would like to get a variance for the 20 feet lot width.

Mr. Wright- Ms. Richardson, is this the same case that was presented before and was approved by the Board?

Ms. Richardson- Yes.

Mr. Wright- Of course, we have had a one-year requirement to build, and you were not able to build the addition within that period.

Ms. Richardson- I had given to my other daughter and things were taking so long that she ended up buying a house so we gave it to this daughter. Now that utilities is there, she is going to build a house and hook up to the public utilities.

Mr. Wright- So, you are ready to go now.

Ms. Richardson- Ready to go now.

Mr. Wright- Did you say that it is available to public utilities?

Ms. Richardson- Yes.

Mr. Wright- In prior times a septic tank would have been necessary.

Ms. Richardson- Right. But during that time I got a thing from the County saying that the property didn't perk for utilities and all, and we would have had to go with septic system. So, we just decided to wait.

Mr. McKinney- Any other questions of Ms. Richardson? Is there anyone else here who wishes to speak on this request? Hearing none, that concludes the case.

After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Wright, the Board granted a variance of 20.0 feet lot width.

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

REASON: The Board **granted** this request as it found from the evidence presented that authorizing this variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the zoning regulations. The Board granted this request subject to the following condition:

1. This approval is only for the lot width variance sought by this case. The development of the property shall comply with all other applicable regulations of the County Code.

UP-9-99 **Faith Community Baptist Church** request for a temporary use permit pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code to locate office trailers at 1903 Cool Ln (Tax Parcel 139-A-5) zoned B-3, Business District, (Fairfield).

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Ms. Morris- No sir. I was unaware that we had to do that since this is a commercial property. My name is Sarah Morris, and I am the Business Manager and Treasurer.

Mr. McKinney- Yes. You have to notify all of the adjoining and adjacent property owners. When you filed your application on January 22, 1999, you were not notified that you had to do this?

Ms. Morris- No, this is my first time hearing this.

Mr. Wright- You got a letter from the Planning Office telling you about the case?

Ms. Morris- Yes, I have the letter. This is the only thing that we have received about the hearing.

Mr. Wright- Doesn't that letter tell you that you are supposed to notify all the adjoining and adjacent property owners?

Ms. Morris- No, no, it does not.

Mr. Wright- She didn't get a letter?

Mr. Silber- What you have there is just the staff report?

Ms. Morris- Right.

Mr. Silber- Did you not receive a letter earlier?

Ms. Morris- No.

Mr. McKinney- Mr. Silber, there's an envelope right here. It's blank. It never was mailed out.

Mr. Wright- That's the problem.

Mr. McKinney- There have been two or three in the files today.

Mr. Wright- That letter would have told you that, so you evidently didn't get the letter.

Mr. Silber- Mr. McKinney, the envelope you are looking at may be an envelope that we prepare to send out the approval letter after today's meeting. I don't think that necessarily means they didn't receive it.

Mr. McKinney- Okay, we have one here that was mailed on January 19th, and it was sent to Ms. Sarah J. Morris, Business Manager and Treasurer.

Mr. Wright- What address was it, Mr. Chairman?

Mr. McKinney- This is a letter from her to the County to Randy Silber.

Mr. Wright- Mr. Chairman, whether the letter was sent or not, we can't hear the case until the notices are sent.

Mr. McKinney- Ms. Morris, we are going to have to defer this for 30 days, March 25, 1999, because the notices weren't sent. Apparently it is not your fault, but that is the way the law reads.

Ms. Morris- It puts us in a difficult place because we have waited 30 days already, and right now we have no place for our church offices. We have been imposing on the kindness of some other churches, but it has got us in a temporary place. It is just making it very difficult for us to do business.

Then, too, our trailers, I'm not sure I can keep our confirmation price for the office trailers because when I talked with them, they were hesitant about holding it for us for 30 days as it was. Now, If I go back and tell them well it will be another 30 days

before the case is even heard, and it may be even two weeks after that. I don't think they are going to agree to this, and I think when I talked with Mr. Silber we are kind of anxious in the first place trying to get everything right, so when we got here today, we would not have a problem.

Mr. Silber- Mr. McKinney, yes, we have been working with them trying to expedite this as quickly as possible. I can't sit here and tell you that the letter did go out. There is a letter in the file that says this was printed on February 8, 1999. To the best of my ability I think that this probably was mailed. I can't tell you that it was mailed, but it looks like in the file that we did mail something out. It should have had instructions on it and how to proceed. I think at this point, as much as I would like to say that this case can be heard I don't think it meets the legal test. I think it is going to have to be deferred.

Mr. McKinney- We cannot hear it if the adjoining and adjacent property owners have not been notified.

Ms. Goldchamp- I'm Patricia Goldchamp, pastor of Faith Community Baptist Church, and there are no time frames in between for a special meeting?

Mr. McKinney- Is there any type of relief they could get, Mr. Silber?

Mr. Silber- Mr. Chairman, I wish there were. We have been asked this question for several weeks now by this group, and we have been trying to explore every possibility. We will continue to try to work with them. I think at this juncture it would be best that the Board defer this. We will try to do what we can, but I think because there is no legal requirements being met here, I think it is in the best interest of everyone it be deferred.

Mr. Wright- They want to place three office trailers on there?

Mr. Silber- Yes, sir.

Mr. Wright- For how long?

Mr. Silber- It would be a period not to exceed two years. I'm not sure how long they intend to keep them there.

Ms. Morris- How about 12 months?

Mr. Wright- We could give you two years if we could hear the case. Something like this you couldn't grant them a temporary that would be removed if they did get approved at the next meeting.

Mr. McKinney- I don't see why not, but I would think that that would put a hardship on the church. The church is taking a chance to have the trailers put there

and then for some reason they could be denied...if they were approved it would be no problem.

Mr. Balfour- Do you think your trailer company would let you have a 30-day temporary use of them without committing to two years if we were to find a way to let you put them there for 30 days?

Ms. Morris- I am sure they would, but I will tell you that the setup cost is about \$2,500....

Mr. Wright- Yes, that's the problem. You can't win for losing.

Ms. Morris- Then, too, we are concerned as a church family that since we are not there all kind of things have been happening to the property. When people realize that you are not there, they are trashing the property. Already we have had one thing to be driven up on the property and set afire.

Mr. McKinney- Have you called the Police Department and requested them to patrol this property?

Ms. Morris- Yes, sir.

Mr. McKinney- Well, unfortunately, Ms. Morris, we cannot hear the case because the criteria has not been met according to the law. I'm not saying it is your fault or whose fault it is, that is our position and we can't change it, because we have got to go by the law. I wish that there were something that we could do.

Mr. Balfour- Would it help if we gave them permission temporarily and they can decide on their own if they think it is worth their investment at least they have got that option.

Mr. McKinney- I don't think we can do that. I don't think by law that there is any part of the case that we can actually hear.

Mr. Silber- I think that that is correct, Mr. McKinney. I think if there is any relief I think it would need to be administrative relief.

Mr. McKinney- Maybe Mr. Silber can work out something for you this afternoon.

Mr. Silber- Why don't you give us a call this afternoon and we will talk. We also need to get straight so this doesn't occur next month.

Mr. McKinney- And Mr. Silber will look up the addresses as to where you need to send the certified letters.

On a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board deferred this request to March 25, 1999.

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

REASON: This request was deferred from the February 25, 1999 meeting to the March 25, 1999 meeting as the applicant had failed to serve notification to adjoining and adjacent property owners.

UP-10-99 **Joseph Ukrop** request for a temporary use permit pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code to conduct a water bottling and processing operation at 5620 Charles City Rd. (Tax Parcels 220-A-2 and 231-A-30) zoned A-1, Agricultural District, (Varina).

Mr. McKinney- Have all adjoining and adjacent property owners been notified of this request according to the County Code?

Mr. Ukrop- Yes, sir. I'm James Ukrop, and I am representing my father this morning and this is Arnold Gunnerson, who is really operating this spring on my Dad's farm.

I am here to ask your permission to be able to operate this little springhouse. My father is 84 years old, and has always been a very active man, and he has always had to have something to keep him busy, so it is sort of like some sort of a hobby for him.

You have got a picture of a little springhouse there and we are producing anywhere from seven to nine thousand gallons of water per week. Very much a cottage industry. We have had the folks down from the Planning Department, and they have made some conditions here, which we certainly will honor. There is one thing in the statement that is not, I think it is probably a typo. This spring is located, it says "200 feet from Charles City Road" where it is at least 200 yards from Charles City Road.

Other than that, I don't have anything to add, but I would be glad to answer any questions.

Mr. McKinney- Any questions of Mr. Ukrop by Board members?

Mr. Nunnally- Mr. Ukrop, you say you are drawing seven to nine thousand gallons of water per week, did you say?

Mr. Ukrop- It produces a lot more than that, but that is all we are bottling. The spring produces more but we that's the amount we are bottling and we don't anticipate any greater amount than that.

Mr. McKinney- Did you file this under your name, Mr. Ukrop?

Mr. Ukrop- Yes.

Mr. Wright- Yes.

Mr. Wright- It is just a small operation.

Mr. Ukrop- It is very small. Arnold has maybe one part time helper.

Mr. Wright- Where would this be marketed?

Mr. Ukrop- In our stores. Ukrop's own water.

Mr. McKinney- That's where you can buy it.

Mr. Nunnally- I thought you already had your own water over there.

Mr. Ukrop- This comes from our own springs.

Mr. Wright- What is it going to be called?

Mr. Ukrop- It is Ukrop's Spring Water.

Mr. Wright- On the bottle it is going to say that?

Mr. Ukrop- We are already selling it quite honestly. We just were not aware that we needed to do this. I talked to Virgil about it and he said we had better come talk to you folks.

Mr. McKinney- Any other questions of Mr. Ukrop from members of the Board? Anyone else to speak in reference to UP-10-99? Hearing none, that concludes the case.

After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board granted this temporary conditional use permit.

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

REASON: The Board **granted** this request as it found from the evidence presented that authorizing this use permit with appropriate conditions will not be detrimental to adjacent properties nor will its design and operation be detrimental to the community or purposes of the zoning regulations. The Board granted this request subject to the following conditions:

1. This approval is only for the bottling, processing and distribution of water extracted from the natural spring located on the site discussed in this case.
2. The hours of operation for the activities associated with bottling, storage and distribution of the water shall be limited to the hours between 6 am to 6 PM. Monday through Friday, exclusive of national holidays.
3. The operation of the business shall be restricted to the existing buildings on the property. No additional buildings may be approved and constructed for bottling or distribution of water from the natural spring.
4. This permit shall expire on February 28, 2001 at which time the operation shall cease.
5. This one time approval may not be extended.

There being no further business and on a motion by Mr. Wright, seconded by Mr. Nunnally, the Board adjourned until March 25, 1999.

All of the aforementioned decisions have been filed in the office of the Board of Zoning Appeals as of March 25, 1999.

Gene L. McKinney, C.P.C., C. B. Z. A
Chairman

Randall R. Silber
Secretary