

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 25, 2002,**
4 **AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
5 **DISPATCH ON JULY 5 AND 12, 2002.**
6

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

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

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

11
12 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board,
13 ladies and gentlemen. The rules for this meeting are as follows. As Secretary, I
14 will call each case. Then at that time the applicant should come to the podium. I
15 will ask everyone who intends to speak on that case, in favor or in opposition, to
16 stand and be sworn in. The applicants will then present their testimony. After the
17 applicant has spoken, the Board will ask them questions, and then anyone else who
18 wishes to speak will be given the opportunity. After everyone has spoken, the
19 applicant, and only the applicant, will be given the opportunity for rebuttal. After
20 hearing the case, and asking questions, the Board will take the matter under
21 advisement. They will render all of their decisions at the end of the meeting. If
22 you wish to know their decision on a specific case, you can either stay until the
23 end of the meeting, or you can call the Planning Office later this afternoon. This
24 meeting is being tape recorded, so we will ask everyone who speaks, to speak
25 directly into the microphone on the podium, and to state your name. And finally,
26 out in the foyer, there are two binders, containing the staff report for each case,
27 including the suggested conditions.

28
29 Mr. Balfour - Thank you sir. Do we have any requests for withdrawals
30 or deferrals on the 9:00 o'clock docket?

31
32 Mr. Blankinship - No sir, none that I'm aware of.
33

July 25, 2002

34 **A -122-2002** **EDWARD AND LISA SCLAFANI** request a variance from Section
35 24-94 of Chapter 24 of the County Code to build a screened
36 porch over the existing deck at 4725 Regal Oaks Road (Regal
37 Oaks at Twin Hickory) (Parcel 742-768-3073), zoned R-2AC
38 and R-3C, One-family Residence District (Conditional) (Three
39 Chopt). The rear yard setback is not met. The applicants have
40 33.6 feet rear yard setback, where the Code requires 45.0 feet
41 rear yard setback. The applicants request a variance of 11.4
42 feet rear yard setback.
43

44 Mr. Balfour - Anyone here to speak on this case? Any others expect
45 to speak on this case? Raise your right hand and be sworn please.
46

47 Mr. Blankinship - Do you swear that the testimony you are about to give is
48 the truth, the whole truth, and nothing but the truth, so help you God?
49

50 Mr. Sclafani - I do. My name is Edward Sclafani. I am the resident and
51 owner of 4725 Regal Oaks Road. I have no additional comments to make, outside
52 the existing report, so in the interest of time, I'd like to address any questions that
53 Board members might have.
54

55 Mr. Balfour - Any questions by Board members?
56

57 Mr. Wright- Mr. Sclafani, just tell us a little bit about what you want
58 to do, because this has to be recorded so we have a record of it.
59

60 Mr. Sclafani - I understand sir. Basically what we want to do is take
61 the existing deck and put a screened porch around it. There's a public common
62 area in the rear of the house, where a significant amount of water, when it does
63 rain, builds up over time. We found that, having barbeques at night, just going
64 outside at night, has a tendency to be a little bit of a problem with the mosquitoes
65 and the bugs in the back because of that wet area. Having the screened porch
66 would allow us to enjoy the outside a little bit more.
67

68 Mr. Wright- Also, your rear line appears to come in a bit; in other
69 words, it's not straight across there, and it probably causes you a problem with the
70 depth.
71

72 Mr. Sclafani - It does cause a little bit of problem. The one thing that is
73 a little misleading in that picture, is the indication of a 20-foot pedestrian access
74 path there. It's not 20 feet; it's actually 10 feet, so that dotted line would be
75 moved back an additional 10 feet toward the line.
76

77 Mr. Wright- I'm talking about the actual rear line. It comes in and

78 then goes back out. If that line were straight from the street to the point back
79 behind, you probably wouldn't have any problem there.

80
81 Mr. Sclafani - Probably not. The area of space between the deck and
82 the pedestrian path, or even all the way to the end of the pedestrian path is enough
83 space so that it wouldn't cause any problems in terms of people using the path.
84 We just want to screen in the existing deck.

85
86 Mr. Wright- And you are located on a cul-de-sac, is that not true?
87

88 Mr. Balfour - Any other questions?
89

90 Mr. McKinney - Mr. Sclafani, why is that not a 20-foot easement? It's
91 stated here by Youngblood Tyler and Associates, as 20 feet. You say it's 10?
92

93 Mr. Sclafani - The path that has been built is 10 feet, and the
94 documentation that I have that was attached to the deed and the closing
95 documents of the house in the sale, indicate a 10-foot easement. It does indicate a
96 10-foot easement. I can bring supporting documentation.
97

98 Mr. McKinney - No, that's okay, but I was looking at a certified engineer
99 here who said on December 14, 2000, that it was 20 feet.
100

101 Mr. Sclafani There was a modification after December 14, 2000. This
102 is not the most recent document.
103

104 Mr. Balfour - Any other questions? You haven't had much trouble with
105 wetness and mosquitoes this year, have you?
106

107 Mr. Sclafani - No, it hasn't been as wet, but there still are mosquitoes
108 out there, and we've received some notices from the YMCA in the local area about
109 West Nile Virus. In fact, as you've heard, there have been some birds found with
110 the West Nile Virus in Richmond, so it's a little bit of a concern, having 3 young
111 children.
112

113 Mr. Balfour - Any other questions? Thank you sir.
114

115 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
116 McKinney, the Board **granted** application **A-122-2002** for a variance to build a
117 screened porch over the existing deck at 4725 Regal Oaks Road (Regal Oaks at
118 Twin Hickory) (Parcel 742-768-3073). The Board granted the variance subject to
119 the following conditions:
120

121 1. Only the improvements shown on the plan filed with the application may be
122 constructed pursuant to this approval. No substantial changes or additions to the
123 layout may be made without the approval of the Board of Zoning Appeals. Any
124 additional improvements shall comply with the applicable regulations of the County
125 Code.

126
127 2. The new construction shall match the existing dwelling as nearly as
128 practical.

129
130 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright
131 5
132 Negative: 0
133 Absent: 0
134

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

141
142 **UP- 27-2002 SANDSTON MOOSE LODGE** requests a temporary conditional
143 use permit pursuant to Section 24-116(c)(1) of Chapter 24 of
144 the County Code to hold a turkey shoot at 4505 Oakleys Lane
145 (Parcel 818-719-0377), zoned A-1, Agricultural District
146 (Varina).

147
148 Mr. Balfour - Any others expect to testify in this case? Would you
149 raise your right hand and be sworn.

150
151 Mr. Blankinship - Do you swear that the testimony you are about to give is
152 the truth, the whole truth, and nothing but the truth, so help you God?
153

154 Mr. Klein - I do. My name is Christopher A. Klein, Administrator of
155 Sandston Moose Lodge. We've been having this turkey shoot for approximately 20
156 years. We've never had any problems or anything. All of the suggested
157 conditions, we automatically do anyway.

158
159 Mr. Balfour- You have no problem with the conditions that are listed
160 on page 2?
161

162 Mr. Klein - No sir, we do those anyway.

163
164 Mr. Nunnally- This will be only Friday and Saturday nights?

165
166 Mr. Klein - Friday and Saturday nights, # 8 shot, 7 to 11 pm, and
167 that's approximately what we've done for the last 20 years.

168
169 Mr. Nunnally- You haven't had any complaints, have you Mr.
170 Blankinship?

171
172 Mr. Blankinship - No sir.

173
174 Mr. Wright- Mr. Chairman, I thought we were giving these for 2 years
175 now?

176
177 Mr. Klein - Well basically where it says 2002 to 2003, that's
178 actually 2 seasons for us.

179
180 Mr. Wright- That covers you for 2 seasons.

181
182 Mr. Balfour - Any other questions? Thank you sir.

183
184 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
185 Mr. Kirkland, the Board **granted** application **UP-27-2002** for a temporary conditional
186 use permit pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code to
187 hold a turkey shoot at 4505 Oakleys Lane (Parcel 818-719-0377). The Board
188 granted the use permit subject to the following conditions:

189
190 1. Hours of firing shall be from 7:00 PM to 11:00 PM on Fridays and
191 Saturdays.

192
193 2. The land shall be properly posted to clearly show the area in which the
194 shooting occurs.

195
196 3. No alcoholic beverages shall be consumed in the area of the shooting. A
197 sign to this effect shall be posted on the property.

198
199 4. Restrooms shall be provided.

200
201 5. The turkey shoot shall involve only the use of shotguns no larger than 12
202 gauge and low powered shells containing No. 8 shot.

203
204 6. This permit is valid from September 1, 2002 through December 31, 2003.

205
206 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright

207 5

208 Negative: 0

209 Absent: 0
210

211 The Board granted the request because it found the proposed use will be in
212 substantial accordance with the general purpose and objectives of Chapter 24
213 of the County Code.
214

215 **UP- 28-2002 TRAMMELL CROW CO.** requests a temporary conditional use
216 permit pursuant to Section 24-116(c)(1) of Chapter 24 of the
217 County Code to locate a temporary office/storage trailer at
218 3951 Westerre Parkway (Parcel 750-759-4330), zoned O-3C,
219 Office District (Conditional) (Three Chopt).
220

221 Mr. Balfour - Anyone here to speak on that case? Pass it by.
222

223 **A -123-2002 HARVEY STILES** requests a variance from Section 24-95(q)(5)
224 of Chapter 24 of the County Code to build an attached garage
225 at 10136 Deepwood Circle (Raintree) (Parcel 745-746-4005),
226 zoned R-2AC, One-family Residence District (Conditional)
227 (Tuckahoe). The minimum side yard setback and total side yard
228 setback are not met. The applicant proposes 6.4 feet minimum
229 side yard setback and 19 feet total side yard setback, where
230 the Code requires 8 feet minimum side yard setback and 22 feet
231 total side yard setback. The applicant requests a variance of
232 1.6 feet minimum side yard setback and 3 feet total side yard
233 setback.
234

235 Mr. Balfour - Anyone else expect to testify in this matter? Raise your
236 right hand and be sworn sir.
237

238 Mr. Blankinship - Do you swear that the testimony you are about to give is
239 the truth, the whole truth, and nothing but the truth, so help you God?
240

241 Mr. Stiles - I do. My name is Harvey Stiles. I applied for a variance
242 because I'm a little short on the total setback.
243

244 Mr. Wright - Do you intend to build this garage where your cars are
245 now sitting on the driveway? What type of construction would it be?
246

247 Mr. Stiles - Yes sir. It would be mostly lap construction. I'm redoing
248 my whole house, windows and siding, and I'm also going to put a door in the lower
249 level where the brick area is, on the side to access the garage through the door.
250

251 Mr. Wright - Access the garage through that door? That's your family
252 room, I take it.

253
254 Mr. Stiles - That is correct.
255
256 Mr. Wright - And the garage would not be brick, but would be siding
257 to match the house? I notice in some of the pictures, you have some screening on
258 that side between your lot and the lot next door, some bushes and trees, is that
259 correct? Will they remain?
260

261 Mr. Stiles - That's harry board (hardy plank?), yes. That's correct.
262 Some of them will have to go towards the paved driveway.
263

264 Mr. Balfour - Any other questions? Thank you.
265

266 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
267 McKinney, the Board **granted** application **A-123-2002** for a variance to build an
268 attached garage at 10136 Deepwood Circle (Raintree) (Parcel 745-746-4005). The
269 Board granted the variance subject to the following conditions:
270

271 1. Only the improvements shown on the plan filed with the application may be
272 constructed pursuant to this approval. No substantial changes or additions to the
273 layout may be made without the approval of the Board of Zoning Appeals. Any
274 additional improvements shall comply with the applicable regulations of the County
275 Code.
276

277 2. The new construction shall match the existing dwelling as nearly as
278 practical.
279

280 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright

281 5

282 Negative: 0

283 Absent: 0
284

285 The Board granted this request, as it found from the evidence presented that, due
286 to the unique circumstances of the subject property, strict application of the
287 County Code would produce undue hardship not generally shared by other
288 properties in the area, and authorizing this variance will neither cause a substantial
289 detriment to adjacent property nor materially impair the purpose of the zoning
290 regulations.
291

292 **A -124-2002** **M. B. S. INVESTMENTS** requests a variance from Section 24-94
293 of Chapter 24 of the County Code to build a one-family dwelling
294 at 12790 Kain Road (Parcel 732-772-7630 (part)), zoned A-1,
295 Agricultural District (Three Chopt). The lot width requirement is
296 not met. The applicant has 54.95 feet lot width, where the

297 Code requires 150 feet lot width. The applicant requests a
298 variance of 95.05 feet lot width.

299
300 Mr. Balfour - Any others expect to testify in this case? Raise your
301 right hand and be sworn please.

302
303 Mr. Blankinship - Do you swear that the testimony you are about to give is
304 the truth, the whole truth, and nothing but the truth, so help you God?

305
306 Mr. Simmons - I do. I'm Randy Simmons, representing MBS
307 Investments. What we're trying to do is build 1 house on 4 ½ acres, off of Kain
308 Road.

309
310 Mr. Wright- Has the property been divided?

311
312 Mr. Simmons - No sir, it hasn't been yet. When it's been divided, there
313 will be roughly a 54-55-foot driveway going in on the right side of the house next
314 to it.

315
316 Mr. Wright- What size would the parcel be that's left?

317
318 Mr. Simmons - A little over an acre.

319
320 Mr. Wright- An acre that you can build a house on?

321
322 Mr. Simmons - No, there is a house to the left, but when we cut it out,
323 there will still be an acre for that house, and then 4 ½ for the additional one.

324
325 Mr. Wright- So the new house will be constructed on the 4 1/2-acre
326 lot?

327
328 Mr. Simmons - Yes sir, approximately in the center.

329
330 Mr. Balfour - Any other questions?

331
332 Mr. Wright- I take it the lot is wooded at this time?

333
334 Mr. Simmons - Heavily, yes sir.

335
336 Mr. Wright- So you'll just take out enough trees to build on?

337
338 Mr. Simmons - All we'll take out is 30-50 feet around the house.

339
340 Mr. Balfour - Any other questions?

341
342 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
343 McKinney, the Board **granted** application **A-124-2002** for a variance to build a one-
344 family dwelling at 12790 Kain Road (Parcel 732-772-7630 (part)). The Board
345 granted the variance subject to the following condition:

346
347 1. This variance applies only to the lot width requirement. All other applicable
348 regulations of the County Code shall remain in force.

349 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright
350 5
351
352 Negative: 0
353 Absent: 0
354

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

361
362 **A -125-2002** **JOHN NUTTYCOMBE** requests a variance from Section 24-
363 95(i)(2)(b) of Chapter 24 of the County Code to build a
364 detached garage at 2637 LaClede Avenue (Pine Run) (Parcel
365 735-755-3354), zoned R-2A, One-family Residence District
366 (Tuckahoe). The accessory structure height is not met. The
367 applicant proposes 22 feet in height, where the Code allows 15
368 feet in height. The applicant requests a variance of 7 feet in
369 height.

370
371 Mr. Balfour - Any others expect to testify in this case? Raise your
372 right hand and be sworn.

373
374 Mr. Blankinship - Do you swear that the testimony you are about to give is
375 the truth, the whole truth, and nothing but the truth, so help you God?

376
377 Mr. Nuttycombe - I do. My John Nuttycombe, and I'm the owner of 2637
378 LaClede Avenue. It's my objective to build a detached garage with a pool house in
379 the side, since we installed a swimming pool this summer, and we can't meet the
380 15-foot requirement as the Code states. Basically, what I'm going to do is build a
381 detached garage that looks just like half of my house, or that garage area, so in
382 order to do that and to keep the elevation and the roof levels looking like one
383 another, we're just a little bit short.

384

385 Mr. Balfour - You're trying to match the height of your house, you
386 mean? Looks like there some construction already going on. Is that your
387 swimming pool?
388
389 Mr. Nuttycombe - Exactly. That's the swimming pool.
390
391 Mr. McKinney - Mr. Nuttycombe, what's the height of the ridge on your
392 house now?
393
394 Mr. Nuttycombe - Twenty-three and a half feet.
395
396 Mr. McKinney - And what's the height of the ridge of this garage going to
397 be if this is approved?
398
399 Mr. Nuttycombe - Well, I'm a little confused, in that when we talked to the
400 people when we applied for the variance, they were saying that they take the
401
402 Mr. McKinney - half of the gable or 15 feet
403
404 Mr. Nuttycombe - Right. Exactly. So we're actually going to be at about
405 the 33 and 10, approximately 18 ½, instead of the 15. Total height of the garage
406 will probably be about 23 feet.
407
408 Mr. McKinney - But from the grade to the ridge, you think it's going to be
409 18 feet
410
411 Mr. Nuttycombe - When you say the ridge, you're talking about the peak?
412
413 Mr. McKinney - The peak.
414
415 Mr. Nuttycombe - It's going to be about 23 feet.
416
417 Mr. McKinney - And your house is 23 ½?
418
419 Mr. Nuttycombe - Right.
420
421 Mr. McKinney - How far away from your house is this garage?
422
423 Mr. Nuttycombe - Approximately 30 feet. And it will set right at the end of
424 the driveway as they have it there. And it does back up to Church Road. There's
425 no one directly behind me.
426
427 Mr. Wright - Will this garage have a loft in it?
428

429 Mr. Nuttycombe - Yes sir. Upstairs is going to be for storage.
 430
 431 Mr. Wright - Storage only?
 432
 433 Mr. Nuttycombe - Yes sir. In the present house, the attic is accessible
 434 through a closet, and it's extremely difficult to get things up and down, so I'm
 435 going to need it for the storage.
 436
 437 Mr. Nuttycombe - Well, does storage restrict me from putting a pool table
 438 up there if I want to.
 439
 440 Mr. Blankinship - Yes it would.
 441
 442 Mr. Nuttycombe - I have no intentions of ever making it a living space,
 443 that's fine, and that's already in the covenants of our subdivision, and that's what
 444 we have now with the covenants of Pine Run.
 445
 446 Mr. Wright - So the condition would be that you could not have a
 447 living space combination.
 448
 449 Mr. Nuttycombe - That's fine.
 450
 451 Mr. Balfour - Any more questions? Thank you sir.

452
 453 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
 454 McKinney, the Board **granted** application **A-125-2002** for a variance to build a
 455 detached garage at 2637 LaClede Avenue (Pine Run) (Parcel 735-755-3354). The
 456 Board granted the variance subject to the following conditions:

- 457
 458 1. This variance applies only to the height requirement for the garage. All other
 459 applicable regulations of the County Code shall remain in force.
 460
 461 2. The second floor of the garage shall not be converted to livable floor area.
 462

463 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright
 464 5
 465 Negative: 0
 466 Absent: 0
 467

468 The Board granted this request, as it found from the evidence presented that, due
 469 to the unique circumstances of the subject property, strict application of the
 470 County Code would produce undue hardship not generally shared by other
 471 properties in the area, and authorizing this variance will neither cause a substantial

472 detriment to adjacent property nor materially impair the purpose of the zoning
473 regulations.

474
475 **A -126-2002** **VICTORIA J. AND LOUIS M. BOSSE** request a variance from
476 Section 24-30.1 of Chapter 24 of the County Code to build an
477 addition at 3633 Milbury Run Street (Milhaven) (Parcel 728-
478 758-2768), zoned R-5, General Residence District (Three
479 Chopt). The rear yard setback is not met. The applicant
480 proposes 26 feet rear yard setback, where the Code requires 35
481 feet rear yard setback. The applicant requests a variance of 9
482 feet rear yard setback.

483
484 Mr. Balfour - Anyone else to testify in this matter? Would you raise
485 your right hand and be sworn please.

486
487 Mr. Blankinship - Do you swear that the testimony you are about to give is
488 the truth, the whole truth, and nothing but the truth, so help you God?

489
490 Ms. Bosse - I do. My name is Victoria J. Bosse. What we're applying
491 for is a variance on the back of the house. My husband works out of the home,
492 and we have had a second child, so we are trying to put an office in the
493 downstairs, which will replace the deck, and on the upstairs, a new bedroom and
494 bathroom for our daughter.

495
496 Mr. Balfour - That would go right above where that deck is now?

497
498 Ms. Bosse - I think it extends about a foot and a half beyond it, but it
499 would replace the deck completely. On the side, which isn't affected by the
500 variance, we're going to put in a screened-in porch as well. The yard is an odd
501 shape in the back, such an odd shape that the only place to put the addition is right
502 there, and so it just doesn't meet it because of the strange dip.

503
504 Mr. Nunnally- What is this we have here, "accommodate a home
505 office," what kind of office are we speaking of?

506
507 Ms. Bosse - My husband works out of the home, and he works for a
508 company in Washington in which he telecommutes every day from the home, and
509 he has started a new sole proprietorship as well, and he's working that business
510 out of the home. That requires a great deal of equipment. We have 4 computer
511 systems networked in our home, and it's taken over my living room.

512
513 Mr. Nunnally- You don't have anybody visiting there about the business
514 that he's in? You don't have any customers or clients coming in there?

515

516 Ms. Bosse - No, there's no one who comes there. He might have a
517 client come in there with the new sole proprietorship. It's a video, it takes
518 photographs and puts them on videotape. He transfers them to videotape. So an
519 individual might come to our home, yes. Or he might go to their home.

520
521 Mr. Kirkland - Mr. Blankinship, so we get into a problem with a business
522 here?

523
524 Mr. Blankinship - It's kind of an odd situation. As I stated in the report, the
525 Code provides that a home occupation cannot require changes, external or internal
526 alterations to the structure. The reason I say it's a curious thing is that, if they did
527 the addition first, and then they started the business, the business wouldn't be
528 requiring the changes; the changes would already be done. It's kind of a peculiar
529 circumstance; I felt it should be brought to your attention, the facts should be in
530 front of you when you make your decisions, but exactly how you want to handle
531 that is of course up to the Board.

532
533 Mr. Balfour- Your husband's main occupation, I gather, is
534 telecommuting.

535
536 Ms. Bosse - Yes, this side business is for fun. He loves videotaping,
537 and especially our children, so he got involved in that, and people started saying,
538 "we want some of these too," and he thought "what a nice idea to go ahead and
539 have a little side business to help us out a little." But the main occupation for
540 which he gets a salary and makes a living at and works 40 hours a week, is the
541 telecommuting out of Washington, and that's the one that has the 4 computers, in
542 which he networks out of the Alexandria office as well. That's the one that has all
543 the computer stuff that took over my living room.

544
545 Mr. Balfour - Any other questions?

546
547 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
548 McKinney, the Board **granted** application **A-126-2002** for a variance to build build
549 an addition at 3633 Milbury Run Street (Milhaven) (Parcel 728-758-2768). The
550 Board granted the variance subject to the following condition:

551
552 1. Only the improvements shown on the plan filed with the application may be
553 constructed pursuant to this approval. No substantial changes or additions to the
554 layout may be made without the approval of the Board of Zoning Appeals. Any
555 additional improvements shall comply with the applicable regulations of the County
556 Code.

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558 2. The new construction shall match the existing dwelling as nearly as
559 practical.

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

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

A -127-2002 DENNIS W. MCKAY requests a variance from Sections 24-95 (k) and 24-94 of Chapter 24 of the County Code to build an attached garage at 2501 Landon Road (Williamsburg Park) (Parcel 763-750-2379), zoned R-3, One-family Residence District (Three Chopt). The minimum side yard setback and rear yard setback are not met. The applicant proposes 11 feet rear yard setback and 20 feet minimum side yard setback, where the Code requires 40 feet rear yard setback and 25 feet minimum side yard setback. The applicant requests a variance of 29 feet rear yard setback and 5 feet minimum side yard setback.

Mr. Balfour - Any others to testify in this case? Would you raise your right hand and be sworn please.

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

Mr. McKay - I do. My name is Dennis McKay. I'd like to build an attached garage right at the fenced area, and it would sit out approximately 10 feet into the driveway. There's a place that shows the lot, and this is a busy road right beside my house, Biscayne; it's a cut-through from Piccadilly down on Broad Street, up to Hungary Spring. There's a lot of traffic, and they come whizzing through there. My wife is pregnant, and our concern is that if we were to build the garage where we're allowed to build it in the back yard, we wouldn't have any back yard. The drive going up to the garage would also take up the extra yard space, so we would really have no rear yard. With the garage on the side, it's somewhat further away from our neighbors' yards also, so we just thought that would look better. It would be built to look like the house, with a brick foundation and the siding.

Mr. Balfour- It looks like it would be pushed facing towards Biscayne Road, is that right?

604
605 Mr. McKay - Yes sir. I'm not aware the amounts that they say that I
606 need. One of the papers that I have says that I need a certain amount, and Steve
607 Tugwell wrote the minimums that I needed, and in one place he has a 12-foot
608 minimum, and on the drawing that I have, where the garage would be, it shows
609 that I have 11 feet, so it looks like I would only need a foot there. Coming from
610 the road, the information says that I would need 25 feet, and I've got 20 feet, so it
611 looks like I would be asking for 5 feet there. I might not understand how they have
612 it written.

613
614 Mr. Blankinship - The 25 feet is correct. I'm not sure where the 12 came
615 from; the rear yard setback is 40 feet.

616
617 Mr. Wright - The problem is, you have what we call a reverse corner
618 lot, and it puts you in a different position, where your back yard is your side yard,
619 or your side yard is your back yard. I guess the question is, how would this garage
620 impact the house that's on lot 13, the Harvers, more around on Biscayne Road.
621 Their house seems to be parallel with Biscayne Road, so this would sort of be to
622 the side of the back of their house.

623
624 Mr. McKay - And he also has on the side of his house, close to where
625 the garage would be, it's like a screened-in porch, where you can see the roof right
626 there.

627
628 Mr. Wright- And you would access this off of Landon Road. What
629 type of structure would it be?

630
631 Mr. McKay - I guess maybe a foot or so would be brick to match the
632 house, and then the rest of it would be aluminum siding to match the house also.

633
634 Mr. Wright- It would be consistent with the house? That's one of the
635 conditions, that it would match the existing dwelling as nearly as practical.

636
637 Mr. Balfour - Any other questions? Thank you.

638
639 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
640 McKinney, the Board **granted** application **A-127-2002** for a variance to build an
641 attached garage at 2501 Landon Road (Williamsburg Park) (Parcel 763-750-2379).
642 The Board granted the variance subject to the following conditions:

643
644 1. Only the improvements shown on the plan filed with the application may be
645 constructed pursuant to this approval. No substantial changes or additions to the
646 layout may be made without the approval of the Board of Zoning Appeals. Any

647 additional improvements shall comply with the applicable regulations of the County
648 Code.

649
650 2. The new construction shall match the existing dwelling as nearly as
651 practical.

652
653 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright
654 5
655 Negative: 0
656 Absent: 0

657
658 The Board granted this request, as it found from the evidence presented that, due to the
659 unique circumstances of the subject property, strict application of the County Code
660 would produce undue hardship not generally shared by other properties in the area, and
661 authorizing this variance will neither cause a substantial detriment to adjacent property
662 nor materially impair the purpose of the zoning regulations.

663
664 **UP- 29-2002 RYAN HOMES WEST** requests a temporary conditional use
665 permit pursuant to Section 24-116(c)(1) of Chapter 24 of the
666 County Code to locate a temporary sales trailer at 4450
667 Springfield Road (Townes at Meredith Creek) (Parcel 755-762-
668 3713), zoned RTHC, Residential Townhouse District
669 (Conditional) (Brookland).

670
671 Mr. Balfour - Any others to testify in this case? Raise your right hand
672 and be sworn please.

673
674 Mr. Blankinship - Do you swear that the testimony you are about to give is
675 the truth, the whole truth, and nothing but the truth, so help you God?

676
677 Mr. Meintzer - I do. My name is Kenneth Meintzer. Good morning,
678 members of the Board, Mr. Blankinship. I'm here on behalf of the applicant, Ryan
679 Homes, to request a conditional use permit for a temporary sales trailer at our
680 newest townhouse community at Springfield Road. It will be a brand new trailer,
681 located towards the front, with significant landscaping and dressing up, and it does
682 have more than sufficient amount of parking. It will be graveled; it will be
683 temporary. We're already in for a permit for a model building, depending on
684 construction cycle, we could be out of there before what we're requesting. It is
685 going to be fairly attractive; it is towards the front; there really isn't a really good
686 place to put that on the site different from that. It's very open; we would like it to
687 be visible, and hopefully again, it will be very temporary.

688
689 Mr. Balfour - Have you read the conditions?
690

691 Mr. Meintzer - Yes sir, and we would have done those anyway.

692

693 Mr. Balfour - Any other questions?

694

695 Mr. Wright - When do you expect to have this construction
696 completed?

697

698 Mr. Meintzer - The total project? It's probably about a 2-year sales time,
699 and then a little longer to build all the units, but the sales trailer is only there until
700 the model building is completed, and that, I don't want to say that that will be a
701 definite time because you never know how long a permit is going to take, as well
702 as the normal construction cycle. We also do decorate the models if you are
703 familiar with our products, we do decorate them very nicely, and it takes a bit
704 longer to get the thing open. We don't want to miss the traffic that will be coming
705 through there that can at least see what we're doing in the trailer.

706

707 Mr. Wright- You notice condition # 6 requires the trailer to be
708 removed on or before February 28, 2003.

709

710 Mr. Meintzer - That is not a problem.

711

712 Mr. Blankinship - That date was taken off the application forms.

713

714 Mr. Meintzer - That is not a problem. I anticipate being out of there
715 much sooner than that.

716

717 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by
718 Mr. Nunnally, the Board **granted** application **UP-29-2002** for a temporary
719 conditional use permit to locate a temporary sales trailer at 4450 Springfield Road
720 (Townes at Meredith Creek) (Parcel 755-762-3713). The Board granted the use
721 permit subject to the following conditions:

722

723 1. Only the improvements shown on the plan filed with the application may be
724 constructed pursuant to this approval. No substantial changes or additions to the
725 layout may be made without the approval of the Board of Zoning Appeals. Any
726 additional improvements shall comply with the applicable regulations of the County
727 Code.

728

729 2. A detailed landscaping and lighting plan shall be submitted to the Planning
730 Office with the building permit for review and approval.

731

732 3. All landscaping shall be maintained in a healthy condition at all times. Dead
733 plant materials shall be removed within a reasonable time and replaced during the
734 normal planting season.

- 735
 736 4. All exterior lighting shall be shielded to direct light away from adjacent
 737 property and streets.
 738
 739 5. The trailer shall be connected to sanitation facilities approved by the Health
 740 Department.
 741
 742 6. The trailer shall be removed from the site on or before February 28,
 743 2003, at which time this permit shall expire.
 744

745 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright
 746 5
 747 Negative: 0
 748 Absent: 0
 749

750 The Board granted the request because it found the proposed use will be in
 751 substantial accordance with the general purpose and objectives of Chapter 24 of
 752 the County Code.
 753

754 **A -128-2002 ERNEST AND LINDA CAMPE** request a variance from Section
 755 24-94 of Chapter 24 of the County Code to build a screened
 756 porch over the existing deck at 8907 Derbyshire Road
 757 (Derbyshire Place) (Parcel 748-738-9594), zoned R-2, One-
 758 family Residence District (Tuckahoe). The rear yard setback is
 759 not met. The applicants propose 41 feet rear yard setback,
 760 where the Code requires 45 feet rear yard setback. The
 761 applicants request a variance of 4 feet rear yard setback.
 762

763 Mr. Balfour - Anyone else expect to testify? Both of you raise your
 764 right hand and be sworn in if you're going to say something.
 765

766 Mr. Blankinship - Do you swear that the testimony you are about to give is
 767 the truth, the whole truth, and nothing but the truth, so help you God?
 768

769 Mr. Campe - I do. I'm Ernest Campe. With my wife Linda, we're the
 770 owners of the property, and we too wish to build a screened-in porch on an
 771 existing deck. We enjoy being outdoors and eating, and in the last few years the
 772 mosquito problem has increased for us as well. We're in a heavily treed area, and
 773 we cannot sit out there in the evenings and enjoy it at all, because my wife gets
 774 eaten alive, so we want to build a screened-in porch too. The two lots behind us,
 775 the 2 homes, there is an 8-foot privacy fence across the entire property there, and
 776 we just want to build the porch on the existing deck, which does extend out 4 feet
 777 into the setback.
 778

779 Mr. Wright- There seems to be plenty of screening behind you.
780
781 Mr. Campe - There's lots of screening, yes.
782
783 Ms. Campe - The two people who own the properties behind us
784 actually bought the lot in between their houses, so there's almost no house directly
785 behind our property.
786
787 Mr. Campe - And their lots are heavily treed as well.
788
789 Mr. Balfour - So they bought the lot and split it between themselves?
790
791 Ms. Campe - And the 8-foot fence goes the entire length of our
792 property and our neighbors' as well.
793
794 Mr. McKinney - How did you get an 8-foot fence?
795
796 Mr. Campe - They put that in; that's their fence. We didn't install
797 that.
798
799 Mr. McKinney - Did we give them a variance?
800
801 Mr. Blankinship - Not that I know of.
802
803 Mr. Campe - It's taller than I am. I was guessing. Maybe it's 7 feet,
804 8-foot sections, approximately 8 feet.
805
806 Mr. Balfour - Any other questions? Thank you.
807
808 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
809 McKinney, the Board **granted** application **A-128-2002** for a variance to build a
810 screened porch over the existing deck at 8907 Derbyshire Road (Derbyshire Place)
811 (Parcel 748-738-9594). The Board granted the variance subject to the following
812 condition:
813
814 1. Only the improvements shown on the plan filed with the application may be
815 constructed pursuant to this approval. No substantial changes or additions to the
816 layout may be made without the approval of the Board of Zoning Appeals. Any
817 additional improvements shall comply with the applicable regulations of the County
818 Code.
819
820 2. The new construction shall match the existing dwelling as nearly as
821 practical.
822

823 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright
824 5
825 Negative: 0
826 Absent: 0
827

828 The Board granted this request, as it found from the evidence presented that, due to the
829 unique circumstances of the subject property, strict application of the County Code
830 would produce undue hardship not generally shared by other properties in the area, and
831 authorizing this variance will neither cause a substantial detriment to adjacent property
832 nor materially impair the purpose of the zoning regulations.
833

834 **A -129-2002 HELEN SIMPSON** requests a variance from Sections 24-94 and
835 24-95(i)(1) of Chapter 24 of the County Code to build a
836 screened porch over an existing deck at 2605 Gayton Grove
837 Road (Cross Timbers) (Parcel 733-754-4092), zoned R-2AC,
838 One-family Residence District (Conditional) (Tuckahoe). The
839 rear yard setback and rear yard setback for a deck are not met.
840 The applicant proposes 31.11 feet rear yard setback, where the
841 Code requires 45 feet rear yard setback for the porch and 35
842 feet deck back for the deck. The applicant requests a variance
843 of 13.89 feet rear yard setback for the porch and 3.89 feet for
844 the deck.
845

846 Mr. Balfour - Anyone else expect to testify in this matter? Raise your
847 right hand and be sworn in please.
848

849 Mr. Blankinship - Do you swear that the testimony you are about to give is
850 the truth, the whole truth, and nothing but the truth, so help you God?
851

852 Mr. Smith - I do. I'm Larry Smith of Commonwealth Energy Systems,
853 representing Helen Simpson. Actually, gentlemen, the situation we've got here is
854 very similar to the one you've just heard. We've got a deck that's located on the
855 rear of this property; it's been there for quite a some time. As a matter of fact, I
856 don't believe Mrs. Simpson was aware that the deck was also in violation as far as
857 the setbacks were concerned at the time that we did this. She's been in the house
858 for, I believe, about 6 years, and of course the deck was already there. What
859 we're proposing to do is put a screened porch on it, on a portion of the existing
860 deck. Construction wise, it will be a stick built type project; shingles and whatnot
861 will match as close as possible to the existing home, trim and gutters as well.
862

863 Mr. Balfour - Questions?
864

865 Mr. Wright- It appears that the property to the rear of this dwelling is
866 sort of away from it, and it's on a curve.

867
868 Mr. Smith - It is sir, and it's a cul-de-sac lot, and the house itself is
869 actually constructed right on the setback requirement anyway, so it's just one of
870 those situations where it's virtually impossible to do any type of construction back
871 there without obtaining a variance.

872
873 Mr. Wright- Is there any screening behind this house, between this
874 house and the other lot?

875
876 Mr. Smith - There's really not. It's kind of tough to look at it from
877 the picture, but there's really not a house that's directly behind the property.
878 There is quite a bit of landscaping, some trees, and what not. I guess in the
879 wintertime some of the neighbors might be able to see it when the leaves aren't on
880 the trees. The side neighbor would be really the only one who could actually see
881 the porch.

882
883 Mr. Balfour - Any other questions? Thank you.

884
885 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
886 McKinney, the Board **granted** application **A-129-2002** for a variance to build a
887 screened porch over an existing deck at 2605 Gayton Grove Road (Cross Timbers)
888 (Parcel 733-754-4092). The Board granted the variance subject to the following
889 conditions:

890
891 1. Only the improvements shown on the plan filed with the application may be
892 constructed pursuant to this approval. No substantial changes or additions to the
893 layout may be made without the approval of the Board of Zoning Appeals. Any
894 additional improvements shall comply with the applicable regulations of the County
895 Code.

896
897 2. The new construction shall match the existing dwelling as nearly as
898 practical.

899
900 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright
901 5
902 Negative: 0
903 Absent: 0

904
905 The Board granted this request, as it found from the evidence presented that, due to the
906 unique circumstances of the subject property, strict application of the County Code
907 would produce undue hardship not generally shared by other properties in the area, and
908 authorizing this variance will neither cause a substantial detriment to adjacent property
909 nor materially impair the purpose of the zoning regulations.

910

911 Mr. Balfour - Mr. Secretary, would you call the case, **UP-28-2002**
912 please.

913
914 **UP- 28-2002** **TRAMMELL CROW CO.** requests a temporary conditional use
915 permit pursuant to Section 24-116(c)(1) of Chapter 24 of the
916 County Code to locate a temporary office/storage trailer at
917 3951 Westerre Parkway (Parcel 750-759-4330), zoned O-3C,
918 Office District (Conditional) (Three Chopt).

919
920 Mr. Balfour - Anyone here to speak on that case? Guess not. Since
921 we've got a few minutes, we'll go ahead and take some of the cases and vote on
922 them now, if it suits the members of the Board. Do I hear a motion on A-129-
923 2002?

924
925 All right, we'll recess till 10:00 o'clock.

926
927 **UP- 30-2002** **KANAWHA RECREATION ASSOCIATION** requests a conditional
928 use permit pursuant to Section 24-12(b) of Chapter 24 of the
929 County Code to build a diving pool at 8100 Holmes Avenue
930 (Parcel 755-735-8779), zoned R-3, One-family Residence
931 District (Tuckahoe).

932
933 Mr. Balfour - Mr. Balfour - Anyone else expect to testify in this matter?
934 Raise your right hand and be sworn in please. *(Mr. Balfour excused himself, and*
935 *Mr. Wright conducted the discussion.)*

936
937 Mr. Blankinship - Do you swear that the testimony you are about to give is
938 the truth, the whole truth, and nothing but the truth, so help you God?

939
940 Mr. Gerstenmaier - I do. My name is Dave Gerstenmaier, member of the
941 Board of the Kanawha Recreation Association. In February 1997 the Board of
942 Zoning Appeals approved our request for a revision of our existing use permit in
943 order to construct additional tennis courts and a parking area. We are now
944 requesting a revision to that approved plan, UP-3-1997, to allow us to construct a
945 separate, deeper, diving pool, within the already established swimming area of the
946 complex, to accommodate a competitive diving team that requires a deeper pool to
947 safely perform dives.

948
949 Mr. Wright - Have you read the conditions attached to this report?

950
951 Mr. Gerstenmaier - We have, and they are fine, but we no longer use a
952 starter gun for meets; everything is done electronically.

953
954 Mr. Wright - So we can eliminate the "starter gun" from condition #

955 5?

956

957 Mr. Gerstenmaier - Yes.

958

959 Mr. Wright - Is there any opposition to this request? Hearing none,
960 that concludes the case. Thank you.

961

962 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by
963 Mr. McKinney, the Board **granted** application **UP-30-2002** for a conditional use
964 permit to build a diving pool at 8100 Holmes Avenue (Parcel 755-735-8779). The
965 Board granted the use permit subject to the following conditions:

966

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

970

971 2. At the time of building permit application, the applicant shall submit the
972 necessary information to the Department of Public Works to ensure compliance
973 with the requirements of the Chesapeake Bay Preservation Act and the code
974 requirements for water quality standards.

975

976 3. A detailed landscaping and lighting plan shall be submitted to the Planning
977 Office with the building permit for review and approval.

978

979 4. All exterior lighting shall be shielded to direct light away from adjacent
980 residential property and streets.

981

982 5. Up to four times per year, the hours may be extended to 12:00 Midnight for
983 swimming meets. Public address systems and similar equipment may be used at
984 swimming meets, but at no other time except for emergency purposes.

985

986 6. For safety and security, lights beamed only on the swimming pool, and
987 operated on a time clock, shall be provided whenever water is in the pool.

988

989 7. The swimming pool shall be enclosed by a chain-link fence six feet tall.

990

991 Affirmative: Kirkland, McKinney, Nunnally, Wright 4

992 Negative: 0

993 Absent: 0

994 Abstain: Balfour 1

995

996 The Board granted the request because it found the proposed use will be in
997 substantial accordance with the general purpose and objectives of Chapter 24 of
998 the County Code.

999
1000 **A -130-2002** **GEORGE XYDERIS** requests a variance from Section 24-30.1(b)
1001 of Chapter 24 of the County Code to convert a duplex to a
1002 multifamily dwelling at 5300 West Franklin Street (Shenandoah
1003 Place) (Parcel 771-736-0926), zoned R-5, General Residence
1004 District (Brookland). The minimum side yard setback is not met.
1005 The applicant has 21 feet minimum side yard setback, where
1006 the Code requires 25 feet minimum side yard setback. The
1007 applicant requests a variance of 4 feet minimum side yard
1008 setback.
1009

1010 Mr. Balfour - Anyone here to speak on that case? Pass it. Next Case.
1011

1012 **A -131-2002** **ST. MARY'S CATHOLIC CHURCH** requests a variance from
1013 Section 24-96(c) of Chapter 24 of the County Code to allow
1014 parking in the front and side yards at 9501 Gayton Road
1015 (Marywood) (Parcel 747-743-4993), zoned R-3, One-family
1016 Residence District (Tuckahoe). The parking lot location
1017 requirement is not met. The applicant proposes parking in the
1018 front and side yards, where the Code allows parking in the rear
1019 yard.
1020

1021 Mr. Balfour - Anyone here to speak on that case? Walked right in on
1022 time. Come forward. Is there anyone else to speak on this case besides you? If
1023 you intend to say something, if you might say something, go ahead and stand up
1024 and be sworn.
1025

1026 Mr. Blankinship - Do you swear that the testimony you are about to give is
1027 the truth, the whole truth, and nothing but the truth, so help you God? State your
1028 name please.
1029

1030 Mr. Hinson - I do. My name is Paul Hinson; I'm with Koontz-Bryant.
1031 We're the civil engineer working with the architect on this particular case. St.
1032 Mary's Catholic Church is an existing facility on Gayton and Marywood Lane.
1033 We're proposing a sanctuary addition; the ordinance does not allow parking in the
1034 rear or side yards. The interpretation by the County staff is that Marywood Lane is
1035 our front yard because it is our shortest right-of-way, so therefore, it becomes our
1036 front yard. As with all churches, we're trying to provide as much parking space as
1037 possible, so that we can provide sufficient parking for all the people who attend the
1038 church, the parishioners. The Code only requires 1 for 4; we're trying to get the
1039 ratio on this side to approximately 1 per 3 seats of the sanctuary. There is already
1040 an existing parking lot in the front yard, that we're modifying. The proposed
1041 sanctuary is requiring some grading changes; therefore it is going to require that in
1042 the front yard. Actually that is the rear yard, the front yard being on the

1043 Marywood Lane side, where the existing parking is. There is also existing parking
1044 on the Gayton Road side. We're trying to keep the parking to a minimum on the
1045 Gayton Road side; that is the most visible side of the property, and we're trying to
1046 maintain a good appearance on that side. We request the Board grant our variance
1047 so that we can continue with our planning and design for our sanctuary addition.

1048
1049 Mr. Balfour - Questions of Board members.

1050
1051 Mr. Wright- I'm a little confused. What is the front yard of this thing
1052 - is it Marywood or Gayton Road?

1053
1054 Mr. Blankinship - The front yard is on Marywood. The front of the building
1055 faces Gayton Road. I'm sorry, I've got it backwards.

1056
1057 Mr. Wright- They already park in the front yard, don't they?

1058
1059 Mr. Kirkland - We gave them a variance back in 1996 to do that.

1060
1061 Mr. Hinson - When I met with the County staff, they told me their
1062 interpretation would be that Marywood Lane would be the front yard.

1063
1064 Mr. Wright- That's what he just said. So the parking proposed then,
1065 is in the rear

1066
1067 Mr. Hinson - The parking proposed is this parking back here.

1068
1069 Mr. Wright- You consider that in the side yard.

1070
1071 Mr. Hinson - Well actually that's in the front yard in the County's
1072 interpretation.

1073
1074 Mr. McKinney- because of the building.

1075
1076 Mr. Wright- You just got finished saying Marywood Lane was the
1077 front yard

1078
1079 Mr. Blankinship - No, that can't be right.

1080
1081 Mr. Balfour- Maybe they've got 2 front yards.

1082
1083 Mr. Hinson - I can't speak to the technicalities of the case. We are
1084 requesting a variance to allow the parking as shown on the exhibit, front yard, side
1085 yard, rear yard, wherever it may be. We do appreciate your consideration. And
1086 there is existing parking right now; that is basically this lot is an existing lot, but

1087 because of the proposed sanctuary, re-grading will require that we basically rebuild
1088 that lot, so a majority of it will be reconstructed. We're going to add some
1089 additional landscaping islands and dress it up some as well.

1090
1091 Mr. Blankinship - They need it for the side yard also. The Code only allows
1092 parking in the rear yard, so if Marywood is the front, then this is the side.

1093
1094 Mr. Balfour - Are there any more questions? Thank you. Sir, did you
1095 want to add anything?

1096
1097 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by
1098 Mr. Wright, the Board **granted** application **A-131-2002** for a variance to allow
1099 parking in the front and side yards at 9501 Gayton Road (Marywood) (Parcel 747-
1100 743-4993). The Board granted the variance subject to the following conditions:

1101
1102 1. This variance applies only to the location of the parking lot in the side and
1103 front yard. All other applicable regulations of the County Code shall remain in force.

1104
1105 2. This approval is subject to all conditions that may be placed on the proposed
1106 Plan of Development by the Planning Commission.

1107
1108 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright
1109 5

1110 Negative: 0

1111 Absent: 0

1112
1113 The Board granted this request, as it found from the evidence presented that, due to the
1114 unique circumstances of the subject property, strict application of the County Code
1115 would produce undue hardship not generally shared by other properties in the area, and
1116 authorizing this variance will neither cause a substantial detriment to adjacent property
1117 nor materially impair the purpose of the zoning regulations.

1118
1119 **A -132-2002** **LENARD W. TUCK, JR.** requests a variance from Section 24-
1120 95(b) of Chapter 24 of the County Code to build a one-family
1121 dwelling at 10175 Greenwood Road (Greenwood Park) (Parcel
1122 780-764-4509 (part)), zoned R-4, One-family Residence District
1123 (Fairfield). The total lot area requirement is not met. The
1124 applicant has 5,595 square feet total lot area, where the Code
1125 requires 6,000 square feet total lot area. The applicant
1126 requests a variance of 405 square feet total lot area.

1127
1128 Mr. Balfour - Any others to speak on this matter? Everybody who
1129 plans to speak, would you raise your right hand please.

1130

1131 Mr. Blankinship - Do you swear that the testimony you are about to give is
1132 the truth, the whole truth, and nothing but the truth, so help you God?

1133
1134 Mr. Tuck - I do. My name is Lenard Tuck, and I'm the applicant in
1135 this request for a variance. The property that we're dealing with here, is part of a
1136 larger parcel that is located in the changing area of Greenwood Road. We have a
1137 little bit more than the 5595 square feet, based on a tabulation that was recently
1138 provided. We have roughly 5625. What we're asking to do is be allowed to build
1139 a one-story or story-and-a-half model here that is compatible with other homes in
1140 the area. It would be prohibitive to do otherwise, primarily because of the
1141 improvements along Greenwood Road that we have to make with the sewer
1142 extension. This area is compatible to a Lakeside or a Biltmore area; the home
1143 that's planned would tie in very nicely with that area. To do otherwise would be
1144 somewhat prohibitive because of the existing home that is there on the corner and
1145 the property that is in between. I've talked to Mr. Lehmann extensively on this,
1146 and I don't think there is so much of an objection from the County, up to this point.
1147 My intentions are to renovate the existing home and to, on a personal note, either
1148 put my niece in that home on the corner, or put my niece in a home on that site
1149 right there.

1150
1151 Mr. Balfour - Questions from Board members?

1152
1153 Mr. Wright- Mr. Tuck, you say you own this property?

1154
1155 Mr. Tuck - Yes sir, I do.

1156
1157 Mr. Wright- I'm curious. Why does our agenda show that it's owned
1158 by somebody named Morris?

1159
1160 Mr. Tuck - The Morrises were the sellers to me. I have been
1161 working with Mr. And Mrs. Morris for a year or two. We just recently purchased
1162 this; it went to record back in May.

1163
1164 Mr. Wright- They don't own it. I didn't know whether that had any
1165 bearing.

1166
1167 Mr. Blankinship - Our records haven't been updated then.

1168
1169 Mr. Tuck - That was addressed in the early stage of the filing as
1170 well.

1171
1172 Mr. Balfour - Any other questions? Thank you sir.

1173
1174 Mr. McKinney - One other question. In doing the math, the applicant has

1175 5,595 square feet total lot area, and you said, Mr. Tuck, you have

1176

1177 Mr. Tuck - We've got about 5,625. That dimension that shows 117

1178 is actually around 120. Thank you.

1179

1180 Mr. Balfour - Would you ladies like to speak.

1181

1182 Ms. Anderson - Good morning. My name is Barbara Anderson, and I have

1183 no problem with him building his house, but I have a question. I live directly behind

1184 the existing home that's there now. When I got the notice in the mail, I went to

1185 the Records Room and was looking at records and stuff, and I found something

1186 that confused me. I'm young; this was my first house my family bought; I don't

1187 know anything about real estate, but when we started looking at our papers, that

1188 Lansdowne Road that's back there that was originally proposed, in 1978 the

1189 County gave that land back, split it up between the owners, and apparently all of

1190 our surveys are incorrect. I think they may think that they own the 20 feet that

1191 I'm supposed to have. It shows that it's on my taxes, and I have the paper where

1192 the County gave it back in 1978, and I think the surveys are wrong. It's a 20-foot

1193 section, 100 feet wide, 20 feet in length, and I don't know what Mr. Tuck's survey

1194 says. I'm so confused, and I didn't have the money to hire a bunch of lawyers and

1195 all that stuff, so I thought I would come here today to you and see if you could

1196 help us figure out just whose land is what and what land is whose.

1197

1198 Mr. Wright- How wide did they show Lansdowne Road?

1199

1200 Ms. Anderson - Forty feet, and 20 feet would have gone to Mr. Morris,

1201 and 20 feet would have gone to the person who owned my house at the time.

1202

1203 Mr. McKinney- That should have happened when they vacated it.

1204

1205 Mr. Blankinship - Twenty to each; it's a forty-foot right-of-way.

1206

1207 Ms. Anderson - Right. But I didn't know that I had that, and my survey

1208 only shows me as having the 200 feet; it never added it back in; it never added it

1209 back in. I think they have got it, or I don't know.

1210

1211 Mr. Blankinship - Their survey shows 20 feet from the center line of

1212 Lansdowne west, and then the other 20 feet from the center line towards your

1213 property would be yours.

1214

1215 Ms. Anderson - How do we get that fixed? How would we go about

1216 doing that?

1217

1218 Mr. Blankinship - If you wanted to, you could hire a surveyor to come out

1219 and re-survey your property, showing that vacated property

1220

1221 Ms. Anderson - that I have 20 more feet prior to the line than I

1222 have now, so I would actually have 220 feet, as opposed to the 200.

1223

1224 Mr. McKinney - You have it, Ms. Anderson, you've got it, but you haven't

1225 had a survey done since it was vacated, so it doesn't show on your plat. If you

1226 place is sold, it really doesn't make any difference unless you want to sell it. You

1227 know you've got it, but if it's sold and a mortgage put on it, it would be surveyed,

1228 and it would show that 20 feet, as they have done, the applicant. They only show

1229 20 feet. Each one of you got 20 feet.

1230

1231 Ms. Anderson - So all I need to do is hire a surveyor to come back out

1232 and add the 20 feet back onto my side.

1233

1234 Mr. Blankinship - If you want to. You could get documents from our real

1235 property office here, showing you that the road was vacated and that 20 feet of it

1236 belongs to you.

1237

1238 Mr. McKinney - When you do that, they might want to tax you for that

1239 20 feet.

1240

1241 Ms. Anderson - I've already been paying the taxes on it. The real estate

1242 office says I had, but I didn't even know I owned it. Thank you.

1243

1244 Mr. Tuck - Ms. Anderson evidently didn't receive a card that I left in

1245 her door about 3 weeks ago, and Ms. Leffler, I don't believe her number is listed.

1246 Exactly the way the Board interpreted it is correct. There was a 40-foot road;

1247 when it was vacated, half went to each adjacent property owner. When we had

1248 our property surveyed, that's when we determined that they did own an extra 20

1249 feet behind ours, and I'd love to talk to them about it.

1250

1251 After an advertised public hearing and on a motion by Mr. McKinney, seconded by

1252 Mr. Nunnally, the Board **granted** application **A-132-2002** for a variance to build a

1253 one-family dwelling at 10175 Greenwood Road (Greenwood Park) (Parcel 780-764-

1254 4509 (part)). The Board granted the variance subject to the following conditions:

1255

1256 1. This variance applies only to the minimum total area requirement. All other

1257 applicable regulations of the County Code shall remain in force.

1258

1259 2. Approval of this request does not imply that a building permit will be issued.

1260

1261 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright

1262 5

1263 Negative: 0
1264 Absent: 0

1265
1266 The Board granted this request, as it found from the evidence presented that, due to the
1267 unique circumstances of the subject property, strict application of the County Code
1268 would produce undue hardship not generally shared by other properties in the area, and
1269 authorizing this variance will neither cause a substantial detriment to adjacent property
1270 nor materially impair the purpose of the zoning regulations.

1271
1272 **A -133-2002** **COASTAL AMERICAN CORPORATION** requests a variance from
1273 Section 24-96(a) of Chapter 24 of the County Code to locate an
1274 overflow parking lot at 2587 Homeview Drive (Parcel 759-756-
1275 9275), zoned B-3C, Business District (Conditional) (Brookland).
1276 The parking lot location requirement is not met. The applicant
1277 proposes off-site parking, where the Code requires that parking
1278 be provided on the same lot as the principal use.

1279
1280 Mr. Balfour - All who expect to testify in this case, please stand. If
1281 you might, go ahead and stand and be sworn in at one time.

1282
1283 Mr. Blankinship - Do you swear that the testimony you are about to give is
1284 the truth, the whole truth, and nothing but the truth, so help you God?

1285
1286 Mr. Vilseck - I do. My name is Joe Vilseck, and I'm an engineer with
1287 Timmons Consulting Engineers, here this morning, representing Coastal American
1288 Corporation, the client who is requesting a variance for this case. I'm here this
1289 morning with Duffy Martitus, who is representing counsel for this case as well.
1290 Coastal American Corporation requests a variance for construction of a parking lot
1291 that is situated across right-of-way from their Gold's Gym Plaza, formerly known as
1292 Loehmann's Plaza. It's situated on West Broad Street, between West End Drive
1293 and Homeview Drive. Currently, the site has 520 parking spaces that they own,
1294 and the site leases 2 parking lots, one adjacent to the property, and one across
1295 Homeview Drive that they lease for additional parking. However, they'd like to
1296 construct a parking lot that is adjacent to one of the existing parking lots that they
1297 currently lease for their site. In addition, Homeview Drive really is a 6-foot right-of-
1298 way that really serves as a collector street, but it's a dead-end road, and really that
1299 street serves the shopping center and the 2 lots as they're used in the back of the
1300 site, and also serves as a secondary access point to the Virginia Home for Boys of
1301 Richmond.

1302
1303 Mr. Martitus - Good morning, my name is Duffy Martitus, and I
1304 represent Coastal American generally. In working with Mr. Vilseck to prepare the
1305 application, we obviously think it's abundantly clear that the owner of Gold's Gym
1306 Plaza is seeking to obtain this parking for service to the plaza. The two lots that

1307 Mr. Vilseck pointed out are currently not owned; they are leased by the owner for
1308 off-site parking that does serve the plaza. The variance that's been requested
1309 obviously is an effort to satisfy the requirements of Section 24-96(a) of the County
1310 Code, in terms of having that authorization for this additional parking that will be
1311 owned by the owner, and ultimately will, we believe if the variance is granted, be
1312 added to the existing Plaza property as part of a POD submission. This is an effort
1313 by the owner, to address what it views as a hardship, in that existing parking is
1314 currently leased and not owned. If, for some reason, some factor over which the
1315 owner has no control, that parking was not available in the future, it would present
1316 a significant problem and a significant restriction on what uses could be made at
1317 the Gold's Gym Plaza. Essentially this application is a request that is two-fold.
1318 Number 1, for approval of parking that would be off-site, and secondly, the
1319 variance directs the authority to construct parking ultimately that would cross a
1320 public right-of-way. I think Mr. Vilseck has addressed the nature of Homeview
1321 Drive. It is something less than a busy thoroughfare. The terminus at the Virginia
1322 Home for Boys, I think, indicates the extent to which it is made use of regularly.
1323 We believe that the parking lot, if it were constructed, would also be beneficial,
1324 generally to adjoining property owners, in that it would help facilitate traffic flow
1325 and during peak hours of operation, would avoid further congestion.

1326
1327 Mr. Balfour - How is that going to help them? I'm not sure I follow
1328 you on that point. Looks like to me, if anything, you're really providing parking, I
1329 suspect, for the movie theatre – is that what you're doing?

1330
1331 Mr. Martitus - That's correct. This parking would be intended to serve
1332 the facility as a whole.

1333
1334 Mr. Balfour - Comment a little bit on that last part – how is that going
1335 to help serve the neighborhood to have another parking lot there?

1336
1337 Mr. Martitus - Well, at this point, there are only 2 lots that are there.
1338 What we are anticipating is a situation where if one of the existing leased lots is
1339 not available, that does limit severely the parking that is available.

1340
1341 Mr. Balfour - The 2 leased ones are the W. S. Richardson, right
1342 adjacent to you, is that what you're talking about?

1343
1344 Mr. Martitus - Right adjacent, and then north, on Homeview Drive, at
1345 the bend.

1346
1347 Mr. Balfour - Does the church use any of those lots for overflow?

1348
1349 Mr. Martitus - No sir.

1350

1351 Mr. Balfour - Questions by Board members.
1352
1353 Mr. McKinney - Mr. Blankinship, the security standard for February 28,
1354 2000, could that be a condition, or suggested condition, or does that come under
1355 the POD?
1356
1357 Mr. Blankinship - Those are the standard conditions that we attach to
1358 certain provisional use permits. I had envisioned standards like that being attached
1359 to the POD, which is why the condition that we suggested just says they shall
1360 comply with anything imposed on the POD. Thinking about that a little further,
1361 though, we have a broader latitude, the Board of Supervisors has a broader latitude
1362 on a provisional use permit than they do on a POD, and it may be that it would be
1363 better to attach those conditions now, as conditions of a variance, rather than
1364 leave them for POD. I'm not positive that they would be enforceable on a POD.
1365
1366 Mr. McKinney - So we could put this on condition # 5, security standards
1367 as of February 28, 2000. Gentlemen, have you seen a copy of this?
1368
1369 Mr. Blankinship - I've just handed it to them. As I say, this really just came
1370 up at the last minute, because I was thinking the other way. So in fairness we
1371 certainly ought to give their attorney

1372
1373 Mr. Martitus - We did speak with Mr. Blankinship earlier, with a
1374 question that related to loitering, I believe was how staff presented it, and I spoke
1375 with the owner about that. I don't believe that the owner was aware of any
1376 particular complaints or problems.
1377
1378 Mr. Blankinship - We actually went as far, on the advice of some other
1379 staff, of running the police reports on the property, and it's nothing egregious. In
1380 the last year and a half there has been a handful of arrests, certainly nothing out of
1381 the ordinary.
1382
1383 Mr. Martitus - The owner did ask me to state, to the extent that the
1384 Board needs an assurance that they'll comply with local authorities, they are
1385 certainly prepared to do that to address those problems.
1386
1387 Mr. Balfour- And you're comfortable with those other conditions that
1388 are on there?
1389
1390 Mr. Martitus - Yes sir.
1391
1392 Mr. Balfour - Any others to speak? Any opposition?
1393
1394 Mr. Hall - Good morning sir. I'm Raymond Hall. I live at 8919

1395 Maplevue Avenue.

1396

1397 Mr. Balfour- Do you have a copy of these conditions that we were just
1398 discussing?

1399

1400 Mr. Hall - Yes. I'm not in opposition to this parking lot, but I do
1401 have several questions. The questions are partly answered, that 2 of the parking
1402 lots are owned by Steve Richardson, and those lots hold 180 parking spaces on the
1403 back parking lot, and 174 parking spaces on the one on Homeview Drive, across
1404 the street from the theater. He's build a new parking lot that will only hold 178
1405 cars. If he loses his lease on these, this 178 is not going to hold this number of
1406 cars for these 2 parking lots. The way I understand it, the theater has to have a
1407 number of parking spaces for each theater. I don't know exactly how many
1408 theaters they have; it's either 10 or 12. That's one of the questions. Second
1409 question is a drainage pond. Every business on this side of Broad Street has a
1410 drainage pond. CVS has a drainage pond. Bruce's has 2 drainage ponds. The
1411 Small Business Park has a drainage pond. The main parking lot in front of the
1412 theater has a drainage pond. The one across the street has 2 drainage ponds, and
1413 the one that backs up to my property shares a drainage pond. No why the County
1414 does not require this new parking lot to have a drainage pond, I don't know, but
1415 they do have an outlet in front of the property. That outlet goes to a creek that
1416 goes into a culvert, that goes behind a subdivision and goes onto Hungary Road.
1417 When it rains, that creek is full; I guarantee you it's full. I've seen where it goes
1418 over the banks on Hungary Road. It also has a second way to get out; it's a
1419 holding tank underneath the theater parking lot, and then it drains in there, then
1420 goes into the main sewage on West End Drive. I don't know how they're going to
1421 run a drainage system on this parking lot; maybe they can tell you how they're
1422 going to do it; I don't know. That's my second question. As far as maintenance of
1423 the parking lot, Mr. John Murcell and I have been working for the past 2 ½ months
1424 trying to get the theater to clean this parking lot up. They've promised me when
1425 this parking lot was built that they would maintain it. For 2 ½ months, we've been
1426 wrangling over this thing, and the only way Mr. John Murcell has gotten these
1427 people to clean this mess up, is to tell them he's going to have to take them into
1428 court. So far they have cleaned some of it up, but they have a long ways to go
1429 yet. Now if they build a new one, what's going to happen then. There will be
1430 more trash. The only time I've seen it swept is when the wind blows, and there's
1431 generally a lot of beer cans on the parking lot that's never swept, grass never been
1432 cut, the shrubbery's not maintained, and drainage is stopped up. Here lately when
1433 they've been butting the grass, those grass cuttings are on the parking lot and
1434 stopped the drain up. I asked them if they would clean the drain out, because it's
1435 overflowing and coming over the sides, and they came out and did a half-way job
1436 on it.

1437

1438 Mr. Balfour- So your 3 concerns are one, what happens if the lots that

1439 are leased if the lessor decides you're not going to park there anymore, and then
1440 you're concerned about the drainage off the new lot, and third, you're concerned
1441 about the clean up of the existing lots. We can't do anything about the third; you
1442 can call the County about it. The first 2, we'll see what they've got to say about
1443 it.

1444
1445 Mr. Hall - Well, OK, Mr. Murcell and I have been working together
1446 to see if it has been cleaned up. We've been having trouble out there with rodents.

1447
1448 Mr. Balfour- We'll put a condition perhaps on this one, if it's
1449 approved.

1450
1451 Mr. Hall - I do want to talk about, I just don't understand why they
1452 need another parking lot; they've got 3 parking lots up there now. If they lose the
1453 2 parking lots, which are leased, which have 180 spaces, and 174, and they're
1454 going to build a parking lot to hold 178, that doesn't quite add up to me.

1455
1456 Mr. Balfour- I guess the 2 lots that are leased, the landlord has a lot of
1457 leverage to put a high price on the property to make them buy it one day if they're
1458 going to need it for parking.

1459
1460 Mr. Hall - Well this new parking lot is only going to have 178
1461 spaces, and the 2 that they have are double that almost.

1462
1463 Mr. Balfour - Any questions by members of the Board?

1464
1465 Mr. Hall - I'd also like to know how they're going to drain water
1466 from that parking lot. Thank you.

1467
1468 Mr. Balfour - Excuse me, let's see if anybody has any questions they
1469 want to ask you.

1470
1471 Mr. McKinney - Mr. Hall, I think your concerns on the drainage - they
1472 can't take this to the Planning Commission for a POD, unless they get approval
1473 from this body. If they get approval from this body, with these conditions, it goes
1474 to the Planning Commission. The Planning Commission routes it to all
1475 departments, of which Public Works is one, which addresses the retainage ponds,
1476 so that's where that will be put on, on what they're going to do with the water.
1477 That takes care of that concern that you've got, because there will be another
1478 hearing on this.

1479
1480 Mr. Balfour - And you may want to show up to tell them about the
1481 grass and the overflow and things of that nature. In fact, I think they heard you
1482 today, but we'll see. Would one of you gentlemen like to respond.

1483
1484 Mr. Martitus - We have attempted to anticipate Mr. Hall's concerns.
1485 With regards to the drainage issue again, if we're able to get to the point where a
1486 POD application is submitted, obviously the conditions contemplate satisfying all of
1487 the County's requirements in that regard. With regards to maintenance, again, this
1488 is an issue that Mr. Blankinship had raised for us when the application was
1489 submitted. The owner certainly does not oppose a condition that requires
1490 maintenance that would contemplate regular maintenance, trimming of grass,
1491 shrubs, and maintenance of cleaning. With regards to the new lot, those are
1492 functions that the owner will control directly. With regards to the existing 2 lots,
1493 the owner is certainly prepared to make whatever arrangements are necessary with
1494 the landlord. I've tried to take notes, and I think that those were the principal
1495 issues that Mr. Hall had raised, but if there are any other questions, I'd be happy to
1496 address them.

1497
1498 Mr. Balfour - Any questions by Board members? There appear to be
1499 none.

1500
1501 Mr. McKinney - One other thing - if you don't do the POD within one
1502 year, this is lost, just for your information.

1503
1504 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1505 Wright, the Board granted application A-133-2002 for a variance to locate an overflow
1506 parking lot at 2587 Homeview Drive (Parcel 759-756-9275). The Board granted the
1507 variance subject to the following conditions:

- 1508
1509 1. This variance applies only to the off-site parking requirement. All other
1510 applicable regulations of the County Code shall remain in force.
1511
1512 2. This approval is subject to all conditions that may be placed on the proposed
1513 Plan of Development by the Planning Commission.
1514
1515 3. The applicant shall satisfy the Department of Public Works that pedestrians
1516 crossing Homeview Drive will not create any traffic hazards.
1517
1518 4. The applicant shall provide a transitional buffer adjacent to the Virginia Home for
1519 Boys as required for the Plan of Development.
1520
1521 5. The owner or operator shall install a security camera and video system designed
1522 by a security specialist. This security system shall include exterior surveillance cameras
1523 monitoring the parking area. Such security cameras shall provide clear imagery of the
1524 establishment's patrons and their vehicles. Tapes recording activities in the parking lot
1525 shall be preserved for a period of four months. Authorized representatives of the
1526 Henrico County Police Department or the Henrico County Planning Office shall have
1527 access to such tapes upon request.

1528
1529 6. The owner or operator shall provide lighting for the parking lot sufficient for clear
1530 visual and security camera surveillance.

1531
1532 7. The owner or operator shall require customers to leave the parking lot
1533 immediately after the close of business.

1534
1535 8. The parking lot shall be maintained in a neat, orderly and sanitary condition at all
1536 times.

1537
1538 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1539 Negative: 0
1540 Absent: 0

1541
1542 The Board granted this request, as it found from the evidence presented that, due to the
1543 unique circumstances of the subject property, strict application of the County Code
1544 would produce undue hardship not generally shared by other properties in the area, and
1545 authorizing this variance will neither cause a substantial detriment to adjacent property
1546 nor materially impair the purpose of the zoning regulations.

1547
1548 Mr. Balfour - Mr. Secretary, do you want to call once again the 2
1549 cases we passed on by.

1550
1551 **A -130-2002** **GEORGE XYDERIS** requests a variance from Section 24-30.1(b)
1552 of Chapter 24 of the County Code to convert a duplex to a
1553 multifamily dwelling at 5300 West Franklin Street (Shenandoah
1554 Place) (Parcel 771-736-0926), zoned R-5, General Residence
1555 District (Brookland). The minimum side yard setback is not met.
1556 The applicant has 21 feet minimum side yard setback, where
1557 the Code requires 25 feet minimum side yard setback. The
1558 applicant requests a variance of 4 feet minimum side yard
1559 setback.

1560
1561 Mr. Balfour - Any others to speak on this case? Where have you been,
1562 Mr. Wienckowski?

1563
1564 Mr. Blankinship - Do you swear that the testimony you are about to give is
1565 the truth, the whole truth, and nothing but the truth, so help you God?

1566
1567 Mr. Wienckowski - I do. I apologize; I was delayed getting here, and the
1568 owner is out of the country. I'm William Lee Wienckowski; I'm an architect here in
1569 Richmond. I'll try to be brief in giving you the history and the intent of the owner.
1570 The owner came, without representation initially, to the staff, to try to change this
1571 from a duplex to a fourplex. There really isn't a classification for a fourplex; it
1572 becomes multi-family. He was first told that it had to be rezoned completely in

1573 order to do that. By further investigation, the use of multi-family is permitted by
1574 right in the R-5 zoning. This is an existing building; it's on 2 ½ lots, and the corner
1575 lot is a larger lot by 10 feet. The building was huge by any standards; the first
1576 floor unit is 2230 square feet, 4 bedroom, 2 baths. The owner's intention in
1577 making this request is to make 4 units that would be reasonable 2-bedrooms and
1578 stabilize the tenants, because with the huge space that's there now, what you've
1579 been experiencing is that they have roommates, and that's not as stable a tenant,
1580 not as good a tenant in terms of taking care of the property. The impact with
1581 parking is probably no greater or less, in fact it might be less, by making them
1582 useable 2-bedrooms that could be affordable rent for young professionals or
1583 persons who didn't want roommates to share the cost of the rent. My
1584 understanding is that we would have to go before the Planning Commission also for
1585 a POD to meet the questions that have been raised in terms of parking, screening,
1586 trash removal, all of the other things. We couldn't apply for the POD or get the
1587 permit till we got this part done, so I don't know if we're in the proper order, but I
1588 assume if we have this variance and we can't meet the conditions and terms that
1589 the staff has brought up in the report, the parking and screening and all that sort of
1590 stuff, that we will not be able to get a permit. Then this variance, if granted,
1591 would expire, if we can't meet those terms, and he would have to continue with
1592 the use as it exists.

1593
1594 Mr. Balfour - Questions by Board members?

1595
1596 Mr. Kirkland - I assume you've read all the 10 suggested conditions that
1597 are with this case?

1598
1599 Mr. Wienckowski - Yes sir, which are more apt to be addressed in the POD,
1600 so we basically are asking a question and trying to figure out how we could do
1601 this, and the first step, it seemed, even if we got the Plan of Development, we
1602 couldn't get a building permit if we didn't have the variance on the side yard. I
1603 want to be clear that we're not expanding the footprint; we're not changing
1604 anything, the additional area, so as far as the visual space of the building, we
1605 would end up with 2-bedroom units that are going to be 1100 to 1200 square feet
1606 apiece, which are very generous. We're not taking a small building and trying to
1607 divide it up into economy housing. These will still be substantial units.

1608
1609 Mr. Kirkland - How many square feet do you think these substantial
1610 units will be?

1611
1612 Mr. Wienckowski - Each unit will be between 1100 and 1200 square feet,
1613 and they have 2 bedrooms, 2 baths, and a kitchen, dining area, living, and the first
1614 floor units, as well as the second floor, will have decks in the back. We will have
1615 to provide the parking. This used to be a dead end, but West Franklin now is
1616 serving as an entrance for the Jewish Community Center and their renovation

1617 program, so traffic has been routed in there. We've been disrupted with utility
1618 work for some time, so they've been improving the public utilities in that area. It's
1619 kind of a secluded or strange area. I suppose in Willow Lawn's hey-day, this huge
1620 unit would have been justified, but to the east of us is the Keswick Garden
1621 Apartments, which are competing for rent. Most of the units in the neighborhood
1622 are absentee owners who lease as duplexes. Some are owner-occupied duplexes,
1623 but most of the list of notices were absentee. The intent here really is to improve
1624 the property and stabilize the type of tenant that we have in there, and in order to
1625 do that, we have to have this variance granted. The other alternative, as I said, is
1626 just to leave it as it exists and deal with a number of roommates, if you have
1627 boyfriends and girlfriends, each one has 4 bedrooms and they have other visitors
1628 over there, you could have 8 cars. If you have 4 reasonable families in 2-bedroom
1629 units, you might have 8 cars, and we can provide those on site.

1630
1631 Mr. Balfour - Any other questions? Thank you sir.

1632
1633 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
1634 Mr. Wright, the Board **granted** application **A-130-2002** for a variance to convert a
1635 duplex to a multifamily dwelling at 5300 West Franklin Street (Shenandoah Place)
1636 (Parcel 771-736-0926). The Board granted the variance subject to the following
1637 conditions:

1638
1639 1. Only the improvements shown on the plan filed with the application may be
1640 constructed pursuant to this approval. No substantial changes or additions to the
1641 layout may be made without the approval of the Board of Zoning Appeals. Any
1642 additional improvements shall comply with the applicable regulations of the County
1643 Code.

1644
1645 2. The property shall be developed in substantial conformance with the plan
1646 filed with the application. No substantial changes or additions to the layout may be
1647 made without the approval of the Board of Zoning Appeals.

1648
1649 3. At the time of building permit application, the applicant shall submit the
1650 necessary information to the Department of Public Works to ensure compliance
1651 with the requirements of the Chesapeake Bay Preservation Act and the code
1652 requirements for water quality standards.

1653
1654 4. This approval is subject to all conditions that may be placed on the proposed
1655 Plan of Development by the Planning Commission.

1656
1657 5. The parking lot, driveways, and loading areas shall be subject to the
1658 requirements of Section 24-98 of Chapter 24 of the County Code.

1659

1660 6. The applicant shall present a complete grading, drainage, and erosion control
1661 plan prepared by a Professional Engineer certified in the state of Virginia to the
1662 Department of Public Works for approval. This plan must include the necessary
1663 floodplain information if applicable.

1664
1665 7. A detailed landscaping and lighting plan shall be submitted to the Planning
1666 Office with the building permit for review and approval.

1667
1668 8. All landscaping shall be maintained in a healthy condition at all times. Dead
1669 plant materials shall be removed within a reasonable time and replaced during the
1670 normal planting season.

1671
1672 9. Parking spaces shall be marked on the pavement surface with four inch wide
1673 painted lines. All lane lines shall be white in color with the exception that those
1674 dividing traffic shall be yellow.

1675
1676 10. All trash shall be in closed containers with regular pickups, the area shall be
1677 kept clean, and the containers shall be properly screened.

1678
1679 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright
1680 5
1681 Negative: 0
1682 Absent: 0

1683
1684 The Board granted this request, as it found from the evidence presented that, due to the
1685 unique circumstances of the subject property, strict application of the County Code
1686 would produce undue hardship not generally shared by other properties in the area, and
1687 authorizing this variance will neither cause a substantial detriment to adjacent property
1688 nor materially impair the purpose of the zoning regulations.

1689
1690 Mr. Balfour - We had one other that was called on the earlier docket.

1691
1692 **UP- 28-2002 TRAMMELL CROW CO.** requests a temporary conditional use
1693 permit pursuant to Section 24-116(c)(1) of Chapter 24 of the
1694 County Code to locate a temporary office/storage trailer at
1695 3951 Westerre Parkway (Parcel 750-759-4330), zoned O-3C,
1696 Office District (Conditional) (Three Chopt).

1697
1698 Mr. Balfour - Anyone here to speak on that case?

1699
1700 Upon a motion by Mr. McKinney, seconded by Mr. Kirkland the Board **deferred**
1701 application **UP-28-2002** for a conditional use permit Code to locate a temporary
1702 office/storage trailer at 3951 Westerre Parkway (Parcel 750-759-4330). The case

1703 was deferred for 30 days, from the July 25, 2002, until the August 22, 2002,
1704 meeting,

1705
1706 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1707 Negative: 0
1708 Absent: 0

1709
1710 Mr. Balfour - We've got several items further on the agenda.

1711
1712 On a motion by Mr. McKinney seconded by Mr. Wright, the Board **approved**, the
1713 **Minutes of the February 28, 2002**, Henrico County Board of Zoning Appeals
1714 meeting.

1715
1716 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1717 Negative: 0
1718 Absent: 0

1719
1720 On a motion by Mr. Nunnally, seconded by Mr. Wright, the Board **approved** the
1721 **Minutes of the March 28, 2002**, Henrico County Board of Zoning Appeals
1722 meeting.

1723
1724 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1725 Negative: 0
1726 Absent: 0

1727
1728 Mr. Balfour - We also need to approve the calendar for 2003. This
1729 is a change from the usual, you'll notice.

1730 1. November 20 (third Thursday)

1731 2. December 18 (third Thursday)

1732
1733 On a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **approved**
1734 the **2003 Board of Zoning Appeals Meeting Calendar, as amended**.

1735
1736 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1737 Negative: 0
1738 Absent: 0

1739
1740 There being no further business, and on a motion by Mr. Kirkland, seconded by Mr.
1741 McKinney, the Board adjourned until August 22, 2002, at 9:00 am.

1742
1743
1744

1745 Daniel T. Balfour,
1746 Chairman
1747
1748
1749 Benjamin Blankinship, AICP
1750 Secretary
1751