

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, JANUARY 25,**  
4 **2001, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**  
5 **TIMES-DISPATCH ON JANUARY 4 AND 11, 2001.**  
6

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

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

7 Mr. Kirkland -                                 Welcome, ladies and gentlemen, to the January 2001  
8 Meeting of the Board of Zoning Appeals, first meeting of the New Millennium. Before we  
9 get started, I'll have the Secretary read the rules.

10  
11 Mr. Blankinship -                                 Good morning, Mr. Chairman, Members of the Board, ladies  
12 and gentlemen. The rules for this meeting are as follows. The Secretary, myself, will  
13 call each case. Then the applicant will come to the podium to present the case. At that  
14 time I'll ask all those who intend to speak, in favor or opposition, to stand, and they will  
15 be sworn in. The applicants will then present their testimony. When the applicant is  
16 finished, anyone else will be given an opportunity to speak. After everyone has spoken,  
17 the applicant, and only the applicant, will be given the opportunity for rebuttal. After  
18 hearing the case, and asking questions, the Board will take the matter under  
19 advisement. They will render all of their decisions at the end of the meeting. If you wish  
20 to know what their decision is, you may stay until the end of the meeting, or you may call  
21 the Planning Office at the end of the day. This meeting is being tape recorded, so we  
22 will ask everyone who speaks, to speak directly into the microphone on the podium, and  
23 to state your name for the record. Out in the foyer, there are two binders, which contain  
24 the staff report for each case, including the conditions suggested by the staff. Mr.  
25 Chairman?

26  
27 Mr. Kirkland -                                 Do we have any requests for withdrawals or deferrals on the  
28 9:00 o'clock agenda?

29  
30 Mr. Blankinship -                                 We do. **A-4-2001** has requested a deferral to the February  
31 meeting.

32  
33 **A - 4-2001                                 BOK NAM PARK** requests a variance from Section 24-95(i)(2) of  
34 Chapter 24 of the County Code to build a garage at 407 Branway Drive (Brandon West)

35 (Tax Parcel 99-2-B-21), zoned R-2, One-family Residence District (Tuckahoe). The  
36 accessory structure location requirement is not met. The applicant proposes a detached  
37 garage in the side yard, where the code allows a detached garage only in the rear yard.

38  
39 Mr. Kirkland - Do I have a motion on that?

40  
41 Upon a motion by Mr. Balfour, seconded by Mr. Wright, the Board of Zoning Appeals  
42 granted the **deferral** of **A-4-2001** to the February 22, 2001 meeting.

43  
44 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
45 Negative: 0  
46 Absent: 0

47  
48 Mr. Blankinship - **Up-1-2001**, the **Forest Lawn Cemetery** application was  
49 withdrawn, and also **A-9-2001 Leslie Tyler**, the last case on 9:00 o'clock, the letter  
50 actually said "postponed," but when staff followed up with a phone call, I was told that  
51 she requested withdrawal, so I suppose if you withdraw without prejudice, it could be  
52 reinstated next month. I don't want to automatically put it on next month's agenda if  
53 they don't want it,

54  
55 Mr. Kirkland - Let's have a motion to withdraw **A-9-2001** without prejudice.

56  
57 **A - 9-2001** **LESLIE TYLER** requests a variance from Section 24-9 of Chapter  
58 24 of the County Code to build a single family house at 8350 Gibbs  
59 Lane (Tax Parcel 249-A-23B), zoned A-1, Agricultural District  
60 (Varina). The public street frontage requirement is not met. The  
61 applicant has 0 feet public road frontage, where the Code requires  
62 50 feet public road frontage. The applicant requests a variance of  
63 50 feet public road frontage.

64  
65 Upon a motion by Mr. Nunnally, seconded by Mr. Wright, the Board of Zoning Appeals  
66 granted **A-9-2001** be **withdrawn without prejudice**.

67  
68 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
69 Negative: 0  
70 Absent: 0

71  
72 Mr. Kirkland - Yes, let me have a motion on the withdrawal of Forest Lawn  
73 Cemetery. And you'll contact them and let them know about whether or not it will be  
74 next month, correct?

75  
76 **UP- 1-2001** **FOREST LAWN CEMETERY** requests a conditional use permit  
77 pursuant to Section 24-52(h) of Chapter 24 of the County Code to construct a  
78 mausoleum at 4000 Pilots Lane (Tax Parcel 106-A-1), zoned A-1, Agricultural District  
79 (Fairfield).

80

81 Upon a motion by Mr. McKinney, seconded by Mr. Wright, the Board of Zoning Appeals  
82 granted **UP-1-2001, Forest Lawn Cemetery be withdrawn without prejudice.**

83  
84 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
85 Negative: 0  
86 Absent: 0

87  
88 Mr. Blankinship - That will get us through 9:00 o'clock.

89  
90 Mr. Kirkland - Let's hear the first case.

91  
92 **A -125-2000 JAMES T. AND BRENDA D. CHRISTMAS** request a variance from  
93 Section 24-94 of Chapter 24 of the County Code to build a sunroom at 109 Adingham  
94 Court (River Place) (Tax Parcel 111-19-B-3), zoned R-1, One-family Residence District  
95 (Tuckahoe). The rear yard setback is not met. The applicants have 41 feet rear yard  
96 setback, where the Code requires 50 feet rear yard setback. The applicants request a  
97 variance of 9 feet rear yard setback.

98  
99 Mr. Kirkland - OK, is the applicant here for this case? If you would, come forward.

100  
101 Mr. Blankinship - Just to let you know we are in the holiday spirit; this is the  
102 Christmas application, and in a few minutes we will hear from Mr. Easter.

103  
104 Mr. Kirkland - Does anyone else wish to speak on this case. If you will, ma'am,  
105 state your name for the record.

106  
107 Ms. Christmas - I am Brenda D. Christmas.

108  
109 Mr. Kirkland - Would you raise your right hand and be sworn in.

110  
111 Mr. Blankinship - Do you swear that the testimony you are about to give is the truth,  
112 the whole truth, and nothing but the truth, so help you God?

113  
114 Mr. Kirkland - Have all your notices been turned in, according to the County  
115 Code? OK, if you would, state your case.

116  
117 Ms. Christmas - Yes sir. It's not an addition of a sunroom; it's extending a sunroom,  
118 and also opening up a small rear door entry. I'm not real sure what you want me to  
119 explain. I know the County came and took some pictures. If you have those in front of  
120 you, if I can help explain that at all, I'd be glad to.

121  
122 Mr. Wright- What is the size of your current sunroom?

123  
124 Ms. Christmas - It's 15 feet by 16.

125  
126 Mr. Wright- And how much do you want to add to it?

127  
128 Ms. Christmas - Eleven feet.  
129  
130 Mr. Wright- And that would be to the rear?  
131  
132 Ms. Christmas - Yes sir, if you're looking at the start of the pictures, the very picture  
133 at the top, if you look towards the driveway area, you'll see a little trailer sitting there, the  
134 extension really, that trailer sitting at the corner of our driveway, it won't even go that far  
135 back. It's a about a foot before that. The deck will remain; we will have to move the  
136 stairway; instead of it coming down in the direction it is now, it will kind of come in the  
137 direction facing us as we look at the picture.  
138  
139 Mr. Wright- Is it to be the same size as the current sunroom?  
140  
141 Ms. Christmas- It's just going to be extended out. Exact same roof. And we're  
142 actually even reusing all the windows. It is to allow for a little more family area. For  
143 right now, so we can put a ping pong table out there, for my teenagers. If we stay in this  
144 house as we get older, my husband and I will have a larger sunroom. And the rear door  
145 entry, which really isn't shown in the pictures, is a very narrow entryway.  
146  
147 Mr. Balfour- Is there a privacy fence along the back?  
148  
149 Ms. Christmas- Yes sir.  
150  
151 Mr. McKinney- This drawing indicates that you are going to extend this room out 14  
152 feet 2 inches, not 11feet.  
153  
154 Ms. Christmas- I thought it was 11 feet.  
155  
156 Mr. McKinney- The addition says 12 feet and that does not include the bay window  
157 that extends past the wall 2 feet.  
158  
159 Ms. Christmas- We are not going to be doing the bay window.  
160  
161 Mr. McKinney- So it will be 12 feet.  
162  
163 Mr. Kirkland- Any other questions by Board Members? Any one else wish to  
164 speak on this case? If not that concludes the case.  
165  
166 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
167 Balfour, the Board **granted** your application **A-125-2000** for a variance to build a  
168 sunroom at 109 Adingham Court (River Place) (Tax Parcel 111-19-B-3). The Board  
169 granted the variance subject to the following conditions:  
170  
171 1. Only the improvements shown on the plan filed with the application may be  
172 constructed pursuant to this approval. Any additional improvements shall comply with

173 the applicable regulations of the County Code.

174

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

176 Negative: 0

177 Absent: 0

178

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

184

185 **A - 1-2001 RAYMOND L. KEE, JR.** requests a variance from Section 24-41(e)  
186 of Chapter 24 of the County Code to build an addition to replace the existing deck at  
187 1603 Logwood Circle (Gayton Forest Townhouses) (Tax Parcel 78-14-NN-11), zoned  
188 RTH, Residential Townhouse District (Tuckahoe). The rear yard setback is not met. The  
189 applicant has 22 feet rear yard setback, where the Code requires 30 feet rear yard  
190 setback. The applicant requests a variance of 8 feet rear yard setback.

191

192 Mr. Kirkland - OK, is the applicant here for this case? If you would, come forward.

193

194 Mr. Kirkland - Does anyone else wish to speak on this case. If you will, ma'am,  
195 state your name for the record.

196

197 Mr. Sledd - Mr. Chairman, my name is Kenneth W. Sledd, Jr. I'm representing  
198 Mr. Kee; he had to be out of town for a meeting that was planned prior to him knowing  
199 the date of this variance meeting.

200

201 Mr. Kirkland - Would you raise your right hand and be sworn in.

202

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

205

206 Mr. Kirkland - Have all your notices been turned in, according to the County  
207 Code? OK, if you would, state your case.

208

209 Mr. Sledd - I would like to read a letter from Mr. Kee.

210

211 "Dear Sirs: I cannot be personally be present today, as I have a meeting out of town  
212 that was scheduled before I knew the date of this variance hearing. I have asked Ken  
213 Sledd to be present in my stead to act as my representative. And you should have a  
214 letter to that effect within your files.

215

216 Basically I am requesting a rear lot variance of 8 feet in order to build a 12 x 24 sunroom  
217 to replace the existing 10 X 24 rear deck. My wife and I don't use the deck that much  
218 due to the extreme heat and bugs during the summer and the cold during the winter  
219 months. We would like to convert it to a sunroom so we may use it for year-round use.

220 I have contacted Mr. Wayne Roberts, who is a contractor that has converted 6 decks to  
221 sunrooms in our immediate area. I have looked at the unit at 1700 Logwood Circle,  
222 which is identical to mine and Mr. Roberts plans to make the same changes to my unit.  
223

224 Gayton Forest Townhouse Association has approved our request for this modification,  
225 and you should have a copy of this letter in your files also. I would appreciate your  
226 approval today, so I can begin the process of requesting a building permit. Thank you  
227 for your consideration of my request. Raymond L. Kee, 1603 Logwood Circle.”  
228

229 Mr. Kirkland - Any questions by Board members?  
230

231 Mr. Wright - What is located to the rear of this property?  
232

233 Mr. Sledd - There are woods behind it, and then a road. There are no town  
234 homes right behind it. I think the setback involved, sir, that it needs minimum from the  
235 town home road. I don't believe it's a county or a state maintained road; I think it's the  
236 town home road. The deck does not encroach into the setback but if it is converted to  
237 heated space it does.  
238

239 Mr. Wright - The ordinance permits a deck but does not permit an addition. Is  
240 there a common area behind the townhouse unit?  
241

242 Mr. Sledd - I am not sure. It looks like an easement there.  
243

244 Mr. Wright - I think it appears to be there. According to the plat submitted with  
245 the case.  
246

247 Mr. Nunnally - You said this was approved by the townhouse association?  
248

249 Mr. Sledd - Yes sir.  
250

251 Mr. Wright - This is to be a one story addition, correct?  
252

253 Mr. Sledd - Yes sir.  
254

255 Mr. Wright - In the picture it shows an air-conditioning or heating unit outside the  
256 house. Will that remain or will it be moved?  
257

258 Mr. Sledd - I think that will not be moved, they will be going to a 2 zone system.  
259

260 Mr. Kirkland- Any other questions by Board Members? Anyone else wish to  
261 speak on this case? If not that concludes the case.  
262

263 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
264 McKinney, the Board **granted** your application **A-1-2001** for a variance to build an  
265 addition to replace the existing deck at 1603 Logwood Circle (Gayton Forest

266 Townhouses) (Tax Parcel 78-14-NN-11). The Board granted the use permit subject to  
267 the following conditions:

268  
269 1. Only the improvements shown on the plan filed with the application may be  
270 constructed pursuant to this approval. Any additional improvements shall comply with  
271 the applicable regulations of the County Code.

272  
273 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
274 Negative: 0  
275 Absent: 0

276  
277 The Board **granted** this request, as it found from the evidence presented that, due to  
278 the unique circumstances of the subject property, strict application of the County Code  
279 would produce undue hardship not generally shared by other properties in the area, and  
280 authorizing this variance will neither cause a substantial detriment to adjacent property  
281 nor materially impair the purpose of the zoning regulations.

282  
283 **A - 2-2001 CAROLYN WILSON** requests a variance from Section 24-94 of  
284 Chapter 24 of the County Code to build a room over an existing deck at 1417 Gambrel  
285 Road (Fair Oaks Terrace) (Tax Parcel 156-7-J-7), zoned R-4, One-family Residence  
286 District (Varina). The rear yard setback is not met. The applicant has 32 feet rear yard  
287 setback, where the Code requires 35 feet rear yard setback. The applicant requests a  
288 variance of 3 feet rear yard setback.

289  
290 Mr. Kirkland - OK, is the applicant here for this case? If you would, come  
291 forward.

292  
293 Mr. Kirkland - Does anyone else wish to speak on this case. If you will,  
294 ma'am, state your name for the record.

295  
296 Mr. Glissen - I am John Glissen.

297  
298 Mr. Kirkland - Would you raise your right hand and be sworn in.

299  
300 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
301 truth, the whole truth, and nothing but the truth, so help you God?

302  
303 Mr. Kirkland - Have all your notices been turned in, according to the County  
304 Code? OK, if you would, state your case.

305  
306 Mr. Glissen - Yes sir. Ms. Wilson has an existing 10 x 16 foot deck. We  
307 want to enclose a portion of the deck into a sunroom. As far as the hardship goes, she  
308 lives there with her daughter and grandchildren in a tri-level house and needs the extra  
309 room. Also because of the heat and bugs in the summer, she is unable to use the deck  
310 as it is. She would like the sunroom so she can use it more. There is a setback of 35  
311 feet and we are requesting a variance of 3 feet. We are only enclosing a portion of the  
312 existing deck. The enclosure is going to be 10 x 13 feet.

313  
314 Mr. Nunnally - 10 x 13 feet?  
315  
316 Mr. Glissen - Yes sir.  
317  
318 Mr. Kirkland - Is this going to be underneath of that deck or on top of the  
319 deck?  
320  
321 Mr. Glissen - It will be over the existing deck, which is off the second floor.  
322 We will reinforce the supports that are there now so the enclosure will meet code.  
323  
324 Mr. Wright - What type of material will be used for the construction?  
325  
326 Mr. Glissen - Construction of the room itself will be an aluminum frame  
327 work, polymer panels and insulation.  
328  
329 Mr. McKinney - Will you be using the hot water heater shown in the picture?  
330  
331 Mr. Glissen - No sir, that will be hauled away. Possibly with a lot of other  
332 things out there.  
333  
334 Mr. McKinney - What is going to be used underneath? Is it going to be used  
335 for a storage area?  
336  
337 Mr. Glissen - No sir. She is going to keep it open. There is a door that  
338 enters the lower level there. That is where the grandchildren play, and that is their main  
339 access to the yard.  
340  
341 Mr. Nunnally - Where you come out of the house there, is that a concrete  
342 patio?  
343  
344 Mr. Glissen - Yes sir.  
345  
346 Mr. Kirkland - When you build this sunroom, will there be doors leading to  
347 the rear yard with steps?  
348  
349 Mr. Glissen - Yes sir. There is an existing set of steps which we are  
350 leaving, they are off the remaining deck.  
351  
352 Mr. McKinney - You don't have any plans on this construction, do you?  
353  
354 Mr. Glissen - No sir, not with me.  
355  
356 Mr. Kirkland - Any other questions? Anyone else wish to speak?  
357  
358 Mr. Nunnally - What is the size of the deck?



359  
360 Mr. Glissen - Approximately 10 by 16; it's a little more than 16 feet in width;  
361 it's a 10 foot projection out from the back of the house, a little better than 16 feet in  
362 width, and then there's an additional landing and the steps going down. We're going to  
363 take it 13 feet and leave her a portion to leave her grill up there, so they can have  
364 access to the grill without having to go all the way down to the yard.

365  
366 Mr. Kirkland - What is the distance between the top of the deck and the  
367 bottom of the eave of the house; is that over 8 feet. Is this going to be A-roof tied into  
368 this, or is this going to be.....

369  
370 Mr. Glissen - It's going to be a studio roof, a flat pitched roof, a shed roof,  
371 maybe you'd call it; we're going to remove the overhang and re-flash and trim that, and  
372 attach it off of that.

373  
374 Mr. Kirkland - Any other questions? That concludes the case.

375  
376 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
377 Nunnally, the Board **granted** your application **A-2-2001** for a variance to build a room  
378 over an existing deck at 1417 Gambrel Road (Fair Oaks Terrace)(Tax Parcel 156-7-J-  
379 7). The Board granted the variance subject to the following condition:

380  
381 1. Only the improvements shown on the plan filed with the application may be  
382 constructed pursuant to this approval. Any additional improvements shall comply with  
383 the applicable regulations of the County Code.

384  
385 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
386 Negative: 0  
387 Absent: 0

388  
389 The Board granted this request, as it found from the evidence presented, that due to the  
390 unique circumstances of the subject property, strict application of the County Code  
391 would produce undue hardship not generally shared by other properties in the area, and  
392 authorizing this variance will neither cause a substantial detriment to adjacent property  
393 nor materially impair the purpose of the zoning regulations.

394  
395 Mr. Blankinship - A-4-2001 has been deferred to the February meeting.

396  
397 **A - 5-2001 WILLIAM T. EVANS** requests a variance from Section 24-9 of  
398 Chapter 24 of the County Code to build a single family dwelling at Marleigh Court (Tax  
399 Parcel 243-A-9A (part)), zoned A-1, Agricultural District (Varina). The public street  
400 frontage requirement is not met. The applicant has 0 feet public road frontage, where  
401 the Code requires 50 feet public road frontage. The applicant requests a variance of 50  
402 feet public road frontage.

403  
404 Mr. Kirkland - Does anyone else wish to speak on this case. If you would,

405 sir, raise your right hand and be sworn in.  
406  
407 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
408 truth, the whole truth, and nothing but the truth, so help you God?  
409  
410 Mr. Evans - Yes sir. My name is William Thomas Evans.  
411  
412 Mr. Kirkland - Have all your notices been turned in, according to the County  
413 Code? Yes, we have them in the file. OK, if you would, state your case.  
414  
415 Mr. Evans - I'm going to build a house on a one-acre lot that my  
416 grandfather has given me. I don't meet the 50-foot public road frontage; it's built back  
417 off the main road. There is an easement running from the main road to the property.  
418 My grandfather owns it, and he's given me permission to use it.  
419  
420 Mr. Nunnally - You say your grandfather gave you this property, and you're  
421 going to build a house on it? Is the house going to be for your personal use? And you  
422 do have access to it? Legal access? And you've read the conditions on the back?  
423  
424 Mr. Kirkland - Any other questions by the Board members?  
425  
426 Mr. McKinney - Mr. Secretary, did you fly this property and take these  
427 pictures?  
428  
429 Mr. Blankinship - Yes sir, took my private plane out for that purpose.  
430  
431 Mr. McKinney - I thought maybe your 4-wheel couldn't get back there or  
432 something.  
433  
434 Mr. Blankinship - No, looking at this property from the ground doesn't really  
435 give you the information you need, because the access is so long, so we felt it was  
436 more useful to show you the aerial.  
437  
438 Mr. Kirkland - Any other questions? Does anyone else wish to speak on  
439 this case? That concludes the case, sir.  
440  
441 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
442 Wright, the Board **granted** your application **A-5-2001** for a variance to build a single  
443 family dwelling at Marleigh Court (Tax Parcel 243-A-9A (part)). The Board granted the  
444 variance subject to the following conditions:  
445  
446 1. At the time of building permit application the owner shall demonstrate that the  
447 parcel created by this division has been conveyed to members of the immediate family,  
448 and the subdivision ordinance has not been circumvented. If this condition cannot be  
449 met, the owner shall submit a subdivision plat for review and approval by the Planning  
450 Office.  
451

452 2. Approval of this request does not imply that a building permit will be issued.  
453 Building permit approval is contingent on Health Department requirements, including,  
454 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval of  
455 a well location.

456  
457 3. The applicant must present proof with the building permit application that a legal  
458 access to the property has been obtained.

459  
460 4. Only the improvements shown on the plan filed with the application may be  
461 constructed pursuant to this approval. Any additional improvements shall comply with  
462 the applicable regulations of the County Code.

463  
464 5. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10  
465 of the County Code apply. At the time of building permit application, the applicant shall  
466 submit the necessary information to the Department of Public Works to ensure  
467 compliance with the requirements of the Chesapeake Bay Preservation Act and the  
468 code requirements for water quality standards.

469  
470 6. The owners of the property, and their heirs or assigns, shall accept responsibility  
471 for maintaining access to the property until such a time as the access is improved to  
472 County standards and accepted into the County road system for maintenance.

473  
474 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
475 Negative: 0  
476 Absent: 0

477  
478 The Board granted this request, as it found from the evidence presented that, due to the  
479 unique circumstances of the subject property, strict application of the County Code  
480 would produce undue hardship not generally shared by other properties in the area, and  
481 authorizing this variance will neither cause a substantial detriment to adjacent property  
482 nor materially impair the purpose of the zoning regulations.

483  
484 Mr. Kirkland - Next case, sir.

485  
486 Mr. Blankinship - Mr. Chairman, I should have mentioned, these next 2 are  
487 companion cases – do you want me to call them both?

488  
489 **A - 6-2001 JACKIE H. CANNON** requests a variance from Section 24-95(d)(1)  
490 of Chapter 24 of the County Code to allow a single family dwelling to remain at 570  
491 North Mullens Lane (Greendale Park) (Tax Parcel 143-2-B-182 (part)), zoned R-3,  
492 One-family Residence District (Varina). The lot width requirement is not met. The  
493 applicant has 106 feet lot width, where the Code requires 150 feet lot width. The  
494 applicant requests a variance of 44 feet lot width.

495  
496 **A - 7-2001 JACKIE H. CANNON** requests a variance from Section 24-95(d)(1)  
497 of Chapter 24 of the County Code to build a single family dwelling at 580 North Mullens

498 Lane (Greendale Park) (Tax Parcel 143-2-B-182 (part)), zoned R-3, One-family  
499 Residence District (Varina). The lot width requirement is not met. The applicant has 100  
500 feet of lot width, where the Code requires 150 feet of lot width. The applicant requests a  
501 variance of 50 feet lot width.

502

503 Mr. Kirkland - Does anyone else wish to speak on this case. If you would,  
504 please, raise your right hand and be sworn in. State your name for the record.

505

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

508

509 Ms. Cannon - I do. My name is Jackie H. Cannon.

510

511 Mr. Kirkland - Have all your notices been turned in, according to the County  
512 Code? We have them in the file. OK, if you would, state your cases.

513

514 Ms. Cannon - I own 3.1 acres on North Mullens Lane. I would like to split it  
515 into 2 lots, in order to build a new single family dwelling on one of the lots, and keep the  
516 existing older home that would be on the second lot. My lot requirement is not met  
517 because it's zoned R-3, and each lot would be 106 feet and 100 feet, and the lot  
518 requirement is 150 feet lot width, because the County has never offered sewer and  
519 water down that street.

520

521 Mr. Nunnally - The house that's there now – does a family live there?

522

523 Ms. Cannon - Yes sir, it was built in the early 1900's ; it is in a state of  
524 disrepair. It has no central heat and air. It has a single circulator for heat. It is not  
525 insulated. There's no washer and drier there. It's getting to the point that it's going to  
526 be unbearable, and I'm the chief caregiver for my 74-year-old, handicapped mother, and  
527 I need to provide a better place for her to live.

528

529 Mr. Nunnally - Your mother's going to live in this new home that you're  
530 going to build on the empty lot? You and your mother, or just your mother?

531

532 Ms. Cannon - It will probably be my mother and me; I would like to keep the  
533 older home and eventually fix it up and maybe rent it out.

534

535 Mr. Blankinship - Mr. Chairman, when we came in this morning, there were  
536 some plats out on the table – those go with this case.

537

538 Ms. Cannon - I also have some pictures that I have taken on my own, that  
539 show the neighborhood, that to do this, it would not be a detriment to the neighborhood  
540 or deface the neighborhood, because the lots directly across the street from this  
541 property have already been built on 100 feet or less, and they're less than  $\frac{3}{4}$  of an acre,  
542 and each one of my lots would be an acre and a half plus. So I have those if you would  
543 like to look at them.

544

545 Mr. Kirkland - We'd have to keep them for 30 days.

546  
547 Ms. Cannon - That's fine.

548  
549 Mr. Kirkland - Hand them to the Secretary. Any other questions by Board  
550 members? Does anyone else wish to speak on this case? Any other Board members  
551 have any questions? If not, that concludes the case, ma'am, both cases,

552  
553 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
554 McKinney, the Board **granted** your application **A-6-2001** for a variance to allow a single  
555 family dwelling to remain at 570 North Mullens Lane (Greendale Park) (Tax Parcel 143-  
556 2-B-182 (part)). The Board granted the variance subject to the following conditions:

557  
558 1. Only the improvements shown on the plan filed with the application may be  
559 constructed pursuant to this approval. Any additional improvements shall comply with  
560 the applicable regulations of the County Code.

561  
562 2. Approval of this request does not imply that a building permit will be issued.  
563 Building permit approval is contingent on Health Department requirements, including,  
564 but not limited to, soil evaluation for a septic drainfield reserve area and approval of a  
565 well location.

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

576  
577 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
578 McKinney, the Board **granted** your application **A-7-2001** for a variance to build a single  
579 family dwelling at 580 North Mullens Lane (Greendale Park) (Tax Parcel 143-2-B-182  
580 (part)) The Board granted the variance subject to the following conditions:

581  
582 1. Only the improvements shown on the plan filed with the application may be  
583 constructed pursuant to this approval. Any additional improvements shall comply with  
584 the applicable regulations of the County Code.

585  
586 2. Approval of this request does not imply that a building permit will be issued.  
587 Building permit approval is contingent on Health Department requirements, including,  
588 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval of  
589 a well location.

590  
591 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

592 Negative: 0  
593 Absent: 0

594  
595 The Board granted this request, as it found from the evidence presented that, due to the  
596 unique circumstances of the subject property, strict application of the County Code  
597 would produce undue hardship not generally shared by other properties in the area, and  
598 authorizing this variance will neither cause a substantial detriment to adjacent property  
599 nor materially impair the purpose of the zoning regulations.

600  
601 **A - 8-2001** **PARK 'N GO** requests a variance from Sections 24-104(j)(3) and  
602 24-104(j)(2)(b) of Chapter 24 of the County Code to erect freestanding and attached  
603 signs at 5800 Audubon Drive (Tax Parcel 163-A-14B), zoned M-1, Light Industrial  
604 District (Varina). The freestanding sign area requirement, freestanding sign height  
605 requirement, and total sign area requirement are not met. The applicant has 40 feet  
606 freestanding sign height, 154 square feet freestanding sign area, and 234 square feet  
607 total sign area, where the Code allows 25 feet freestanding sign height, 75 square feet  
608 freestanding sign area, and 75 square feet total sign area. The applicant requests  
609 variances of 15 feet freestanding sign height, 79 square feet freestanding sign area, and  
610 159 square feet total sign area

611  
612 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,  
613 state your name for the record, sir.

614  
615 Mr. Booker - It's Kevin Booker, sir.

616  
617 Mr. Kirkland - Could you speak a little louder.

618  
619 Mr. Booker - I'm sorry, Kevin Booker.

620  
621 Mr. Kirkland - Would you raise your right hand and be sworn in.

622  
623 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
624 truth, the whole truth, and nothing but the truth, so help you God?

625  
626 Mr. Kirkland - Have all your notices been turned in? Hand them to the  
627 Secretary, please. You can state your case.

628  
629 Mr. Booker - Yes sir. Thank you. If I may, may I use the mouse to get to  
630 the property in question? I think I know how to do it – I go to 8, right here, no, wrong  
631 parcel. I just thought seeing the property might be helpful.

632  
633 Mr. Blankinship - Normally we have this whole thing actually working.

634  
635 Mr. Booker - Yes, it looks like you have some pretty high tech gizmos  
636 here. The property in question is a Park 'n Go that's under construction; its address is  
637 Audubon Drive; it's in the vicinity of the airport. We're asking for several signs, and the  
638 collective total and height are what we're here before you asking a variance for. The

639 primary sign, which the customer feels is most critical to their business, is a freestanding  
640 sign. We have proposed an 11 by 14 foot sign with an overall height of 40 feet. I've got  
641 some pictures; we came down several weeks ago and did what we call a target test,  
642 where we take a crane, and we raise it up, and we shoot pictures of various heights.  
643 This parcel is somewhat unique, in the fact that it sits approximately 7 feet below grade  
644 or to the adjacent property, the Henrico Park 'n Ride is adjacent to it, and it's  
645 approximately 7 feet above the parcel in question. So if I may, may I present these  
646 pictures, and what I've done is denoted 25 and 40 and tried to take the same shot to  
647 give you a visual.

648  
649 Mr. Kirkland - If you turn them in, we'll keep them for 30 days.

650  
651 Mr. Booker - That's fine. In addition, what I've done is done some  
652 diagrams to illustrate the proposed sign versus the allowed sign, and what I've also  
653 done is drawn a block to represent the 7 foot height variance, so if I may, I'd like to  
654 present those. The other items in question are the 2 signs in question on the building, a  
655 small sign there, as well as a small directional. I'll present all those; I have those in  
656 triplicate, so you can pass them around, and you can keep those

657  
658 And finally, the last item in question, or the collective sign package, if you will, is over  
659 the parking canopy of the exit entrance of this facility, will be a yellow awning, and they  
660 would like to erect just vinyl copy, more or less vinyl letters on this illuminated awning,  
661 as well. So that's the final exhibit.

662  
663 Mr. McKinney - Mr. Booker, did you say this sign is going to be 40 feet high?

664  
665 Mr. Booker - That's what we would like. Understanding that the Code  
666 does allow for 25, I'm not sure if the Board would take into consideration the height  
667 difference, if they would grant 7 feet, that would make the sign in effect, 32 from the  
668 standard grade of that, of the adjacent property, so in essence we would be asking for a  
669 visual 8. Any relief would be appreciated. I guess in a situation like this, where they are  
670 asking for a considerable variance, they like to look at what we would like, and realize  
671 that maybe the Board would take it under advisement, and maybe there was some  
672 compromise that could be reached on the signage. As I've stated, I've presented you  
673 with the entire sign package as they would like it. Keep it in mind that the free-standing  
674 sign is critical to their line of business. Many times in these proceedings, you get a  
675 situation where the newcomer to the block, he wants a larger sign because he wants to  
676 sell more hamburgers. I think this particular business, in particular, is geared on that  
677 immediate notification of where this is, because this does provide a service to travelers  
678 and things of that nature, so I'd ask that you keep in mind the nature of the business  
679 that it's catering to, the transient people that would be coming and going to the airport,  
680 the need to quickly identify this site.

681  
682 Mr. Balfour - How are they going to get from this parking lot to the  
683 terminal?

684

685 Mr. Booker - They actually, there's a shuttle..... I'm sorry, this is  
686 the property owner, Paul.  
687  
688 Mr. Kirkland - If you would sir, come forward; you need to be sworn in  
689 before you make any statements. If you'll raise your right hand, the Secretary will swear  
690 you in.  
691  
692 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
693 truth, the whole truth, and nothing but the truth, so help you God?  
694  
695 Paul Rutigliano - I do.  
696  
697 Mr. Balfour - How would you get from the parking deck to the terminal?  
698  
699 Paul Rutigliano - We provide shuttle buses that exit out on Audubon and then  
700 make the right on Airport Drive, and then take the passengers to the terminal.  
701  
702 Mr. Kirkland - On this site here, this sign and everything else, where is the  
703 big sign going to be?  
704  
705 Mr. Booker - I wish I had a pointer here. What the site plan shows, do you  
706 see the little blurb that says free-standing sign height and total area? That in fact would  
707 be the small directional; it would be 5 feet tall and 12 square feet. What we would like to  
708 do is erect the sign where you see the pictures, towards the rear of the property. You  
709 don't have a laser pointer, do you? The proposed sign is right where I have my hand in  
710 the back corner of the parcel, and that's where in turn the site tests were taken from, so  
711 this initial site that's denoted, is in fact, merely a directional, and that could be jettisoned  
712 if the Board felt that more than one sign was excessive, but like I say, we would like to  
713 erect a sign towards the rear of the parcel.  
714  
715 Mr. Balfour - When cars are coming to it, which way are they going to be  
716 approaching it?  
717  
718 Mr. Booker - They'll come down Airport Drive, and then take a left, and  
719 come into the parcel here. What you have, where the pointer is, would actually be the  
720 shadow of the canopy.  
721  
722 Mr. Balfour - Why is it that you need the sign in the rear if they are coming  
723 in where the small sign is on Audubon Drive? I'm not sure I'm with you.  
724  
725 Mr. Booker - Well the airport is, as you know, what the service is there for.  
726  
727 Mr. Balfour - So you need to see the sign coming out on Airport Drive, to  
728 mean.....  
729  
730 Mr. Booker - Correct; that's why we're wishing to erect it in the rear of the



731 parcel, so those coming out of the airport can in turn identify it, get down, and then seek  
732 it out; that's the main purpose.

733  
734 Mr. McKinney - Mr. Booker, is this privately owned?

735  
736 Mr. Booker - Yes sir.

737  
738 Mr. McKinney - It has nothing to do with the airport?

739  
740 Mr. Booker - No sir.

741  
742 Mr. McKinney - How are the people going to know to come down Airport  
743 Drive to get to this – are you going to advertise this? Let's say I'm going to fly to New  
744 York or Florida or Atlanta, and I come to the airport. Why would I come to this Park 'N  
745 Go Airport Parking.

746  
747 Mr. Booker - Well, I would assume, usually on-site parking at an airport is  
748 somewhat pricey, and I'm not sure what it is in Richmond. In Roanoke it's \$8 a day,  
749 whereas they offer a secure lot, \$5 a day parking, probably for your longer term  
750 travelers, someone who would come in, go to Florida for a week or 2.....

751  
752 Mr. Kirkland - Come to the mike so we can hear you. What is your name?

753  
754 Mr. Rutigliano - Paul Rutigliano; I'm one of the developers in the property.  
755 Would be the customer service, the service that we provide to travelers, who, like  
756 yourself, are going to the airport, with the free shuttle service – it's very quick; it's very  
757 easy, very efficient, and most importantly, the security is excellent. If there's ever a  
758 problem with your vehicle, we provide service for flat tires, for batteries, especially for  
759 women, wives that are traveling, that they are secure from leaving the terminal to  
760 leaving our property. That is one of the biggest features we have to offer is the security  
761 and the fast, efficient service.

762  
763 Mr. Balfour - I think his question is "how are people going to know you are  
764 there and what you offer" if you are stuck on Airport Drive?

765  
766 Mr. Rutigliano - That is why we need that sign, that would be a big help. We  
767 have a billboard that we are going to start with on February 1 with Lamar Advertising on  
768 I-64, between Laburnum and Nine Mile Avenue, I don't know if you are familiar with that  
769 Colonial Downs board that was there, well, we're going to secure that on February 1,  
770 we'll have a billboard there to help advertise the site. Once that sign is placed,  
771 hopefully the people will be able to see the sign and our property. We are developing  
772 Phase I currently, and in the spring we will develop Phase II, which will back up, as you  
773 can see on the map, to Williamsburg Road. I'm sure, as Kevin has said, on that border  
774 property on the Henrico County Park and Ride, if you've been out there, have you seen  
775 those big photon bushes out there. They are probably 25 to 30 feet high. That's one of  
776 the problems that we currently have.

777  
778 Mr. McKinney - Are you operating from this site currently?  
779  
780 Mr. Rutigliano- No sir.  
781  
782 Mr. McKinney - Who is your competition down there?  
783  
784 Mr. Rutigliano- Our competition will be the Airport itself. The property known  
785 as Aeropark was bought by the Airport for employee parking.  
786  
787 Mr. McKinney- So you really need this sign for monetary standpoint.  
788  
789 Mr. Rutigliano - Yes sir.  
790  
791 Mr. McKinney - What are your hours of operation?  
792  
793 Mr. Rutigliano- We are 365 days a year, 24 hours a day. We never shut  
794 down.  
795  
796 Mr. McKinney- Is your property fenced all the way around?  
797  
798 Mr. Rutigliano- Yes sir. That was a condition of the Plan of Development  
799 with the Planning Commission. We will have a 42 inch tall fence around the entire  
800 property.  
801  
802 Mr. McKinney- And what type of guards do you have?  
803  
804 Mr. Rutigliano- We don't really have a security force, we have a manager  
805 that will be on the site all the time. We will have 6 to 7 shuttle buses with drivers and 3  
806 to 4 people that work in the office. We will have 15 to 16 employees that will be working  
807 on the property all the time.  
808  
809 Mr. McKinney- How many cars can you hold in this lot?  
810  
811 Mr. Rutigliano Phase I, we can hold 749 cars and Phase II, it will take us to  
812 1200 cars. We lose a lot of space to the basin.  
813  
814 Mr. McKinney- And your fee is \$5.00 a day.  
815  
816 Mr. Rutigliano- We will have two fees, one is an introductory fee and a  
817 corporate rate.  
818  
819 Mr. McKinney- So your intention is to go into competition with the Airport?  
820  
821 Mr. Rutigliano- We will not be in direct competition with the Airport, but  
822 provide a service for the passengers. We feel that the way the Richmond Airport is

823 going to grow in the next 10 years, that we feel that this lot is needed. If you could look  
824 back 5 years and see the Richmond Airport, you would have not thought they needed  
825 the new Parking garages and that parking would be in such demand. We feel that  
826 Richmond is a viable market.

827

828 Mr. McKinney - The Airport just opened up 2 new parking lots.

829

830 Mr. Rutigliano - Every time I come into Richmond, I do go through those  
831 garages, and they are full with the exception of the 4<sup>th</sup> level, where there may be 50 or  
832 60 spots open. They do a very good business.

833

834 Mr. McKinney- The Airport commission is aware of what you want to do  
835 here? You have talked to them.

836

837 Mr. Rutigliano- Yes sir.

838

839 Mr. McKinney- Who in particular?

840

841 Mr. Rutigliano- The gentleman that I work with, John Bona, who is the  
842 primary owner, has talked with them, about a year ago. I can't remember the  
843 gentleman's name that he spoke with, but we've gone into the Airport Commission. I've  
844 talked to Mr. Heckler of the Airport Commission, about advertising in the airport, Moses  
845 Henderson, who we have to register our shuttle buses and pay the fee every time we  
846 enter and leave the airport.

847

848 Mr. Kirkland- Mr. Blankinship, are there any other signs as tall as this  
849 proposed 40-foot sign, down in that area? And the motels that are in that area?

850

851 Mr. Blankinship- I do not know.

852

853 Mr. Rutigliano- When we came down to do the site surveys, there were  
854 several hotel signs, Microtel, and some other, Motel 6, that appeared considerably  
855 larger than 25. And I also wanted to submit 2 more pictures. We are afraid that if we  
856 erect the sign at 25 feet, the sign will be partially hidden by the trees at the Henrico Park  
857 n Ride. The mouse isn't working. It says "photos." Will they show the dip in the  
858 property?

859

860 Mr. Blankinship - Can we bring up the photos from back there, Tony?

861

862 Mr. Rutigliano - If you note this picture of, you see the large bushes back to  
863 the left of the park – that is the area that we'd like to erect the sign, just kind of a point of  
864 reference; I believe there's another photo that shows the shot taken from Audubon. As  
865 you can tell, the lot dips down considerably from grade, and that's the grade of the lot; I  
866 just wanted to bring you up to speed on those few items. As we've said, we've  
867 presented the "what we would like" sign package-wise. If the Board feels that that's  
868 excessive, we would definitely be open to some type of compromise; also, as it stands

869 now, I don't know if you can tell from my pictures, if we erected a sign at 25 feet, which  
870 is allowed, the sign would also be hidden by, I believe there's some self storages along  
871 that way, as you approach out of the airport, you look over to your left, the sign would  
872 almost be hidden behind those buildings. So all we're trying to do is just mainly get the  
873 sign up to a visible area, and it would be in character with adjacent property owners that  
874 are doing the same type of business, that are seeking out this type of customer.

875  
876 Mr. McKinney- Mr. Booker, that Extra Attic Mini-Storage down there is 8 feet  
877 high.

878  
879 Mr. Booker - Visually, when you look at my pictures of the way that lot  
880 dips, I don't know if you can see the target, I mean it's almost sitting on top of that, and  
881 that was showing to the top of that board, so the sign in turn would be below that.

882  
883 Mr. Kirkland- What's the height to the top of this board, in this picture?

884  
885 Mr. Booker - That would be 25 feet, so actually that sign is 4 feet tall, so it  
886 would almost look like the sign is floating on top of those trees, at that level, which is  
887 approximately 25 or 30 feet, that parking lot, Henrico Park and Ride, is a considerable  
888 parcel. The biggest thing is, if you look at the distance photos, and that's what we're  
889 trying to show the difference.

890  
891 Mr. Kirkland- How big is this sign right here?

892  
893 Mr. Booker - That proposed sign is 11 by 14; the one beside it is 7 feet, 6  
894 by 10. That in fact would comply. The secondary sign that you're seeing there would  
895 be the 75 square feet, and the staff can correct me if I'm wrong, but it's my  
896 understanding that the entire parcel could have no more than 75 feet, so in essence,  
897 that sign would max out the square footage, and in turn, we need a variance to identify  
898 the true entrance, the canopies, and things of that nature.

899  
900 Mr. Kirkland - Mr. McKinney, you had a question?

901  
902 Mr. McKinney - Mr. Secretary, have we had any input from the airport?

903  
904 Mr. Blankinship - I have not received any from them. They are not on our  
905 standard list of .....

906  
907 Mr. McKinney - I understand that, but I know there's been millions of dollars  
908 spent down there on that airport, and I know Mr. Rutigliano.....

909  
910 Mr. Rutigliano - Sir, we've had correspondence with the FAA, though,  
911 because with our light poles.....

912  
913 Mr. McKinney - The FAA is in Washington, D. C., and they don't really have  
914 a whole lot to do, other than overseeing the safety, etc. of the airport here. We have an

915 airport commission that's made up of the metropolitan area, different governmental  
916 bodies, and we have an airport director, and I know that they've spent a lot down there,  
917 trying to make this go. As you say, hopefully, Richmond International Airport will be a  
918 hub for an airline eventually; it was at one time for Piedmont.

919  
920 Mr. Rutigliano - Right, we are hoping for that. I understand. If I may, we  
921 have an existing property right now in Baltimore/Washington.....

922  
923 Mr. McKinney - Do you have any problem with deferring this for 30 days, for  
924 us to get some input from the airport?

925  
926 Mr. Wright- What has that got to do with this? If someone wants to put a  
927 parking lot out there, whether they park one car or a thousand cars, what has that got to  
928 do with it? They've got a right to do it. Why have we got to talk to the airport?

929  
930 Mr. McKinney- But they're asking for a variance to put signs up too.....

931  
932 Mr. Wright- They could build this with the signs, they don't need a  
933 variance for those signs unless they want some additional signage.....

934  
935 Mr. McKinney- Okay, I'll withdraw my request.

936  
937 Mr. Rutigliano- And not trying to step on anyone's toes, if we wanted to put a  
938 burger stand there, I'm sure the airport has concessions too. I don't think we're trying to  
939 change the scope of what we're after there, whether or not, we just feel that the  
940 business warrants a larger sign. Probably if we just subdivided that parcel, it's a 15-  
941 acre tract, we could probably put up 10 free-standing signs; in essence, it's 75 square  
942 feet, if we so chose to do that. We would not do that; however, as large as that parcel  
943 is, by mere property lines and the proper setbacks and lot frontages, you could have a  
944 number of signs out there. So what we're trying to do is maximize the visibility of this  
945 sign, which they feel they need, and then hopefully you'll grant it.

946  
947 Mr. Kirkland - Any other questions? Anyone else wish to speak on this  
948 case? That concludes the case. Thank you gentlemen.

949  
950 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
951 McKinney, The Board **denied** your **A-8-2001** application for a variance from Sections  
952 24-104(j)(3) and 24-104(j)(2)(b) of Chapter 24 of the County Code to erect freestanding  
953 and attached signs at 5800 Audubon Drive (Tax Parcel 163-A-14B). The Board denied  
954 your request, as it found from the evidence presented, that authorizing this variance  
955 would be of substantial detriment to adjacent property or would materially impair the  
956 purpose of the zoning regulations.

957  
958 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
959 Negative: 0  
960 Absent: 0

961  
962 Mr. Kirkland - That concludes the 9:00 o'clock agenda, so we have to wait  
963 a few minutes, if you want to take a break before we start the 10:00 o'clock agenda.

964  
965 Mr. Blankinship - Let me just repeat, that **A-9-2001** was withdrawn without  
966 prejudice, if anyone is waiting for it.

967  
968 Mr. Kirkland - Meeting come to order, 10:00 o'clock agenda.

969  
970 **A - 10-2001** **SPRINGFIELD WEST ASSOCIATES, LC** requests a variance from  
971 Section 24-94 of Chapter 24 of the County Code to allow apartment  
972 buildings to remain at 9500 Brightway Court (Tax Parcel 49-A-27),  
973 zoned R-5, General Residence District (Brookland). The front yard  
974 setback is not met. The applicant has 27.26 feet front yard setback,  
975 where the Code requires 35.00 feet front yard setback. The  
976 applicant requests a variance of 7.74 feet maximum, front yard  
977 setback.

978  
979 Mr. Kirkland - Does anyone else wish to speak on this case. If not, sir,  
980 would you raise your right hand and be sworn in.

981  
982 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
983 truth, the whole truth, and nothing but the truth, so help you God?

984  
985 Mr. Easter - I do. My name is John Easter.

986  
987 Mr. Kirkland - Do we have all your notices in? If you would, state your  
988 case.

989  
990 Mr. Easter - Mr. Chairman, I'm here on behalf of Springfield West  
991 Associates, which is an LC that Marcus Weinstein and my law partner, Jay Weinberg,  
992 are involved in. We're seeking a variance of 7.74 feet from the 35 foot front yard  
993 setback, and this, I think, really presents a classic case for a variance in this respect.  
994 The need for this variance is generated by a condemnation that was necessitated for  
995 widening of Springfield Road, so obviously it wasn't anything that was brought on by the  
996 applicant. The staff report says that the buildings were built in compliance with the  
997 zoning code at the time. The taking occurred back in 1998, so I don't think there's any  
998 question here that the property was purchased in good faith, the development occurred  
999 in good faith, in fact we are not seeking to do anything new. The pictures that are  
1000 attached to the case report show accurately the existing buildings, and what we're really  
1001 seeking is a variance just to make sure those are totally legal and in compliance. In  
1002 essence, the lot and structures have become nonconforming, by virtue of the fact that  
1003 part of our front yard was taken. I think the extraordinary or exceptional situation here,  
1004 that would justify the variance, is that the condemnation itself, rather than anything on  
1005 the part of the applicant, gave rise to this situation. I think the strict application of the  
1006 35-foot setback would unreasonably restrict the use of the property for 2 reasons, that

1007 are referred to in the case report. The first is, that when you have an income-producing  
1008 property like this, the finance-ability of the property is very important. When you go and  
1009 try and refinance one of these properties, and the lender finds out that you have a  
1010 nonconformity, it can cause you a great deal of problems. Some lenders simply won't  
1011 take it on, and others will charge you a higher rate, so it costs substantial additional  
1012 money. In addition, of course, you're nonconforming status can be lost through non-use  
1013 or through destruction greater than 50%. So what we're seeking is to protect ourselves  
1014 against those eventualities, and basically to make sure that these are legal uses, fully in  
1015 compliance with the ordinance, and that we're not stuck in a situation that we didn't  
1016 bring on ourselves, that causes us harm. This clearly is a hardship, I think not shared  
1017 by other properties within this zoning district; it's only because we had our front yard  
1018 taken away from us that we need this. I don't think it's of such a general nature that this  
1019 could be resolved by general standards. I think there's no substantial detriment that I  
1020 can see, to any adjacent property. Again, these are existing buildings; they are there;  
1021 the road came in after the fact. I received a few phone calls from adjacent property  
1022 owners who got notice, and they basically just wanted to know what was happening,  
1023 and they said "fine, we wish you luck, do I need a variance too?" And I explained to  
1024 them why, because we were an income-producing property, this was critical for us, but  
1025 probably would not be necessary for all the properties along the way. The condition that  
1026 was listed in the staff report, would be acceptable to us, and I would note that this Board  
1027 did grant a similar variance about 7 feet, to a property across the street, approximately 2  
1028 years ago, for almost the exact same reasons, related to the widening of Springfield  
1029 Road. I think it's a fairly straightforward case, and I don't want to belabor the points. If I  
1030 can answer any questions, I'd be happy to.

1031  
1032 Mr. McKinney- Mr. Easter, when VDOT took this property, did they  
1033 compensate Springfield West Associates?

1034  
1035 Mr. Easter - Yes sir, they did, and one of the points of discussion was the  
1036 fact that we would need a variance, that we'd become a nonconforming use, and that  
1037 would create problems. And in the settlement that we reached, we were willing to do it  
1038 at a lesser rate, costing the taxpayers less money, because, based on the prior case  
1039 that this Board had heard, we thought we would be able to get this variance. We  
1040 discussed possibly, with the state, having them come in and ask for the variance for us,  
1041 and under this particular case, they chose not to go about it that way. If the Board did  
1042 not see fit to grant this variance, I think in future cases, obviously we're going to be  
1043 seeking greater compensation for our clients, asking for more money, because it will  
1044 cost us more money, and I think this is a much more efficient use of the taxpayers'  
1045 money. Does that answer the question?

1046  
1047 Mr. McKinney- Well, the reason I asked is because you had to pay the fee to  
1048 file this, and your time and so forth. It wasn't self-imposed, that's for sure. Just wanted  
1049 to make sure VDOT compensated you to do this.

1050  
1051 Mr. Easter - They did not directly compensate us for what I'm doing here  
1052 today, but they did obviously, compensate us overall, for the taking, and we did have

1053 discussion on the point that you raised sir.

1054

1055 Mr. Kirkland - Any other questions by Board members? Anyone else wish  
1056 to speak on this case? If not, that concludes the case.

1057

1058 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
1059 Nunnally, the Board **granted** your application **A-10-2001** for a variance to allow  
1060 apartment buildings to remain at 9500 Brightway Court (Tax Parcel 49-A-27). The  
1061 Board granted the variance subject to the following conditions:

1062

1063 1. This variance only serves to allow the existing buildings to remain. Any additional  
1064 improvements shall comply with the applicable regulations of the County Code.

1065

1066 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

1067 Negative: 0

1068 Absent: 0

1069

1070 The Board granted this request, as it found from the evidence presented that, due to the  
1071 unique circumstances of the subject property, strict application of the County Code  
1072 would produce undue hardship not generally shared by other properties in the area, and  
1073 authorizing this variance will neither cause a substantial detriment to adjacent property  
1074 nor materially impair the purpose of the zoning regulations.

1075

1076 Mr. Kirkland - Next case, sir.

1077

1078 **A - 11-2001** **RICHMOND DEVELOPERS, LLC** requests a variance from Section  
1079 24-104(l)(5)(d) of Chapter 24 of the County Code to erect attached  
1080 signs at 9900 Brook Road (Tax Parcels 33-A-1A and -2A), zoned B-  
1081 3C, Business District (Conditional) (Fairfield). The sign height  
1082 requirement is not met. The applicant has signs above the roofline,  
1083 where the Code allows signs that do not extend above the roofline.

1084

1085 Mr. Kirkland - Does anyone else wish to speak on this case? If you will,  
1086 state your name for the record, please.

1087

1088 Ms. Freye - Yes sir, good morning, Mr. Chairman, members of the board,  
1089 my name is Gloria Freye. I'm an attorney here.

1090

1091 Mr. Kirkland - Would you raise your right hand and be sworn in.

1092

1093 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1094 truth, the whole truth, and nothing but the truth, so help you God?

1095

1096 Mr. Kirkland - Are Have all your notices been turned in, according to the  
1097 County Code? We have them in the file. Now you can state your case.

1098

1099 Ms. Freye - Good morning again. I'm here on behalf of the applicant,



1100 Richmond Developers, LLC, and the developer is asking for a variance from the Code  
1101 Section 24-104(l)(5)(d). That Code Section prohibits attached building signs from  
1102 extending above a roof line of a building, and that restriction has a negative impact on  
1103 10 of the 11 stores that are being developed at the Creeks Shopping Center at Virginia  
1104 Center. The problem is that the topography of this property is such that the elevations  
1105 at the ends of the property are higher, 10 to 12 feet higher, than the center of the  
1106 property, where a stream runs through the middle, so the land slopes down to the  
1107 center, and that results in an elevation of the building that's very irregular, and the roof  
1108 is actually at different heights, making the center of the shops appear much smaller and  
1109 out of scale to the shops at the end of the center. So to offset that problem, the building  
1110 has been designed with fragmental façade walls across the fronts of the stores at  
1111 various heights to compensate for changes in elevation, and that will give the illusion of  
1112 a more uniform level roof line across the front. The stores' signs are actually attached  
1113 to those façade walls, and because of the different elevations, the signs themselves are  
1114 actually at different heights above the flat roof line, although from appearance they don't  
1115 appear to be above the roof, because the roof line is actually behind those walls. The  
1116 intent of the ordinance, we believe, is to prevent signs from either being erected on a  
1117 roof or above a building into its air space, and I think the exhibit in your package, which  
1118 you see there on the screen, shows that that's not what's happening here. The signs do  
1119 not appear to be above the building. The developer isn't asking for any greater sign  
1120 area or any greater number of signs; they're perfectly happy and satisfied with what the  
1121 ordinance allows in that regard. But they would like to have a variance from the literal  
1122 definition of the flat roof on this property. We feel that the strict application of the Code  
1123 in this situation, applied to this property, isn't necessary. We think that granting the  
1124 variance would not violate the purpose of the ordinance, because the signs are not  
1125 extended into the air space above the building. They are actually on the walls that are  
1126 attached to the building. The need for the variance is unique to this property. It's  
1127 needed to allow the center to be developed with the same high quality and standard in  
1128 appearance of the commercial development around it. Plus granting a variance will not  
1129 have a negative impact on the adjacent properties; we feel that it will actually enhance  
1130 the value of surrounding properties. As far as we know, there is no opposition to this  
1131 request. We are in agreement with the condition as suggested by the staff, and we  
1132 believe that the facts of this case are such that it comes within the jurisdictional powers  
1133 that you have to grant the variance, and for these reasons, we are asking that you  
1134 approve the variance. We'll be glad to answer any questions that you have.

1135  
1136 Mr. McKinney- Ms. Freye, all these front walls, they're just parapet walls?  
1137

1138 Ms. Freye - In effect, yes sir. They do extend above the roof line.  
1139

1140 Mr. McKinney- Is that the reason for the signage? Is that why it was  
1141 designed that way?  
1142

1143 Ms. Freye - Typically, parapet walls are designed to hide rooftop  
1144 equipment, while these walls will help facilitate that, they are not necessary for that.  
1145 The reason for the façade walls is because of the topography and to raise the

1146 appearance of the shops in the center, to be on a more level plain with the other shops  
1147 at the end.

1148  
1149 Mr. Balfour- So it really does invade the air space, but it is more  
1150 attractive, frankly, than to have it all one level.

1151  
1152 Mr. Blankinship - If I could interrupt there, Mr. Chairman, to explain the exhibits  
1153 a little bit. What you have there on the screen, I asked the applicants to produce, and  
1154 that is showing what these same signs would look like if they were pushed down to the  
1155 height allowed by the ordinance. So if you look at the color copy that you have in your  
1156 packet, you see what they're requesting, and if you look at PETsMART, that may be the  
1157 best example of this, you see the height of the PETsMART sign in the color copy, then  
1158 look at it on the screen, and you see it's pushed down almost into the windows – that's  
1159 the difference between what they're requesting and what they would be allowed under  
1160 the ordinance.

1161  
1162 Mr. Wright- That was going to be my question – could we move the signs  
1163 down, or the roof level, on the parapet, but that answers it.

1164  
1165 Mr. Blankinship - Yes, this is what you would have without the variance.

1166  
1167 Mr. Balfour- Which way is without the variance?

1168  
1169 Mr. Blankinship - The one on the screen is what would be allowed. If you look  
1170 at Circuit City, it's also kind of .....

1171  
1172 Ms. Freye - I think this gives the developers some relief and helps with  
1173 the quality appearance of the Center without really violating the spirit of the ordinance,  
1174 which is not to have signs either erected on a roof or above a building's top line.

1175  
1176 Mr. Wright- Obviously, the ordinance didn't take into consideration  
1177 something of this nature, did it?

1178  
1179 Mr. Blankinship - And it's interesting that in this case, the hardship really is  
1180 brought about by the topography of the site. If they had a level site, they wouldn't have  
1181 designed it this way.

1182  
1183 Mr. Kirkland- Ms. Freye, what is the drop in elevation from one end of the  
1184 shopping center to the other?

1185  
1186 Ms. Freye - Well, both ends are high, so at the ends, it's 10 to 12 feet  
1187 higher than the center.

1188  
1189 Mr. Kirkland - Any other questions by Board members? Anyone else wish  
1190 to speak on this case? If not, that concludes the case.

1191

1192 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
1193 Nunnally, the Board **granted** your **A-11-2001** request for a variance from Section 24-  
1194 104(l)(5)(d) of Chapter 24 of the County Code to erect attached signs at 9900 Brook  
1195 Road (Tax Parcels 33-A-1A and -2A). The Board granted the variance subject to the  
1196 following conditions:

1197  
1198 1. This variance is only for the sign heights shown on the plan filed with the  
1199 application. When the signs are replaced, new signs may be erected at the same  
1200 height. Any additional improvements shall comply with the applicable regulations of the  
1201 County Code.

1202  
1203 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1204 Negative: 0  
1205 Absent: 0  
1206

1207 The Board granted this request, as it found from the evidence presented that, due to the  
1208 unique circumstances of the subject property, strict application of the County Code  
1209 would produce undue hardship not generally shared by other properties in the area, and  
1210 authorizing this variance will neither cause a substantial detriment to adjacent property  
1211 nor materially impair the purpose of the zoning regulations.

1212  
1213 Mr. Kirkland - Next case, sir.

1214  
1215 **UP-2-2001 JJ & B SAND & GRAVEL, INC.** requests a conditional use permit  
1216 pursuant to Sections 24-52(d) and 24-103 of Chapter 24 of the  
1217 County Code to extract materials from the earth at 2980 Meadow  
1218 Road (Tax Parcel 158-A-22), zoned A-1, Agricultural District  
1219 (Varina).

1220  
1221 Mr. Blankinship - Before we begin, Mr. Chairman, let me just explain that we  
1222 did advertise this as an extraction case. They are not actually requesting permission to  
1223 extract any further. This has been extracted in the past. The permit has expired; the  
1224 previous operator failed to finish the reclamation of the site, and the applicant is really  
1225 applying to finish the reclamation of this site. But it's reclamation from an extraction  
1226 operation. We don't have reclamation as a listed use, so we advertised it as an  
1227 extraction permit in order to permit, in order to renew the extraction operation so that  
1228 they can complete the reclamation of the previous extraction. Is that totally confusing?  
1229 If you're baffled, we're ready to begin.

1230  
1231 Mr. Kirkland - Does anyone else wish to speak on this case. Raise your  
1232 right hand and be sworn in. Please state your name for the record, sir.

1233  
1234 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1235 truth, the whole truth, and nothing but the truth, so help you God?

1236  
1237 Mr. Deal - Yes sir, I do. My name is John Deal.

1238

1239 Mr. Kirkland - Have all your notices been turned in, according to the County  
1240 Code?  
1241

1242 Mr. Deal - I don't know how to operate this equipment, and I'll need a  
1243 sign over there. I'm representing JJ & B Sand and Gravel, the owner of this property. I  
1244 also an representing Jim Anderson of Anderson Company, the person who's going to  
1245 be leasing from JJ & B Sand and Gravel, Inc. As you can from the screen before you,  
1246 Mr. Leber owns 162 acres there. You'll where there's a lake at the front of the property,  
1247 and then towards the Chickahominy River, which would be to the top part of the screen,  
1248 is an area that's been mined out. All that area was mined out back in the '50's and early  
1249 '60's when no reclamation procedures were required. Mr. Leber plans to leave the lake  
1250 where it is, and he is also coming to this area just north of the lake, you'll see a little  
1251 bubble in there. The area to the right of the pen has just recently been filled in by Mr.  
1252 Leber. That area represented an area that was filled in at the initial building of the  
1253 Motorola facility. Mr. Leber has now, in the last several months, filled that area in, to the  
1254 point where it can now be used as agricultural property, and that's what he intends to do  
1255 with it. He's in the process now of bringing the topsoil in, and going to lime it and  
1256 fertilize it, etc. Now what Mr. Anderson's company is going to be doing, under lease  
1257 from Mr. Leber, is filling in the area to the left of the pen. It's a little over 13 acres. Up  
1258 at the very top of the pen, towards the backside of the property, is where a settlement  
1259 pond has been built, and to my knowledge, everything has been done according to the  
1260 County Code. We do have to get a certification on the dam from an engineer, so far as  
1261 the compaction of it, but we're in the process of doing that. So it's the 13 acres to the  
1262 left of the pen that this case concerns. We met with the neighbors in this area on  
1263 Tuesday evening. County officials and Mr. Anderson met with them back in December.  
1264 The people were complaining, and they had every right in the world to complain. Mr.  
1265 Leber had leased this property initially to a contractor, who just didn't do what he said  
1266 he was going to do, and you folks denied him a renewal of a permit about 2 years ago,  
1267 and it came to the point, Mr. Leber couldn't make him do what he was supposed to do,  
1268 so we asked the County officials, we don't know what this means, but to enforce the  
1269 law, we need some help. He won't do whatever we want him to do. And they enforced  
1270 the law, and then as a result, because of nonpayment of rental, we were able to remove  
1271 him from the property. Then, behind that, with the advent of the addition onto the  
1272 Motorola property, a company started bringing a lot of dirt in there to do this filling for  
1273 Mr. Leber, which was to the right of the pen. That contractor didn't want to do what Mr.  
1274 Leber said, and as a result, got a lot of dirt on Meadow Road out in front of the property,  
1275 and was a bad situation, and it shouldn't have been, but it was, and I was in Mr. Leber's  
1276 presence several times, when he asked a representative from that contractor, to get that  
1277 situation straight. He never did, and the County shut the operation down, which I don't  
1278 blame them a bit in the world for doing. These are the things that the neighborhood was  
1279 complaining about. We met with a neighbor, in a neighborhood meeting, for about at  
1280 least an hour and a half, maybe 2 hours. Strangely enough, the greatest problem that  
1281 they had with this operation and the West Sand and Gravel operation, which is to the  
1282 right of the Leber property, if you'll notice, there's a subdivision to the right of the Leber  
1283 property. That is Meadowdale or Meadowview, I forget the name of it, but that's the  
1284 subdivision where we met with the people. To the right of that subdivision and going

1285 back up towards the Chickahominy River at the top of the screen, is West Sand and  
1286 Gravel operation. Now their concern was the speed of the trucks. It's a 45 mile per  
1287 hour speed limit through that area, and they said that's just entirely too fast for the  
1288 number of trucks that are on the road. So we told them what we would do, is we would  
1289 start with petitioning the Henrico County Police, that's the only place I know to start, to  
1290 post a sign on Meadow Road from I-295, all the way down the right, down to  
1291 Williamsburg Road, that would say, "Cars 45, trucks 35," and the neighborhood very  
1292 much wants that, we very much want that." Their greatest problem was we're very  
1293 much intimidated, driving down the road, and here comes a large truck with a big pile of  
1294 dirt in the back of it, going 45 miles an hour." And they said if it was a lesser speed  
1295 limit, we could live with it a lot better. So we're in the process of doing that. We had a  
1296 very amicable meeting. The neighborhood there is just like anybody else. As a matter  
1297 of fact, they called Mr. Anderson and said, "We had a good discussion; we're not  
1298 sending any representatives to the meeting; we just ask that you relate to the meeting  
1299 what our concerns were." We said, "fine, we would do that," and that was our biggest  
1300 concern, was the speed, then the dirt on the road. Once this permit is granted, Mr.  
1301 Anderson will have control over the facility, and Mr. Anderson has already constructed  
1302 and is using the pond on the property, to feed water to a wash rack, that when the  
1303 trucks are leaving this property, they'll have to run over, like a cattle gate, where you  
1304 have the concrete things, that vibrate the tires, and the tires will be washed. He is going  
1305 to put asphalt 400 feet from Meadow Road, down the access road to the property. This  
1306 is the piece of the land that's going to be refilled, which you can see was mined out  
1307 years ago and is going to be reclaimed. When you come into the property in the future,  
1308 once Mr. Anderson finishes, and you take a left right here, what you're going to see is a  
1309 hill to your right. The hill is going to be generated by the fill that's coming from the  
1310 Motorola Extension Plant, as well as what Mr. Anderson's going to be doing in this area  
1311 right here. That will be a large field, with a hill at the top, sloping down towards the  
1312 Chickahominy River. The settlement pond sits right in this area. That was constructed  
1313 by contractor that you denied him this permit, and he just didn't finish it. Some concerns  
1314 that we have about the conditions, the neighborhood had a copy of the conditions. We  
1315 have been over this with them; they asked us some questions about it, and the first  
1316 question that we have about it is item # 7. It says, "Hours of operation shall be from  
1317 6:00 a.m. to 6:00 p.m. in Daylight Savings Time, and 7:00 a.m. to 5:00 p.m. at all other  
1318 times." That's no problem, except when you get to # 8, it says, "No operations.....  
1319 are to be conducted at the site on Saturdays, Sundays, or national holidays."  
1320 Obviously, we have no problem with Sundays; we will not be in operation on Sundays.  
1321 We would like to be able to operate on Saturday morning. The people in the  
1322 neighborhood said, well, we'd rather that you didn't operate on Saturday, because we're  
1323 carrying our children to ball games, etc. To which we responded, look, we've got a  
1324 business to run, we have to get fill in here if we're going to make any money. The  
1325 marketplace, when you're dealing a Motorola job, or the Fair job that's going to be  
1326 coming up, or these others, you've got to have a place that receives fill the same hours  
1327 those contractors are normally hauling fill from those sites, wherever they may be, and  
1328 they're generally a five and a half day a week deal. And we told the neighbors, look,  
1329 your subdivision is in between us and Williamsburg Road. Our truck traffic is going to  
1330 be to the right of you. Our trucks are never coming by your subdivision. We're going to

1331 take a right and go back up. You will be able, on Saturday, to go anywhere you want,  
1332 by coming out of your subdivision, taking a left, going down Meadow Road to  
1333 Williamsburg Road, and then you can get on I-295, I-64, or whatever you want to do,  
1334 and that will just inconvenience you that one morning a week. And they said, well, we  
1335 just wanted to let you know our concern, but we understand what you're saying. So we  
1336 are asking that condition # 8 be extended, that we could operate on Saturday mornings  
1337 until noon. On # 9, about "all means of access to the property (being) from the  
1338 established entrance on(to) Meadow Road," which talks about us going to the west,  
1339 could I have the plat up there please, that I laid over here? That subdivision is here,  
1340 and what we told those people on Saturday mornings, "you've got a choice, you can  
1341 either go up where the trucks are and get on I-295, or you can go this way down  
1342 Williamsburg Road and miss the trucks altogether, and it's 1.3 miles different, so it's not  
1343 that big a difference at all. They understood that. They said "that's an objection we  
1344 had, would you just voice it, and that's what we've done. Here's the Motorola plant  
1345 down here. Trucks coming up this way, will go up Williamsburg Road to Drybridge, up  
1346 Drybridge, down Meadow Road, and into the property. They will not be anywhere on  
1347 this segment of Meadow Road whatsoever, which is where the subdivision is that had  
1348 the concern about it. Now they will still have to contend with the Carter Sand and  
1349 Gravel operation, right in this area here. We told them our concern about us being  
1350 about to just take a right out of the property, and a left into the property, is what if this  
1351 area starts to develop in here, and these people want us to take some dirt for them.  
1352 That would require us at that time, coming back to the neighborhood first, saying we've  
1353 gotten an offer of a contract, for somebody constructing something in this area. We  
1354 would come to you first, give you all the parameters on it, then we would file a  
1355 permission for an amendment to this conditional use permit, to allow us to take that fill.  
1356 If you had substantial objections or whatever at that time, then you could come in. And  
1357 I'm just mentioning that, in case we do get a job there and come back, it's not that we're  
1358 blindsiding the people. We've told them this may happen, but if we don't get anything in  
1359 this area, we're not coming back.

1360  
1361 Mr. Nunnally- You said Carter Sand and Gravel, do they operate on  
1362 Saturday mornings?  
1363

1364 Mr. Deal - They operate on Saturdays.  
1365

1366 Mr. Nunnally- Up until noon?  
1367

1368 Mr. Deal - Yes sir. National holidays – now why national holidays?  
1369 Because presidents or famous people were born on those days, that nobody pays any  
1370 attention to. They're waiting on Christmas, Thanksgiving, New Year's, Easter, we're not  
1371 going to be operating on Sundays anyway, but there's something like 15 national  
1372 holidays that the business and industry out here doesn't recognize, and technically,  
1373 according to this condition, we'd be bound by every one of them. And there's a lot of  
1374 presidents and famous people that there's national holidays for, and it's just fine that  
1375 people did a good job, they're famous people, but I'm still going to work. We wouldn't  
1376 have that privilege. What we would ask that you do, is amend that condition, that would

1377 allow us, we could not operate on Christmas, on Thanksgiving, New Years, Labor Day,  
1378 Memorial Day, July 4.  
1379  
1380 Mr. McKinney- Mr. Deal, what is the definition of national holiday?  
1381  
1382 Mr. Deal - I would imagine it's when the President of the United States  
1383 gives a proclamation that this will be a nationally recognized holiday and let's all the  
1384 federal employees off.  
1385  
1386 Mr. McKinney- Does the government shut down on these national holidays?  
1387  
1388 Mr. Deal - The military doesn't, but the officers do a lot of times.  
1389  
1390 Mr. Wright- The government shuts down. Martin Luther King's Day, the  
1391 state was closed ,and the Post Office.....  
1392  
1393 Mr. McKinney- The County was closed last Friday and Monday.  
1394  
1395 Mr. Wright- We weren't closed; our office worked, we worked on that  
1396 day.  
1397  
1398 Mr. Blankinship- Columbus Day I think is a national holiday, and Veteran's  
1399 Day.  
1400  
1401 Mr. Wright- If you take all those holidays, you wouldn't get anything done  
1402 in your office.  
1403  
1404 Mr. Deal- Columbus was a nice man; we're glad he found this place,  
1405 but not many people recognize it, you know. So we ask that you take that in  
1406 consideration in amending that condition.  
1407  
1408 Mr. McKinney- How would you like to see it amended to?  
1409  
1410 Mr. Deal- That the holidays we've mentioned here by name, Christmas,  
1411 New Years, Memorial Day, Thanksgiving, 4<sup>th</sup> of July, Labor Day, and that's fine with us,  
1412 because we won't be open on those days. People are generally off, and so that would  
1413 be no problem with us.  
1414  
1415 Mr. Wright- How about Lee-Jackson Day?  
1416  
1417 Mr. McKinney- Ben, what holidays does the County take?  
1418  
1419 Mr. Blankinship - I don't have the list off the top of my head, sir.  
1420  
1421 Mr. Kirkland- How many is it?  
1422

1423 Mr. Blankinship - Ten or 11.  
1424  
1425 Mr. Blankinship- The County was closed this year for the first time, Lee-  
1426 Jackson Day on Friday, and Martin Luther King Day on Monday.  
1427  
1428 Mr. McKinney- Couldn't we tie this to the County holidays?  
1429  
1430 Mr. Blankinship - It's roughly the same list; we don't get Columbus Day; we do  
1431 get Veteran's Day; we do get Martin Luther King Jr. Day. Lee-Jackson Day is a state  
1432 holiday. It's difficult, other than just listing the 6 that he listed.  
1433  
1434 Mr. Deal - I think if we list the ones we just talked about, that's fine with  
1435 us, we don't have a problem with one of those at all. The next issue that we want to  
1436 discuss is # 17, which is, "The operation shall be so scheduled that trucks will travel at  
1437 regular intervals and not in groups of three or more." When you get a job like the  
1438 Motorola job, or the Hewlett Packard job, or like the Fairgrounds that's coming up,  
1439 you're going to have a lot of trucks coming in a short period of time. And at this site, like  
1440 yesterday, the County has been gracious in letting us move along and do some filling on  
1441 that property, we had 2 trucks. Some days we'll have 2 trucks, but when you've got a  
1442 large job, you're going to have a lot of trucks, and they're going to be traveling in a  
1443 group of more than 3. We don't have any way we can control when they leave the job.  
1444 Once they get their property, we can, because those guys don't work for us. We don't  
1445 have our own trucks hauling into this pit, except for what little bit Mr. Anderson may do,  
1446 because he is in the dirt moving business. But he is not going to be a major supplier of  
1447 fill to this site at all. What we're saying is, if we reduce that speed limit, from 45 to 35,  
1448 that's going to alleviate the people's concern, because they would see, in this Motorola  
1449 job, people speeding down the road at 45 to 50 miles an hour, full of dirt, and it's  
1450 intimidating, and so we need to do something about that. When you have this Motorola  
1451 job, the way those people build is, everybody goes peddle to the metal, and that's the  
1452 way they build them, and that dirt has to get off that site, so we're liable to have 5, 6, or  
1453 7 trucks coming in a group. We've got a long entrance road into this property, we've got  
1454 enough entrance road into this property to hold 50 trucks, that once they come in there,  
1455 front to back, we could hold 50 before they even got to this site. So I don't see a  
1456 situation of them being all backed up down the road. I don't see that, you may have 3  
1457 or more coming at a time, but I don't see them sitting on Meadow Road.  
1458  
1459 Mr. Balfour- Is that a 2-lane road, Mr. Deal?  
1460  
1461 Mr. Deal - Yes sir, when you say 2-lane, it's not marked, and it is a  
1462 narrow road; it's a regular country road, sad but true.  
1463  
1464 Mr. Balfour- You can regulate when they leave, can't you?  
1465  
1466 Mr. Deal - Yes we can, now that we can have some control over it.  
1467  
1468 Mr. Balfour- I would just think, that children, if they're riding down a road



1469 that narrow, and you come upon 10 of these trucks at once, and you can't get around  
1470 them, and they're going 35 miles an hour, that's just asking for some 16-year-old to try  
1471 to pass about 10 trucks at once.

1472  
1473 Mr. Deal- The distance between Drybridge Road and the entrance to  
1474 this property, where we'll be coming into it, from here, how far is that?

1475  
1476 Mr. Anderson- 570 yards.

1477  
1478 Mr. Deal - From Drybridge Road is 570 yards, so that's a quarter of a  
1479 mile, so that's where our traffic will be. West Sand and Gravel's traffic is going to be,  
1480 this is the railroad tracks here, their operation's right adjacent to the tracks, their trucks  
1481 will be coming this way. I would imagine some West Sand and Gravel trucks go that  
1482 way too, but I'm sure some of them go down this way also. You can't get on I-64 up  
1483 here, can you? No, so West Sand and Gravel, I'm sure all of their trucks, 90% of them  
1484 have got to be going this way to get on the interstate.

1485  
1486 Mr. Blankinship- They're required to.

1487  
1488 Mr. Deal - So what that means is, with the condition that we're going to  
1489 have, that we can only come in this way, we can only go out this way, there will be no  
1490 truck traffic from here to here. There's no truck traffic in there, where that subdivision is,  
1491 so you're concerned about a 15-year-old boy passing them, that's a valid concern. That  
1492 concern would only be governed from here to there, and from this property to there.

1493  
1494 Mr. McKinney- Are you going to have a sign coming out of your property, "no  
1495 left turn by trucks."

1496  
1497 Mr. Deal - Yes sir. As a matter of fact, not only that, we're reconfiguring  
1498 the entrance with a gate so that you can't turn right into the property. If a trucker came  
1499 up this way, he could not turn right into the property. The road's not wide enough for  
1500 him to swing out and make the turn. The only way he could get in is to come in this way  
1501 and go out that way. So a man coming out, the way we're reconfiguring it, could not  
1502 come out and then turn and go down this way. So we've taken that precaution.

1503  
1504 Mr. Nunnally- Mr. Deal, how many trucks can you load at any one time?  
1505 How much equipment do you have down there? Can you load 3 or 4 trucks at the same  
1506 time?

1507  
1508 Mr. Deal - Our loading is going to be very limited. It will be limited to, if  
1509 we came in before you again and asked for the permit to screen topsoil, because as I  
1510 understand it, and I talked with Mr. Blankinship the other day, the screen topsoil, as long  
1511 as it's not a permanent building, you gentlemen can pass on that. It's not going to be  
1512 that much topsoil shipped off. It's just a profitable thing to do.

1513  
1514 Mr. Blankinship - The question today is unloading trucks. How many can you

1515 unload?

1516

1517 Mr. Deal - They can come in 3 or 4 at a time, and we can unload  
1518 because all they do, the way we're filling is, it's a wide area that's being filled, and we'll  
1519 have a man out there on the site, just telling them to back up, and they back up to  
1520 where the hole is, and then they dump, and we have a dozer there that's continually  
1521 pushing that stuff in the hole. We could have 4 or 5 people dumping at one time.

1522

1523 Mr. Blankinship - So if I lived up on Grapevine Road, I could be coming out,  
1524 getting ready, say I want to come over here, I want to make a left onto Meadow Road,  
1525 and I stop at the end of Grapevine, and I see a line of 15 or 20 dump trucks coming, and  
1526 I think that's part of what this condition is meant to address, that the other residents in  
1527 that area, I appreciate your sensitivity to that one subdivision, but they're not the only  
1528 neighbors out there.

1529

1530 Mr. Deal - I understand that. Well the only thing that I can say to that, is  
1531 praise God for I-64 and I-295, they give everybody a relief factor. And it's not that long  
1532 a road, whether it's Williamsburg Road going up to Meadow, or from Meadow to  
1533 Drybridge. It is a bit more inconvenient to them to come out of their subdivision and go  
1534 this way, but it's a live and let live situation with these property owners making use of  
1535 their properties. We have a concern with that # 17. Do you have a questions on that,  
1536 that you want to discuss, before I go to the next one? Mr. Anderson wants to say  
1537 something to you on the.....

1538

1539 Mr. Wright - Let me ask you a question, Mr. Deal, on that # 17. It says  
1540 "the operation shall be .... scheduled (so) that trucks will travel....." And what  
1541 you're saying is, that you can't schedule the operation to do that, so that puts you in an  
1542 impossible situation.

1543

1544 Mr. Blankinship- I guess that's the difference between an extraction and a fill.

1545

1546 Mr. Deal - And we're primarily a fill operation, not an extraction. If we  
1547 were an extraction, we could have more control.

1548

1549 Mr. McKinney- We've had this condition before, and the applicants have  
1550 lived up to it.

1551

1552 Mr. Wright- I think that was for extraction. This is bringing it in, not taking  
1553 it out. That's the difference. Maybe we could re-word that to say that you could have  
1554 no more than 3 leaving at one time. That's what you would control.

1555

1556 Mr. Blankinship - Just strike the word "travel" and replace it with "leave."

1557

1558 Mr. Deal - And then we'd space the time so many minutes between 3  
1559 leaving and 3 leaving and 3 leaving. That's fine; that's no problem.

1560

1561 Mr. Wright- But those trucks are loaded when they're coming in there.

1562  
1563 Mr. Dear - Number 24 – “No offsite-generated materials shall be  
1564 deposited on the mining site without prior .... approval of the Director of Planning. To  
1565 obtain such approval, (write to the County, etc.).....That’s all we’re going to be  
1566 doing, is taking in material. Willie Cosby, for instance, may call up and say, “I’ve got 2  
1567 truck loads coming out of a house, where I’ve just dug a basement, can I bring it to you,  
1568 and the trucks are full, the motor’s running, they’re ready to come, and we didn’t know  
1569 that, but that’s what we’re in business to do, and theoretically this condition, if strictly  
1570 enforced, would require us every time, whether it was a single truck, or a hundred trucks  
1571 came in, we would have to write you and get permission for those trucks to come in.

1572  
1573 I think that was designed for extraction.

1574  
1575 Mr. Blankinship - Well that is our standard condition, and we discussed this  
1576 somewhat in light of this specific application. We weren’t sure exactly how to go with it,  
1577 so we took the conservative route of putting the stricter language in front of you and  
1578 letting you decide what you want to do with it.

1579  
1580 Mr. Wright- I agree with him, every time he’s got to get permission from  
1581 the Director of Planning, that’s going to be almost impossible to do.

1582  
1583 Mr. Kirkland- We do need to leave something in there to keep out  
1584 contaminated and hazardous materials.

1585  
1586 Mr. Wright- You ought to define the type of material you’re talking about,  
1587 rather than just “offsite-generated materials,” would be exactly what you’re going to do.  
1588 Can’t you have some language that would protect us from the types of materials that we  
1589 don’t want in there?

1590  
1591 Mr. Blankinship - In the past our means of doing that is to have a stack of  
1592 letters in the file, where each time they want to bring material to the site, they write us a  
1593 letter saying this is where it’s coming from, this is how much there is, and this is who  
1594 certifies that there’s no contaminants in it. We don’t bring that back to you, of course;  
1595 that’s just an administrative approval, but that way we have a record of all the material  
1596 that’s been brought to .....

1597  
1598 Mr. Wright- You’d need a lot of filing cabinets to handle all these loads  
1599 that they’re going to bring in there. How would we do this?

1600  
1601 Mr. Blankinship - Typically, that’s how we have handled it. But we’ve looked  
1602 more at large jobs, like the Motorola job, or the Fairgrounds job, where one letter might  
1603 cover 300,000 yards of material.

1604  
1605 Mr. Deal - We have no problem with it not being contaminated or  
1606 hazardous; we have no problem with that at all; that’s totally reasonable. We can send

1607 you a letter once a month saying we've received material this month, none of it is  
1608 contaminated or hazardous.

1609  
1610 Mr. Blankinship - And just have it done after the fact, rather than prior  
1611 approval.

1612  
1613 Mr. Deal - Yes, and I'd just send you one letter for the previous month.

1614  
1615 Mr. Kirkland - Who will determine this?

1616  
1617 Mr. Deal - Well, the safety factor that they have, is when the men come  
1618 in and dump their loads, they dump them in a pile on level ground, and then the  
1619 bulldozer pushes it over. The only way that I know you do it, is by seeing it or smelling  
1620 it. It's the only way I know you'd ever determine it's not hazardous or contaminated.

1621  
1622 Mr. Blankinship - We inspect these sites on a monthly basis; 2 different  
1623 inspectors go out each month, but we don't really try to audit that report; we take those  
1624 letters at face value.

1625  
1626 Mr. McKinney- You have a testing laboratory.

1627  
1628 Mr. Wright- Yes, when you go out and test it, if you find it there, then they  
1629 would have to do whatever's necessary to remove it.

1630  
1631 Mr. Blankinship - And in that case, I can open my file and say that they  
1632 certified to us that it was not contaminated, so at least we're held harmless to some  
1633 extent.

1634  
1635 Mr. Kirkland- So they could still send us documentation of what they've  
1636 received for that period of time?

1637  
1638 Mr. Wright- Can't you change that around, instead of saying prior, put the  
1639 language that they would send a monthly report of what they've deposited.

1640  
1641 Mr. Blankinship - I don't see any immediate reason not to.

1642  
1643 Mr. Wright- You could start out by just saying "No hazardous, or  
1644 whatever that type of material, shall be deposited on the property.

1645  
1646 Mr. Deal- Right, and that report would be sent monthly in arrears. You  
1647 just don't have that, and then they would report everything else. If somehow it got in  
1648 there, and they didn't know about it, then they'd have to remove it.

1649  
1650 Mr. Kirkland - Mr. Deal, this would only be acceptable fill; there wouldn't be  
1651 any stumps or limbs or anything like that in there?

1652

1653 Mr. Deal - And we would state that in the letter, that we've only received  
1654 acceptable material this month, that none of it is contaminated or hazardous.  
1655

1656 Mr. Wright- Well shouldn't there be a condition to define what can be put  
1657 in this fill?  
1658

1659 Mr. Blankinship - In the past we have handled it in this.....  
1660

1661 Mr. Wright- This needs to be re-written to say what would be permitted  
1662 for them to ordinarily put in there.  
1663

1664 Mr. Deal - Looking at my client, and from his viewpoint, we can take  
1665 brickbats, concrete, asphalt, all kinds of topsoil, fill, clays, anything of that nature. Now  
1666 the danger here, that I believe you folks might be angling for, is what if you have a  
1667 service station where a fuel tank ruptures, and somebody wants to bring out and dump  
1668 that material somewhere. The only way that I know to govern something like that is, for  
1669 this, gentlemen, to have a form on site that when people bring things in, they would sign  
1670 saying this is not fuel contaminated or something like that. When they sign load tickets,  
1671 it'll tell the driver that he cannot dump hazardous or other toxic materials on the  
1672 property.  
1673

1674 Mr. Balfour- Mr. Deal, back on # 8, we were talking about the holidays.  
1675 Am I correct that the times you wanted would be the times, the beginning times as in #  
1676 7, the ending times would be noon?  
1677

1678 Mr. Deal - Yes, on Saturday, that's correct. Saturday we would end at  
1679 noon. Let me ask you this, when it says "no operation," we will not be conducting any  
1680 operations of any kind on Saturdays, Sundays, or the holidays that you gentlemen  
1681 choose, there's no question there. During the other hours of operation, it might be that  
1682 we've received, like in # 7, maybe we've 20 loads, and we would like to smooth that out  
1683 and push that in, and the dozer's operating until 7:00 o'clock to get it done. I mean we  
1684 wouldn't be taking anything in after 6:00 o'clock, but preparing the site for the next days  
1685 work, now nobody can hear us, you can see from that plat, there's nobody to the right of  
1686 that property who would be able to hear what we're doing. Because we don't want to  
1687 technically be in a violation, I'm not trying to get sticky; I just don't want Mr. Anderson to  
1688 be in a technical violation.  
1689

1690 Mr. Balfour- Number 30 is pretty strong  
1691

1692 Mr. Blankinship- That would be a violation. What you just described, I would  
1693 interpret as a violation of this condition.  
1694

1695 Mr. Deal - I'm glad I asked the question. We'll live with that.  
1696

1697 Mr. Kirkland- Mr. Deal, you kept talking about the speed limit sign, you  
1698 talked to neighbors about certain speed for trucks, certain speed for vehicles. Have you

1699 worked with the County Police Department on this issue?  
1700  
1701 Mr. Deal - No, we just had this last meeting with them Tuesday night  
1702 when they brought this up, and I haven't even called the police on that yet to talk to  
1703 them about it, and I haven't had a chance to call the police yet.  
1704  
1705 Mr. Kirkland - Mr. Blankinship, is it possible to get the traffic safety people  
1706 to get something done before we get started on this project. I know they're already  
1707 doing it temporarily till we give them this, but is it possible to get that taken care of?  
1708  
1709 Mr. Blankinship - We'll certainly work with them.  
1710  
1711 Mr. Kirkland - I think that is one of the key elements of this. That would  
1712 make the neighbors happy.  
1713  
1714 Mr. Deal - And a call coming from you folks is going to mean a whole lot  
1715 more than a call coming from me.  
1716  
1717 Mr. Nunnally- The posted speed limit right now is 45?  
1718  
1719 Mr. McKinney- Mr. Secretary, is there any bond left over from T. K. Allard?  
1720  
1721 Mr. Blankinship - I don't believe so, no sir.  
1722  
1723 Mr. Deal - There's a \$10,000 bond that Mr. Leber has on the property,  
1724 that governs about 8 of the 13 acres, but with this \$26,000 bond that's coming up, that  
1725 was something I was going to call you back and ask you on, can Leber's bond be done  
1726 away with, since this \$20-some thousand dollar bond that Mr. Anderson and his partner  
1727 are putting up. Wouldn't that take the place of that.  
1728  
1729 Mr. Blankinship - You know the answer to that, Susan?  
1730  
1731 Mr. Kirkland - Susan, if you'd come down front please; we're recording this  
1732 hearing. State your name, Susan.  
1733  
1734 Mr. McKinney- Are you going to swear her in?  
1735  
1736 Mr. Kirkland - Swear her in. Susan, raise your right hand.  
1737  
1738 Mr. Blankinship - I'm not swearing at Susan, no way. Do you swear that the  
1739 testimony you are about to give is the truth, the whole truth, and nothing but the truth, so  
1740 help you God?  
1741  
1742 Mr. Kirkland - State your name, Susan.  
1743  
1744 Ms. Blackburn - I do. Susan Blackburn. As far as dealing with bonds, we will

1745 end up looking into that. I don't see any reason, if the site that has been covered by Mr.  
1746 Leber's bond, has been reclaimed to satisfaction, that that can't be released, and then  
1747 Mr. Anderson can just go through with the bonding that he needs to do according to the  
1748 permit.

1749  
1750 Mr. Kirkland- What happened to Mr. Allard's bonds?

1751  
1752 Ms. Blackburn - Mr. Allard's bonds were as interesting as Mr. Allard. Part of  
1753 the situation we had, was that in him not being able to comply with the permit  
1754 conditions, his reasoning was that, if he can't do this, we're holding him up, he can't  
1755 make money to post the bond. It was a whole cyclical thing, and we're real pleased that  
1756 he is no longer operating at this site.

1757  
1758 Mr. McKinney- I thought the bond had to be put up before he even got  
1759 started.

1760  
1761 Ms. Blackburn - Yes, normally it is, but when you have a person who  
1762 generally comes up with many excuses for why this can't be done and why that can't be  
1763 done, this is how it sometimes ends up snowballing. I believe that is behind us, and  
1764 we've learned our lessons.

1765  
1766 Mr. Kirkland - Any other questions. Thank you Susan. Mr. Deal, do you  
1767 have anything else?

1768  
1769 Mr. Deal - No sir, I think I'm done.

1770  
1771 Mr. Kirkland - Anyone else wish to speak on this case? That concludes the  
1772 case.

1773  
1774 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
1775 Wright, the Board granted your application **UP-2-2001** for a conditional use permit  
1776 pursuant to Sections 24-52(d) and 24-103 of Chapter 24 of the County Code to extract  
1777 materials from the earth at 2980 Meadow Road (Tax Parcel 158-A-22). The Board  
1778 granted the use permit subject to the following conditions:

1779  
1780 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of  
1781 the County Code.

1782  
1783 2. Before beginning any work, the applicant shall provide a financial guaranty in an  
1784 amount of \$2,000 per acre for each acre of land to be disturbed, for a total of \$26,760,  
1785 guaranteeing that the land will be restored to a reasonably level and drainable condition.  
1786 This permit does not become valid until the financial guaranty has been approved by the  
1787 County Attorney. The financial guaranty may provide for termination after 90 days  
1788 notice in writing to the County. In the event of termination, this permit shall be void, and  
1789 work incident thereto shall cease. Within the next 90 days the applicant shall restore  
1790 the land as provided for under the conditions of this use permit. Termination of such

1791 financial guaranty shall not relieve the applicant from its obligation to indemnify the  
1792 County of Henrico for any breach of the conditions of this use permit. If this condition is  
1793 not satisfied within 90 days of approval, the use permit shall be void.  
1794

1795 3. Before beginning any work, the applicant shall submit erosion control plans to the  
1796 Department of Public Works for review and approval. Throughout the life of the  
1797 operation, the applicant shall continuously satisfy the Department of Public Works that  
1798 erosion control procedures are properly maintained, and shall furnish plans and bonds  
1799 that the department deems necessary. The applicant shall provide certification from a  
1800 licensed professional engineer that dams, embankments and sediment control  
1801 structures meet the approved design criteria as set forth by the State. If this condition is  
1802 not satisfied within 90 days of approval, the use permit shall be void.  
1803

1804 4. Before beginning any work, the areas approved under this permit shall be  
1805 delineated on the ground by five-foot-high metal posts at least five inches in diameter  
1806 and painted in alternate one foot stripes of red and white. These posts shall be so  
1807 located as to clearly define the area in which activity is permitted. They shall be  
1808 located, and their location certified, by a certified land surveyor. If this condition is not  
1809 satisfied within 90 days of approval, the use permit shall be void.  
1810

1811 5. In the event that the Board's approval of this use permit is appealed, all  
1812 conditions requiring action within 90 days will be deemed satisfied if the required actions  
1813 are taken within 90 days of final action on the appeal.  
1814

1815 6. The applicant shall comply with the Chesapeake Bay Preservation Act and all  
1816 state and local regulations administered under such act applicable to the property, and  
1817 shall furnish to the Planning Office copies of all reports required by such act or  
1818 regulations.  
1819

1820 7. Hours of operation Monday through Friday shall be from 6:00 a.m. to 6:00 p.m.  
1821 when Daylight Savings Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other  
1822 times. Hours of operation on Saturday shall be from 6:00 a.m. to noon when Daylight  
1823 Savings Time is in effect, and from 7:00 a.m. to noon at all other times.  
1824

1825 8. No operations of any kind are to be conducted at the site on Sundays, New  
1826 Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving or Christmas.  
1827

1828 9. All means of access to the property shall be from the established entrance onto  
1829 Meadow Road. All truck traffic to the site shall approach from Williamsburg Road north  
1830 on Drybridge Road, then east on Meadow Road. All truck traffic leaving the site shall  
1831 travel west on Meadow Road, then south on Drybridge Road to Williamsburg Road.  
1832

1833 10. The applicant shall erect and maintain gates at all entrances to the property.  
1834 These gates shall be locked at all times, except when authorized representatives of the  
1835 applicant are on the property.  
1836



- 1837 11. The applicant shall post and maintain a sign at the entrance to the mining site  
1838 stating the name of the operator, the use permit number, and the telephone number of  
1839 the operator. The sign shall be 12 square feet in area and the letters shall be three  
1840 inches high.
- 1841
- 1842 12. The applicant shall post and maintain "No Trespassing" signs every 250 feet  
1843 along the perimeter of the property. The letters shall be three inches high. The applicant  
1844 shall furnish the Chief of Police a letter authorizing the Division of Police to enforce the  
1845 "No Trespassing" regulations, and agreeing to send a representative to testify in court  
1846 as required or requested by the Division of Police.
- 1847
- 1848 13. Standard "Truck Entering Highway" signs shall be erected on Meadow Road on  
1849 each side of the entrances to the property. These signs will be placed by the County, at  
1850 the applicant's expense.
- 1851
- 1852 14. The applicant shall post and maintain a standard stop sign at the entrance to  
1853 Meadow Road.
- 1854
- 1855 15. The applicant shall provide a flagman to control traffic from the site onto the  
1856 public road, with the flagman yielding the right of way to the public road traffic at all  
1857 times. This flagman will be required whenever the Division of Police deems necessary.
- 1858
- 1859 16. All roads used in connection with this use permit shall be effectively treated with  
1860 calcium chloride or other wetting agents to eliminate any dust nuisance.
- 1861
- 1862 17. The operation shall be so scheduled that trucks will leave at regular intervals and  
1863 not in groups of three or more.
- 1864
- 1865 18. Trucks shall be loaded in a way to prevent overloading or spilling of materials of  
1866 any kind on any public road.
- 1867
- 1868 19. The applicant shall maintain the property, fences, and roads in a safe and secure  
1869 condition indefinitely, or convert the property to some other safe use.
- 1870
- 1871 20. If, in the course of its preliminary investigation or operations, the applicant  
1872 discovers evidence of cultural or historical resources, or an endangered species, or a  
1873 significant habitat, it shall notify appropriate authorities and provide them with an  
1874 opportunity to investigate the site. The applicant shall report the results of any such  
1875 investigation to the Planning Office.
- 1876
- 1877 21. If water wells located on surrounding properties are adversely affected, and the  
1878 operations on this site are suspected as the cause, the effected property owners may  
1879 present to the Board evidence that the extraction operation is a contributing factor. After  
1880 a hearing by the Board, this use permit may be revoked or suspended, and the operator  
1881 may be required to correct the problem.
- 1882

1883 22. Open and vertical excavations having a depth of 10 feet or more, for a period of  
1884 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the  
1885 public safety.

1886  
1887 23. Topsoil shall not be removed from any part of the property outside of the area in  
1888 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for  
1889 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled  
1890 within the authorized area and provided with adequate erosion control protection. If the  
1891 site does not yield sufficient topsoil, additional topsoil shall be brought to the site to  
1892 provide the required five-inch layer of cover. All topsoil shall be treated with a mixture of  
1893 seed, fertilizer, and lime as recommended by the County after soil tests have been  
1894 provided to the County.

1895  
1896 24. The material deposited on the site shall be limited to imperishable materials such  
1897 as stone, bricks, tile, sand, gravel, soil, asphalt, concrete and like materials, and shall  
1898 not include any hazardous materials as defined by the Virginia Hazardous Waste  
1899 Management Regulations. Each month the operator shall submit a report to the Director  
1900 of Planning stating the origin, nature and quantity of all material deposited on the site,  
1901 and certifying that no contaminated or hazardous material was included.

1902  
1903 25. A superintendent, who shall be personally familiar with all the terms and  
1904 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms  
1905 and conditions of this use permit, shall be present at the beginning and conclusion of  
1906 operations each work day to see that all the conditions of the Code and this use permit  
1907 are observed.

1908  
1909 26. A progress report shall be submitted to the Board on January 25, 2002. This  
1910 progress report must contain information concerning how much rehabilitation has been  
1911 performed, when and how the remaining amount of land will be rehabilitated, and any  
1912 other pertinent information about the operation that would be helpful to the Board.

1913  
1914 27. Restoration shall be accomplished by not later than January 25, 2003, unless a  
1915 new permit is granted by the Board of Zoning Appeals.

1916  
1917 28. Rehabilitation shall not be considered completed until the mined area is covered  
1918 completely with permanent vegetation.

1919  
1920 29. All drainage and erosion and sediment control measures shall conform to the  
1921 standards and specifications of the Mineral Mining Manual Drainage Handbook.

1922  
1923 30. Failure to comply with any of the foregoing conditions shall automatically void this  
1924 permit.

1925  
1926 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1927 Negative: 0  
1928 Absent: 0

1929  
1930 The Board granted the request because it found the proposed use will be in substantial  
1931 accordance with the general purpose and objectives of Chapter 24 of the County Code.  
1932  
1933 Mr. Kirkland - Next case, sir.  
1934  
1935 **A - 12-2001 PHILIP M. MEADE, SR.** requests a variance from Section 24-  
1936 95(i)(2) of Chapter 24 of the County Code to erect a carport in the  
1937 side yard at 1413 Bobbiedell Lane (West Forest Heights) (Tax  
1938 Parcel 91-11-A-15), zoned R-3, One-family Residence District  
1939 (Three Chopt). The accessory structure location requirement is not  
1940 met. The applicant proposes a carport in the side yard where the  
1941 Code allows a carport only in the rear yard.  
1942  
1943 Mr. Blankinship - I'm sure you all remember Mr. Meade from last month. You  
1944 discussed at that hearing, whether he could defer and change his request somewhat.  
1945 The decision was made that the changes that were suggested by the Board were too  
1946 great for just deferral and amending, that he needed to submit a new application, so last  
1947 month's application was formally denied, and he has reapplied to move the carport to  
1948 the side yard, out of the front yard.  
1949  
1950 Mr. Kirkland - Does anyone else wish to speak on this case. If you would  
1951 sir, raise your right hand and be sworn in.  
1952  
1953 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1954 truth, the whole truth, and nothing but the truth, so help you God?  
1955  
1956 Mr. Kirkland - State your name for the record, please. Have all your  
1957 notices been turned in, according to the County Code? OK, we have them in the file.  
1958 Proceed with your case, sir.  
1959  
1960 Mr. Meade - I do. Philip M. Meade, Sr. When I was here before, I had a  
1961 drawing of the old way we had it in the front yard. You denied it and made a suggestion  
1962 that I go to the side yard. I have the drawings here, I believe you have one that's  
1963 different from this. This is a new one that I drew and sent to Mr. Blankinship a couple of  
1964 weeks ago.  
1965  
1966 Mr. Kirkland- Is this still going to be the aluminum?  
1967  
1968 Mr. Meade - Yes, it's the same structure that's up now in the front yard.  
1969 What I have to do is dismantle it through the center and relocate it down the side of the  
1970 house. What I've got showing here is non-attached to the house, so I could have a 3-  
1971 foot variance on the side. My understanding is, if it's fastened to the house, you have to  
1972 have a 7-foot variance, is that correct.  
1973  
1974 Mr. Blankinship - A 7-foot side yard, yes.

1975  
1976 Mr. Meade - What I'm proposing to do is to have it self-supporting as you  
1977 see the picture here on the left, how I have the structure going down to the drive rods in  
1978 the ground to support that. It's the same structure; it's just a different shape. It holds its  
1979 own as far as weather, wind and that type of thing. As a matter of fact, this is out of the  
1980 weather because, going down the side, I have a privacy fence that goes around the  
1981 whole yard that would cover that whole complete side. The reason I have this drawn  
1982 like this on the front is to have some type of a better appearance on the property, rather  
1983 than looking at a shed roof on the end, coming over. This enables me, I have a  
1984 motorcycle, enables me to put that motorcycle trailer right at the front of that little offset  
1985 you see where I have an 8-foot clearance to the left, going into that cutaway on the  
1986 house, and that would give me an area to put that trailer.  
1987  
1988 Mr. Kirkland - Mr. Blankinship, the trailer would be parked in front of the  
1989 house, is that what he saying?  
1990  
1991 Mr. Meade - Right here to the left at the front.  
1992  
1993 Mr. Kirkland - I believe that's against the Code.  
1994  
1995 Mr. Wright- Isn't that still in the front yard?  
1996  
1997 Mr. Blankinship - Let me see exactly how that reads. I think you're right; I think  
1998 that it's a separate issue, but also.....  
1999  
2000 Mr. Kirkland - Part of the canopy would still be in the front yard.  
2001  
2002 Mr. Meade - Seven foot. It gives me my 35-foot front clearance. You see  
2003 the picture on the left.  
2004  
2005 Mr. Blankinship - None of the canopy would actually be in the front because  
2006 part of the house, it's forward of what's immediately there, but part of the house, there's  
2007 a front porch on the house that comes farther out than the canopy does, and the front  
2008 yard is measured from the front property line to the nearest point on the structure, so it  
2009 would all be at the side.  
2010  
2011 Mr. Kirkland- So you're saying this is all in the side?  
2012  
2013 Mr. Blankinship - The drawing has been amended a little bit, and that's why  
2014 you have that one there. The whole thing is set back just a few more feet, but just  
2015 enough to get it behind the front porch, which is not in proportion; it's actually a  
2016 substantial proportion. None of the carport structure would be forward of the front of the  
2017 porch.  
2018  
2019 Mr. Meade - The reason I've got this is to keep a better appearance, to  
2020 blend in with the house, rather than just have a half of a shed showing off, looking

2021 directly up the driveway. Far as the trailer is concerned, I could take it to the back, that  
2022 doesn't matter. It's just the appearance of the property, and then I have to have 2  
2023 vehicles to go in, and I need the length from this point to the front point. From front to  
2024 back, it shows 33 feet.

2025  
2026 Mr. Kirkland- So you'll put the old pick-up truck to the rear, and the car you  
2027 normally use in front of that?

2028  
2029 Mr. Meade - From this point at the back, to the front, is 33 feet, and to  
2030 gain that length of the carport that I have existing, the carport is 22 feet wide, so I'm  
2031 taking it half-way down the middle. I'm doing this cutaway, I'm going to take this half  
2032 and put it from this point back, which is 13 feet, so I'll have 33 feet overall, going to the  
2033 back, which would end at my screen porch. That's one of the reasons I ran this past the  
2034 edge of the house, was to keep this half-way decent, rather than to have it shut off back  
2035 beside of my screen porch. As it is now, I've got to take my tree out that's located right  
2036 here, which is big, and then I have a cherry tree that sits right at this point, that I didn't  
2037 want to have to move. Theoretically speaking, I think I'm using the right word when I  
2038 say "topography," this would look better for the piece of property with this little A, than  
2039 half a split.

2040  
2041 Mr. Wright- So long as it doesn't extend beyond the porch, you're okay.

2042  
2043 Mr. Meade- Well that's why I've measured it all out, and going from this  
2044 point right here, it's 35 feet from this point to the property line. The house is 42, so from  
2045 this point of the house out, to this point right here on this side, is 7 feet, and that's how I  
2046 determined my 33 feet; I'm leaving 7 feet here and taking that 13 feet and adding it on  
2047 to the 20-foot section, to give me the 33 feet. This is the only application I've got left;  
2048 I've spent \$1200 for this carport that I have, and this is the only place I can use it. Back  
2049 yard, forget it.

2050  
2051 Mr. Wright- Technically, we're going to be giving him a 3-foot variance.

2052  
2053 Mr. Blankinship - And a variance to put an accessory structure in the side yard.

2054  
2055 Mr. Wright- Basically it's attached; it's sitting right there beside the  
2056 house. But that's the same difference.

2057  
2058 Mr. Kirkland- Mr. Blankinship, will this require a building permit this time  
2059 around?

2060  
2061 Mr. Blankinship - That I don't know. Have you asked that?

2062  
2063 Mr. Meade - I haven't, but just bringing to mind, it is a free-standing  
2064 structure, so I couldn't answer that. And it's not fastened permanently in any form.

2065

2066 Mr. Blankinship - I would think so, just because it's well over 150 square feet,  
2067 so I would think a building permit would be required.

2068  
2069 Mr. Meade - I don't know any other way I could put this in, and all my  
2070 neighbors, 2 were here last time and spoke in my behalf. The wording that's here, says  
2071 it's determined whether it's detrimental to the property or not, but my neighbors are with  
2072 me. Of course somewhere on that street is a bothered person, but not my immediate  
2073 neighbors.

2074  
2075 Mr. Wright- Well, getting it out of the front yard, maybe that will relieve  
2076 the bother.

2077  
2078 Mr. Meade - I hope so.

2079  
2080 Mr. Kirkland - Does anyone else wish to speak on this case? Any other  
2081 questions? That concludes the case. You want to start from the rear, since the  
2082 gentleman's still here?

2083  
2084 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
2085 Nunnally, the Board **granted** your application **A-12-2001** for a variance from Section 24-  
2086 95(i)(2) of Chapter 24 of the County Code to erect a carport in the side yard at 1413  
2087 Bobbiedell Lane (West Forest Heights) (Tax Parcel 91-11-A-15). The Board granted  
2088 the variance subject to the following conditions:

2089  
2090 1. Only the carport shown on the plan filed with the application may be constructed  
2091 pursuant to this approval. Any additional improvements shall comply with the applicable  
2092 regulations of the County Code.

2093  
2094 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2095 Negative: 0  
2096 Absent: 0

2097  
2098 The Board granted this request, as it found from the evidence presented that, due to the  
2099 unique circumstances of the subject property, strict application of the County Code  
2100 would produce undue hardship not generally shared by other properties in the area, and  
2101 authorizing this variance will neither cause a substantial detriment to adjacent property  
2102 nor materially impair the purpose of the zoning regulations.

2103  
2104 Mr. Kirkland - That's all the cases. We have some minutes that we were  
2105 handed last month, for July, I believe. Need to hear those. Anybody got any changes?  
2106 Motion to approved the minutes as corrected?

2107  
2108 On a motion by Mr. Nunnally seconded by Mr. Balfour the Board **approved as**  
2109 **corrected**, the Minutes of the July 27, 2000, Henrico County Board of Zoning Appeals  
2110 meeting.

2111

2112 There being no further business, and on a motion by Mr. Balfour, seconded by Mr.  
2113 Nunnally, the Board adjourned until February 22, 2001, at 9:00 am.

2114

2115

2116 Richard Kirkland,

2117 Chairman

2118

2119 Benjamin Blankinship, AICP

2120 Secretary

2121

2122