

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, JULY 27, 2000, AT  
4 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-  
5 DISPATCH ON JULY 6 AND 13, 2000.  
6

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

Members Absent: R. A. Wright

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

7  
8 Mr. Kirkland - The meeting of the Board of Zoning Appeals for July will  
9 come to order. Before we get started, I would like for the Secretary to read the rules.  
10

11 Mr. Blankinship - Good morning, Mr. Chairman and members of the Board.  
12 Ladies and gentlemen, the rules of this meeting are as follows: The secretary, myself,  
13 will call each case. Then the applicant will come to the podium to present their case. At  
14 that time, I will ask all of those who intend to speak in favor or in opposition to stand and  
15 be sworn in. The applicant 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 an opportunity for rebuttal. After  
18 hearing the case and asking questions, the Board will take the matter under  
19 advisement. They will render a decision at the end of the meeting. If you wish to know  
20 what their decision is, you may stay until the end of the meeting or you may call the  
21 Planning Office at the end of the day. This meeting is being tape recorded, so we will  
22 ask everyone who speaks to speak directly into the microphone, on the podium, and to  
23 state your name for the record. Out in the foyer there is a binder, which has the staff  
24 report for every case, including the conditions that were suggested by the staff. Mr.  
25 Chairman.  
26

27 Mr. Kirkland - Mr. Secretary, do we have any requests for deferrals or  
28 withdrawals this morning?  
29

30 Mr. Blankinship - There are four on the 9:00 a.m. agenda, Mr. Chairman, A-  
31 64-2000, A-65-2000, A-67-2000, and A-68-2000.  
32  
33

34 **A - 64-2000** **MARK A. DALTON** requests a variance from Section 24-95(c)(1) of  
35 Chapter 24 of the County Code to build an attached tool shed at

36 6917 W. Grace St. (Duntreath) (Tax Parcel 102-3-5-19), zoned R-  
37 3, One-family Residence District (Three Chopt). The minimum side  
38 yard setback and total side yard setback are not met. The applicant  
39 has 1.0 foot minimum side yard setback and 11.77 feet total side  
40 yard setback, where the Code requires 7.0 feet minimum side yard  
41 setback and 19.5 feet total side yard setback. The applicant  
42 requests variances of 6.0 feet minimum side yard setback and 7.73  
43 feet total side yard setback.

44  
45 Mr. Kirkland - Is there any opposition to A-64-2000?

46  
47 Mr. Blankinship - Is there anyone here to speak on A-64-2000, Mark A.  
48 Dalton?

49  
50 Upon a motion by Mr. Nunnally, seconded by Mr. Balfour, the Board of Zoning Appeals  
51 **deferred** your **A-64-2000** application for a variance, for 30 days, at your request, from  
52 the July 27, 2000, until the August 24, 2000, meeting.

53  
54 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4  
55 Negative: 0  
56 Absent: Wright 1

57  
58 **A - 65-2000** **JAMESTOWNE BUILDERS INC.** requests a variance from Section  
59 24-95(k) of Chapter 24 of the County Code to complete a dwelling  
60 under construction at 1600 Fawcett Lane (Varina Station) (Tax  
61 Parcel 192-10-E-16), zoned R-3C, One-family Residence District  
62 (Conditional) (Varina). The minimum side yard setback is not met.  
63 The applicant has 17.8 feet minimum side yard setback, where the  
64 Code requires 25.0 feet minimum side yard setback. The applicant  
65 requests a variance of 7.2 feet minimum side yard setback.

66  
67  
68 Upon a motion by Mr. Nunnally, seconded by Mr. Balfour, the Board of Zoning Appeals  
69 **deferred** your **A-65-2000** application for a variance, for 30 days, at your request, from  
70 the July 27, 2000, until the August 24, 2000, meeting.

71  
72 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4  
73 Negative: 0  
74 Absent: Wright 1

75  
76  
77 **A-67-2000** **JAMES B. AND MARY NORMAN** request a variance from Section  
78 24-94 of Chapter 24 of the County Code to build a single-family  
79 dwelling at 6850 Dan Street (Tax Parcel 192-A-14B), zoned R-3,  
80 One-Family Residence District (Varina). The lot width requirement  
81 is not met. The applicant has 50 feet lot width, where the Code

82 requires 80 feet lot width. The applicant requests a variance of 30  
83 feet lot width.

84  
85 Ms. Foust - Good morning. Although I am not the property owner, I am  
86 the person representing the people who want to purchase this property, and the  
87 property owner is here, and he has agreed to for us to go through this process. We just  
88 would like to have a variance.

89  
90 Mr. Blankinship - You do not wish to request a deferral?

91  
92 Ms. Foust - No.

93  
94 Mr. Kirkland - We will come back at the regular time.

95  
96 **A-68-2000** **KAREN L. OWENS** requests a variance from Section 24-94 of  
97 Chapter 24 of the County Code to build an addition and deck or  
98 patio at 10803 Sugar Court (Village at Innsbrook) (Tax Parcel 38-6-  
99 B-35), zoned R-3AC, One-family Residence District (Conditional)  
100 (Three Chopt). The rear yard setback is not met. The applicant  
101 has 9 feet rear yard setback, where the Code requires 35 feet rear  
102 yard setback. The applicant requests a variance of 26 feet rear  
103 yard setback.

104  
105 Ms. Owens - I do not wish to have a deferral either.

106  
107 Mr. Kirkland - You don't? OK. We'll hear your case then when it comes in  
108 sequence. Thank you, ma'am. Call the first one.

109  
110 **UP-20-2000** **STEPHEN J. AND VICTORIA L. MARSHMAN** request a use  
111 permit, pursuant to Section 24-52 (c) of Chapter 24 of the County  
112 Code to continue operation of an existing kennel at 8976 Battlefield  
113 Park Road (Tax Parcel 257-A-50A), zoned A-1, Agricultural District.  
114 (Varina)

115  
116 Mr. Kirkland - Does anyone wish to speak on this case? I would like to  
117 state before we get started that we heard a lot of testimony last month and the  
118 testimony we hear this month, I would appreciate if it is something different than what  
119 we heard last month, and would add some more to the case. That's why we ask for the  
120 deferral. All right, if you wish to speak, please stand up and raise your right hand. Mr.  
121 Secretary.

122  
123 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
124 truth, the whole truth, and nothing but the truth, so help you God?

125  
126 Ms. Freye - I do.

127

128 Mr. Kirkland - State your name for the record.  
129  
130 Ms. Freye - Good morning, Mr. Chairman, and members of the Board.  
131 My name is Gloria Freye. I am an attorney here on behalf of the applicant.  
132  
133 Mr. Kirkland - Have all of your notices been turned in according to the  
134 County Code?  
135  
136 Ms. Freye - Yes, sir.  
137  
138 Mr. Kirkland - We have them in the file. OK.  
139  
140 Ms. Freye - The Marshmans and Mr. Bristow, the applicants, are here  
141 and they are available to respond to questions that you might have. They did speak at  
142 the last hearing, but they are available for questions. Also present are several  
143 neighbors that have been contacted in connection with this application. I do have a  
144 statement signed by 41 of the neighbors and a map showing their house locations to  
145 turn in to the Secretary, representing their support, and can speak to the fact that this is  
146 not a nuisance operation. I understand the Board has no interest in rehearing people  
147 or testimony that they heard at the last hearing, so I have asked our presenters to speak  
148 only to the issues and to new information, and only new persons to come to the podium.  
149 We would ask that you restrict the opposition to do likewise, and I think that will  
150 considerably speed up the presentation of this case. I would like to reserve about three  
151 minutes of time for our rebuttal if that is needed.  
152  
153 Briefly, to recap last month, you were asked by the Marshmans to transfer the permit,  
154 the use permit, that Mr. Bristow has, to operate the kennel to them. Briefly, the facts  
155 were that a dog kennel for boarding dogs has existed on this property, 38 acres of A-1  
156 zoned property, since 1972. Bachman Doars' boarding permit was the first that was  
157 issued on this property in 1972, and that was for 24 dogs, and there was an express  
158 condition that that permit was not transferable. The Ellersons, the people that you  
159 heard from last month, are the people that have lived adjacent to the kennels along with  
160 their daughter, Ms. Capece, who you also heard from last month, since 1974. They  
161 were not opposed to the kennel when Mr. Doar operated; they were not opposed to the  
162 kennel when the permit was transferred to Mr. Bristow in 1991. The permit was  
163 transferred to Mr. Bristow in 1991 for 25 dogs. There were no restrictions that the  
164 permit could not be transferred placed on that permit. A transfer was specifically  
165 supported by the Ellerson family at that time and evidence of that is in written form and  
166 a letter in the file. Be reminded that the Ellersons had lived, at that time, next to a  
167 kennel for almost 17 years, and were in support of the kennel continuing to be operated  
168 by Mr. Bristow. Mr. Bristow's use permit did have three conditions: No more than 25  
169 dogs, no commercial breeding, and not be maintained as a nuisance. None of those  
170 conditions have been violated. The applicants realize that this is a use permit that is  
171 revocable for cause, but there is no cause to revoke, and the permit should be  
172 transferred to the Marshmans. There was an inspector that came to the property  
173 between the last hearing and this hearing. There was a complaint filed on July 14

174 saying that there were more than 25 dogs boarded in the kennel over the 4<sup>th</sup> of July  
175 weekend. That was false, and the letter and the report is in your file documenting that  
176 during the whole week there were never more than 21 dogs on the property. Twenty-  
177 one was the most. There were fewer. Commercial breeding has never been alleged.  
178 There has never been a problem here. There has never been a finding that this  
179 operation is a legal nuisance. The applicants now believe that legally they could buy  
180 this property and the permit should lawfully transfer with the property without a formal  
181 action from this Board, but they were advised by the staff that they should come before  
182 the Board and ask for the permit transfer, even though that condition was not placed on  
183 Mr. Bristow's permit. They followed that advice and learned at the last hearing there  
184 was opposition from the Ellerson family and their daughter, Ms. Capece. Most of what  
185 you heard at that last hearing, and I did review the draft minutes, so I can speak to this,  
186 were complaints about Mr. Bristow as a person, his character, other things he has done  
187 on his property as far as cutting trees, shooting guns, things that had nothing to do with  
188 operation of the kennel, and were basically an attack against his character. But you  
189 also heard Mr. Capece talk about complaints about barking, and that was the concern  
190 that the applicant did hear and were concerned about. During the period of time  
191 between the last hearing and this one, they took advantage of that time to meet with  
192 their, Mr. Marshall, the attorney for the Capeces and Ellersons, in their home, and tried  
193 to work out conditions that would address that concern about the barking.  
194 Unfortunately, they were not able to come to any agreement, and basically heard a  
195 reiteration of what was testified at the hearing. But you heard also at that last hearing,  
196 in contrast to what the Capeces testified, that there was continual continuous long  
197 periods of barking, you heard testimony from Allen Winett that their complaint of  
198 continuous barking was not founded, that he was a neighbor who walked his dogs in the  
199 area, walked his dogs to the kennel, and had not heard continuous periods of barking.  
200 The fact is that no one else in the neighborhood has a problem with the kennel. There  
201 is that statement of support that I submitted to the record that has 41 names on it.  
202 These people live on adjacent or nearby property. There is a map attached that shows  
203 in black every house that was contacted. One of those people that were contacted was  
204 the Cooper family, and interestingly, in looking back through the record in the file, the  
205 Coopers were the one person, the one family that objected to Mr. Doar getting his  
206 permit back in 1972. They were concerned about what it would be like to have 24 dogs  
207 on that property. It turned out that their concerns were not founded. They never had a  
208 complaint in the last 25 years that that kennel has been in operation. The fact is that  
209 really no one ever complained until the Ellersons had a falling out with the Bristows.  
210 Well, here is an opportunity for Mr. Bristow to sell this property and to turn this operation  
211 over to the Marshmans. The Marshmans want to be good neighbors. They have  
212 already demonstrated their concerns, their willingness to do the deferral, their  
213 willingness to go through this process, their willingness to even suggest additional  
214 conditions in the permit that would address the Capeces concerns. Remember the  
215 Capeces had lived, or at least the daughter, had lived next to this kennel operation for  
216 years and years and years, and decided, made a conscious decision to build their  
217 house about 400 feet away from the kennel. It had never been a problem before and I  
218 am sure if they had thought it was a problem they wouldn't have built their house where  
219 they did. But regardless of that, the Marshmans are willing to add three conditions to

220 the permit: that they would house the dogs inside the kennels from dusk to 7:00 a.m.,  
221 they will install sound baffles inside the kennel, and they would also go so far as to plant  
222 a strip of evergreen trees for a 25 foot buffer on the northern property line, adjacent to  
223 the Capece's property. It appears that the most reasonable thing to do in this situation  
224 is to place these additional conditions on the permit. The Marshmans have  
225 demonstrated their regard and concern for the neighbors, and they have expressed that  
226 to the neighbors, that they are willing to address any problems that might arise in the  
227 future directly with their neighbors. This is not a new use. It has been there for 25  
228 years. The Marshmans are in agreement with the conditions that have been  
229 recommended by the staff in addition to those that they have recommended that are in  
230 the file.

231  
232 There are three good reasons for you to approve this transfer. No. 1, the current  
233 permit does not say that it is not transferable, No. 2, the conditions of the current permit  
234 have not been violated, and this is an opportunity to amend the existing permit with  
235 conditions that will address the noise concerns that were raised by Mr. Marshall's clients  
236 last month. The applicants and I are available to respond to questions, and there are  
237 several people here who can speak to the noise issue.

238  
239 I will be glad to answer your questions.

240  
241 Mr. Kirkland - Ms. Freye, your letter of July 24 to Mr. Marshall, on your  
242 conditions, you are saying that the Marshalls are willing to commit to the following  
243 conditions, but you didn't say additional conditions in your letter. So, what you are  
244 saying in your presentation, these are additional conditions.

245  
246 Ms. Freye - Yes, sir.

247  
248 Mr. Kirkland - Does anyone else wish to speak in favor of the case?

249  
250 Ms. Freye - Yes, sir. There are several people who would like to speak,  
251 and I would like to ask that they come in this order, Dr. Merritt.

252  
253 Dr. Wendell Merritt - Good morning. I am Dr. Wendell Merritt. I am a local plastic  
254 surgeon here who, since 10 years ago I took a skin cancer off of Bud, we have become  
255 - he and his wife have been among my very best friends, and as a consequence, I  
256 rarely miss a social event and I have spent a lot of time in his yard, most recently for a  
257 wedding in which the dogs listened rather politely to the vows. I only notice the dogs  
258 when somebody drives up and they announce their presence. There are a lot of things I  
259 can say about this fine man and his wife, but Ms. Freye made me swear to a minute and  
260 avoid my verbal diarrhea.

261  
262 Mr. Kirkland - Thank you, Ms. Freye.

263  
264 Ms. Freye - Mr. McGeorge.

265

266 Mr. George - I am Ellett McGeorge and I live at 9011 Battlefield Park  
267 Road, which is approximately 800 to 1,000 feet from the concerned kennel. I have lived  
268 in this area for 40 years. I was there when Mr. Doar purchased the property. I was  
269 there when Mr. Doar constructed the facility, and I must say that the facility is a  
270 convenience to neighbors and many other people for the use, if they are going on  
271 vacation, they can have their dogs there, and it is a good kennel, as far as that is  
272 concerned. Those who have used it, to my knowledge, have no qualms with it. So far  
273 as the dogs barking, I don't think any of you, I or anybody else, is going to stop dogs  
274 from barking, but living that close to it, sure, I hear the dogs bark once in a while, but  
275 you become attached to it. I do live within 800 to 1,000 feet of it. I hope you, the Board,  
276 will give every consideration to it and not deny the kennel being in our neighborhood.  
277 Thank you.

278  
279 Mr. Kirkland - Thank you, sir.

280  
281 Ms. Jane Koontz - My name is Jane Koontz. I live at 9184 Hoke Brady Road,  
282 approximately a mile from the Bristow home. For the past nine years I have had the  
283 privilege of being your neighbor and friend of Bob and Lisa Bristow. I have been a  
284 guest at their house a number of times at a variety of times of day, morning, early  
285 afternoon, evening, and I have never been aware of a barking dog at those times. The  
286 last time I was there I was at their son's wedding. This wedding was held between the  
287 front steps of the Bristow home and the dog kennel, and I was not aware of any barking  
288 during the time of the wedding, before or after. It is not a problem. I would like to  
289 remind you that this case is about kennels and not character. Thank you.

290  
291 Ms. Freye - Mr. Wirt.

292  
293 Mr. Joe Wirt - Good morning. My name is Joe Wirt. I have been aware of  
294 this kennel since the early 1970s when I went down and trained with Bach Doar? Since  
295 that time and more currently I spend a great deal of time wandering the woods around  
296 Bud's house with a metal detector looking for Civil War relics. I am rarely ever alone,  
297 almost always there are two dogs with me. If the situation would prompt continuous and  
298 spontaneous barking, it certainly would be two strange dogs roaming around another  
299 kennel. That has not been the case. I cannot remember a single circumstance where I  
300 have heard a dog barking that I thought was anywhere near offensive to me or anyone  
301 else. I thank you for your time and I would add one thing, that Bud Bristow certainly has  
302 added a great deal of pleasure to my life. Thank you.

303  
304 Ms. Freye - Mr. Brooks.

305  
306 Mr. Brooks - Thank you for allowing me to speak. I have been told I need  
307 to stay a minute. I am not a public speaker so bear with me. I just want to introduce  
308 myself as Bud's friend. I have known him as long as anybody in Richmond, because I  
309 was his realtor when he first came to town, and when I knew kind of what he wanted, I  
310 knew of Bach Doar's place being for sale because I had many friends who had their  
311 dogs trained down there.

312  
313 So, I wanted to talk to you about the difference between a training kennel and a  
314 boarding kennel, because it used to be a lot noisier. A dog trainer shouts at his dogs,  
315 hollers, got them barking all of the time. He might not have but one or two out there, but  
316 he might also be firing a blank pistol while throwing a dummy. So, as far as noise is  
317 concerned, I don't believe that is the issue here. I believe we've got an issue here, a  
318 neighbor who, frankly, has a reputation as being cantankerous, not a very friendly man,  
319 precedes him, and while at one time the Bristows were apparently their only friends,  
320 they had a falling out over some gun noise scaring their dog. And I am here to say that  
321 because I am frankly incensed at the lies and slander that the Ellersons' lawyer spewed  
322 out last time. I found it almost incredible that the Ellersons' meanness is only exceeded  
323 by their lawyer's viciousness. I will tell you this. I have heard dogs barking at Bud's  
324 kennel. I have been down there a tremendous number of times and on two or three  
325 occasions I had come up to the house to tell Bud that a couple of his dogs are loose,  
326 and he said, "Oh, no, Jim. That's my neighbor's dogs." So, if they are a neighbor's dog,  
327 the people that are complaining about that are the dogs out there, on the outside of the  
328 kennel, barking at the dogs on the inside of the kennel and causing all kinds of noise.  
329 So those are the facts. It is not a noise issue. It is a meanness issue. Thank you for  
330 hearing me.

331  
332 Ms. Freye - Ms. Bargman.

333  
334 Ms. Bargman - My name is Petra Bargman and I live at 9024 Battlefield  
335 Park Run, and we have been neighbors to the Bristows for six years now, and we,  
336 ourselves, have 2 dogs and all of the neighbors in that neighborhood have dogs, and, of  
337 course, there is a little barking now and then at certain times, but it has never been a  
338 problem for us. Neither has any smell from the kennel or any other problems that might,  
339 that people might think occur when you have a kennel in the neighborhood.

340  
341 Mr. Kirkland - How far exactly do you live from this kennel? Feet, miles?

342  
343 Ms. Bargman - It is probably the same range that Mr. McGeorge lives, about  
344 800 to 1,000 feet.

345  
346 Mr. Kirkland - OK. Thank you.

347  
348 Ms. Freye - Is Miss Duval here? I don't think she made it. Mr. Cosby?  
349 Mr. Waldrop?

350  
351 Mr. Waldrop - Good morning, gentlemen. I am Lester Waldrop, a real  
352 estate professional in Varina. I live at 8440 Osborne Turnpike, approximately three  
353 miles from the kennel, and this has been a godsend for me and my family. I have two  
354 dogs that I board regularly with Bud. The kennel is clean. It is neat. Bud will be a little  
355 bit embarrassed, but he is one of the sweetest men I know. I just want to say that this  
356 issue should be restricted simply to the law and should not have any inference at all to  
357 character. The kennel is necessary. In my job I run across many people moving into

358 the area who need this service. It is desperately needed. Prior to my knowing the  
359 Bristows I took my dogs across town. It was a 30 minute trip one way. We need this. It  
360 is important to our community, and it is not a nuisance. Your recommendation of this  
361 would be much appreciated. Thank you.

362  
363 Ms. Freye -

Mr. Hollis.

364  
365 Mr. Hollis - I am Frank Hollis, and I live at 1524 Cedar Valley Lane right  
366 across from where Lester lives. I have been a friend of Bud's since he moved to Varina  
367 and I have been down there on numerous occasions and, like I said, the dogs will bark  
368 when you come up, and then they shut up. I spend a lot of time at the parks, jogging  
369 and biking. It is my park. It is my neighborhood. I have never heard the dogs when I  
370 was out on the park road, you know, other than just driving up. On several occasions  
371 when they would have gatherings down there, I would take my wagon and a team of  
372 mules down there to give the kids a ride. I would park those mules in front of the  
373 kennel. I know the dogs would bark when I came up with the mules the first time. After  
374 the first time, the dogs accepted them and like I said, if it is something that is going to  
375 make dogs bark, it is something that they ain't seen, and I will guarantee you there ain't  
376 many dogs around here seen a team of mules hooked to a wagon parked in front of  
377 their kennels, and it did not, you know, every now and then there would be a dog there  
378 who would get a little excited, but they calmed right down. I do not see this kennel as a  
379 nuisance. It is like everybody said, it is good folks there, and they run a good, clean  
380 sanitary kennel. Noise is not a problem and smell is definitely not a problem. Bud is an  
381 old maid when it comes to his kennel and it is cleaner than my barn, and I am probably  
382 a bigger nuisance in Varina than his dogs are.

383  
384 Ms. Freye -

Mr. Turner.

385  
386 Mr. Turner - I am Taylor Turner and I live at 8966 Belfont Road, which is  
387 approximately a 30-minute ride from Bristow kennels. I gladly make the trip from my  
388 home at 8966 Belfont to Bristow kennels to board my dogs. I have never been down  
389 there and heard those dogs barking incessantly like I have heard rumors of. I drive up.  
390 Yes, they do bark when I drive up, and that is it. I also have had numerous occasions to  
391 go down and work on Bud's property training my dogs. I have hunting dogs. When I  
392 come up, the dogs bark a little bit, but then I am in the yard and in the woods with my  
393 dogs training, and his dogs never utter a peep. As far as the safety, the kennel is  
394 surrounded by a double fence. I have never seen any of his dogs outside of that fence.  
395 I have seen other dogs outside, but not any of his boarding dogs. I think that the kennel  
396 is definitely an asset to the County and I would hope that the Board here sees fit to  
397 extend the conditional permit.

398  
399 Mr. Kirkland -

Did you say that you are doing the training, not Mr. Bristow?

400  
401 Mr. Turner -

I train my dogs on his property.

402  
403 Mr. Kirkland -

What is involved in training the dogs?

404  
405 Mr. Turner - Teaching dogs to observe commands, getting them to  
406 retrieve dummies on command, getting them to find dummies that have been placed in  
407 the woods or thrown into the woods, items like that.  
408  
409 Mr. Kirkland - Any use of firearms?  
410  
411 Mr. Turner - Cap pistols. I have used a cap pistol, yes.  
412  
413 Mr. Kirkland - OK.  
414  
415 Mr. Freye - I believe we just have one more speaker, Mr. Holland. Did  
416 you want to speak? No. He doesn't have anything to add. Was there anybody else? I  
417 think we got everybody, and we tried to keep it very brief. I think that, just to summarize  
418 their testimony, is that the activity that goes on at the kennel is basically in the mornings  
419 when people come to bring their dogs to check them in, more or less, and when they  
420 pick them up at night, to check them out, the cars will come in. It will excite the dogs  
421 and they will bark, but then they settle down. So, the level of activity is basically in the  
422 morning and the evening, and that is one of the reasons the Marshmans were willing to  
423 suggest that additional condition that the dogs be housed inside, and not be let out  
424 before 7:00 in the morning and brought in at dusk at night. We think that will address  
425 the concern that the Capaces and Ellersons raised last month. Thank you.  
426  
427 Mr. Kirkland - Thank you.  
428  
429 Mr. McKinney - Ms. Freye.  
430  
431 Ms. Freye - Yes, sir, Mr. McKinney.  
432  
433 Mr. McKinney - You know, Mr. Taylor talked about the training of these dogs  
434 and cap pistols. I don't know if a starter pistol is considered a cap pistol.  
435  
436 Ms. Freye - I think about the same level of sound.  
437  
438 Mr. McKinney - Are you in opposition to no training with cap pistols or any  
439 noise maker?  
440  
441 Mr. Freye - We have no opposition to a condition like that, Mr.  
442 McKinney.  
443  
444 Mr. McKinney - Thank you.  
445  
446 Mr. Kirkland - All right, if the opposition would like to come up and get  
447 started.  
448

449 Mr. Marshall - Good morning, Mr. Chairman, and members of the Board. I  
450 am Watson Marshall that you've heard so much about me, I guess a character  
451 assassination of Mr. Bristow. I didn't attack his character. It is what he is doing over  
452 there. Now these people that have been here and spoke today, they don't live within  
453 400 feet of this kennel, and they say, "Well, it is a nice place, and we bring our dogs  
454 over and drop them off." Now, one or two dogs don't make a lot of noise. But if you get  
455 25 or in excess of 25, and yes, I did write a letter to Mr. Blankinship, and I called him  
456 and told him that I would like for somebody to check to see how many dogs were over  
457 there the 4<sup>th</sup> of July, because I was up there, and it sounded like to me that it was more,  
458 and I didn't say it was more, I said, and he will tell you, what I told him was, it sounded  
459 like it was more than 25 dogs. And, when we were here before, I learned for the first  
460 time, that the complaints that were filed and made about this kennel were the police.  
461 The police were called. I was told that that didn't count, that that didn't help, that you  
462 should call the Planning Commission, but they are not there at 1:00 in the morning or at  
463 12:00 and neither are these people, and Mr. Turner, he is down there training his dogs.  
464 Well, I am sure that there were other people over there, because that had been one of  
465 the complaints to the Police, the shooting of guns all the time, and Mr. Bristow did have  
466 a careless disregard when the dog ran off and my brother-in-law asked him would he  
467 please stop shooting, so the dog would come back home. He said that he'd do as he  
468 pleased, and the dog was gone for a month and almost died. So he is not concerned  
469 about his neighbors. He is only concerned about the money that he is making, and  
470 there is a need for a kennel down there maybe, but this is the wrong location, and yes,  
471 Bachman Doar was there, and there was never a complaint. He never fired guns over  
472 there. He never had a bunch of yelping dogs over there. But this man has. And it has  
473 been continuous and there have been complaints. It just so happens that it didn't go to  
474 the Planning Commission. Nobody called the Planning Commission, and not a one of  
475 these people that testified here today, and a lot of them are my neighbors, good friends  
476 of mine, we all live in the neighborhood, all have dogs. I had 13 dogs myself one time.  
477 I love dogs. The Marshmans are buying this property and they are not going to live  
478 there. We have met with them and they are very nice people and I think that they are  
479 very sincere people, but they are buying this property and their son is going to live  
480 there. So, they are not going to be exposed to what I call a nuisance. Now these  
481 people might think that 25 barking dogs at one time is not a nuisance, but if you live, if  
482 any one of them lived next door to it, they would think it was a nuisance and they  
483 wouldn't want it. But the Varina Veterinarian place, right there on Route 5, which is out  
484 in a field, used to be a bank. They board dogs if people want to take them over there,  
485 so there is a facility down there, and I think my sister and her husband and my niece  
486 and her husband, the Capeces, are entitled to peace and quiet and enjoyment of their  
487 property, and they have complained and complained and complained. They tell you  
488 they have no complaints, and Mr. Blankinship will tell you that they have no complaints,  
489 because nobody knew who they should call. If you have a problem you call the Police.  
490 The Planning Commission, they shut down, you can hardly get them in the daytime, but  
491 anyway, it is just hard. I think enough is enough. They say, "Well, it was there before."  
492 It was. Mr. Bristow came. When Mr. Bristow came and wanted them to agree for him to  
493 have this kennel, they didn't object to him doing that, but after they did it and after he got  
494 it, he became a nuisance with his shooting and the barking of the dogs and the straw

495 that broke the camel's back was when he denied, he refused to stop shooting his gun so  
496 a dog would come back home. And Mr. Turner's probably not the only one over there,  
497 and I don't believe that they are allowed to train dogs over there. I thought it was a  
498 boarding kennel, so they say we haven't violated the variance. I think they have and I  
499 would ask you to deny it, because it is going to be an absentee owner. The purchasers  
500 are not going to live there.

501  
502 Mr. Kirkland - Mr. Marshall, it seems like everything that I hear is that you  
503 all talk about Mr. Bristow. You know, they are trying to get this permit transferred to  
504 new owners. Don't you think we ought to give them a chance? Are you going to deny  
505 them something when you don't know how they are going to run the kennels?

506  
507 Mr. Marshall - Well, unfortunately, .....

508  
509 Mr. Kirkland - They are not going to live there, but they said their son is  
510 going to live there. That is their family. I don't think they are going to put him down  
511 there with something that is going to be a nuisance.

512  
513 Mr. Marshall - Well, it may not be a nuisance to them because it is a  
514 money-making proposition. That is the only way they can afford, I am told, to buy the  
515 property, is to have the income from the kennel. And, it may not be a nuisance to them  
516 because the kennel is not located near the house. It is on the backside of the property,  
517 and they said I accused Mr. Bristow of doing things. You'll have a photograph of the  
518 last time and it showed all of these woods and I told you those woods had been cut  
519 down, and they had been cut down. And they admitted that they had been cut down.  
520 And the Marshmans were upset that they had been cut down. So I would just ask that  
521 you deny it. It doesn't make sense to keep perpetuating a nuisance. Not a one of these  
522 people that have testified have been down there at night. The night is when the  
523 problem happens when you are trying to sleep. They are all down there during the day  
524 time.

525  
526 Mr. Kirkland - Do you think some of these new restrictions they proposed  
527 would help with the sound baffles, and putting them inside the kennel from dusk to 7:00  
528 a.m.?

529  
530 Mr. Marshall - I think they would help. And the planting of the trees that Mr.  
531 Bristow cut down. I think that would help. The fact that they have agreed that they  
532 won't be shooting any guns over there and no training. I think all of that helps, but the  
533 problem is, once they get it, then you are going to have to court to have it revoked.

534  
535 Mr. Kirkland - Well, you all didn't complain to the owners prior to the  
536 Bristows.

537  
538 Mr. Marshall - No, because it was Bachman Doar. He ran a good  
539 operation. He was only there two months out of the year. He was there in December  
540 and January.

541  
542 Mr. Kirkland - Do you mean it was empty at other times?  
543  
544 Mr. Marshall - Yes, sir. He was in South Carolina.  
545  
546 Mr. Kirkland - Well, what about the questions that we need to give the  
547 Marshmans a chance to see - you are saying here that -  
548  
549 Mr. Marshall - Can you make it for six months or 12 months and come back  
550 for a review to see what they are doing? Is that possible?  
551  
552 Mr. Kirkland - It is possible.  
553  
554 Mr. Marshall - Well, I think my brother-in-law and nephew want to say  
555 something.  
556  
557 Mr. David Capece - My name is David Capece. I am the one who lives next to  
558 the kennel. If you can turn back to the map of the property, I will show you exactly  
559 where I live, and these people are saying they are within 800 to 1,000 feet of this  
560 kennel. If you pull that map up, I don't believe you are going to see any more houses as  
561 close as mine. They said my house is 400 feet from it. You see where the kennel is,  
562 well my house is right directly above it. Now, you see Bristow's house right there. I  
563 don't think any other house is there within 800 to 1,000 feet, where these people are  
564 saying they are 800 to 1,000 feet from this. The only complaint that I have got, is that  
565 I've got to listen to the dogs all of the time. All day I go out to work on the vehicles. We  
566 can only have outings because the dogs are barking. That is the problem that I have. I  
567 live right across from it. The trees that are dividing the property are my trees, 99% of  
568 them are my trees.  
569  
570 I know Bud is not going to be shooting the gun because he won't be there. I don't have  
571 a problem with that. My concern is the barking dogs during the day and night.  
572 Obviously they are making an attempt to calm them down at night, but all day long we  
573 are going to have to listen to them. This is my concern. And I have been there, I built  
574 my house in 1992. That is when my wife was Kathy Ellerson, which is now Kathy  
575 Capece. This started in 1992. I signed a piece of paper. Bud approached me saying  
576 he was going to board dogs there, and I assumed it was going to be the same way Mr.  
577 Doar did. I did not have a problem. I am just saying that I hear the dogs all the time.  
578 They say people are jogging down the road; if you take a look, this kennel is what, close  
579 to half a mile off of the road? It is all woods. Of course, the dogs are not going to bark  
580 when you are jogging down the road, because you are not even near them. My only  
581 concern is me. Every time I come home I have got to hear these dogs barking. That is  
582 my concern. Thank you.  
583  
584 Mr. McKinney - Mr. Capece, let me ask you a question. It looks like you are  
585 about 375 feet from this kennel.  
586

587 Mr. Capece - Yes, sir.  
588  
589 Mr. McKinney - It looks like the road is about 425 feet from this kennel. And  
590 the next house appears that, Mr. Ellerson, that is about 425 feet from the kennel. Now,  
591 you said none of them were within 400 feet of the kennel.  
592  
593 Mr. Capece - No, sir. I am closer to the kennel than Mr. Bristow is, and  
594 he's got 30 some acres, so these people can say that they are 1,000 feet from his  
595 property. Yes. He has got 38 acres, but they are not 1,000 feet from that kennel.  
596  
597 Mr. McKinney - But it is not any mile or so from the road. It is only about 600  
598 feet to Battlefield Park Road from the kennel.  
599  
600 Mr. Capece - OK. My mistake, sir.  
601  
602 Mr. McKinney - OK, thank you.  
603  
604 Mr. Kirkland - Next, anyone else?  
605  
606 Ms. Freye - Mr. Chairman, just one thing I would like to correct on the  
607 record. Mr. Marshall was mistaken. The Marshmans do plan to live in the house. Their  
608 son is going to move there immediately and the Marshmans then will be following. So,  
609 next to the Capeces, which Mr. McKinney, you are correct on the distances, where the  
610 homes are. The kennel is directly in front of the house that the Marshmans and their  
611 son will be living in. Just to remind you again, you have heard complaints about the  
612 way Mr. Bristow operated the kennel. This is an opportunity to transfer that permit to  
613 the Marshmans, people who have already demonstrated in writing how they would  
614 operate the kennel, and the willingness to try to meet the neighbors, the Capeces and  
615 the Ellersons, people who have lived next to the kennel for 25 years all told, and their  
616 only complaints really seemed to center around Mr. Bristow, who, if given the  
617 opportunity to sell this property, will actually be moving away and will be under new  
618 management with new and improved conditions that will address concerns that Mr.  
619 Capece has raised. Therefore, we ask that you approve the transfer and again, we will  
620 respond to any questions that you have.  
621  
622 Mr. - Mr. Blankinship, I have a question for you. Since this is a  
623 use permit, we can revoke this permit, can't we at any time?  
624  
625 Mr. Blankinship - For cause and after a hearing. Yes, sir.  
626  
627 Mr. This is not set in stone is what I am trying to say.  
628  
629 Mr. Blankinship - There has to be adequate cause.  
630  
631 Mr. If we got many complaints, whatever, that would cause a  
632 hearing. OK.

633  
634 Mr. Blankinship - Certainly, if there is a violation of the conditions.  
635  
636 Mr. McKinney - It could be called at any time? Ms. Freye, if this case was  
637 denied, what would happen?  
638  
639 Ms. Freye - Mr. Bristow would continue to hold the permit and operate  
640 the kennel as it is today under the three existing conditions.  
641  
642 Mr. McKinney - Then nothing would change?  
643  
644 Ms. Freye - No, sir.  
645  
646 Mr. McKinney - It would be of no benefit to the Capeces.  
647  
648 Ms. Freye - No, sir.  
649  
650 Mr. McKinney - That could be worse.  
651  
652 Ms. Freye - That could be, yes, sir, only in the regard that the thing about  
653 the permit is that it is a controlled use. It has conditions. This is an operation that is  
654 very highly regulated by the Health Department and by the County by overseeing these  
655 conditions. While there are a lot of farming type activities that can go on A-1 land, that  
656 potentially could be more offensive to neighbors that are about 375 feet away. There is  
657 nothing to say that the property, that the operation of the kennel could not be put under  
658 different management, whether Mr. Bristow lives on the property or not. This is an  
659 opportunity to improve the situation, particularly from the Capece's standpoint. They  
660 chose to build their house where they did, knowing that they were building next door to  
661 a kennel regardless of who ran the kennel. They was still a permit for 24 to 25 dogs on  
662 that property. They have lived with it for 25 years, but because there was a falling out  
663 with Mr. Bristow, now there are complaints. I think it was Mr. Bristow selling the  
664 property, turning it over to new management, with new and improved conditions, I think  
665 that the concerns that they have will be mitigated.  
666  
667 Mr. McKinney - Thank you.  
668  
669 Ms. Freye - One thing I would like to state for the record, Mr. Chairman,  
670 the Marshmans would not accept a time limit on the permit if it were transferred in their  
671 name. They are investing in this property as a total, with the house, the land and the  
672 kennel, and for what uses are permitted in A-1 land, so they would not be willing to  
673 accept a condition of the time.  
674  
675 Mr. McKinney - But there is already a time limit on it. A constant time limit  
676 on it. It can be revoked at any time.  
677

678 Ms. Freye - They understand that the permit is revocable for cause and  
679 they don't plan for there to be a cause.

680  
681 Mr. McKinney - And you said that they do intend to live there?

682  
683 Ms. Freye - Yes, sir, they do.

684  
685 Mr. McKinney - Why were we told that they weren't going to live there?

686  
687 Ms. Freye - I think that was just a misunderstanding that Mr. Marshall  
688 had. I think it was communicated to them that their son would be moving there  
689 immediately, and they would be following when they are in a position to move.

690  
691 Mr. McKinney - OK.

692  
693 Mr. Kirkland - Any further questions by Board members? Any one else  
694 wish to speak, one more time? That is it. OK. That concludes the case. Next case.

695  
696 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
697 Balfour, the Board **approved** the application **UP-20-2000** for a conditional use permit,  
698 subject to the following conditions:

699  
700 1. The kennel shall be maintained in a manner so as not to be a nuisance to the  
701 neighborhood.

702  
703 2. No more than 25 dogs shall be maintained on the property at any time.

704  
705 3. The kennel shall not be used for the breeding of animals on a commercial basis.

706  
707 4. This approval is not transferable without the approval of the Board of Zoning  
708 Appeals.

709  
710 5. The dogs housed in the kennel shall be confined indoors behind closed doors at  
711 dusk, and shall not be let outside before 7:00 a.m.

712  
713 6. The existing ten-foot wide area of trees along the northern property line shall  
714 remain and the adjacent fifteen-foot wide area shall be supplemented with evergreen  
715 trees in two staggered rows.

716  
717 7. Sound baffles shall be installed on the interior of the kennels.

718  
719 8. Training shall not include the use of starter guns, cap pistols or other noise-  
720 making devices.

721  
722 Affirmative: Balfour, Kirkland, McKinney, Nunnally, 4

723 Negative: 0

724 Absent: Wright 1  
725  
726 Mr. Kirkland - Next case sir.  
727  
728 **A-63-2000** **BRENDA W. HEFLIN** requests a variance from Section 24-94 of  
729 Chapter 24 of the County Code to build an attached two-car  
730 garage at 9605 Whitmore Drive (Brandon West) (Tax Parcel 99-2-  
731 B-26), zoned R-2, One-family Residence District (Tuckahoe). The  
732 minimum side yard setback is not met. The applicant has 8 feet  
733 minimum side yard setback, where the Code requires 15 feet  
734 minimum side yard setback. The applicant requests a variance of 7  
735 feet minimum side yard setback.  
736  
737 Mr. Kirkland - Could you please leave quietly? Anyone else wish to speak  
738 on this case? If you would, ma'am, raise your right hand and be sworn in.  
739  
740 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
741 truth, the whole truth, and nothing but the truth, so help you God?  
742  
743 Ms. Heflin - I do.  
744  
745 Mr. Kirkland - Have all of your notices been turned in according to the  
746 County Code?  
747  
748 Ms. Heflin - Yes, sir. They have.  
749  
750 Mr. Kirkland - Thank you very much. Proceed with your case.  
751  
752 Ms. Heflin - Good morning. I am Brenda Heflin. I live at the property  
753 and hopefully this is going to be a little easier than the last one. My main issue is in  
754 attaching the garage to the house. It is a security issue. I am an operating room nurse.  
755 I work late hours. I work all kinds of on-call hours. I live by myself and I would like  
756 something secure to come into at night or to be called out of at night. I have no  
757 complaints at all from the neighbors. I have talked to all of them. I have contacted all of  
758 them and no one has an issue with this.  
759  
760 Mr. Kirkland - Any questions of Board members?  
761  
762 Mr. Blankinship - I have a question, Mr. Chairman. I mentioned in the staff  
763 report retaining existing landscaping. Do you have any difficulty, had you intended to  
764 remove any of that?  
765  
766 Ms. Heflin - I hadn't made a decision on that. I would like to, my  
767 contractor has a problem possibly with a couple of the ones up closer to the fence.  
768 They have to get a machine in there to do the brick work.  
769

770 Mr. Blankinship - It does say the maximum extent practical. We would expect  
771 some of that, perhaps, to be lost, but the majority to be retained.

772  
773 Ms. Heflin - I have no problem with that.

774  
775 Mr. Kirkland - Do any of the board members have any questions?

776  
777 Mr. McKinney - I haven't seen a brick laying machine yet.

778  
779 Mr. Kirkland - I guess it is the machine that digs the footings.

780  
781 Ms. Heflin - It lifts them up to the height that...

782  
783 Mr. McKinney - A front-end loader?

784  
785 Ms. Heflin - I don't know.

786  
787 Mr. Blankinship - The machine is a bricklayer.

788  
789 Ms. Heflin - That is what I was told.

790  
791 Mr. Kirkland - Does anyone else wish to speak on this case? If not, thank  
792 you, ma'am. That concludes your case.

793  
794 Ms. Heflin - Thank you very much.

795  
796 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
797 McKinney, the Board **approved** the case **A-63-2000** for a variance to build an attached  
798 two-car garage at 9605 Whitmore Drive.

799  
800 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4

801 Negative: 0

802 Absent: Wright 1

803  
804 The Board granted a variance to allow 8 feet minimum side yard setback, in lieu of the  
805 required 15 feet, subject to the following conditions:

806  
807 1. Only the garage shown on the plan filed with the application may be constructed  
808 pursuant to this approval. Any additional improvements shall comply with the applicable  
809 regulations of the County Code.

810  
811 2. The existing landscaping along the western property line shall be retained to the  
812 maximum extent practical.  
813

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

817  
818 **A-66-2000**                    **THOMAS A. KING** requests a variance from Section 24-94 of  
819 Chapter 24 of the County Code to build a single-family dwelling at  
820 2875 Darbytown Road (Tax Parcel 216-A-7 (part), zoned A-1,  
821 Agricultural District (Varina). The lot width requirement is not met.  
822 The applicant has 60 feet lot width, where the Code requires 150  
823 feet lot width. The applicant requests a variance of 90 feet lot  
824 width.

825  
826 Mr. Kirkland -                    Does anyone else wish to speak on this case? If you would,  
827 sir, raise your right hand and be sworn in.

828  
829 Mr. Blankinship -                Do you swear that the testimony you are about to give is the  
830 truth, the whole truth, and nothing but the truth, so help you God?

831  
832 Mr. King -                         I do.

833  
834 Mr. Kirkland -                    Have all of your notices been turned in according to County  
835 Code?

836  
837 Mr. King -                         Yes, sir.

838  
839 Mr. Kirkland -                    OK, proceed with your case.

840  
841 Mr. King -                         I am Thomas King. I own approximately ten acres of land  
842 adjacent to Dorey Park on Darbytown Road. At present there are two dwellings, the  
843 one that I reside in and a vacant dwelling next door. I would like to build a new dwelling  
844 behind my present house. The road frontage is not met, so I need a 60 foot variance in  
845 order to do so.

846  
847 Mr. Kirkland -                    Any questions by Board members?

848  
849 Mr.                                    You can't move that house back to meet your requirements  
850 for the 150 foot width where you are talking about building it?

851  
852 Mr. King -                         No, sir. The whole property is long and narrow and I intend  
853 on keeping the house that I now live in. After I build the new house, I want to tear down  
854 the old house, which was the old family place, supposedly in that picture, which you  
855 can't really see it.

856  
857 Mr. McKinney -                    You have asked for a 90 foot variance?

858  
859 Mr. King -                         Yes, sir.

860  
861 Mr. McKinney - The Code requires 150 foot lot frontage at the road and you  
862 only have 60?  
863  
864 Mr. King - Right.  
865  
866 Mr. - Dorey Park, I guess, is completely on your right side, facing  
867 the road from you? Is that right?  
868  
869 Mr. King - It is on my left side.  
870  
871 Mr. - I am looking at it upside down.  
872  
873 Mr. McKinney - You say you are going to tear down the one that you are  
874 living in now?  
875  
876 Mr. King - No, sir. The one next door.  
877  
878 Mr. McKinney - The one next door, after you build the new one?  
879  
880 Mr. King - Yes, sir.  
881  
882 Mr. Kirkland - Any other questions? Does anyone else wish to speak?  
883 That concludes the case, sir. Thank you for coming.  
884 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
885 McKinney, the Board **approved** the case **A-63-2000** for a variance to build an attached  
886 two-car garage at 9605 Whitmore Drive.  
887  
888 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4  
889 Negative: 0  
890 Absent: Wright 1  
891  
892 The Board granted a variance to allow 8 feet minimum side yard setback, in lieu of the  
893 required 15 feet, subject to the following conditions:  
894  
895 1. Only the garage shown on the plan filed with the application may be constructed  
896 pursuant to this approval. Any additional improvements shall comply with the applicable  
897 regulations of the County Code.  
898  
899 2. The existing landscaping along the western property line shall be retained to the  
900 maximum extent practical.  
901  
902 The Board granted this request, as it found from the evidence presented, that  
903 authorizing this variance will not be of substantial detriment to adjacent property and will  
904 not materially impair the purpose of the zoning regulations.  
905

A-67-2000      **JAMES B. AND MARY NORMAN** request a variance from Section 24-94 of Chapter 24 of the County Code to build a single-family dwelling at 6850 Dan Street (Tax Parcel 192-A-14B) zoned R-3, One-family Residence District (Varina). The lot requirement is not met. The applicant has 50 feet lot width, where the Code requires 80 feet lot width. The applicant requests a variance of 30 feet lot width.

906  
907 Mr. Kirkland -                      Does anyone wish to speak? All those who wish to speak  
908 on this case, stand up and raise your right hand and be sworn in.  
909

910 Mr. Blankinship -                      Do you swear the testimony you are about to give is the  
911 truth, the whole truth, and nothing but the truth so help you God?  
912

913 The people -                              Yes.  
914

915 Mr. Blankinship -                      Thank you.  
916

917 Mr. Kirkland -                              State your name for the record, ma'am.  
918

919 Ms. Faust-                                      My name is Rose Faust.  
920

921 Mr. Kirkland -                              Have all of your notices been turned in according to County  
922 Code?  
923

924 Ms. Faust -                                      Yes, they have.  
925

926 Mr. Kirkland -                              We have them in the file. Proceed with your case.  
927

928 Ms Faust-                                      The situation here is that Mr. Norman has a property that  
929 cannot be used and Mr. and Mrs. Blizzard want to buy the property to put a house on,  
930 and the hardship here is that Mr. Norman has a property that he cannot do anything  
931 with. And the hardship with Mr. and Mrs. Blizzard is that they cannot afford the house  
932 that they want on another lot, so, we are requesting a 30 foot variance on the road  
933 frontage. It has a 50 foot, and it needs 80 feet, and basically that is the request. And  
934 that is all that I have to say?  
935

936 Mr. Kirkland -                              When did Mr. Norman purchase the property?  
937

938 Mrs Faust -                                      Mr. Norman is here to speak for himself. He received the  
939 property from his family, his father.  
940

941 Mr. Kirkland -                              What year?  
942

943 Mrs. Faust -                                      I don't know.  
944

945 Mr. Kirkland - If he would come forth. Again, we record everything, so we  
946 have to make sure that it is spoken into the microphone.  
947

948 Mr. Robert Norman - My name is Robert Norman and I am the son of J. B. and  
949 Mary Norman. The property was obtained by them in 1945, and it was split up, so to  
950 speak, in 1957. Now why it was broken up the way it was, I can't answer that question.  
951

952 Mr. Kirkland - This new dwelling that needs to be constructed, do you know  
953 how close that would be to the existing dwelling?  
954

955 Mr. Norman - Excuse me?  
956

957 Mr. Kirkland - The new dwelling that they want to construct, how close  
958 would that be to their new dwelling? To their old dwelling, excuse me.  
959

960 Mr. Norman - I am guessing probably 80 feet.  
961

962 Mr. Kirkland - Do you have anything else that you want to add?  
963

964 Mr. Norman - I might want to speak in rebuttal.  
965

966 Mr. Kirkland - You're representing the applicant?  
967

968 Mr. Norman - One or the other of us. OK.  
969

970 Mr. Kirkland - Does anyone else wish to speak on this case? Anyone else  
971 for the case, please come forward. Then we will get the opposition.  
972

973 Ms. Virginia Blizzard - Good morning. My name is Virginia Blizzard and my  
974 husband and I are interested in buying the property and currently we live in Petersburg,  
975 and it has been a long time desire for us to move to Varina for a number of reasons, but  
976 we were looking and looking and looking, and we actually found out from one of Mr.  
977 Norman's neighbors about him having some land for sale. And this lot was within our  
978 budget. Of course, we didn't know about variances and everything at that time, and we  
979 thought it was ideal and everything, and the house we wanted, we could afford it with  
980 this lot. And my husband is retired and I am looking forward to retirement and we  
981 thought this would be an ideal place for us to relocate to, and it is just, if there is not  
982 going to be major problems, like the first case, we certainly would like, if you could find  
983 it, and in talking to people at the Board and whatever things we have to do we are  
984 willing to do as soon as we can purchase this land and get a house built. That is all.  
985 Thank you.  
986

987 Mr. Balfour - You have not bought this property yet? You have contracted  
988 to buy it?  
989

990 Ms. Blizzard - Subject to getting a building permit and variances and all.

991  
992 Mr. Kirkland - Does anyone else wish to speak for the case? All right, we  
993 will hear from the opposition, sir, if you would like to speak.  
994

995 Mr. Dyson - My name is Boyd Dyson. I reside 6900 Dan Street.  
996 In 1961 I moved there. I have the plat, which shows the 58 on the side as Stevers  
997 Street as projected, and Stevers Street was never projected. In the file was the letter  
998 that says that there was a half-acre fronting Dan Street and another half acre in back of  
999 Dan Street, in back of the property, but it turns out that that half acre in the back of my  
1000 property he'd have to push hard to make it a quarter of an acre. Years ago Mr.  
1001 Norman's father I understand owned 17 acres of land. He sold 10 acres of it to Mr.  
1002 Thurston, who in turn donated the land to the Anarah? Swimming Club, with the  
1003 stipulation that it never be used for anything else other than recreational facilities. That  
1004 sort of precluded any reason for Dan Street, excuse me, for Stevers Street to be  
1005 projected, so that left less than a quarter of an acre behind my house. I want to correct  
1006 that, please. I bought the house but some years ago I deeded the house to my  
1007 daughter, and I'm speaking for both of us if you understand that, please sir. Mr. Norman  
1008 retained seven acres and at the end of it was the, my lot, and I'd like to start with some  
1009 notes that I made. When I first went to check the file, when we first received the notice,  
1010 there has been quite a few changes made as to the location of the house, so I was  
1011 prepared to speak to that part of it. Now I am a little bit confused because I have had to  
1012 rethink my thoughts and we will start out trying to figure from your application why a  
1013 variance shouldn't be permitted. One of the things is that it is self-imposed. While Mr.  
1014 Norman owned the 17 acres and he sold the 10 acres to Mr. Thurston, and at the end of  
1015 the 17 acres fronting on Dan Street, he sold a half acre to Mr. Langford, and, as I said  
1016 before, he kept a quarter acre behind that lot. Then Mr. Thurston gave his 10 acres to  
1017 the Swim Club. Mr. Norman had control of all 17 acres and a way was split up or  
1018 divided which brings us to this point, which he was the only one that could made any  
1019 division of the property, so this comes to be, without a question as I see it, the situation  
1020 is self-imposed.

1021  
1022  
1023 Mr. Dyson - I would like to go on a little further on a little thing. I know I  
1024 am rambling on. But right after I moved in, a big rain storm came and I found out I was  
1025 in a low spot, and water came up under my house up to the furnace. When I requested  
1026 help from the County, I am getting ahead of my self a little bit, about 50 feet above my  
1027 property, Dan Street is a low spot. They have a pipe running across the street towards  
1028 my side of Dan Street that carries the water across to my side of Dan Street, and the  
1029 way the property is, the land is laid out, water doesn't go down the ditch, and it comes  
1030 over into the land and all of the drainage from Midview, from both sides of Dan Street,  
1031 come across my property.

1032  
1033 When I asked the County for help, they suggested I dig a ditch down one side of my  
1034 property and across the back. Well, to do that, I had to get permission from Mr. Norman  
1035 to go across that 50 foot with the ditch, and Mr. Smith, who owned the property, that Mr.  
1036 (unintelligible) owns now, and be able to carry that water clear through there, and the

1037 stipulation was that I couldn't change the course of the water, which I didn't. I am  
1038 getting to the point now that that my ditch runs across that 50 feet, the house needs to  
1039 be connected to the sewer, but the sewer line would have to go under my ditch, and  
1040 whether there is enough fall to do that and still connect to the sewer and the street on  
1041 Dan Street, I don't know that it is not enough. But it seems when I had my water hooked  
1042 up and sewer hooked up, it doesn't seem to me that that sewer line in the street is going  
1043 to be deep enough for them to have a fall for sewerage out to that street.  
1044

1045 Now, the third point I find and in your blue paper here is that mere convenience or  
1046 desire to maximize profit does not justify a variance. Well, Mr. Lowzer was talking about  
1047 myself and he buying this property from Mr. Norman, and I understand that finally they  
1048 arrived at a price of \$7,500. I didn't learn that from Mr. Lowzer until after we received  
1049 this notice of the variance. But I am willing to pay Mr. Norman \$7,500 for that property  
1050 plus reimburse him for the \$300 that it cost him for this application.  
1051

1052 Now, to get to the change of the plat, the front of this house from the way I understand  
1053 it, is going to face Dan Street, but about 30 feet of that is going to be facing my rear  
1054 property line. It is only about a 12 foot clearance and I understand that there is a 30  
1055 foot frontage needs to build a house. Well, roughly half of his house, if you vote the  
1056 variance will have way in excess of 30 feet, but half of the house, 30 some feet of it, will  
1057 only be about 12 or 13 feet from our property line. So, the only reason was is that it  
1058 shouldn't, a variance shouldn't allow a change in the character of the district. Now all of  
1059 the houses that are presently on Dan Street are pretty much set back the same distance  
1060 from Dan Street on line, and they all run about 1800 or 1900 square feet. This house,  
1061 proposed house, will be 4300 square feet. It will look awkward and out of place setting  
1062 where it is, and it will definitely change the nature of the characteristics of the  
1063 neighborhood.  
1064

1065 Mr. McKinney - Wait a minute, Mr. Dyson. You said 4300 square feet?  
1066

1067 Mr. Dyson - Yes, sir.  
1068

1069 Mr. McKinney - The house or the lot?  
1070

1071 Mr. Dyson - I'm sorry, 4300 square feet, which is more than twice the  
1072 size of the houses adjacent to it, and still not setting on a line. Like I said, it would  
1073 definitely change the looks of the neighborhood.  
1074

1075 Mr. McKinney - Let me ask you a question. How long is this lot? Do you  
1076 know when this lot was recorded? Do you know when this lot in question was  
1077 recorded? How long has this lot been in existence like this?  
1078

1079 Mr. Dyson - I moved there in 1961.  
1080

1081 Mr. McKinney - You moved there in 1961 and it was there then, right?  
1082

1083 Mr. Dyson - Right.  
1084  
1085 Mr. McKinney - Mr. Secretary, so it was prior to the comprehensive zoning  
1086 change? So it was in compliance prior to that?  
1087  
1088 Mr. Blankinship - The previous speaker said 1957.  
1089  
1090 Mr. McKinney - Well, I am saying that this lot was in compliance to then,  
1091 right? You could use 50 foot to build a house back then.  
1092  
1093 Mr. Blankinship - Let me look up the exception standards.  
1094  
1095 Mr. McKinney - I mean, it was prior to the comprehensive rezoning of 1960,  
1096 so I think you could have used this lot. I mean, Mr. Dyson just brought up the fact that it  
1097 was self-inflicted. I don't think that it was self-inflicted because he could have used it  
1098 when he recorded it.  
1099  
1100 Mr. Dyson - I don't understand it.  
1101  
1102 Mr. McKinney - The conditions changed and it became non-conforming.  
1103 That is the reason for a variance now, as I understand it.  
1104  
1105 Mr. Blankinship - The standard prior to 1960 was a 65 foot lot width, so it was  
1106 still too narrow.  
1107  
1108 Mr. McKinney - So he was 15 feet off then?  
1109  
1110 Mr. Blankinship - Yes, sir.  
1111  
1112 Mr. Kirkland - Mr. McKinney, we have a note here in the file that this lot  
1113 was justified in 1991.  
1114  
1115 Mr. McKinney - Justified by who?  
1116  
1117 Mr. Kirkland - The County Assessment.  
1118  
1119 Mr. McKinney - Justified as what.  
1120  
1121 Mr. Kirkland - That that lot was recorded in 1991.  
1122  
1123 Mr. McKinney - All right. It was transferred in 1991. OK.  
1124  
1125 Mr. Kirkland - Mr. Blankinship, was the lot originally held out because they  
1126 expected to extend Stevens Street and then decided not to do so because of the cost?  
1127

1128 Mr. Blankinship - We don't know, sir. It was divided in such a way that the  
1129 intent was not really clear.  
1130  
1131 Mr. Kirkland - It does appear that Stevens Street would go straight across  
1132 with the lot now the way that it is.  
1133  
1134 Mr. Blankinship - Yes.  
1135  
1136 Mr. Dyson - I have the plat here that shows Stevens Street if projected.  
1137 Stevens Street as...  
1138  
1139 Mr. Kirkland - We have an old drawing here in the file, too, that shows that.  
1140  
1141 Mr. Dyson - The other thing I would bring up and then I would close is  
1142 that it states in here somewhere that this is the only option to Mr. Norman making that  
1143 property suitable, but there was one other option. We both could have spared it if he  
1144 had asked Mr. Lowson or Mr. Dyson to sell him 15 feet. Whether that would have taken  
1145 place, I don't know. It was an option and he could have explored it, which he didn't. I  
1146 suppose that is all I am here to say.  
1147  
1148 Mr. Kirkland - Thank you, sir. Is there any other opposition to the case?  
1149  
1150 Mr. Wilford Lowson - Yes, sir. My name is Wilford Lowson. I live at 6830 Dan,  
1151 next to the proposed property. I think Mr. Dyson pretty well covered everything, but  
1152 most of these lots, when the thing was built, all of them had a half of an acre or two or  
1153 an acre and a half lot size. I don't know what the Code was back when all of this was  
1154 built, back when the development started. From what I understand, I didn't live over  
1155 there and I am not old enough to really begin, but the way it was set up the lots were  
1156 certain size lots to begin with or not, and I don't know if all of that has been changed or  
1157 not, but I just think that it would be, a house that size down there and not having any lot  
1158 width and there's other, and it wouldn't be right. But, the property, like I say, is adjoining  
1159 my property, and I don't know if it will be considered the front or the side or what, but I  
1160 understand the house, the way that it was sitting has been changed or something.  
1161  
1162 Mr. Kirkland - We will get Mr. Norman to answer those questions for you.  
1163  
1164 Mr. Lowson - I thought you had to have a 40 foot setback on the front of it,  
1165 and if it is going to be set behind Mr. Dyson's house, it is not going to have any 40 foot  
1166 setback on it. Thank you.  
1167  
1168 Mr. Kirkland - Thank you, sir.  
1169  
1170 Mr. Lowson - Thank you.  
1171  
1172 Mr. Kirkland - Anyone else to speak in opposition? Mr. Norman, would you  
1173 like to rebut any questions?

1174  
1175 Mr. Norman - Yes, sir. The property - the 10 acres that were sold to the  
1176 Swim Club was done in 1976, I believe. The actual property was sold, the 10 acres  
1177 originally were sold to a Mr. Thurston, and the property was given, I understand, by Mr.  
1178 Ferguson to the Swim Club. Just a point of clarification. Mr. Thurston was not involved  
1179 in that transfer. The land was transferred in 1991 from my mother to me, so that is what  
1180 that issue was about, so as the Secretary said, the lot was broken up in 1957, and  
1181 probably, I am guessing, was broken up that way because there was no water and  
1182 sewerage in the area at that time, and you probably needed so much land for drainage  
1183 fields. I can't speak for my father why he let it be broken up in that fashion. Now I am  
1184 told that the Stevens Street proposed was never a designated street. Now, on several  
1185 occasions Mr. Dyson has talked to me about purchasing that property, but he was never  
1186 willing to pay the price. About a year ago, Mr. Low came to me and inquired about  
1187 purchasing the property, and I told him \$7,500 and I never heard from him. Last week  
1188 Mr. Lowsen came back to me and said they wanted to purchase it - after we had gotten  
1189 into this variance - and I told him at that time that my hands were tied because I had  
1190 contracted to sell the property to the Blizzards with the understanding that the variance  
1191 would be approved. So, I am trying to sell the property.

1192  
1193 Mr. Kirkland - How big a house do they plan to put on the property?

1194  
1195 Mr. Norman - How big a house? Forty-three hundred if I heard it right a  
1196 minute ago.

1197  
1198 Mr. Kirkland - That is an awful large house.

1199  
1200 Mr. Norman - I understand it is a two-story, but I am not familiar with the  
1201 figures. I am sure that Mrs. ? can answer that question. Now, the County says that  
1202 property is rated .53 acres, that piece of property, which I am sure includes the 50 feet  
1203 running out to the street. So, that is how I came up with half an acre.

1204  
1205 Mr. Balfour - Any other questions? If you would come forward and tell us  
1206 the size. Thank you, sir. Mr. Norman, before you leave us, in looking at a map we got  
1207 in our plans, it does appear that there are two small lots at the other end of Dan Street.  
1208 Is that right? I'd say the other end. I am not sure which direction that is. South.

1209  
1210 Mr. Norman - I am sorry but I didn't understand your question.

1211  
1212 Mr. Balfour - Your probably don't know the answer. In looking at some  
1213 other lots on that street, they look like they are small lots at the other end, which would  
1214 be the South end of Dan Street. You probably don't know that area.

1215  
1216 Mr. Norman - No. I don't know that area. Since water and sewerage has  
1217 been implemented or installed or whatever, in that area, the lot sizes have changed a  
1218 great deal.

1219

1220 Mr. Balfour - That was a friendly question. You don't need to go on. Yes,  
1221 ma'am. Would you tell us what size house...

1222  
1223 Ms. Faust - It is about 3900 square feet.

1224  
1225 Mr. Kirkland - A two-story home?

1226  
1227 Ms. Faust - Yes, it is, and there is another house just as large as that  
1228 house on that street. It is a 2-story brick house. Perhaps you know who the owner is,  
1229 but it is just as big as the house that the Blizzards want to put there. As a matter of fact,  
1230 it is right beside one of the houses that abuts the property.

1231  
1232 Mr. Balfour - Well, you've got a nice first name for that street, I will say  
1233 that. Dan Street. Any more questions? Thank you, ma'am? That concludes the case.  
1234 No, sir. You were in opposition and you heard the Secretary read at the beginning of  
1235 the meeting that the opposition cannot rebut. Your statement is on the record. We  
1236 have down what you said. No problem.  
1237 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
1238 McKinney, the Board **approved** the case **A-63-2000** for a variance to build an attached  
1239 two-car garage at 9605 Whitmore Drive.

1240  
1241 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4  
1242 Negative: 0  
1243 Absent: Wright 1

1244  
1245 The Board granted a variance to allow 8 feet minimum side yard setback, in lieu of the  
1246 required 15 feet, subject to the following conditions:

1247  
1248 1. Only the garage shown on the plan filed with the application may be constructed  
1249 pursuant to this approval. Any additional improvements shall comply with the applicable  
1250 regulations of the County Code.

1251  
1252 2. The existing landscaping along the western property line shall be retained to the  
1253 maximum extent practical.

1254  
1255 The Board granted this request, as it found from the evidence presented, that  
1256 authorizing this variance will not be of substantial detriment to adjacent property and will  
1257 not materially impair the purpose of the zoning regulations.

1258  
1259

**A-68-2000**      **KAREN L. OWENS** requests a variance from Section 24-94 of Chapter 24 of the County Code to build an addition and deck or patio at 10803 Sugar Court (Village at Innsbrook) (Tax Parcel 38-6-B-35), zoned R-3AC, One-Family Residence District (Conditional)(Three Chopt). The rear yard setback is not met. The applicant has 9 feet rear yard setback, where the Code requires 35 feet rear yard setback. The applicant requests a variance of 26 feet rear yard setback.

1260  
1261 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,  
1262 ma'am, raise your right hand and be sworn in.  
1263  
1264 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1265 truth, the whole truth, and nothing but the truth, so help you God?  
1266  
1267 Ms. Owens - Yes.  
1268  
1269 Mr. Kirkland - Have all of your notices been turned in according to County  
1270 Code?  
1271  
1272 Ms. Owens - Yes.  
1273  
1274 Mr. Kirkland - Proceed with your case.  
1275  
1276 Ms. Owens - I have not done this before, but I submitted a plan for an  
1277 addition to my house in the back and I would like for you to approve the variance that I  
1278 have requested.  
1279  
1280 Mr. Kirkland- What do you have at the rear of your home? Do you have  
1281 any shrubs,trees or anything like that on the rear of your property?  
1282  
1283 Ms. Owens - I have a couple of trees but they shouldn't be in the way. I  
1284 am not going past my deck.  
1285  
1286 Mr. Kirkland- I mean, you have some sort of buffer at the rear of your  
1287 property?  
1288  
1289 Ms. Owens - I have a fence.  
1290  
1291 Mr. Kirkland- OK.  
1292  
1293 Mr. Kirkland - Mr. McKinney, Mr. Balfour, Mr. Nunnally, have you got any  
1294 questions?  
1295  
1296 Mr. McKinney - No.  
1297

1298 Mr. Kirkland - Any other questions? Does anyone else wish to speak on  
1299 this case? That concludes the case, ma'am.

1300  
1301 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
1302 McKinney, the Board **approved** the case **A-63-2000** for a variance to build an attached  
1303 two-car garage at 9605 Whitmore Drive.

1304  
1305 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4  
1306 Negative: 0  
1307 Absent: Wright 1

1308  
1309 The Board granted a variance to allow 8 feet minimum side yard setback, in lieu of the  
1310 required 15 feet, subject to the following conditions:

1311  
1312 1. Only the garage shown on the plan filed with the application may be constructed  
1313 pursuant to this approval. Any additional improvements shall comply with the applicable  
1314 regulations of the County Code.

1315  
1316 2. The existing landscaping along the western property line shall be retained to the  
1317 maximum extent practical.

1318  
1319 The Board granted this request, as it found from the evidence presented, that  
1320 authorizing this variance will not be of substantial detriment to adjacent property and will  
1321 not materially impair the purpose of the zoning regulations.

1322  
**A-69-2000** **MICHAEL WALLACE BOWLES** requests a variance from Section 24-9  
of Chapter 24 of the County Code to build a single-family dwelling at  
Elko Road (Tax Parcel 188-A-IN), zoned A-1, Agricultural District  
(Varina). The public street frontage requirement is not met. The  
applicant has 0 feet public street frontage, where the Code requires 50  
feet public street frontage. The applicant requests a variance of 50 feet  
public street frontage.

1323  
1324 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,  
1325 sir, raise your right hand.

1326  
1327 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1328 truth, the whole truth, and nothing but the truth, so help you God?

1329  
1330 Mr. Bowles - Yes, I do.

1331  
1332 Mr. Kirkland - Please state your name for the record.

1333  
1334 Mr. Bowles - Michael Wallace Bowles.

1335  
1336 Mr. Kirkland - Have all of your notices been turned in?

1337  
1338 Mr. Blankinship - We have them in the file.  
1339  
1340 Mr. Kirkland - Proceed with your case.  
1341  
1342 Mr. Bowles - Could I get the builder to speak for me. He is more aware  
1343 of...  
1344  
1345 Mr. Kirkland - That is fine. If you would sir, state your name for the record.  
1346  
1347 Mr. Clifford Groome - My name is Clifford Groome. Mike asked me to speak as he  
1348 said he is so nervous. I might be as nervous as he is. This is all family property. He  
1349 has received it from his grandmother and his parents also live on this same tract of land,  
1350 and a couple of comments the County had made. The reason they gave him the three  
1351 acres that is so extremely far in the back is that is the high area of the wooded land that  
1352 they own, and the rest of the wooded land you are either dropping down or ends in a  
1353 creek, and the front open land that farm had income from, so that is the reason that he  
1354 doesn't have the necessary road frontage, and the County above moving to comply with  
1355 the Chesapeake Bay Act. Mike had already received a deed for this property with the  
1356 20 foot easement before he called me about building a home, and there is an existing  
1357 gravel driveway now all the way through this property, it kind of winds through his  
1358 grandmother's property back to where he is going to build, and I have suggested and he  
1359 has already contacted a surveyor, that he change his right of way from the existing 20  
1360 feet, which would have to require clearing land and building and putting in gravel - just  
1361 follow the existing driveway that is already in. And they have already contacted Bob  
1362 Thomas and Associates to survey that, and the attorney is going to draw a deed of  
1363 correction changing the right of way so that it would not require disturbing any more  
1364 land to have any effect on the Chesapeake Bay Act. He has also gotten an approval  
1365 from the Health Department. They have already issued a Health Permit that the  
1366 property does have septic and a well, and by the time we get the permit we will have the  
1367 approval for the right of way. We are going to change it though, rather than disturb  
1368 more land and go along that 20 feet. We are going to actually follow an existing gravel  
1369 driveway, which already is there.  
1370  
1371 Mr. Kirkland - Any questions for Mr. Groome? OK. Any opposition to this  
1372 case? If not, that concludes the case, sir. Thank you. Mr. Blankinship, before we call  
1373 the next case, do you want to call, just in case we have someone in the back there  
1374 waiting for the 10:00 a.m. deferrals and withdrawals?  
1375  
1376 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
1377 McKinney, the Board **approved** the case **A-63-2000** for a variance to build an attached  
1378 two-car garage at 9605 Whitmore Drive.  
1379  
1380 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4  
1381 Negative: 0  
1382 Absent: Wright 1

1383  
1384 The Board granted a variance to allow 8 feet minimum side yard setback, in lieu of the  
1385 required 15 feet, subject to the following conditions:

1386  
1387 1. Only the garage shown on the plan filed with the application may be constructed  
1388 pursuant to this approval. Any additional improvements shall comply with the applicable  
1389 regulations of the County Code.

1390  
1391 2. The existing landscaping along the western property line shall be retained to the  
1392 maximum extent practical.

1393  
1394 The Board granted this request, as it found from the evidence presented, that  
1395 authorizing this variance will not be of substantial detriment to adjacent property and will  
1396 not materially impair the purpose of the zoning regulations.

1397  
1398 Mr. Blankinship - All right. Do we have any deferrals? All right.

1399  
1400 Mr. McKinney - Do we have any at that time?

1401  
1402 Mr. Blankinship - We have UP-23-2000, 000-3 LLC Corporation. We have A-  
1403 77-2000 to be deferred, we have A-79-2000, A-81-2000 and A-82-2000. They are all  
1404 the same applicant, all to be deferred, and there are also two withdrawals. The  
1405 withdrawals are UP-25-2000 and A-83-2000.

1406  
**A-77-2000** **JOEL AND GAIL LEWIS** request a variance from Section 24-95(k) of  
Chapter 24 of the County Code to build an attached garage at 12726  
Glen Kirk Road (Pine Run) (Tax Parcel 55-6-B-18), zoned R-2A, One-  
Family Residence District (Tuckahoe). The minimum side yard setback  
and rear yard setback are not met. The applicant has 21 feet minimum  
side yard setback and 38.5 feet rear yard setback, where the Code  
requires 25 feet minimum side yard setback and 45 feet rear yard  
setback. The applicant requests variances of 4 feet minimum side yard  
setback and 6.5 feet rear yard setback.

1407  
1408 Mr. Kirkland - Are you the applicant?

1409  
1410 Mr. ? - No, I am the representative of the case for them?

1411  
1412 Mr. Blankinship - I don't believe they can. They don't have their notices.

1413  
1414 Mr. Kirkland - Do you have a letter from them asking for a deferral? Mr.  
1415 Blankinship? OK. I make a motion to defer A-77-2000.

1416  
1417 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
1418 Balfour, the Board **granted the deferral of case A-77-2000** to the August ,2000  
1419 meeting because the applicant failed to notify the adjacent property owners..

1420  
 1421 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4  
 1422 Negative: 0  
 1423 Absent: Wright 1  
 1424  
 1425  
 1426 Mr. Kirkland - How about UP-23-2000? A motion to defer this one?

1427 **UP- 23-2000 000-3 LLC** requests a use permit pursuant to Section 24-116(c)(2) of  
 1428 Chapter 24 of the County Code to replace a waste water pump station  
 1429 at Old Memorial Drive (Tax Parcel 165-A-82), zoned RTH, Residential  
 1430 Townhouse District (Varina).  
 1431

1432 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
 1433 Balfour, the Board **granted the deferral of case UP-23-2000** to the August ,2000  
 1434 meeting because the applicant failed to notify the adjacent property owners..  
 1435

1436 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4  
 1437 Negative: 0  
 1438 Absent: Wright 1  
 1439

1440 **A - 79-2000 ERNEST D. AND ARLENE S. DAMRON** request a variance from  
 1441 Section 24-10(b) of Chapter 24 of the County Code to board a horse at  
 1442 4967 Scandia Road (Tax Parcel 199-A-51), zoned A-1, Agricultural  
 1443 District (Varina). The accessory structure location requirement is not  
 1444 met. The applicant has 50 feet setback distance, where the Code  
 1445 requires 200 feet setback distance. The applicant requests a variance  
 1446 of 150 feet setback distance.  
 1447

1448 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
 1449 McKinney, the Board **granted the deferral of case A-79-2000** to the August ,2000  
 1450 meeting because the applicant failed to notify the adjacent property owners..  
 1451

1452 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4  
 1453 Negative: 0  
 1454 Absent: Wright 1  
 1455

1456 **A - 80-2000 JOHN B. AND MARGARET E. SULLIVAN** request a variance from  
 1457 Section 24-9 of Chapter 24 of the County Code to build a single-family  
 1458 dwelling at 1550 Kimbrook Lane (Tax Parcel 149-A-82), zoned A-1,  
 1459 Agricultural District (Varina). The public street frontage requirement is  
 1460 not met. The applicant has 0 feet public street frontage, where the  
 1461 Code requires 50 feet public street frontage. The applicant requests a  
 1462 variance of 50 feet public street frontage.

1463  
 1464  
 1465 **A - 81-2000** **JOHN B. AND MARGARET E. SULLIVAN** request a variance from  
 1466 Section 24-9 of Chapter 24 of the County Code to build a single-family  
 1467 dwelling at 1590 Kimbrook Lane (Tax Parcels 156-A-68, 69B (part) and  
 1468 81 (part)), zoned A-1, Agricultural District (Varina). The public street  
 1469 frontage requirement is not met. The applicant has 0 feet public street  
 1470 frontage, where the Code requires 50 feet public street frontage. The  
 1471 applicant requests a variance of 50 feet public street frontage.  
 1472

1473  
 1474 **A - 82-2000** **JOHN B. AND MARGARET E. SULLIVAN** request a variance from  
 1475 Section 24-9 of Chapter 24 of the County Code to build a single-family  
 1476 dwelling at 1600 Kimbrook Lane (Tax Parcel 156-A-69B (part)), zoned  
 1477 A-1, Agricultural District (Varina). The public street frontage requirement  
 1478 is not met. The applicant has 0 feet public street frontage, where the  
 1479 Code requires 50 feet public street frontage. The applicant requests a  
 1480 variance of 50 feet public street frontage.  
 1481

1482 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
 1483 McKinney, the Board **granted the deferral of case A-80-2000, A-81-2000, and A-82-**  
 1484 **2000** to the August ,2000 meeting because the applicant failed to notify the adjacent  
 1485 property owners..

1486 Affirmative:	Balfour, Kirkland, McKinney, Nunnally	4
1487 Negative:		0
1488 Absent:	Wright	1

1489  
 1490 Mr. Kirkland - Do we have any withdrawals?  
 1491

1492 Mr. Blankinship- We have received requests from the applicants to withdraw  
 1493 the following cases.  
 1494

1495 **UP- 25-2000** **GILLIES CREEK, LLC** requests a use permit pursuant to  
 1496 Section 24-116(c)(3) of Chapter 24 of the County Code to expand a  
 1497 landfill at 4200 Masonic Lane (Tax Parcel 153-A-4 (part)), zoned M-2,  
 1498 General Industrial District (Varina).  
 1499

1500 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
 1501 McKinney, the Board **granted withdrawal of case UP-25-2000** to the August ,2000  
 1502 meeting because the applicant failed to notify the adjacent property owners..  
 1503

1504 Affirmative:	Balfour, Kirkland, McKinney, Nunnally	4
1505 Negative:		0
1506 Absent:	Wright	1

1507  
 1508 **A - 83-2000** **POOVILLAMN S. S. MOOTHATHU** requests a variance from Section

1509 24-95(i)(2) of Chapter 24 of the County Code to build a pool cabana at  
1510 620 Walsing Drive (Mooreland Landing) (Tax Parcel 124-6-A-28),  
1511 zoned R-1, One-family Residence District (Tuckahoe). The accessory  
1512 structure location requirement is not met. The applicant proposes to  
1513 build an accessory structure in the side yard, where the Code allows  
1514 accessory structures in the side yard.

1515			
1516	Affirmative:	Balfour, Kirkland, McKinney, Nunnally	4
1517	Negative:		0
1518	Absent:	Wright	1

1519  
1520 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
1521 Balfour, the Board **granted the withdrawal of case A-83-2000** to the August ,2000  
1522 meeting because the applicant failed to notify the adjacent property owners..

1523  
1524 Mr. Kirkland- Next case.

1525  
**A-70-2000** **JOSEPH A. DESO** requests a variance from Section 24-95(c) (4) of  
Chapter 24 of the County Code to enclose an existing porch to create a  
sunroom at 25 East Berry Street (Sandston) (Tax Parcel 164-3-9-13),  
zoned R-3, One-Family Residence District (Varina). The front yard  
setback is not met. The applicant has 21.85 feet front yard setback,  
where the Code requires 35.0 feet front yard setback. The applicant  
requests a variance of 13.15 feet front yard setback.

1526  
1527 Mr. Kirkland - Does anyone else wish to speak on this case? If so, would  
1528 raise your right hand and be sworn in.

1529  
1530 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1531 truth, the whole truth, and nothing but the truth, so help you God.

1532  
1533 Mr. Deso - I do.

1534  
1535 Mr. Kirkland - All of your notices have been turned in?

1536  
1537 Mr. Blankinship - They are in the file.

1538  
1539 Mr. Deso - My name is Joseph Deso and I would like to enclose my  
1540 front porch to make a room. I live on East Berry Street and the right of way on Berry  
1541 Street is kind of unusual in that it is a 60 foot right of way. The road itself is 18 feet as  
1542 near as we can tell when we looked it up. Apparently when Sandston was built back in  
1543 the 1930s that was going to be a main road through and now it dead ends, so the  
1544 airport is there. So, it can't be extended that way. I talked to Bob Thompson, the  
1545 Director of Public Works, and he states the fact that the road will never be built to the  
1546 right of way. The water meter itself, where the water meter is, is 38 feet from the front  
1547 porch, which would meet the requirement. I work for the Department of Public Works

1548 and we investigate complaints from citizens and water meters usually are our guideline  
1549 to the right of way of whether the water meter is on the citizen or the County. The  
1550 foundation for the actual house comes under the porch. It is not separated like on  
1551 pillars or such. The foundation actually goes underneath the porch. On the street itself  
1552 there are eight houses that already have this. There are 12 on Casey, which is the next  
1553 street, four on Rhoads and three on Raines that have done this type of thing. The  
1554 reason I need to get it is I am getting married and I need the additional space.  
1555

1556 Mr. McKinney - Do you think that is going to be enough?  
1557

1558 Mr. Deso - But also the County came in and put sewer lines into all of  
1559 these houses and they put the cleanouts back by the water meters themselves. You  
1560 are not up to where the property line would be. The property line, I don't know if you  
1561 can see the edge of those trees, is where the County right of way is, which is a good  
1562 ways into the yard.  
1563

1564 Mr. Nunnally - So you are going to make a sun room out of this?  
1565

1566 Mr. Deso - I am going to make a room and that window will be moved  
1567 up to the front.  
1568

1569 Mr. Nunnally- You are not going to increase the size of the porch or  
1570 anything?  
1571

1572 Mr. Deso - No, we propose the existing, what is there.  
1573

1574 Mr. Kirkland - Any other questions?  
1575

1576 Mr. McKinney - I still question whether 184-1/2 feet is going to be enough for  
1577 a new wife.  
1578

1579 Mr. Kirkland - We don't get into those cases. Anyone else wish to speak?  
1580 OK, sir that concludes your case. Thank you.  
1581

1582 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
1583 Balfour, the Board **approved** the application **A-70-2000** for a conditional use permit,  
1584 subject to the following conditions:  
1585

1586 Affirmative:	Balfour, Kirkland, McKinney, Nunnally,	4
1587 Negative:		0
1588 Absent:	Wright	1

1589

**A-71-2000** **EDWARD AND KATHERINE MITCHELL** request a variance from Section 24-94 of Chapter 24 of the County Code to build an attached garage at 8801 Norwick Road (Mooreland Farms) (Tax Parcel 124-3-I-20), zoned R-1, One-Family Residence District (Tuckahoe). The front

yard setback is not met. The applicant has 26 feet front yard setback, where the Code requires 50 feet front yard setback. The applicant requests a variance of 24 feet front yard setback.

1590

1591 Mr. Kirkland - Does anyone else wish to speak on this case? If you would  
1592 sir, raise your right hand and be sworn in.

1593

1594 Mr. Blankinship - Do you swear the testimony you are about to give is the  
1595 truth, the whole truth, and nothing but the truth, so help you God?

1596

1597 Mr. Mitchell - Yes it is.

1598

1599 Mr. Kirkland - Have all of your notices been turned in according to County  
1600 Code?

1601

1602 Mr. Mitchell - Yes, they have.

1603

1604 Mr. Kirkland - We have them in the file.

1605

1606 Mr. Mitchell - My home is built on the corner of Norwick and Butterfield  
1607 and the side of my home which is on the bottom of the plat there faces Norwick, which  
1608 is actually the term is, the front of our lot. We desire to build a new garage which,  
1609 because Norwick is the front, would be in violation of the 60 foot setback requirement.  
1610 From what I understand if Norwick were the sides of our lot, actually the side of the  
1611 house, it would be a 25 foot requirement and we would not have been in violation of  
1612 that. It is the only house in our neighborhood without a garage and that was a severe  
1613 marketing problem for the previous owner and, just to give you an idea of that, when we  
1614 purchased the house it had been on the market for over a year, with 120 showings  
1615 before we came along and bought it, and part of our original thought was that we would  
1616 one day build a garage and weren't aware of the setback problem until we actually got  
1617 with the builder and started working up plans. The last thing I want to say is that our  
1618 neighbors are all in support of the project and would frankly rather look at a garage than  
1619 our cars and bikes and everything. We hope you will approve our request for the  
1620 variance.

1621

1622 Mr. Kirkland - Any other questions by Board members? Anyone else wish  
1623 to speak for this case? If not, sir, that concludes the case.

1624

**A-73-2000**      **TETYANA NIKOLAYEVA** requests a variance from Section 24-95(k) of Chapter 24 of the County Code to build an accessory structure at 12136 Jamieson Place (Westchase) (Tax Parcel 9-19-A-19), zoned R-2AC, One-Family Residence District (Conditional) (Three Chopt). The minimum side yard setback is not met. The applicant has 21 feet minimum side yard setback, where the Code requires 65 feet minimum side yard setback. The applicant requests a variance of 44 feet minimum side yard setback.

1625

1626    Mr. Kirkland -                      Does anyone else wish to speak on this case? Would you  
1627 all raise your right hand and please be sworn in?

1628

1629    Mr. Blankinship -                  Do you swear that the testimony you are about to give is the  
1630 truth, the whole truth, and nothing but the truth, so help you God?

1631

1632    Ms. Nikolayeva -                    I do.

1633

1634    Mr. Nikolayeva -                    I will speak for her because her language is not very well, sir.

1635

1636    Mr. Kirkland -                      If you will, state your name for the record please.

1637

1638    Mr. Nicholas -                      My name is Vitas Rae Nicholas.

1639

1640    Mr. Kirkland -                      Have all of your notices been turned in according to the  
1641 County Code?

1642

1643

1644    Mr. Kirkland -                      We have the notices in the file. If you would, would you  
1645 state your case.

1646

1647    Mr. Nicholas -                      OK. They bought the house six months ago. It was a brand  
1648 new house and they were planning to build a pool before they ever contracted, and I  
1649 was there so I was aware of the situation. The builder gave us all of the setbacks and  
1650 all of the setbacks regarding the property to the back of the property site and house are  
1651 met except one and the builder probably missed one to the road and the setbacks are  
1652 not met. So, they just applied for the variance on that.

1653

1654    Mr. Kirkland -                      Any questions by the Board?

1655

1656    Mr. McKinney -                      Why is the address not Nuckols Road instead of Jamieson  
1657 Place?

1658

1659    Mr Nicholas -                      It is off Nuckols Road.

1660

1661    Mr. McKinney -                      What is between Nuckols Road and Jamieson Place? I am  
1662 talking to the Secretary.

1663  
1664 Mr. Blankinship - It looks like there is, before Nuckols Road you have a lot and  
1665 then you cross Jamieson Place to get to this property.  
1666  
1667 Mr. McKinney - OK. I was looking at another map.  
1668  
1669 Mr. Balfour - What is the status of your discussions with the Homeowner's  
1670 Association?  
1671  
1672 Mr. Nicholas - The Homeowner's Association has not formed yet. They are  
1673 supposed to form in January, I guess. It is just one person. We are trying to wait  
1674 probably for the families. The actual Homeowner's Association has not formed yet.  
1675  
1676 Mr. Balfour - You are on a cul-de-sac, I gather. How many homes have  
1677 been built? How many lots are still vacant?  
1678  
1679 Mr. Nicholas - Basically just the lot between Jamieson Place and Nuckols  
1680 Road. I think. Maybe, they are building just across the old Wyndham course. That was  
1681 originally, I believe, 45 lots and there are maybe 10 left.  
1682  
1683 Mr. Balfour - Where is the address of you house?, Are you aware we got  
1684 a letter from 5516 and 5512?  
1685  
1686 Mr. Kirkland - Are there any other questions from Board members?  
1687 Anything else, Mr. Balfour? Does anyone else wish to speak in favor of this case? OK,  
1688 you will be allowed some time to rebut any opposition.  
1689  
1690 Ms. Karen Nowiki - My name is Karen Nowiki and I live 5509 Lower Wyndham  
1691 Court, Lot 18, which directly abuts these people's property. I have lived there for less  
1692 than three months. It is a new development with a new Homeowner's Association with  
1693 covenants that we have all agreed to when we signed to buy a house in Westchase. I  
1694 am in opposition of this variance being granted for several reasons. No. 1, I feel that  
1695 their lot is too small to accommodate a pool. I feel very badly that when they chose  
1696 their lot they did not choose a lot, there were several available, that would have  
1697 accommodated a pool. They have probably the most public lot in our development  
1698 where their backyard faces our cul-de-sac and that is why you are getting letters from  
1699 people in our cul-de-sac because we look at their backyard. My property adjoins their  
1700 backyard. A variance of 44 feet, I feel, is out of the question. The pool would be located  
1701 too close to our lot and would have a negative impact on our property values. No. 2,  
1702 Ryan Homes Westchase Community was marketed as a community with wooded home  
1703 sites according to Article 6.16 of the Neighborhood Covenants "No trees are to be  
1704 removed without the consent of the Homeowner's Association." If this pool were to be  
1705 constructed on this very small lot, a significant number of trees would be destroyed and  
1706 removed. We feel this would violate the neighborhood covenants and be unattractive.  
1707 No. 3, we are also concerned that a fence constructed on this property would violate  
1708 Article 6.17 of the Neighborhood Covenant's which protect the site distances at

1709 intersections. We feel that a fence on this particular lot would obstruct the view of  
1710 motorists and would not allow them to see the street in front of our house. As we have  
1711 two small children, we are concerned for their safety and for the safety of other small  
1712 children of the community. No. 4, the Homeowners on Lot 19 have made several  
1713 changes to the outside of their home with no regards to the covenants of the  
1714 Homeowner's Association. We just formed and we are just being managed by outside  
1715 counsel until we take it over. These changes have not been approved by the  
1716 Homeowner's Association and are not in keeping with the architectural standards of the  
1717 community. We are concerned by the lack of regard they have shown for the  
1718 Neighborhood Association and fear that further development of this lot would negatively  
1719 impact the value of our home. For these reasons, we oppose the variance of a 44 feet  
1720 variance on this small lot. I also have a letter from another homeowner. May I read that  
1721 letter? This is from someone who is not able to appear today or would you like me to  
1722 hand it to you?

1723  
1724 Mr. Kirkland - Do both.

1725  
1726 Ms. Nowicki - This is from Jim and Patti Morris who live at 12104 Jamieson  
1727 Place. And it says: "This letter is in regard to hearing dated July 27 at 9:00 a.m. to  
1728 consider a 44 foot variance at 12136 Jamieson Place, Westchase. We understand that  
1729 the applicant has a 21 foot minimum sideyard setback, and the County requires a 65  
1730 foot minimum setback. As homeowners in Westchase, my husband and I strongly  
1731 oppose any consideration for this variance. To approve this request would violate  
1732 several Association rules. We specifically bought in Westchase because of having a  
1733 Homeowner's Association that would protect us from the following: No. 1 - People  
1734 clearing their lots of all trees. Westchase was advertised as large wooded home sites.  
1735 If this is approved, the homeowners at 12136 Jamieson Place will be clearing all of the  
1736 trees from their backyard. This will affect the overall appearance of the neighborhood.  
1737 No. 2 - Unsightly upkeep of homes and yards, including backyards that is protecting our  
1738 property values. The homeowners have already directed letters around the deck and  
1739 awnings. Neither of these were approved by our Homeowner's Association. If they  
1740 didn't take the time to approve these small items, we have little faith that they will  
1741 maintain their pool and backyard in an acceptable manner. All of us were made aware  
1742 that there was a Homeowner's Association prior to buying at Westchase. The  
1743 Homeowner's Association allows for only for a four foot fence along the side and no  
1744 higher than 6 feet in the back. If this is approved, then the homeowner's will be putting  
1745 up a privacy fence on their corner lot. Not only will this be against the Homeowner's  
1746 Association, but it will also be a danger in our neighborhood. A large fence on that lot  
1747 will block all visibility for drivers coming from Lower Wyndham Court going around that  
1748 cul-de-sac and will also prevent us from seeing children riding their bicycles. I am very  
1749 concerned about protecting our property value and the appearance of our  
1750 neighborhood. The homeowners at 12136 are a welcome addition to our neighborhood  
1751 and I hope that they will continue to enjoy Westchase. However, to approve this  
1752 request would be in direct violation of our Homeowner's Association guidelines and  
1753 would do a great disservice to our entire neighborhood. I urge you to decline this  
1754 request for the good of our community and the integrity of our Association." And, I just

1755 want to say I feel very uncomfortable about this. I have only lived here three months. I  
1756 have never spoken to these people, and it is a very uncomfortable position to be in a  
1757 new neighborhood where you thought you would get along with everyone, and that  
1758 everyone would comply with the regulations. Yet here I am. So I am very sad about  
1759 that and it is nothing personal. I don't know these people. I am sure they are very nice.

1760

1761 Mr. Kirkland - If you would, turn that letter in to the Secretary, and he will  
1762 keep it on file. Any questions?

1763

1764 Mr. McKinney - Mr. Secretary, what is the minimum height of a fence around  
1765 a pool?

1766

1767 Mr. Blankinship - That is a building code requirement and I am not familiar  
1768 with it off the top of my head, but I think it is in the four foot range. I don't think it is a 6  
1769 foot security fence or anything, 42 inches or 48 inches, something along those lines. I  
1770 am not positive.

1771

1772 Mr. Robert Nowicki - My name is Robert Nowicki and I live at 5509 Lower  
1773 Wyndham Court. My wife just spoke. As a resident and home owner, I also wanted to  
1774 speak and express my opposition to this pool, and I don't want to belabor the points that  
1775 she has also raised, because I think they are very valid, but the point I would like to  
1776 stress. This is a very large variance that they are asking for. We are not asking for a 2,  
1777 3, 4 or 5 feet, but a 44 ft. variance when there is only 21 feet available. That is huge for  
1778 a community with the size of the lots that we have. The lots are quite small and frankly  
1779 this is not going to fit there.

1780

1781 Mr. Kirkland - Sir, is the Homeowner's Association existing or not?

1782

1783 Mr. Nowicki- Yes, there is. In fact, I believe my wife has the  
1784 covenants, do you not?

1785

1786 Mr. Kirkland - They are in the record. We have got them. Thank you, sir.

1787

1788 Mr. McKinney - Mr. Secretary, I have a question for you. Why, are you  
1789 saying that this is the side yard and not the rear yard? If this house faces Jamieson, it  
1790 looks like this pool is to be in the rear yard, not the side yard.

1791

1792 Mr. Blankinship - The pool is in the rear yard, but too close to the side yard on  
1793 the reverse corner lot, the side street yard, which is Lower Wyndham Court, has to be  
1794 set back 20 feet plus the rear yard setback. I forget exactly what the requirement is, but  
1795 it is a total of 65 feet from the street side.

1796

1797 Mr. McKinney - What is the width of their lot?

1798

1799 Mr. Blankinship - It depends upon where you measure. It is anywhere from  
1800 about 90 feet to 26 feet. The curve and the cul-de-sac there really makes the distances  
1801 difficult.

1802  
1803 Mr. Kirkland - Yes, sir. If you would, state your name.  
1804

1805 Mr. Paul Mavic - My name is Paul Mavic. My son Scott and his wife, Heidi,  
1806 own the property next to the one in question just to the right of it. My son is away on  
1807 business and could not attend and his wife, Heidi, could not get time off from work, so  
1808 they asked me to speak for them. The hardship alleged here is self-imposed and,  
1809 therefore, Scott and Heidi feel that the variance is not justified. The property was  
1810 bought with the knowledge that it wasn't large enough or shaped properly to  
1811 accommodate a pool with the surrounding concrete and fence. The Westchase plat  
1812 shows three lots and the neighborhood that are marked with an asterisk and that  
1813 actually indicates that there are some building restrictions on it. At the time of purchase,  
1814 other lots which can accommodate a pool, which required no zoning variance were  
1815 available. All property owners at the time of purchase agreed to abide by the  
1816 Declaration of Covenants, Conditions and Restrictions for Westchase. Article 613  
1817 permits the installation of a pool installed in accordance with Zoning Ordinance of  
1818 Henrico County. The Covenants do not permit a pool that requires a zoning variance.  
1819

1820 Secondly, the hardship is not so severe that it almost, it is almost the same as taking  
1821 the property, the property can be used without a variance, not just for a pool in the  
1822 location shown on their application. The character of the neighborhood will be changed  
1823 significantly as a result of replacing the trees in the back yard with a flat area containing  
1824 a fenced-in pool, all of which is so close to the road. The question was raised earlier  
1825 regarding what size fence is needed around the pool. The Code requires a 4 foot  
1826 minimum fence, however, there is a contradiction in it because it says that the latching  
1827 mechanism for the fence needs to be 54 inches, a minimum of 54 inches above the  
1828 bottom of the fence, so that is right out of the Code. The other thought was all the trees  
1829 in the back yard will have to be moved to accommodate the pool, which is surrounding  
1830 concrete and fence. The application that you have received shows the dimensions for  
1831 the pool but it does not show the additional items. The area has since been taped.  
1832 When I got in town last night, I looked and a number of trees in the back yard have a  
1833 tape around them, so I am assuming that someone has determined that those trees are  
1834 what have to be removed. I question whether the area is large enough, because the  
1835 pool itself does require a surrounding area, and most folks don't want to step directly  
1836 from grass into a pool where they track debris in. Further, there is going to be a  
1837 requirement for equipment to dig the pool, and that will require additional area, and  
1838 lastly, the roots of any trees that do remain, any that are damaged as a result of digging  
1839 the pool and the surrounding area are likely to die and come down in the future anyway.  
1840 The dimensions of the pool are shown on the application as 12 x 20, I believe, but they  
1841 actually require a hole larger than that because the walls of an inground pool will have  
1842 to sit on a shoulder and have to be braced and backfilled. So, the application is  
1843 somewhat misleading. Also, I don't think anyone wants a pool with overhanging trees  
1844 that will drop leaves and needles and stuff in it, and any trees, if they are able to leave

1845 any trees in that area, then they are going to contribute to that problem. So, I think the  
1846 result is going to be a treeless backyard. The Ryan markets the property that says  
1847 "large wooded home sites" and the fact that they were wooded home sites were a major  
1848 factor why Scott and Heidi accepted that property and went so far in debt for it. Also,  
1849 when Scott's house was being sited on his property, there were additional trees in his  
1850 backyard that he asked a builder to take down. The building agreement said they would  
1851 clear trees in an area of 15 to 20 feet around the house. One of these trees, I think,  
1852 was 26 inches, and the builder said, "No, the zoning conditions, the deed restrictions on  
1853 this lot prevent me moving any more trees than that." So, he wouldn't even give 6  
1854 inches to take a tree for Scott. I have taken some pictures from the cul-de-sac and what  
1855 do you want me to do with these pictures, turn them in to the Secretary?

1856  
1857 Mr. Kirkland - Ordinarily we keep them for 30 days if that doesn't bother  
1858 you.

1859  
1860 Mr. Mavic - The first one is showing the sign which you can see  
1861 the first attribute, the first attribute on that sign is emphasizing wooded lots. The next  
1862 series of tree pictures are taken from the cul-de-sac and they show the backyard in  
1863 question from three different angles, and locating a pool and fence will result in  
1864 removing most of those trees, if not all, and would certainly change the nature of the  
1865 property as viewed from the cul-de-sac.

1866  
1867 Now, the people in the cul-de-sac, obviously, are going to see that backyard everytime  
1868 they enter and leave their property and whatever they do in the front yard. I have also  
1869 taken pictures from Scott and Heidi's house, which I would like the Board to consider.  
1870 The first one shows the view outside that they see when they are standing at their  
1871 kitchen. The remaining three show the view from various windows in their morning  
1872 room, which is where they eat their meals. Their backyard, the backyard to their right  
1873 and the backyard to their left are constantly in their view. Whenever they are in their  
1874 kitchen and whenever they are in their morning room, and like I say, when they bought  
1875 this property the trees were a major factor.

1876  
1877 Mr. Balfour - How close to the road is this pool going to be?

1878  
1879 Mr. Mavic - From what I have seen on the application, they say it is  
1880 going to be 21 feet will be the minimum distance.

1881  
1882 Mr. Blankinship - But that is not measured at the shortest distance, but it is  
1883 measured on kind of a skewed angle, so it could be closer than 20 feet.

1884  
1885 Mr. Mavic - As I understand it, the reverse corner lot has a 65 foot  
1886 setback, as it was explained to me, it is kind of parallel to the curb that goes up the side  
1887 of their house and curves around the back, so I guess technically they don't have a  
1888 backyard. It is a reverse corner, which, like I said, is one of three lots in that situation  
1889 and it was noted on the plat when the property was purchased. These are the pictures  
1890 from Scott and Heidi's kitchen and also from their morning room, and they paid extra for

1891 that morning room option, which sticks out the back of their house. The picture that is  
1892 shown on the computer right now - Scott and Heidi's house is the one immediately to  
1893 the left and you can see the morning room sticks out to the back there. The trees give  
1894 it, certainly, an appealing view.

1895  
1896 Mr. Balfour - Is that where the pool is going to go, as I understand it?

1897  
1898 Mr. Mavic - Yes. As far as the character of the neighborhood and the  
1899 fact that the hardship is not that severe and fact that it is self-imposed, those are all  
1900 reasons not to grant a variance as listed right on the variance application. It explains to  
1901 applicants, and like I say, those are directly there. Another reason is if the application  
1902 itself, but before I get into that, I will just point this out. The size of the variance is large.  
1903 It is almost to the point of negating the restriction. On the application that was  
1904 submitted, it is incomplete. All of the questions haven't been answered. It doesn't  
1905 describe a severe hardship. It doesn't describe how the variance will affect other  
1906 property, and it is misleading, because it fails to show the true size of the area because  
1907 of the pool. It doesn't show the declining area. It doesn't show the fence. It doesn't  
1908 show the impact on the trees that would have to be cleared to install the pool. A point  
1909 was made earlier that the Westchase Association Architectural Control Committee has  
1910 not approved the installation of the pool and fence or removal of the trees. Deed  
1911 restrictions require their approvals, Article 7.02. It is my understanding that the  
1912 Homeowner's Association is formed, but homeowners were not asked to serve on it until  
1913 just last Monday. I talked with a lady named Vicki and the developer, and she is the  
1914 one that provided me with that information, so she said that as of last Monday, I think it  
1915 was last Monday. It may have been the Monday before, but it is going to be a five  
1916 person Architectural Control Committee that would be functioning and prior to that it was  
1917 functioning with just two members, Vicki, who is an employee of the developer, and  
1918 another lady who is an employee of a firm who they contracted to essentially provide  
1919 the function of Homeowners until one is formed. The Napacks and the Nowickis  
1920 Families, whose properties adjoin lot 19 have spoken in opposition to this. It is my  
1921 understanding that the Phillips and Barnes? Who are the families that live on the cul-de-  
1922 sac, that Debra has hand-delivered a letter to the Board in opposition to this. Has the  
1923 Board seen that?

1924  
1925 Mr. Kirkland - We have that in the file.

1926  
1927 Mr. Mavic - It is signed by Gregory and Deborah Phillips and also by  
1928 Dave and Patti Vaughan. When I went to Scott's house last night, I have another letter  
1929 here from another neighbor on the cul-de-sac, would you like me to read it or just give it  
1930 to you?

1931  
1932 Mr. Kirkland - Just hand it in. That will be fine.

1933  
1934 Mr. Mavic - So, I guess in summary, this is from the Pettus family, in  
1935 summary five of the six property owners who would be most affected by this variance  
1936 have either spoken or written to recommend disapproval of this variance request.

1937

1938 Mr. Kirkland - Any questions?

1939

1940 Mr. McKinney - Mr. Mavic, this AC, is that the Architectural Control  
1941 Committee.

1942

1943 Mr. Mavic - Yes.

1944

1945 Mr. McKinney - Who does that consist of?

1946

1947 Mr. Mavic - Prior to last Monday it consisted of a lady named Vicki, who  
1948 works for Dominion, the developer, and a lady who works for the company that they  
1949 contracted to provide the Homeowner functions. Vicki told me over the phone, I believe  
1950 it was last week when I talked to her, that she had requested and had sent letters to  
1951 three property owners in Westchase, one to the cul-de-sac in question, one to the same  
1952 street that Scott and Heidi live on, and one in the cul-de-sac in the drawing in front of  
1953 you, to the right, and she was going to ask that they serve on the Architectural Control  
1954 Committee. I don't know, I haven't talked with her since, so I don't know what the status  
1955 is.

1956

1957 Mr. McKinney - Did you say that your son was Paul Scott Abbott?

1958

1959 Mr. Mavic - My son's name is Scott. My name is Paul.

1960

1961 Mr. McKinney - It was Paul Scott Abbott that had the County Line here in  
1962 Henrico County, at one time.

1963

1964 Mr. Mavic - No. I am from Virginia Beach. I don't know anything about  
1965 what is going on.

1966

1967 Mr. McKinney - Because this sign that you gave me, some of these are  
1968 misleading. Because it says "large wooded home sites." It does not say all wooded  
1969 home sites, so I think a home owner has a right to disturb if it is less than 2500 square  
1970 feet, because some people don't like trees. I personally do. I don't like to cut any trees  
1971 down. Thank you, sir.

1972

1973 Mr. Kirkland - Yes, ma'am, if you want to speak, and try not to repeat  
1974 anything that we have already heard. We have pretty well got the whole landscape  
1975 down.

1976

1977 Ms. Vicki Chestnut - Hi. I am Vicki Chestnut from Dominion Land and  
1978 Development Company, and we are developing Westchase. There are a couple of  
1979 clarifications that I want to make. There are 34 lots in this subdivision. There are 11 left  
1980 to be sold that are vacant, and they will be sold to Ryan Homes for development  
1981 through them. In June 1999, the Declaration and Covenants were recorded, OK, for  
1982 Westchase, and the ACC and the Covenants have been in place since that time,

1983 however, the client, Dominion Land, has been handling all approvals and reviews of all,  
1984 any exceptions that we needed to make with the covenants. We oppose this simply  
1985 because this is a large variance and that we are concerned about the future sale of the  
1986 lots in the development, and we do wish to uphold the covenants for Westchase that  
1987 was formed by the development company to uphold the desire of the homeowners that  
1988 purchase at Westchase. So, I think everything else has been said. We just right now  
1989 currently own lots across the street. OK? We don't own, you know, you were talking  
1990 about Nuckols Road, those lots are still vacant there, pretty much Jamieson and  
1991 Wyndham Court, all of those lots have been sold to the builder, Ryan Homes, and then  
1992 they have also been sold to a purchaser from Ryan.

1993  
1994 Mr. Kirkland - Thank you, ma'am. Any questions?

1995  
1996 Mr. Blankinship - Could you repeat your name, please?

1997  
1998 Ms. Vicki Chestnut - Vicki Chestnut.

1999  
2000 Mr. Kirkland - OK, anymore opposition? If not, would you like to rebut and  
2001 answer some of the questions.

2002  
2003 Mr. Nicholas - I trust the neighbors who complain about setbacks are not  
2004 talking about neighbor's lots. Just because we exceed setback from the neighbor's lots,  
2005 then we can use this variance from the road, going from the neighbor's lots and the  
2006 neighbor's house (unintelligible). In the minds of owner from that house, they want to  
2007 save as many trees as they can. They are prepared to position the swimming pool in  
2008 any way to save as many trees, now, again. Now, we can move the swimming pool and  
2009 this variance much smaller to neighbor's lots, but they can't by the law. About a fence,  
2010 this lady mentioned here, I know it requires 48 inches fence around the swimming pool,  
2011 but they have already got a pool, the person who was asking before, before the  
2012 Homeowner's Association was formed they got the pool for 6-foot fence because of the  
2013 position of their lot from the cul-de-sac side. They just technically did not have backyard  
2014 to use, so this is their backyard. Now about the variance to the road, 65 foot, maybe  
2015 that is something to do with above-the-ground pools. This is an in-ground pool, so I am  
2016 familiar why this variance is from the roadside. But maybe it is different because of the  
2017 inground pool. Neighbor said they don't communicate because of the language barrier.  
2018 There is nothing can be done about that. What they were the other objections, I don't  
2019 remember all of them.

2020  
2021 Mr. Kirkland - Would you answer me a question? You have down here a  
2022 12, I believe, 12 x 24 pool? Is that inclusive of all of the concrete structure that goes  
2023 around the pool and the fence, or is that just the hole in the ground pool?

2024  
2025 Mr. Nicholas - Three feet around the pool.

2026  
2027 Mr. Balfour - You say there is another pool in that cul-de-sac somewhere?

2028

2029 Mr. Nicholas - Did I say?  
2030  
2031 Mr. Balfour - I thought I heard you say something about another pool.  
2032  
2033 Mr. Nicholas - No.  
2034  
2035 Mr. Balfour - There are no other pools in this area, then?  
2036  
2037 Mr. Nicholas - I am not aware of any. No.  
2038  
2039 Mr. Balfour - When did you buy this house?  
2040  
2041 Mr. Nicholas - I believe we signed the contract in November last year and  
2042 they moved in by the end of January of this year?  
2043  
2044 Mr. Balfour - And there was no...  
2045  
2046 Mr. Nicholas - There was because they knew they wanted a pool in the  
2047 backyard and before they wrote the contract - they said to Ryan Homes - that is what I  
2048 mentioned before - is there any room for the pool and they took all the setbacks  
2049 required by the County and they said, "There is room for a pool." They meant probably  
2050 that land to the road side. That is the only explanation I've got, but that is what Ryan  
2051 Homes presented before they wrote the contract to the house.  
2052  
2053 Mr. Balfour - This lady just said they had discouraged pools, apparently.  
2054  
2055 Mr. Nicholas - They can speak for their own homes. I can't give the name of  
2056 the person who represented Ryan Homes. It was the person who presented Ryan  
2057 Homes because they knew they wanted a pool when they went to buy the house.  
2058  
2059 Mr. Balfour - You understood when they were telling you that that you'd  
2060 have to get an exception?  
2061  
2062 Mr. Nicholas - Yes, of course. And that is what they did when they applied  
2063 for the pool. They found out about the setback from the road side.  
2064  
2065 Mr. Balfour - But you bought it anyway, you didn't buy it subject to...  
2066  
2067 Mr. Nicholas - No, because they said there is no problem. No one even  
2068 thought it might be a problem because the lot sits, yes, it sticks out because of the cul-  
2069 de-sac situation and because the neighbors can see the backyard. (Unintelligible) And  
2070 the lady spoke away from their house. Now the neighbor on lot 20, the setback from  
2071 that lot is met. There is not any requirement. There was nothing said about a pool  
2072 could not be built, and they wouldn't buy that house if they said they could not build that  
2073 pool. They wouldn't buy that house. They chose that house. (Unintelligible) and they

2074 just, it was unfinished, and they didn't want to go buy from the sketch. They probably  
2075 would if they knew they cannot build a pool.  
2076  
2077 Mr. Kirkland - Mr. Blankinship, am I to understand that basically this would  
2078 be an 18 x 30 foot structure with a fence on that perimeter?  
2079  
2080 Mr. Blankinship - That sounds correct.  
2081  
2082 Mr. Kirkland - OK.  
2083  
2084 Mr. ? - And the fence is not something they want but it is required  
2085 around the pools, and they already have approved a six foot fence from the cul-de-sac  
2086 street, so if neighbors say they cannot see - but the fence is already approved by the..  
2087 and again the Association, they said they would decide to form an Association at the  
2088 next meeting in January. Because the home owners have got six  
2089 months...(unintelligible).  
2090  
2091 Mr. Kirkland - Any questions of the applicant? OK. That concludes the  
2092 case. Thank you very much.  
2093

**A-74-2000 ELEANOR GRUBBS** requests a variance from Section 24-95 (l)(2) of Chapter 24 of the County Code to convert an existing dwelling to storage at 6867 Monahan Road (Tax Parcel 205-A-41), zoned A-1, Agricultural District (Varina). The accessory structure location requirement is not met. The applicant has accessory structures in the front and side yards where the Code allows accessory structures in the rear yard.

2094  
2095 Mr. Kirkland - Anyone else wish to speak on this case. Well, if you would  
2096 please stand up and be sworn in by the Secretary. Would you raise your right hand,  
2097 Mrs. Grubbs?  
2098  
2099 Mr. Blankinship - Do you swear that the testimony that you are about to give is  
2100 the truth, the whole truth, and nothing but the truth, so help you God?  
2101  
2102 Mrs. Grubbs - Yes, sir.  
2103  
2104 Mr. Kirkland - Would you state your name for the record, ma'am?  
2105  
2106 Mrs. Grubbs - It is Eleanor Grubbs on behalf of my husband, Mitchell  
2107 Grubbs and myself. He has incapacitated and I have power of attorney for he as well  
2108 as myself.  
2109  
2110 Mr. Kirkland - Have all of your notices been turned in according to County  
2111 Code?  
2112

2113 Mrs. Grubbs - Yes, sir.  
2114  
2115 Mr. Kirkland - We have photocopies, Mr. Blankinship. Do we have the  
2116 originals in the office?  
2117  
2118 Mr. Blankinship - They are at the East End. They turned them into the East  
2119 End and they made us copies of them.  
2120  
2121 Mr. Kirkland - If you would, ma'am, proceed with your case.  
2122  
2123 Mrs. Grubbs - I sent in a letter to you explaining it, but it is I live in a  
2124 structure that the foundation of the structure was built before Monahan Road was built.  
2125 It burned down, the house I now live in. It was built back over the original cement  
2126 structure. We moved there in 1949 and it doesn't have modern facilities at all. I need a  
2127 home with modern facilities. We have lived there over 50 years. I need to keep this  
2128 house for storage and I want to build something that would be to the side rear of this  
2129 structure, the driveway that now goes down the side of this house would just continue a  
2130 little further to the house that I want to put up to, as you face it, it would be off to the  
2131 right-hand side. I can't build it beside this house because this house, according to the  
2132 Code now, is too close to the road, so any other house I built would have to be set  
2133 further back. I have road frontage but it is swampy wood lane. I-895 came through and  
2134 took the land that we had hoped to build a house on, so my only alternative now is to go  
2135 back behind this, and I just want to get something that is more modern conveniences to  
2136 take care of my partially disabled husband and myself. For somebody my age to have  
2137 to cut wood and bring it in, take out ashes, build a fire, and this is going to be funny to a  
2138 lot of people. When I told somebody that in the Tax Department they actually laughed  
2139 at me. I still have an outdoor john. Now that is funny to you all, but you ought to try it  
2140 sometime. I would like to have a house that has indoor plumbing and heat, and I have  
2141 over an acre of land. I had three acres of land and I gave one to my daughter. She  
2142 planned to build a house with an in-law apartment if need be to take care of us when we  
2143 got older, but 895 took it. They are now within 75 feet of my bedrooms in the house that  
2144 I live in now. Yet they wouldn't take all of my land, so I am requesting that I keep the  
2145 house I now live in for storage and build a small modern comfortable dwelling for the  
2146 last years of my husbands and myself's lives. I feel that the house that I have as far as  
2147 the original and outside walls are concerned is solid structure. It has cinderblock half-  
2148 way up and wood the rest of the way, and it has only been a few years since we put a  
2149 new roof on it. So, it would be ideal for storing, keep my freezer and my washing  
2150 machine in, and to bring in my lawn furniture, my rototiller, my lawn mower and things  
2151 like that, as well as some of the things I would not be able to buy a large enough  
2152 modular home. Basically, I would put my summer clothes in the modular home in the  
2153 summer and leave the winter ones in the old house, and when winter comes, we'll put  
2154 the summer ones back in the house and put the winter ones convenient to be used.  
2155 And so, 895 borders me on one side and I have a large wooded buffer zone and short  
2156 branch that borders me on the other side. The one boy that lives across the road from  
2157 me says he has no objections whatsoever to my putting this modular home up. I don't  
2158 know who would, but I have sent in all the letters to everybody around to see.

2159 Everybody got one, I think, except whoever built 895, and they told me that wasn't  
2160 necessary.

2161  
2162 Mr. McKinney - What size modular home are you going to have, Mrs.  
2163 Grubbs?

2164  
2165 Mrs. Grubbs - It would probably be somewhere between probably 13 to 15,  
2166 I don't think it will reach 1400 square feet, probably about a 26 x 40-42. I have looked at  
2167 some but I have not actually ordered one yet, because I have talked with a company  
2168 who has said they would put me a handicapped bathroom for me with a shower large  
2169 enough that my husband can get in and sit down, and I could assist him, if need be. We  
2170 can get in it with a wheel chair if that time comes, and the handicapped-type of  
2171 commode. In other words, it would be a handicapped-style bathroom. They have said  
2172 they will adjust the bathroom for that purpose. It will basically be a two bedroom home  
2173 and they are all built with what could be a third bedroom, but that will be my sewing  
2174 room or my music room. I love my music. I have quite a bit of it and that third room  
2175 would be a multi-purpose den, sewing, music, whatever. It would not be as a bedroom.

2176  
2177 Mr. Kirkland - OK. Thank you, ma'am. Anyone else want to speak on the  
2178 case? You are for the case, correct?

2179  
2180 Ms. Carpenter - My name is Darlene C. Carpenter. My family lives across  
2181 the street from Mrs. Grubbs' place. As far as I know, she has been there for years and  
2182 what she is planning on doing is not going to impact anything as far as we are  
2183 concerned. We don't have any problems with anything that she needs to be done there.  
2184 As she stated, she is living in a house that doesn't have any modern facilities, and we  
2185 are in the year 2000, so for her to update, she has an elderly husband who is very bad  
2186 off, so what they are asking for, I believe they should be granted it. Also, for 895  
2187 coming through, where they could have built, now they can't build, so this is the only  
2188 alternative that she actually has to it. So I just want to say we do not oppose this  
2189 happening.

2190  
2191 Mr. Kirkland - Thank you, ma'am. Any questions? Does anyone else wish  
2192 to speak for the case? Is anyone opposed to the case? Any one else wish to speak? If  
2193 not that concludes the case. Thank you, ma'am.

2194  
2195 Mr. Kirkland - We would like to vote on this case. We'd like to change our  
2196 program just a bit on this case.

2197  
2198 Mr. McKinney - Mrs. Grubbs, could you hold on just a minute?

2199  
2200 Mrs. Grubbs - Yes, sir.

2201  
2202 Mr. Kirkland - Do I have a motion to approve Case A-74-2000?

2203  
2204 Mr. Nunnally - I move we approve it.

2205  
2206 Mr. McKinney - Second.  
2207  
2208 Mr. Kirkland - All those in favor say aye. It has been approved.  
2209  
2210 Mrs. Grubbs - Thank you, and I'll go pick out my home.  
2211

A-75-2000 LAWRENCE AND BETTY RUSSELL request a variance from Section 24-9 of Chapter 24 of the County Code to build a single-family dwelling at 10841 Good Oak Lane (Tax Parcel 30-A-21), zoned A-1, Agricultural District (Brookland). The public street frontage requirement is not met. The applicant has 0 feet public street frontage, where the Code requires 50 feet public street frontage. The applicant requires a variance of 50 feet public street frontage.

2212  
2213 Mr. Kirkland - Does anyone else wish to speak on this case? If you would  
2214 sir, raise your right hand and be sworn in.  
2215  
2216 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2217 truth, the whole truth and nothing but the truth, so help you God?  
2218  
2219 Mr. Jones - Yes.  
2220  
2221 Mr. Kirkland - State your name for the record, please.  
2222  
2223 Mr. Jones - My name is Ronnie Jones.  
2224  
2225 Mr. Kirkland - Are you representing the Russells?  
2226  
2227 Mr. Jones - Yes. I am representing the Russells.  
2228  
2229 Mr. Kirkland - Have all of your notices been turned in?  
2230  
2231 Mr. Jones - Yes they have.  
2232  
2233 Mr. Kirkland - If you would, sir, state your case.  
2234  
2235 Mr. Jones - We are requesting a variance to build a single-family  
2236 dwelling. It is approximately 3.4 acres. We don't have the road frontage. It is a private  
2237 drive leading off of Mountain Road into the property. Right now it is public water right  
2238 across the street from the property. It would require a septic system. We haven't  
2239 applied for that as of it. Mr. and Mrs. Russell have owned the property since 1960.  
2240 They are an elderly couple. They recently moved from Pennsylvania and sold the house  
2241 in Pennsylvania, not knowing that there would be a problem with the access to road  
2242 frontage, and we are just requesting the variance for that road frontage.  
2243

2244 Mr. Kirkland - Have you read the conditions to this case? And the items  
2245 that are listed in the conditions?

2246  
2247 Mr. Jones - Yes.

2248  
2249 Mr. Kirkland - Do you have any problems with any of those?

2250  
2251 Mr. Jones - No.

2252  
2253 Mr. Kirkland - We have had a lot of cases in this area. I wonder how much  
2254 land is left back there.

2255  
2256 Mr. Jones - I don't think much is left back there. He recently gave, his  
2257 last variance, his nephew, from this property, an acre of land, and I don't think there is  
2258 much left back there now.

2259  
2260 Mr. Kirkland - Anyone else wish to speak on this case? Ma'am, do you  
2261 wish to speak? OK. If no one else wishes to speak on this case, that concludes the  
2262 case. Thank you. Next case, sir.

2263  
A-76-2000 ERIC WALKER requests a variance from Section 24-9 of Chapter 24 of  
the County Code to build a single-family dwelling at 1703 Shewalt Drive  
(Hungary Road Estates) (Tax Parcel 52-4-D-11), zoned R-3, One-family  
Residence District (Brookland). The public street frontage requirement  
is not met. The applicant has 0 feet public street frontage, where the  
Code requires 50 feet public street frontage. The applicant requests a  
variance of 50 feet public street frontage.

2264  
2265  
2266 Mr. Kirkland - Does anyone else wish to speak on this case? If you would,  
2267 sir, raise your right hand and be sworn in by the Secretary.

2268  
2269 Mr. Blankinship - Do you swear to the testimony you are about to give is the  
2270 truth, the whole truth, and nothing but the truth, so help you God?

2271  
2272 Mr. Walker - I do.

2273  
2274 Mr. Kirkland - Have all of your notices been turned in according to County  
2275 Code?

2276  
2277 Mr. Walker - Yes, sir.

2278  
2279 Mr. Kirkland - State your name for the record, please.

2280  
2281 Mr. Walker - Eric Walker.

2282

2283 Mr. Kirkland - If you would sir, state your case.  
2284  
2285 Mr. Blankinship - Mr. Chairman, before he begins, he faxed a hard-line copy of  
2286 the plat that was hand drawn before that version this morning, and I wanted to distribute  
2287 them.  
2288  
2289 Mr. Walker - I am proposing to build a single-family dwelling at 1703  
2290 Shewalt Drive. In my research prior to, I guess, applying for the variance, back in 1971  
2291 when the subdivision was recorded the small triangle piece there on the left of Lot 1,  
2292 and also the parcel that I am proposing the house was considered one lot. In 1974,  
2293 Planning approved a resubdivision of \_\_\_\_\_ Estates and separated Lot 1 from the back  
2294 piece and also the small triangle in the front. I am not sure to what understanding they  
2295 did that. They did not leave access to the back portion. Back in 1998 I worked with a  
2296 small builder, Joe Perdue, to build my mother a home, which is not actually shown on  
2297 the plat, but is actually across from Lot 1. The developer who sold us the lot asked us  
2298 to purchase the remaining lots in that subdivision, you know, to take it off of their tax  
2299 rolls, so we did that. After a couple of years living with Mom, I decided to build a home  
2300 for myself, and I looked at this lot as being ample space to do. What I found out at that  
2301 point was that I did not have 50 foot of road frontage to build on, so, therefore, I applied  
2302 for the variance. I have talked with Lot 1, originally to give me access to the back lot  
2303 there, for ingress and egress and utilities. I have since changed my original proposal to  
2304 use Lot 2 for my access, for my ingress and egress, and to use Lot 1 for my utilities.  
2305 The reasoning for my changes were when the engineers went out to do the field work,  
2306 he found out that the easement would be too close to Lot 1's home, so since then we  
2307 have changed and now the plat that he just gave you, you will see a 10 foot easement  
2308 that runs along Lot 2, which I am going to use for ingress and egress. I have here the  
2309 hard copy, which I don't mind leaving with the Board so you can take a look at the actual  
2310 engineering. You know, a bigger plat as opposed to the copy, if you need it.  
2311  
2312 Mr. Kirkland - So now you are going to enter the property through Lot 2,  
2313 and you have bought, I assume, is that 10 feet there?  
2314  
2315 Mr. Walker - I signed an agreement with them for a 10 foot easement; I  
2316 have not actually bought it. They just allowed me for an easement for access.  
2317  
2318 Mr. Kirkland - Mr. Blankinship, isn't that a little tight for a fire truck?  
2319  
2320 Mr. Blankinship - Yes, sir. The Fire Department represented that 12 feet is the  
2321 minimum travel lane width that they can work with. Ideally, you'd have an easement  
2322 wider than that. I believe that Mr. Walker tried to get 10 feet on each side of that  
2323 property line, and was only able to obtain one of the two agreements.  
2324  
2325 Mr. Kirkland - And the utility easement, what is that? Is that your water,  
2326 your sewer, your electrical going through there?  
2327

2328 Mr. Walker - Well, water and sewer I know definitely will go through there.  
2329 Electric and cable, my understanding, are out back; you know, a 16 foot easement  
2330 along the back of the property, as they should be.  
2331  
2332 Mr. Kirkland - Any other questions?  
2333  
2334 Mr. Walker - My only other comment is, if it comes to where the stickler  
2335 where I need 12 feet that I request as far as the condition that you place it in the  
2336 condition and that it be granted. Based on that, I don't know if I can get two more feet,  
2337 but you know, I will try my hardest to at least conform with what the Fire Department  
2338 has requested, but at this time, I am asking that the 10 feet work, but if it is a situation  
2339 where I have to have 12, then it be a condition of the variance and it be granted.  
2340  
2341 Mr. McKinney - Mr. Blankinship, how does a fire truck go down Charles City  
2342 Road?  
2343  
2344 Mr. Blankinship - I do not know, sir.  
2345  
2346 Mr. McKinney - That is a 20 foot road; very carefully. Ten foot on each lane.  
2347  
2348 Mr. Blankinship - Well, what they said they needed was 12 feet.  
2349  
2350 Mr. McKinney - I know, I know, but we have got public roads 20 feet wide.  
2351  
2352 Mr. Blankinship - Well 20 is more than 12.  
2353  
2354 Mr. McKinney - But that is only one lane. So what? You've got cars going  
2355 both ways, 10 feet on each side.  
2356  
2357 Mr. Blankinship - The oncoming car has a decision to make.  
2358  
2359 Mr. McKinney - Or the fire truck. Do you know how wide the fire truck is?  
2360  
2361 Mr. Blankinship - Eight foot, isn't it?  
2362  
2363 Mr. McKinney - I don't think you can have anything on the road over eight  
2364 feet wide by VDOT.  
2365  
2366 Mr. Kirkland - Any other questions by Board members? Does anyone else  
2367 wish to speak? Ma'am, if you would come forward. Are you for or against the case?  
2368  
2369 Voice in the Audience - I am not against it.  
2370  
2371 Mr. Kirkland - Well, if you would come forward and state your name,  
2372 please. We record everything, so we have to have it on record. Did you raise your right  
2373 hand and were you sworn in?

2374  
2375 Ms. Cousins - Yes, I stood up and raised my hand. My name is Mrs.  
2376 Cousins. I live right behind the piece of property that the gentleman has purchased and  
2377 I don't have any problem with it. The only thing, I was just looking at this. How far back  
2378 is his house going to be, because I think we are really closer to your piece of property  
2379 than any other person that you are getting the road from, because we are actually right  
2380 back there where those meter boxes are, and electrical boxes. I'm at 9021 Joy Drive. It  
2381 is Barber, Beard and me.

2382  
2383 Mr. ? - OK, the third house.

2384  
2385 Ms. Cousins - Right directly in front of your house if that is where you are  
2386 planning to build.

2387  
2388 Mr. Barber - The property line is outlined. The proposed dwelling would  
2389 be, that would be my backyard, and I believe the backyard setback is 40 feet, so  
2390 approximately from the property line would be 40 feet from the house.

2391  
2392 Mr. McKinney - Under the zoning classification, you've got basically the  
2393 same backyard that she has.

2394  
2395 Mr. Barber - And I actually have a lot more because it is a bigger lot.

2396  
2397 Mr. Blankinship - Fifty-eight is what is shown on the site plan.

2398  
2399 Mr. Barber - OK. I think the minimum is 40.

2400  
2401 Mr. Kirkland - Thank you. Any other questions? That concludes the case.

2402  
A-78-2000 ERNEST L. HENDRICK, JR. requests a variance from Section 24-94 of  
Chapter 24 of the County Code to build a single-family dwelling at 7370  
Strath Road (Tax Parcel 215-A-84), zoned A-1, Agricultural District  
(Varina). The lot width requirement, minimum side yard setback, and  
total side yard setback are not met. The applicant has 120.93 feet lot  
width, 18.96 feet minimum side yard setback, and 37.93 feet total side  
yard setback, where the Code requires 150 feet lot width, 20 feet  
minimum side yard setback, and 50 feet total side yard setback. The  
applicant requests variances of 29.07 feet lot width, 1.04 feet minimum  
side yard setback, and 12.07 feet total side yard setback.

2403  
2404 Mr. Kirkland - Does anyone else wish to speak on this case? Please raise  
2405 your right hand and be sworn in.

2406  
2407 Mr. Blankinship - Do you swear the testimony you are about to give is the  
2408 truth, the whole truth, and nothing but the truth so help you God?

2409

2410 The People in Unison - We do.  
2411  
2412 Mr. Kirkland - Whoever is going to speak, would you state your name?  
2413  
2414 Margaret Hendrick - My name is Margaret Hendrick.  
2415  
2416 Mr. Kirkland - Have all of your notices been turned in according to County  
2417 Code?  
2418  
2419 Ms. Hendrick - Yes, sir. They have been done this done this time.  
2420  
2421 Mr. Kirkland - All right, if you would state your case.  
2422  
2423 Ms. Hendrick - We have gone through this variance before, and  
2424 perhaps the information that was supplied to us by the real estate agent was incorrect,  
2425 so we missed a couple of the neighbors on the back part of the property. It was granted  
2426 and then it was voided and that was because someone objected to it, and that was  
2427 Vivian ? \_\_\_\_\_. We are just requesting to have the house built on the strip of land that is  
2428 on Strath Road. We can build anywhere on the property. We can build anywhere on  
2429 the property. We are just trying to keep in line with the other houses so that we are not  
2430 behind other people's property. We contacted several of the owners. We have talked  
2431 to them. They have not objected to us. Being there, we want to have horses and that  
2432 part of the property has the power lines and the natural gas lines, so the sewers and  
2433 wells are already in place, so we are kind of limited to where we can put the house  
2434 without having to probably build another whole new septic tank. The rest of the property  
2435 we would like to use for pasture land. We have horses again, and like I said, we have  
2436 talked to one gentleman that opposed us being there because of the horses, and I  
2437 understand that is A-1.  
2438  
2439 Mr. Kirkland - Does anyone else wish to speak for the case?  
2440  
2441 Mr. McKinney - Ms. Hendrick, do you all enter the rear of your  
2442 property through Darnell?  
2443  
2444 Ms. Hendrick - We'd like to use that for going to the barn, so that when the  
2445 horse trailers, but we don't have to go through the front of the house.  
2446  
2447 Mr. McKinney - Are there any standards on that, Mr. Secretary?  
2448  
2449 Mr. Blankinship - I am sorry, on what?  
2450  
2451 Mr. McKinney - If they use Darnell to enter the rear of this property to their  
2452 barn and their horses?  
2453  
2454 Mr. Blankinship - No.  
2455

2456 Mr. Kirkland - You all can abut any opposition. OK, would the opposition  
2457 please come down. Would you state your name for the record.

2458  
2459 Mr. Monroe - My name is Charles Monroe and I live at 7400 Strath Road,  
2460 and for the record, there was another opposing neighbor here, but due to the lateness  
2461 of the hour, he has been called back to work. And, according to Ms. Hendrick, we  
2462 object to the horses. That is not at all the case, and we do not object to them building  
2463 their home where they want it. What we do object to is that Mr. Hendrick shared with  
2464 me, in my yard, actually on the border of our property, that the house and the clearing of  
2465 the property was the first step in future development for the operation of a business  
2466 there to board horses, and by our opinion, quite a large number of horses. They have in  
2467 excess of 10 themselves, and then if they take in horses to board, that is going to put us  
2468 up in the teens. He also alluded to the fact that they were going to construct a large  
2469 barn with an inside riding ring, and a lighted exterior riding ring, and they have cleared  
2470 the property in such a manner that there is no buffer whatsoever left between their  
2471 property and mine, and adjoining property. So, any lighted fixtures that they put up on  
2472 their property are going to light neighboring properties. And, our opinion of that is that if  
2473 we wanted lighted back yards, we would have stayed in the city. We wouldn't have  
2474 moved to the country. None of this was discussed with any of the neighbors as far as  
2475 their plans. I don't believe it was discussed with this Board at all before they applied for  
2476 their variances in April, and as far as them missing a couple of neighbors, they missed  
2477 at least five of us in a row before they, when they came here before you in April. We  
2478 welcome them to the neighborhood. We welcome them as neighbors. We welcome  
2479 their horses. The objection we have is the development of this property. And I shared  
2480 this with Mr. Hendrick myself on the telephone when he called me about my complaint  
2481 to the County, that the only opposition we have is to them wanting to run a horse  
2482 boarding business, which would require a business license, and bring traffic to the area,  
2483 people. His opinion was that he wanted to attract a high clientele that would be able to  
2484 have a place to come after they got off work in the downtown Richmond area to ride at  
2485 night.

2486  
2487 Mr. McKinney - Sir, if they decide to do something like that, they would have  
2488 to come back to this Board for approval.

2489  
2490 Mr. Monroe - That is what I understand, but the reason we are here today  
2491 is because I did call and file a complaint about that, and I felt like I was the one that  
2492 brought them back today, I felt I needed to be here today and at least state my feelings.

2493  
2494 Mr. Kirkland - I hope you understand we have nothing to do with that.

2495  
2496 Mr. Monroe - I am just here for the record.

2497  
2498 Mr. McKinney - Thank you.

2499  
2500 Mr. Kirkland - Any questions? Do you have any rebuttal now? Any more  
2501 opposition?

2502  
2503 Ms. Hendrick - I know that having the horses and the possible future of  
2504 maybe boarding horses has nothing to do with the lot width variance. We have horses.  
2505 We have nine now. We lost one, because the horses were boarded some where else,  
2506 because dogs chased the horses to a wire fence, and his leg got hung up in the fence  
2507 and he died struggling to get out. We have told the other neighbors that we had, we  
2508 went and introduced ourselves and said, "Did you get all of our notices?" and several  
2509 people said no, and I'm like "Well, I am surprise you didn't get it. I thought I sent it to  
2510 everyone." We proceeded to explain that we have horses, and that we are going to  
2511 build a double fence around that, not a high tension wire, but a regular fence where the  
2512 dogs can't get in on the outside, with another fence on the inside so that we have no  
2513 problems with our horses interfering with the neighbors. They totally agreed to that.  
2514 Then we proceeded to talk to them about, because we want to be considerate  
2515 neighbors, but we are going to try to build an indoor riding ring so we do not disturb  
2516 anyone, and so anyway this is how all of this has gotten about. It has nothing to do with  
2517 the lot width. We just want to build our house, have our horses on our own piece of  
2518 property, where we can take care of them and that is the only reason, but we want to  
2519 build in the Varina area. Thank you.

2520  
2521 Mr. McKinney - Ms. Hendricks, question. Do you intend in the future to  
2522 board horses?

2523  
2524 Ms. Hendricks - That is a long-time down the road, if we are able to do that.  
2525 Right now we just want to have our own horses. That was, we don't want a business.  
2526 Once we found out what was involved in doing all of that and the insurance, the liability,  
2527 we are not sure if we want to get into all of that. We've got a lot of friends that want to,  
2528 will want to board because of the area. We are not interested in having a high traffic  
2529 area. We want to be in a rural area and apparently right now that is kind of...

2530  
2531 Mr. McKinney - Do you have a problem with a condition of this being granted  
2532 of "no boarding of any animals?"

2533  
2534 Mr. Blankinship - Without a conditional use permit?

2535  
2536 Mr. McKinney - Without a conditional use permit, yes.

2537  
2538 Ms. Hendricks - Yes, I do have a problem.

2539  
2540 Mr. McKinney - Then you intend to board horses.

2541  
2542 Ms. Hendrick - Not for a business purpose.

2543  
2544 Mr. McKinney - Well, if you are boarding horses you get paid for it.

2545  
2546 Ms. Hendrick - Yes, but I disagree. We don't get paid for it. We get paid for  
2547 just the feed. I don't see there is a problem with that.

2548  
2549 Mr. McKinney - OK.  
2550  
2551 Mr. Kirkland - Any other questions? That concludes the case. Next case,  
2552 sir.  
2553

UP-24-2000 CANADA CONTRACTING CO., INC. requests a temporary use permit pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code to erect a temporary office trailer and parking lot at 1600 Portugee Road (Tax Parcel 196-A-18 (part), zoned M-2, General Industrial District (Varina).

2554  
2555 Mr. Kirkland - Does anyone else wish to speak on this case? Would you  
2556 raise your right hand and be sworn in?  
2557

2558 Mr. Blankinship - Do you swear the testimony you are about to give is the  
2559 truth, the whole truth, and nothing but the truth, so help you God?  
2560

2561 Ms. Loraine Isaac - Loraine Isaac.  
2562

2563 Mr. Kirkland - Were all of your notices turned in according to County  
2564 Code?  
2565

2566 Ms. Isaac - Yes, sir.  
2567

2568 Mr. Kirkland - We have them in the file. If you will, state your case.  
2569

2570 Ms. Isaac - Canada Contracting, Inc. is a business that is now located in  
2571 Hanover County. They are loosing their lease in Hanover and are to be out of their  
2572 building by the end of September. They need to get a temporary trailer set up and in  
2573 operation prior to the end of September so that they can keep their business going. It is  
2574 a temporary facility and we are presently, Engineering Design Associates, is presently  
2575 working on that plan of development, and that is to be submitted in August for the  
2576 September Planning Commission meeting. This is something that is not going to go on  
2577 for years. It is a necessity to provide a stop-gap measure until the new building can be  
2578 built. This facility will house only two daily employees, with three other employees  
2579 coming in at other times, because we're talking about five employees on site.  
2580 Everything that is proposed under this use permit would be temporary, temporary gravel  
2581 driveway, which the trailer, gravel, parking, which would all then be brought up to  
2582 County standards with the plan of development. The driveway would have to be paved.  
2583 Paved parking would be provided. There is an area shown on the plan for equipment  
2584 storage. This is shown only in case it is needed. Canada leases their equipment and  
2585 the equipment stays on site, and when the job is finished, the leasing company picks up  
2586 their equipment and takes it to the next site where they will be working. So, it is very,  
2587 very rare that any equipment would be stored, but just in case it has to be, they need an  
2588 area that is secure to put the equipment.

2589  
2590 I only have one other comment and that is on the suggested conditions. Condition #3  
2591 requiring a landscape plan at time of building permit. Now, I know that if you have a  
2592 trailer used in say, a field office in a subdivision, where you have the public coming, that  
2593 facility is there for a specific purpose, then yes, you want to dress it up and you want to  
2594 make it look nice. In this situation, for a temporary trailer, we have no islands to protect  
2595 any landscaping, and as soon as we can get the plan of development through the  
2596 Planning Commission and it is signed, we are going to have construction traffic connect  
2597 with the building of their new building. I don't see any way to protect the landscaping.  
2598 And I barely understand the need for it especially not sitting out on the road. The site  
2599 they have is over 250 feet from Portugee Road, so a lot of people won't even know that  
2600 it is there. They don't have daily traffic. The public does not visit the site. And they will  
2601 have to have landscaping and lighting provided with their plan of development, and we'd  
2602 like to eliminate the requirement for landscaping with this conditional use permit, or to  
2603 tie it to a date in the future that if their plan of development has not received approval or  
2604 has not been submitted, or something, some compromise. I will be happy to answer  
2605 any questions.

2606  
2607 Mr. McKinney - It says with the building permit.

2608  
2609 Ms. Isaac - Right. We have to get a permit to get the trailer.

2610  
2611 Mr. Blankinship - A building permit for the trailer.

2612  
2613 Mr. Isaac - Well, how about the POD?

2614  
2615 Mr. Kirkland - Would this trailer also be used for the construction trailer, so  
2616 when you do get started on construction of the building?

2617  
2618 Ms. Isaac - No. This is just for the use of Canada Contracting to keep  
2619 their business going. Then, if you are looking at the site, it is going to be on the right-  
2620 hand side and the new building is going on the left. They knew they had to keep  
2621 everything away from where the new building would go.

2622  
2623 Mr. McKinney - How about utilities for this trailer? There are no conditions  
2624 for that?

2625  
2626 Ms. Isaac - They are going to have to have well and septic.

2627  
2628 Mr. McKinney - Well and septic. We need a condition on that.

2629  
2630 Mr. Blankinship - No. 5?

2631  
2632 Ms. Isaac - Yes. There is one.

2633

2634 Mr. McKinney - OK. Let's go back to No. 3 again? Is there a way to handle  
2635 that, Mr. Blankinship?  
2636  
2637 Mr. Blankinship - Well, in looking at the surroundings out there, it is not a very  
2638 densely developed area and it may be reasonable for the Board to decide that it not  
2639 necessary. Are we really looking at two years, Ms. Isaac?  
2640  
2641 Ms. Isaac - No. They want to be in their building by the first of next year.  
2642  
2643 Mr. Blankinship - I would think for a two-year permit some landscaping would  
2644 be necessary, but if the term were shortened to nine months or a year, then really by  
2645 the time the landscaping is getting established it is time to take it out.  
2646  
2647 Ms. Isaac - At the expiration date, Condition No. 4, "all temporary  
2648 structures and improvements have to be removed" - so it seems to me we would be  
2649 doing landscaping for a maximum of two years, and then we'd have to take it out.  
2650  
2651 Mr. Blankinship - For two years, I think in some cases, we do, but for one  
2652 year.  
2653  
2654 Ms. Isaac - This is not a sales trailer.  
2655  
2656 Mr. Kirkland - Would you have a problem with  
2657 "To expire July 31, 2001?"  
2658  
2659 Ms. Isaac - No. I ...  
2660  
2661 Mr. Kirkland - Would your client have any problem with that?  
2662  
2663 Ms. Isaac - I don't think so.  
2664  
2665 Mr. Kirkland - That is a year.  
2666  
2667 Mr. Blankinship - They could come in for a renewal.  
2668  
2669 Ms. Isaac - Because, like I said, we will be submitting the plan of  
2670 development for August that would the September Planning Commission. Then we'd  
2671 still have to get Public Works' approval, and we've used three months already.  
2672  
2673 Mr. McKinney - Would it go through the winter?  
2674  
2675 Ms. Isaac - Their proposed building is a metal building, so I think it  
2676 should be able to go up very quickly, if the weather holds. I see no reason why they  
2677 can't be in their new building by July of 2001, and we will accept that.  
2678  
2679 Mr. McKinney - If there is a problem, come back.

2680  
2681 Ms. Isaac - We can come back. Of course, at that point we'd have a lot  
2682 more information on what happened with the POD. But, they are very anxious to get  
2683 their permit building built so they can get in it.  
2684  
2685 Mr. Kirkland - Any other questions of Ms. Isaac? Does anyone else wish  
2686 to speak on this case? That concludes the case.  
2687  
2688 Ms. Isaac - Thank you.  
2689

UP-26-2000 H.H.HUNT CORPORATION requests a use permit pursuant to Section  
24-12(b) of Chapter 24 of the County Code to build a recreation center  
at 4601 Twin Hickory Drive (Tax Parcels 27-A-10, 9A and 37-A-13),  
zoned R-6C, General Residence District (Conditional) (Three Chopt).

2690  
2691 Mr. Kirkland - Does anyone else wish to speak on this case? Please raise  
2692 your right hand and be sworn in.  
2693  
2694 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2695 truth, the whole truth, and nothing but the truth so help you God.  
2696  
2697 Mr. Melvin Spain - I do.  
2698  
2699 Mr. Kirkland - State your name for the record, please.  
2700  
2701 Mr. Spain - My name is Melvin Spain and I am with Youngblood, Tyler  
2702 and Associates.  
2703  
2704 Mr. Kirkland - Have all of your notices been turned in?  
2705  
2706 Mr. Blankinship - Yes, we have copies.  
2707  
2708 Mr. Kirkland - Would they have been sent from the East End?  
2709  
2710 Mr. McKinney - Do we have the originals in the file?  
2711  
2712 Mr. Blankinship - Normally we do.  
2713  
2714 Mr. Kirkland - We don't in this group. State your case, sir.  
2715  
2716 Mr. Spain - With me is Rob Loftis who is project manager for H. H. Hunt  
2717 Corporation. We came before the Board last month for a use permit approval for the  
2718 construction of the lake house at Twin Hickory, which is a recreational area. This parcel  
2719 that you see now is adjacent to the lake house, and it is also under the ownership of H.  
2720 H. Hunt Corporation. In moving forward with our plans, we have, it is a situation where  
2721 we need to get some fill material off of this site to use on the building for the lake house

2722 at Twin Hickory. We have no problems with the conditions of approval and we'd be glad  
2723 to answer any questions you might have.

2724  
2725 Mr. Kirkland - How long do you think this process will take?

2726  
2727 Mr. Robert Loftis - After the plans for the club house are approved, I would  
2728 expect that the..

2729  
2730 Mr. McKinney - Identify yourself for the record.

2731  
2732 Mr. Loftis - I'm sorry. I'm Robert Loftis with H.H. Hunt Corporation.

2733  
2734 Mr. McKinney - How long do you think it would be?

2735  
2736 Mr. Loftis - I would think it would be less than one year from the date of  
2737 plan approval.

2738  
2739 Mr. Kirkland - Any other questions? Does anyone else wish to speak on  
2740 this case?

2741  
2742 Mr. McKinney - You would put a condition on it that it would expire in one  
2743 year?

2744  
2745 Mr. Kirkland - Yes. Do you have any problem with a condition of one year  
2746 from date of approval of a plan?

2747  
2748 Mr. Loftis - No, sir.

2749  
2750 Mr. Kirkland - OK. Thank you. That concludes the case. Next case.

2751  
A-84-2000 ELINOR SPRINGS, LC requests a variance from Section 24-94 of  
Chapter 24 of the County Code to build a single-family dwelling at 5621  
Eagle Lake Drive (Elinor Springs) (Tax Parcel 29-14-A-2), zoned R-3C,  
One-Family Residence District (Conditional) (Three Chopt). The rear yard  
setback is not met. The applicant has a 34 feet rear yard setback, where  
the Code requires 40 feet rear yard setback. The applicant requests a  
variance of 6 feet rear yard setback.

2752  
2753  
2754 Mr. Kirkland - Anyone else wish to speak on this case? If you would raise  
2755 your right hand and be sworn in?

2756  
2757 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2758 truth, the whole truth, and nothing but the truth so help you God?

2759  
2760 Ms. Taylor - I do.

2761  
2762 Mr. Kirkland - Would you state your name for the record, please?  
2763  
2764 Ms. Taylor - Marian Taylor.  
2765  
2766 Ms. Carpenter - I am Darlene C. Carpenter.  
2767  
2768 Mr. Kirkland - Have all of your notices been turned in according to County  
2769 Code? We have them. Thank you, ma'am. State your case.  
2770  
2771 Ms. Taylor - We are requesting a variance consisting of a six-foot rear  
2772 yard setback so that we can meet the subdivision restrictions, which has a minimum  
2773 requirement of 1,600 square feet dwelling, and meeting this restriction, and due partially  
2774 to the unusual cul-de-sac lot shape, we are unable to meet the County Code rear yard  
2775 setback requirement of 40 feet. We are short 6 feet of meeting that. We have spent a  
2776 considerable amount of money on engineering costs, trying to achieve an acceptable  
2777 dwelling plan which would also meet the requirement of the required County setback,  
2778 but we have been unsuccessful, and after extensive efforts we find it necessary to  
2779 request a variance of 6 feet of rear yard setback due to subdivision requirements and  
2780 County requirements. This 6-foot variance does not in any way impact any other parties  
2781 and will not be visible to anyone. After talking with the neighbors, they are very anxious  
2782 to have a home on this unsightly undeveloped lot. That seems to be their biggest  
2783 concern. They wanted a house built on this lot. A home on this lot would only improve  
2784 their neighborhood and will provide more of a noise buffer from Springfield Road. The  
2785 home we propose to build will only enhance the neighboring property values. Since our  
2786 request appears to result only in positive changes for the neighborhood and the County,  
2787 I hope that the Board will grant us a variance.  
2788  
2789 Mr. Kirkland - Mr. Blankinship. I think I remember this case. Wasn't it that  
2790 we were trying to build a larger home than what was projected in the subdivision plan?  
2791  
2792 Mr. Blankinship - Yes, there was a deeper rear-yard setback. I don't know if  
2793 the home is larger or just shaped differently.  
2794  
2795 Mr. Kirkland - I thought they wanted more square footage in the home, if I  
2796 remember back correctly.  
2797  
2798 Mr. Blankinship - That was before I came here, but that appears to be the  
2799 case.  
2800  
2801 Ms. Taylor - The minimum requirement for that subdivision is 1,600 feet.  
2802  
2803 Mr. Kirkland - What size home are you building?  
2804  
2805 Ms. Taylor - I think it is a tiny bit larger than that, but that is just due to the  
2806 plan. That just happened to be the plan.

2807  
2808 Ms. Carpenter - The house that we have right now is a 1,700 square foot  
2809 home, but that is being on three levels, but we're still trying to reach that 1,600, and  
2810 even with that little 6 feet, you've got extra square footage on all three levels because it  
2811 is going to have an English basement to it, also, and we still will be within the height  
2812 restrictions, too, of the neighborhood.

2813  
2814 Mr. Kirkland - And the right of way, I saw in the paper this morning that  
2815 Springfield Road is in the plan to be widened from Nuckols to Francistown, and I was  
2816 just trying to keep this in mind.

2817  
2818 Ms. Carpenter - So we kind of thought this was going to be another buffer for  
2819 the neighborhood, so with this house being there it will help keep that noise buffer, and  
2820 from the way they show it, Springfield is coming right behind this property. It could only  
2821 have positive effects on the neighborhood.

2822  
2823 Mr. Kirkland - Any other questions by Board members? Mr. McKinney? Is  
2824 there any opposition in this case? That concludes the case.

2825  
A-85-2000 GLENN F. WRIGHT requests a variance from Section 24-94 of Chapter  
24 of the County Code to build an addition at 13 West Glenbrook Circle  
(Glenbrooke Hills) (Tax Parcel 126-1-C-4) zoned R-1, One-Family  
Residence District (Tuckahoe). The rear yard setback is not met. The  
applicant has 41 feet rear yard setback, where the Code requires 50 feet  
rear yard setback. The applicant requests a variance of 9 feet rear yard  
setback.

2826  
2827 Mr. Kirkland - Does anyone else wish to speak on this case? If you would  
2828 sir, raise your right hand and be sworn in.

2829  
2830 Mr. Blankinship - Do you swear the testimony you are about to give is the  
2831 truth, the whole truth and nothing but the truth so help you God?

2832  
2833 Mr. Berg - Yes, I do.

2834  
2835 Mr. Blankinship - State your name for the record, sir.

2836  
2837 Mr. Berg - Steven Berg.

2838  
2839 Mr. Kirkland - Have all of your notices been turned in, according to County  
2840 Code?

2841  
2842 Mr. Berg - Yes, sir.

2843  
2844 Mr. Kirkland - Proceed with the case.

2845

2846 Mr. Berg - I am a designer and general contractor for Glenn Wright for  
2847 this addition. They are out of town and were unable to attend. The Wrights have owned  
2848 the house for a few years and bought the house with intentions of putting an addition on  
2849 the rear of the property. What was proposed is an enlarged kitchen, actually a new  
2850 kitchen space, and family room, as well as mud room space. The house is  
2851 approximately 50 years old and as with thousands of that design and vintage, has  
2852 common new needs for houses. The house is set back quite a bit from the front line,  
2853 and even though the lot is quite large, it does not lend itself well for this type of addition  
2854 in another location. We looked at possibly extending on the right side of the property,  
2855 and just couldn't get a flow plan for the addition, including especially the kitchen in that  
2856 direction. From what I understand, there was a variance granted in 1991 for a similar,  
2857 but I think, larger addition by a previous owner. The materials and general design are in  
2858 keeping with the house and the neighborhood and the Wrights have talked with all of  
2859 the neighbors and told me the neighbors have been in favor of the proposed work.

2860  
2861 Mr. Kirkland - Any questions of Mr. Berg? Any one else wish to speak on  
2862 this case? If not, sir, that concludes the case.

2863  
2864 Mr. Berg - Thank you.

2865  
UP-27-2000 W. C. ENGLISH, INC. requests a use permit pursuant to Sections 24-  
52(d) and 24-103 of Chapter 24 of the County Code to extract materials  
from the earth at 6919 Monahan Road (Tax Parcel 205-A-40A), zoned  
A-1, Agricultural District. (Varina)

2866  
2867 Mr. Kirkland - Does anyone else wish to speak on this case?  
2868 If you would, please raise your right hand and be sworn in.

2869  
2870 Mr. Blankinship - Do you swear that the testimony you are about to give  
2871 is the truth, the whole truth, and nothing but the truth, so help you God?

2872  
2873 Mr. Paul Hinson - I do.

2874  
2875 Mr. Kirkland - State your name for the record, please.

2876  
2877 Mr. Hinson - My name is Paul Hinson with Koonz-Bryant,  
2878 and I am representing W. C. English.

2879  
2880 Mr. Kirkland - Have all of the notices been turned in,  
2881 according to County Code?

2882  
2883 Mr. Hinson - Yes, sir, they have.

2884  
2885 Mr. Kirkland - He didn't get the file out yet. We've got them.  
2886 If you would, state your case.

2887

2888 Mr. Hinson - Yes, sir. We are proposing to use the property as a barrow  
2889 pit for the 895 operation. This site has been chosen due to its proximity to the 895 right  
2890 of way and the fact that there would not be any materials that would have to be hauled  
2891 down the road. All of the material would be hauled directly on to the 895 construction  
2892 right-of-way by either off-road trucks or other methods. We are not proposing any  
2893 wetland disturbance to this project. We have delineated our wetland boundaries now  
2894 and are in the process of the final boundary survey. We have submitted an E&S plan  
2895 and we have received some comments from the Environmental Department, but we will  
2896 get our approved plan prior to any operations on the site. We will also have a  
2897 restoration plan that we would submit to be approved by the County. We have met with  
2898 the closest neighbor to the triangular piece that (pointing on map) extends out (right  
2899 here). The rectangular portion on the western side is property of the Bowerys. They  
2900 called during the public notice period and expressed some concerns. We have met with  
2901 the Bowerys and are going to request some revisions to our conditions to accommodate  
2902 some of their desires, and that is generally the position we are in right now. They are in  
2903 the court room today, and I believe they are not going to speak in opposition, but they  
2904 have requested that we change some of our conditions. I would like to suggest some  
2905 amendments to the existing conditions if I could, the suggested conditions. Condition  
2906 #2, At the request of the Bowerys, we would like to amend the hours of operation for  
2907 eastern daylight time from 7:00 a.m. to 7:00 p.m. Monday through Friday. We would  
2908 also would like to request that the Board consider operation from 7:30 a.m. to 3:00 p.m.  
2909 on Saturday, 7:00 a.m. to 3:00 p.m. on Saturday. Condition #7, at the request of the  
2910 Bowerys, we would like to be able to stockpile some topsoil on the 100 foot setback  
2911 from their property, to construct a screening berm to be used during the construction  
2912 activities to abate noise and dust. We would put that topsoil back on the borrow area  
2913 limits upon completion, but that would be a variance from the suggested condition,  
2914 because it does say we cannot stockpile any topsoil in the 100 foot setback outside the  
2915 mining limits, and we would also like to revise condition #15, as part of our application  
2916 we have field located our wetland boundaries and the boundary of the site, and we  
2917 would like to amend the limits of the barrow area from 22.97 to 23.24 acres.

2918  
2919 Mr. Blankinship - The bond amount would change to \$46,480.

2920  
2921 Mr. Hinson - OK. I would be happy to answer any questions the Board  
2922 might have.

2923  
2924 Mr. Nunnally - Would you need this for the full two years?

2925  
2926 Mr. Hinson - I would defer this to Mr. Higginbotham.

2927  
2928 Mr. Nunnally - Mr. Higginbotham, is this the same dirt you're going to need  
2929 to feather out the edges again, and all this good stuff. Or is this actual heavy duty  
2930 construction dirt. Are you going to need this the full two years?

2931  
2932 Mr. Higginbotham - Yes sir, we need to be able to.....

2933

2934 I just wanted to know.  
2935 Mr. Higginbotham - And the one thing I want to say for the record, we have told  
2936 Mr. and Mrs. Bowery that in this area, their concern in this area right through here  
2937 (pointing to map) which is the wetland and old pond, that we leave the trees in, and we  
2938 have agreed to do that. It is my understanding that it is within the setback in the  
2939 wetland area, so we can't get in there anyway, and we'd agreed to leave the trees in  
2940 there. I just wanted it to go on the record, to give them that assurance, too. Again, the  
2941 top soil to build a buffer to help protect, because their house is probably the most  
2942 affected of anybody else, and they have been exceptionally courteous and pleasant to  
2943 work with, and I am hoping that they can say that after we are through with this process,  
2944 but we have made some commitments to them that we fully intend to live up to.  
2945  
2946 Mr. Kirkland - Thank you, sir. Any other questions? Any one else wish to  
2947 speak? That concludes the case. Oh, I'm sorry. I did not see you back there. Are you  
2948 in opposition?  
2949  
2950 Mr. David Hudgins - Too strong a word. My name is David Hudgins and I am  
2951 speaking for Charles R. and Nancy J. Bowery. I am their son-in-law. Mr. Bowery has  
2952 had a laryndectomy, so he unable to speak. Our concern as a family who is most  
2953 directly affected by a barrow pit is #1, we have had to suffer through the 895 debacle,  
2954 and here directly behind it we are going to have an extraction pit that is 20 feet deep,  
2955 but I also recognize on the greater good that you are going to have direct access to 895  
2956 with no traffic after the Strath Road. Charles and Nancy have, I guess, reconciled  
2957 themselves that in the community this probably, if we are going to build 895, has the  
2958 least impact in Varina, because the trucks do go directly, but has a direct and immediate  
2959 impact on them and their house, so we appreciate the English Company reducing some  
2960 of the hours and we gave a little bit on the Saturday hours, we do have concerns like  
2961 dust, because dust, in this instance, whereas it is an inconvenience for most people, it  
2962 gets on your cars, it tracks gravel and it cracks windows. To Mr. Bowery it is a life  
2963 threatening situation, because of a laryndectomy is direct congestion to the lungs, so  
2964 the English Company has represented they will do watering and we don't want to tie  
2965 their hands, because if it is wet you don't need to water on a set schedule, so to speak,  
2966 but if it is like last summer, in July and August it didn't rain, and if this condition comes to  
2967 the fore next year, then there is going to have to be more than quote "a watering at 8:00  
2968 in the morning and then at noon" - so with that kind of flexibility, I am hoping that we can  
2969 work with the English Company and the superintendent at the job site and say, "Guys, it  
2970 is really dusty, and you are going to have to do more than once or twice watering and  
2971 be more pro-active in that sense, because the way that I calculated, there is over a  
2972 hundred thousand truck trips coming out of the site to remove the borrow. That is  
2973 spread over the two year period, of course. But, again, we are hoping the temporary  
2974 berm will try to mitigate the travel of the dust and the noise of these big diesels and  
2975 lessen the impact, but at the same token, Mr. Bowery does not want to be confined to  
2976 his home for a two-year period either. So, you know, will it require a special air  
2977 conditioning system with HEPA filters to try to keep the dust out from his lungs, we don't  
2978 know. I want to try to maintain a flexibility in front of this group and try to reach an  
2979 accommodation with the English Company, or else we will be here all day with 150

2980 conditions, trying to cover every eventuality, and so what is probably the wrong thing to  
2981 do is to try to count on the good graces of the English Company to be good neighbors  
2982 and to address the health concerns. So, I am going to leave it with BZA that if we can't  
2983 resolve the conditions and problems on site, as they have been represented by the  
2984 English Company, that come back to these guys and say, we are trying to  
2985 accommodate these guys and they are just not seeing the problems that we are having,  
2986 can you help us. And that is truly what I want to leave it at. It is unfortunate and no way  
2987 would anybody want a 23 acre or 20 foot deep pit behind their house that permanently  
2988 alters the landscape forever and always, and these guys have been here since post-  
2989 Civil War, and the whipsaw that's occurred within the last 10 years is just unbelievable,  
2990 but that is the price of progress and the price of living in a rural area. I just would like to  
2991 maintain our flexibility to come back and if we need to modify the conditions, I hope that  
2992 they are received, that we go forth in good faith and hope that in two years time we can  
2993 stand up here and say, "You know, the English Company has performed above our  
2994 expectations." And, that is all I have. Any questions? Thank you.

2995  
2996 Mr. Hudgins - Thank you.

2997  
2998 Mr. Kirkland - Anyone else wish to speak? That concludes the case. Mr.  
2999 Higgenbotham, you heard all of that, didn't you?

3000  
3001 Mr. Higgenbotham - Absolutely.

3002  
3003 Mr. Kirkland - OK. Want to start from the rear and work to the front? All right, first  
3004 case, UP-27-2000.

3005  
3006 On a motion by Mr. McKinney, seconded by Mr. Nunnally, the Board **approved**  
3007 the Minutes of the March 23, 2000, Henrico County Board of Zoning Appeals  
3008 meeting.

3009  
3010 There being no further business, and on a motion by Mr. McKinney, seconded by  
3011 Mr. Nunnally, the Board adjourned until August 24, 2000, at 9:00 am.

3012  
3013 All of the aforementioned decisions have been filed in the office of the Board of  
3014 Zoning Appeals as of July 31, 2000.

3015

3016

3017 Richard Kirkland, Chairman

3018

3019 Benjamin Blankinship, AICP, Secretary