



35 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies  
36 and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each  
37 case. Then at that time the applicant should come down to the podium. I will then ask  
38 all those who intend to speak, in favor or in opposition to the case, to stand and be  
39 sworn in. The applicants will then present their testimony. After the applicant has  
40 finished, anyone else who intends to speak will be given the opportunity. After  
41 everyone has spoken, the applicant, and only the applicant, will be given the opportunity  
42 for rebuttal. After hearing the case, and asking questions, the Board will take the matter  
43 under advisement. They will make all of their decisions at the end of the meeting. If  
44 you wish to know their decision on a specific case, you can either stay until the end of  
45 the meeting, or you can call the Planning Office later this afternoon, or you can check  
46 the Planning Office website. This meeting is being tape recorded, so we will ask  
47 everyone to speak directly into the microphone on the podium, and to state your name,  
48 and please spell your last name for the record. And finally, out in the foyer, there are  
49 two binders that contain the staff report for each case, including the conditions that have  
50 been recommended by the staff.

51  
52 Mr. Wright- Mr. Secretary, are there any withdrawals or deferrals on the  
53 9:00 a.m. agenda?  
54

55 Mr. Blankinship- Yes, sir, Mr. Chairman. The Country Club of Virginia has  
56 withdrawn their application for a use permit.  
57

## 58 WITHDRAWALS

59  
60 **UP- 4-2004** **COUNTRY CLUB OF VIRGINIA** requests a conditional use  
61 permit pursuant to Section 24-12(b) to add a maintenance  
62 building and parking area at 710 S Gaskins Road (Parcel  
63 735-733-6834), zoned R-0, One-family Residence District  
64 (Tuckahoe).  
65

66 Mr. Wright- Alright. Mr. Secretary, would you call the first case.  
67

68 **UP-16-2004** **RYAN HOMES** requests a temporary conditional use permit  
69 pursuant to Section 24-116(c)(1) to locate a temporary sales  
70 trailer at 3621 Creighton Road (Dominion Townes) (Parcel  
71 809-729-7165), zoned RTHC, Residential Townhouse  
72 District (Conditional) (Fairfield).  
73

74 Mr. Wright- Is there anyone else here who desires to speak with  
75 reference to this case? Please raise your right hand and be sworn.  
76

77 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
78 whole truth and nothing but the truth, so help you God?  
79

80 Mr. Ryan Franelli- I do. The application is for a temporary sales trailer at this  
81 location, so we can sell townhomes. We've been approved for 116 townhomes. The  
82 staff comments, as we've seen – we'd like to be out of there by the end of the year,  
83 definitely by June of 2005. We have proposed to install landscaping and screen the  
84 port-a-john. It is very similar to other sales trailers we've put up in the County.  
85  
86 Mr. Wright- Have you seen the conditions for this case?  
87  
88 Mr. Franelli- Yes, sir. I spoke with the Health Department concerning the  
89 portable facilities and we'll screen those. The Health Department will review that at the  
90 time of building permit and we'd like to submit a detailed landscaping plan.  
91  
92 Mr. Kirkland- Mr. Blankinship, let me ask you a question. It says in the  
93 background of the case that between October 1, 2004 and October 1, 2005 the permit is  
94 for the trailer, but the second condition says it must be removed by June 24. Are you  
95 telling them cut it short?  
96  
97 Mr. Wright- I was going to ask the same thing.  
98  
99 Mr. Franelli- We want to be out by June – we hope to be out much sooner  
100 than that. We're building a model home on the site, and until we can occupy that we'll  
101 need the trailer.  
102  
103 Mr. Blankinship- The October dates are the one on the application. I'm not  
104 sure why we put the June date. I'd rather not have them run long and have to come  
105 back.  
106  
107 Mr. Wright- Let's make that October 1, then. In the suggested conditions  
108 #2.  
109  
110 Ms. Dwyer- We're giving you a little extra time.  
111  
112 Mr. Franelli- I appreciate that, but I hope we don't need it.  
113  
114 Mr. McKinney- Mr. Blankinship, condition number 4, requires a detailed  
115 landscaping plan at the time of building permit review – how about the screening for the  
116 trailer?  
117  
118 Mr. Blankinship- That's generally shown on the plans.  
119  
120 Mr. Wright- Anyone here in opposition?  
121  
122 Mr. James Jefferson- I live on Redland Drive, right of Creighton, at the first  
123 entrance. My house in the 9<sup>th</sup> house on the right – 1124. I've had to fight to keep my  
124 tree line – from Creighton Road all the way down. We don't want the trees being cut

125 down. I've been running back and forth to South Carolina, and every time I come home,  
126 I see more and more trees down.

127  
128 I've seen trees on the far side, on Laburnum all the way back to the library, roped off  
129 and I'm trying to figure out how many more are going to be removed. I've got more  
130 critters running around on my lot now – I don't have to go hunting. On the other side, on  
131 Cedar Fork, there's another development that's supposed to be homes. They're trying  
132 to put a road from Cedar Fork to Laburnum, and we told them "no."

133  
134 Mr. Wright- Mr. Jefferson, this plan of development has already been  
135 approved by the Planning Commission – did you appear before them?

136  
137 Mr. Jefferson- I came here once before.

138  
139 Mr. Wright- But this has nothing to do with our case.

140  
141 Mr. Jefferson- I came today to determine how temporary this trailer will be.

142  
143 Mr. Wright- It is going to be there 'til October next year. Probably even  
144 before then.

145  
146 Mr. Jefferson- One other thing – I live in a community where people go to  
147 work, and I'd like to know why these meetings are always during the day. Why not after  
148 people get a chance to go home and sit down?

149  
150 Mr. Wright- I'd suggest that you talk to your supervisor about that,  
151 because we don't have anything to do with that. We have to meet as set by the Board  
152 of Supervisors. The Planning Commission does meet at 7:00, and that's when this Plan  
153 of Development was approved.

154  
155 Ms. Dwyer- As far as the trees are concerned, Mr. Blankinship, is there  
156 someone in the Planning Office who can be contacted concerning tree preservation  
157 plans?

158  
159 Mr. Blankinship- We can check that before we release the final construction  
160 plans. The trees have to be marked and we sometimes do re-visit the site to make sure  
161 they're abiding by the plans.

162  
163 Mr. Wright- We've noted that. Anyone with anything else to add? Yes  
164 sir, have you been sworn?

165  
166 Mr. Skip Gelletly- My name is Skip Gelletly, we're developing the property, and  
167 the tree line – the recommended buffer – is a 25 foot buffer between this development  
168 and the single family homes. The buffer is actually between 25 and 60 feet. We've paid  
169 a lot of attention to the tree line and buffers. What he's referring to is the trees at the  
170 bottom of this picture, which is where the BMP is going to be placed.

171  
 172 Mr. Jefferson- What's a BMP?  
 173  
 174 Mr. Gelletly- It is a....  
 175  
 176 Mr. McKinney- Excuse me, but why don't you two get together out in the  
 177 hallway, and he can explain these to you.  
 178  
 179 Mr. Wright- Good idea. Anything further? No? Next case.  
 180

181 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
 182 Kirkland, the Board **approved** application **UP-16-2004** for a use permit to located a  
 183 temporary sales trailer at 3621 Creighton Road (Tax Parcel 809-729-7165). The  
 184 approval is subject to the following conditions:  
 185

186 Affirmative:	Kirkland, McKinney, Nunnally, Wright	5
187 Negative:		0
188 Absent:		0

- 189
- 190 1. The property shall be developed in substantial conformance with the plan filed  
 191 with the application. No substantial changes or additions to the layout may be made  
 192 without the approval of the Board of Zoning Appeals.  
 193
  - 194 2. [Amended] The trailer shall be removed from the property on or before October  
 195 1, 2005, at which time this permit shall expire.  
 196
  - 197 3. Connections shall be made to public water and sewer, or water and sanitary  
 198 facilities will be provided as required by the Health Department. If portable sanitary  
 199 facilities are to be used, they shall be screened from view.  
 200
  - 201 4. A detailed landscaping plan shall be submitted to the Planning Office with the  
 202 building permit for review and approval.  
 203
  - 204 5. All landscaping shall be maintained in a healthy condition at all times. Dead  
 205 plant materials shall be removed within a reasonable time and replaced during the  
 206 normal planting season.  
 207

208 The Board approved the request as it found from the evidence presented that approving  
 209 the permit would not be of substantial detriment to adjacent property nor would  
 210 materially impair the purpose of the zoning regulations.  
 211

212 **A- 76-2004** **CLAIBORNE LANGE** requests a variance from Section 24-  
 213 95(b)(6) to build a one-family dwelling at 4903 Summerest  
 214 Avenue (Larchmont) (Parcel 815-715-2800), zoned R-4,  
 215 One-family Residence District (Varina). The total lot area  
 216 requirement is not met. The applicant has 5,000 square feet

217 total lot area, where the Code requires 6,000 square feet  
218 total lot area. The applicant requests a variance of 1,000  
219 square feet total lot area.  
220

221 Mr. Wright- Is there anyone else here who desires to speak with  
222 reference to this case? Please raise your right hand and be sworn.  
223

224 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
225 whole truth and nothing but the truth, so help you God?  
226

227 Mr. Percy Price- I'm purchasing this property. I have a figure here that  
228 indicates that the residence I'm proposing to put on this property – I'd like to give this to  
229 you.  
230

231 On this figure, the residence is about 24 x 30 square feet, and putting this house on this  
232 property we're able to meet the setback requirements that are proposed in the  
233 guidelines. Unfortunately, the property is only 5,000 square feet.  
234

235 It has come to my attention that most of the residences are under the same problem  
236 regarding the lot size. We're just requesting that we be able to put this residence, that  
237 will fit very adequately, on this property and give the neighbors on each side a good  
238 distance.  
239

240 Mr. Nunnally- Mr. Price, you said you're buying this lot to build a house?  
241 Who is Clairborne Lange?  
242

243 Mr. Price- He owns the lot.  
244

245 Mr. Nunnally- Does he live there?  
246

247 Mr. Price- No, it is a "she." She inherited the lot.  
248

249 Mr. Nunnally- Where does she live?  
250

251 Mr. Price- She lives in Crozet.  
252

253 Mr. Wright- This application says that Clairborne Cordell is the owner.  
254

255 Mr. Price- That's the same person.  
256

257 Ms. Dwyer- We have plans in our packet – are these the same?  
258

259 Mr. Price- Actually, they're different.  
260

261 Ms. Dwyer- They're different?  
262

263 Mr. Price- Yes. This is the plan that we propose to put on the property.  
264 We're going to add 15' to the back of the house. This residence is probably of equal or  
265 more value to what's in the neighborhood now.  
266  
267 Mr. Wright- How many square feet in this residence?  
268  
269 Mr. Price- 1,440.  
270  
271  
272 Mr. Wright- Mr. Blankinship, I see in your report that you say most of the  
273 houses are built on 4 lots.  
274  
275 Mr. Blankinship- Yes, sir. If you look at the map of the location of the case,  
276 you get the feel for how the houses are spread out. Most are on a combination of  
277 lots...some are 3, some are 4, and some are 5.  
278  
279 Mr. Wright- What is that – that's at 4901?  
280  
281 Mr. Blankinship- According to our mapping, that appears to be right on the  
282 property line.  
283  
284 Ms. Dwyer - Is there a house at the corner of Leonard and Old Streets –  
285 is it on 2 lots? I'm looking at the map. It is a very small lot.  
286  
287 Mr. Wright- How long has this lot been owned by the present owner?  
288  
289 Mr. Price- It has been in the family for a number of years. I'm not quite  
290 sure.  
291  
292 Mr. Wright- Has there been any changes in zoning over the years?  
293  
294 Mr. Blankinship- Not since 1960.  
295  
296 Mr. Nunnally- 4905 – is that house a rental house?  
297  
298 Mr. Price - I'm not sure.  
299  
300 Ms. Dwyer- When was this subdivision laid out?  
301  
302 Mr. Blankinship- I don't have that in front of me. Probably in the 40s given  
303 where it is in the County.  
304  
305 Mr. Wright- What is that property to the rear?  
306  
307 Mr. Blankinship- It is zoned O-2. It is an office complex that you can't see in  
308 this photograph. I don't know if that's future development area or what.

309 Mr. Wright- Any further questions? Anyone in opposition?  
310  
311 Mr. James Moore- I own the property next to it, and across the street.  
312  
313 Mr. Nunnally- What number property did you say you own?  
314  
315 Mr. Moore- I own – I don't know the address. That big building is a  
316 garage, built 20 some years ago. I own from the yellow line all the way to the woods.  
317 4902 Summerest Avenue – I've got 9 lots. I've lived here all my life, and most the  
318 owners have passed on and a new generation has come in. People take pride in the  
319 neighborhood. It is an old neighborhood, but people take pride, particularly on  
320 Summerest Avenue. Most houses are on 4-6 lots. I think there may be a house on 3  
321 lots the next street over.  
322  
323 I'm opposed to this variance. Every house in there is a one story house except for a  
324 house over on Williamsburg Road. But a two story house on that road would be like  
325 putting a house trailer next to a \$300,000 home.  
326  
327 Mr. McKinney- How many square feet in your house, Mr. Moore?  
328  
329 Mr. Moore- My house is on 6 lots.  
330  
331 Mr. McKinney- I'm talking about your house. 3 bedrooms?  
332  
333 Mr. Moore- I've got a right big house – 3 bedrooms, 2 baths. The house  
334 on the other side me – that's probably been there since the 40s. Small, little houses  
335 were built during them days. My mother and father lived across the street.  
336  
337 Mr. Nunnally- 4815 – who lives there?  
338  
339 Mr. Moore- That's another house that I own. It used to be a barn, but we  
340 made it a home. I've got a little girl living in there now.  
341  
342 Mr. Nunnally- Is that the house with what looks like barn doors?  
343  
344 Mr. Moore- 4901 is my garage.  
345  
346 Mr. Nunnally- Which house is yours?  
347  
348 Mr. Moore- 4813.  
349  
350 Mr. McKinney- So you rent 4815?  
351  
352 Mr. Moore- She don't rent – she just stays there and pays the utilities. I  
353 own across the street and own those 9 lots right there. But if you open it up to 2 story



354 houses on 2 lots, that's going to open the door to other people coming in there for  
355 developing on 2 lots. There are other properties with 2 lots stuck between them.  
356

357 Mr. McKinney- But if he had another lot, he would be here.  
358

359 Mr. Moore- That's true, but the people that owned these lots back in the  
360 past didn't want to sell them to my mother and father. The girl that inherited the lots, I  
361 contacted her 20 years ago and told her I was interested in them. I never heard from  
362 her. Once morning, I see a sign go up. I'd make them an offer for them.  
363

364 I can't see a house on a small lot like this.  
365

366 Mr. Wright- How many lots are in 4901?  
367

368 Mr. Moore- 4 lots. I've got 6 lots where my house sits, and 9 lots across  
369 the street.  
370

371 Mr. Wright- 9 25' lots?  
372

373 Mr. Moore- Yes. That was laid out in 1923. My parents were the first  
374 ones to buy in that neighborhood  
375

376 Mr. Wright- The house at 4905 – do you know how many lots that house  
377 is built on?  
378

379 Mr. Moore- Either 4 or 5. An elderly lady lives. Most people want a big  
380 house on a big lot – and it looks to me like it's going to be a rental property. If it is a  
381 rental property, the values are going to go down and the neighborhood is going to  
382 deteriorate.  
383

384 Mr. Wright- On this photo, it looks like a depression or low area?  
385

386 Mr. Moore- It is a low area – when it rains water stands all through there.  
387

388 Mr. Wright- Thank you. Anyone else desire to speak in opposition?  
389

390 Ms. Lois Mills- I'm opposed to this. The Code says it takes 6,000 square  
391 feet to build.  
392

393 Mr. Wright- Where do you live?  
394

395 Ms. Mills- I live at 4905. I'm right next door and I have 5 lots. The  
396 neighborhood is spaced out. If they do build on there, and they raise the land, because  
397 it is low, that'll cause water to come over into my land and I object to that. Also, where  
398 are they going to park the cars? The street is a two lane street and the cars are going

399 to be parked all over the place. This is just a squeeze in and we don't have that in our  
400 neighborhood.

401  
402 Mr. McKinney- Ms. Mills, the Code says he can't let more water go off his  
403 property than is going off it now. They've got to have parking off the street.

404  
405 Mr. Wright- Anything else?

406  
407 Mr. Mills- I think he covered everything pretty well.

408  
409 Mr. Wright- Mr. Price, you have a short time for rebuttal.

410  
411 Mr. Price- I just wanted to say that I respect the fact that the people in  
412 the neighborhood want to preserve it – but I think the house I'm proposing would be  
413 right in line with the residences that are there. Some things were said about the  
414 property values – a fear about the property values dropping – I think this property will  
415 only add to the values in the neighborhood. If you look at the diagram, we have a  
416 driveway planned and 25' that we can play with if we need to more parking.

417  
418 The residence is only 24' wide and it will fit very adequately on the property. I don't  
419 think it will detract from any properties in the neighborhood. When you do a market  
420 study – an appraisal – this house is only going to add to the values of what's in the  
421 neighborhood currently.

422  
423 Mr. Nunnally- Are you a builder?

424  
425 Mr. Price- No, I'm not. I'm building this house for myself – for me and  
426 my wife.

427  
428 Mr. Wright- Anything further? Hearing none, that concludes the case.

429  
430 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
431 Kirkland, the Board **denied** application **A-76-2004** for a variance to construct a one  
432 family dwelling at 4903 Summerest Avenue (Tax Parcel 815-715-2800).

433  
434 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
435 Negative: 0  
436 Absent: 0

437  
438 The Board denied the request as it found from the evidence presented that approving  
439 the permit would be of substantial detriment to adjacent property and would materially  
440 impair the purpose of the zoning regulations.

441  
442 **A- 77-2004** **BRUCE AND ASHLEY REID** request a variance from  
443 Section 24-9 to build a one-family dwelling at 7641 Allen  
444 Woods Lane (Parcel 800-691-3208 (part)), zoned R-3, One-

445 family Residence District (Varina). The public street frontage  
446 requirement is not met. The applicants have 0 feet public  
447 street frontage, where the Code requires 50 feet public street  
448 frontage. The applicants request a variance of 50 feet public  
449 street frontage.

450  
451 Mr. Wright- Is there anyone else here who desires to speak with  
452 reference to this case? Please raise your right hand and be sworn.

453  
454 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
455 whole truth and nothing but the truth, so help you God?

456  
457 Mr. James F. Lanham- I'd like for it to be noted that this property has been in the  
458 Allen family for 4 generations. This is my daughter. Her husband and herself are the  
459 ones proposing to build the house.

460  
461 The lot is currently owned by Ashley's mother-in-law, and they're going to receive this  
462 property as a gift. They'll receive an acre with 110' across the front, with a depth of 405'  
463 on one side and 395' on the other.

464  
465 Mr. Wright- How will this property be accessed?

466  
467 Mr. Lanham- Allenwood Lane is family-owned as well, and a driveway  
468 would be added.

469  
470 Mr. Wright- Allenwood is a private road?

471  
472 Mr. Lanham- It is a private road, owned by the family.

473  
474 Ms. Dwyer- Do they own the rest of this parcel?

475  
476 Mr. Lanham- Yes, even the adjacent property is owned by the Allen  
477 family.

478  
479 Ms. Dwyer- I'm looking at all the land that's adjacent to Allenwood Lane.  
480 My first concern is that we're going to have a continuous subdivision that is going to  
481 creep down Allenwood Lane, without going through the County's subdivision process.  
482 That's not acceptable. It brings up certain safety concerns.

483  
484 Ashley Reid- The 9.45 acres is actually owned by my in-laws. They have  
485 no plans to develop the rest of this. The 12.9 acres beside that is owned by my mother-  
486 in-law's uncle. The property behind it is owned by my mother-in-law's brother. He said  
487 that if he developed it one day he would put a public road in.

488  
489 Ms. Dwyer- So you're talking about the property on the other side of  
490 Allenwood Lane?

491  
492 Ms. Reid- Yes.  
493  
494 Mr. Wright- How wide is Allenwood Lane?  
495  
496 Mr. Lanham- 50'  
497  
498 Mr. Blankinship- The right of way is probably 50'.  
499  
500 Mr. Kirkland- Can two cars pass on it?  
501  
502 Ms. Reid- I don't know.  
503  
504 Mr. Kirkland- Has a fire truck ever been back there?  
505  
506 Mr. Wright- Have you reviewed the suggested conditions?  
507  
508 Ms. Reid- Yes.  
509  
510 Ms. Dwyer- Do we have any letters that we received today on this?  
511  
512 Mr. Blankinship- Yes, it is headed "Warwick Stables."  
513  
514 Mr. Wright- There's a letter from "Warwick Stables" here.  
515  
516 Mr. Blankinship- That's the property on the opposite side of Allenwood Lane?  
517  
518 Ms. Reid- Yes, that's my mother-in-law's uncle.  
519  
520 Mr. Wright- Do they have a copy of this?  
521  
522 Ms. Dwyer- Is Allenwood Lane on the thoroughfare plan?  
523  
524 Mr. Blankinship- Not that I'm aware of.  
525  
526 Mr. Wright- Any further questions from members of the Board? Hearing  
527 none, that concludes the case.  
528  
529 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
530 McKinney, the Board **approved** application **A-77-2004** for a variance to construct a one  
531 family dwelling at 7641 Allen Woods Lane (Tax Parcel 800-691-3208). The approval is  
532 subject to the following conditions:  
533  
534 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
535 Negative: 0  
536 Absent: 0

537  
538 1. This variance applies only to the public street frontage requirement. All other  
539 applicable regulations of the County Code shall remain in force.

540  
541 2. Only the improvements shown on the plan filed with the application may be  
542 constructed pursuant to this approval. No substantial changes or additions to the layout  
543 may be made without the approval of the Board of Zoning Appeals. Any additional  
544 improvements shall comply with the applicable regulations of the County Code.

545  
546 3. Approval of this request does not imply that a building permit will be issued.  
547 Building permit approval is contingent on Health Department requirements, including,  
548 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval  
549 of a well location.

550  
551 4. The applicant shall present proof with the building permit application that a legal  
552 access to the property has been obtained.

553  
554 5. At the time of building permit application the owner shall demonstrate that the  
555 parcel created by this division has been conveyed to members of the immediate family,  
556 and the subdivision ordinance has not been circumvented.

557  
558 The Board approved the request as it found from the evidence presented that approving  
559 the permit would not be of substantial detriment to adjacent property nor would  
560 materially impair the purpose of the zoning regulations.

561  
562 **A-78-2004** **COURTNEY DEVELOPMENT** requests a variance from  
563 Section 24-94 to build sunrooms on two condominiums at  
564 10201 and 10203 Buchmill Drive (The Carriages at Cross  
565 Ridge) (Parcel 766-762-1042 (part)), zoned R-6C, General  
566 Residence District (Conditional) (Brookland). The minimum  
567 side yard setback is not met.

568  
569 Mr. Wright- Is there anyone else here who desires to speak with  
570 reference to this case? Please raise your right hand and be sworn.

571  
572 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
573 whole truth and nothing but the truth, so help you God?

574  
575 Ms. Joyce Wolf- I do. I am here on behalf of Eagle Construction of Virginia;  
576 we are the builder of the two particular carriage home units. Courtney Development is  
577 the owner.

578  
579 We are requesting today a variance from the side yard setback, which is kind of peculiar  
580 to a condominium project, because the condominiums occupy the entire parcel, not on a  
581 lot. The determination was made that this is actually a side yard, rather than a rear

582 yard, and that the sunrooms are encroaching into the required yard.

583

584 We have worked very diligently with the adjacent carriage home owners, you can see  
585 the two units, 3-2 and above 4-1, and I believe you have in your package letters and a  
586 resolution from the Carriage Homes at Cross Ridge Board of Directors, on behalf of the  
587 membership, voicing no opposition to this project. Also, the adjacent owners' statement  
588 from them voicing no opposition because we worked with them on developing a plan for  
589 a wall along the back of a cul-de-sac, Warsaw Terrace, and we have a colored picture  
590 that gives a better view than the black and white one you have.

591

592 This is the gazebo at Cross Ridge, Veteran's Park they call it, and the wall that will be  
593 along the back of Warsaw Terrace will be substantially similar to that – a 2 foot tall,  
594 white, painted brick, with columns. We believe you also have an approved copy of the  
595 landscape plan for the Carriages, Section 2, which shows landscaping between the two  
596 sections, which will supply an additional buffer.

597

598 I'd be happy to answer any questions.

599

600 Mr. Wright- I'm trying to understand this. Our information says that  
601 these sunrooms were not shown on the POD.

602

603 Mr. Blankinship- If you look at the approved landscape plan she just  
604 mentioned, you'll see the difference.

605

606 Ms. Wolf- Yes, that's correct.

607

608 Mr. Wright- My question is, why weren't they shown on the POD?

609

610 Ms. Wolf- I believe I might be able to explain that. When the POD was  
611 developed, the building footprints were given to the engineer to use for illustrative  
612 purposes. As you know, when sales happen, and people pick particular units, that were  
613 not necessarily the exact units that were show on the POD, and that's the way that  
614 Section 1 was developed as well. If you look at the Section 1 POD, the units that were  
615 the ones on the approved POD were not necessarily exactly what was construed;  
616 however, we've tried to use the biggest footprint to be able to get the units in there. The  
617 engineer did not contemplate the sunrooms, which at Cross Ridge, we've sold two units  
618 without sunrooms, out of 76, plus 26 in this section. They're very popular. 57-1 had  
619 been sold with a sunroom.

620

621 Mr. Blankinship- Didn't you know about that change when you applied for a  
622 building permit?

623 Ms. Wolf- The building permit was applied for showing the sunroom on  
624 the plans, but not showing the sunroom on the POD. The POD for the condominium  
625 project, we do not need to file a building permit plat – we are required to submit a  
626 portion of the approved POD. The oversight was that the sunrooms were not shown on  
627 the approved POD. The building permit was issued to construct the units with the  
628 sunrooms; however, they did not match what was on the approved POD.  
629

630 Ms. Dwyer- Well, our information says that the building permit didn't  
631 show the porches...the sunrooms...  
632

633 Ms. Wolf- The *plans* did. The architectural plans did; however, the  
634 POD, the portion of the POD, did not.  
635

636 Mr. Kirkland- It also says that when the POD was reviewed staff pointed  
637 out that these two units could not have porches.  
638

639 Ms. Wolf- I'm not aware of that.  
640

641 Mr. Kirkland- Are these units completed today?  
642

643 Ms. Wolf- Yes, they are.  
644

645 Mr. Kirkland- Is this picture, Mr. Blankinship, that we took, is that them in  
646 the rough framing stages?  
647

648 Mr. Blankinship- Yes, that's about a month ago.  
649

650 Mr. Kirkland- Now they're totally bricked up, is that right?  
651

652 Ms. Wolf- That's correct.  
653

654 Mr. Kirkland- How come you guys kept getting it before you got the  
655 variance?  
656

657 Ms. Wolf- Unfortunately, we have a very active construction division  
658 that continued with construction without knowing what the office process was.  
659

660 Mr. Wright- If they had been shown on the POD, what would have  
661 happened before the Planning Commission? They would not have been approved.

662  
663 Mr. Blankinship- Well, they would have had to make some arrangements at  
664 that time. They could have redesigned the road to move the units a few feet away.  
665 They may have been able to reconfigure the lot some other way. They would have had  
666 to address the issue at that time.

667  
668 Ms. Wolf- As soon as we realized there was an issue, which was after  
669 the building permit was approved, we approached staff to determine what the setback  
670 was. It took a little while, working with Mike Kennedy, to determine that this was  
671 actually a side yard setback.

672  
673 Ms. Dwyer- Let me stop you here. You said, you realized there was a  
674 problem as soon as the building permit was approved?

675  
676 Ms. Wolf- When we were in construction, yes.

677  
678 Ms. Dwyer- So, when the building permit...

679  
680 Ms. Wolf- Because we had to achieve two off street parking spaces, so  
681 the building had to be shifted back somewhat to accommodate the two off street parking  
682 spaces, and that moved us closer to what I called the "rear," but which is actually the  
683 side line. We have to have two off street spaces as required by the POD.

684  
685 Ms. Dwyer- But the point is, you realized that there was a problem when  
686 the building permit was approved...

687  
688 Ms. Wolf- I'm sorry, in the construction stage...in the field...when it  
689 was staked and we started construction.

690  
691 Ms. Dwyer- So when it was staked you knew there was a problem?

692  
693 Ms. Wolf- That's when we found out that we didn't have two off street  
694 parking spaces, then later on, I don't know exactly when, the construction division would  
695 be better to answer that...It was constructed without my knowledge.

696  
697 Mr. McKinney- Who was the engineer on this, Ms. Wolf?

698  
699 Ms. Wolf- Wingate and Kestner, and with us being the builder and  
700 working with the developer, and not directly with the engineer, the footprint differences  
701 were not communicated and the sunrooms are, like I said, I believe we've sold two units



702 with sunrooms, they're very popular, and in a retirement community as you can image.  
703 We are proposing the brick wall. We've worked very closely with the adjacent  
704 neighbors and the adjacent HOA.

705

706 These were not contemplated to be separate developments. That property line that's in  
707 between the two sections was supposed to go away; however, when the condominium  
708 was recorded for Section 1 the property line did not go away, it was recorded as a stand-  
709 alone section that could not be added to. Therein lies the confusion as to what and  
710 where that property line was –

711

712 Ms. Dwyer- That's only for one of the units. The other unit is too close to  
713 the road.

714

715 Ms. Wolf- Yes. There's a property line there, yes.

716

717 Ms. Dwyer- Did you bring anyone with you who is familiar with the chain  
718 of events during construction?

719

720 Ms. Wolf- No. Unfortunately, our construction supervisor is not here  
721 today.

722

723 Ms. Dwyer- So, you can't really explain the series of events that took  
724 place?

725

726 Ms. Wolf- The only think I can tell you is that it is a mis-communication  
727 between the office staff and our construction personnel, who are under great strain to  
728 get these units built and closed in a specific schedule.

729 Mr. Kirkland Ms. Wolf, I'm really concerned that you kept going after  
730 you'd been told not to. That really bothers me a lot, and that's ...It would be a lot easier  
731 to knock something down off of a framed-up building that it is off brick walls.

732

733 Ms. Wolf- I understand.

734

735 Mr. Kirkland- I went out there yesterday and looked to see a framed-up  
736 building and I saw a brick building and I called Mr. Blankinship. I don't care how  
737 aggressive the building plan is, when the County says something isn't right you guys  
738 should stop. That's just the way it is. We have any aggressive Zoning and Planning  
739 Commission here, too. We listen to our people. That's all I have to say.

740

741 Mr. Wright- Any further questions from members of the Board? Anyone  
742 here in opposition? Hearing none that concludes the case.

743

744 **DISCUSSION**

745

746 Mr. Kirkland- I'm going to move we approve it, but I'd like the minutes to  
747 reflect that from now on, these PODs and these building permits need to agree with  
748 each other or there will be a flat denial in this situation again. Builders who are put on  
749 notice by Henrico County need to stop, immediately, until their variance is granted. In  
750 this case, I went out and looked at it, and didn't see any problem with what they've  
751 done. It isn't correct, but I'm going to let it slide this time.

752

753 Mr. McKinney- I'll second, but next time you better bring Mr. Cornblow and  
754 Mr. Oley in here.

755

756 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
757 McKinney, the Board **approved** application **A-78-2004** for a variance to construct  
758 sunrooms at 10201 and 10203 Buchmill Drive (Tax Parcel 766-762-1042 (part of)). The  
759 approval is subject to the following conditions:

760

761 Affirmative:	Kirkland, McKinney, Nunnally, Wright	4
762 Negative:	Dwyer	1
763 Absent:		0

764

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

769

770 The Board approved the request as it found from the evidence presented that approving  
771 the permit would not be of substantial detriment to adjacent property nor would  
772 materially impair the purpose of the zoning regulations.

773

774 **A- 79-2004** **CARL AND BETH ANN GUSTAFSON** request a variance  
775 from Section 24-94 to build a Florida room at 2815  
776 Woodmark Court (Woodmark at Wellesley) (Parcel 737-  
777 758-5768), zoned R-3AC, One-family Residence District  
778 (Conditional) (Three Chopt). The rear yard setback is not  
779 met. The applicants propose 30 feet rear yard setback,  
780 where the Code requires 35 feet rear yard setback. The  
781 applicants request a variance of 5 feet rear yard setback.

782

783 Mr. Wright- Is there anyone else here who desires to speak with  
784 reference to this case? Please raise your right hand and be sworn.

785

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

788 Mr. Carl Gustafson- My wife and I would like to add a Florida room, 12' x 18', to  
789 the back of our house. We need 35' but because of the angle of the property line, it is  
790 impossible to meet the minimum requirement.

791  
792 Ms. Dwyer- Without the notch in the property line you'd be OK?

793  
794 Mr. Gustafson- Yes, without the notch we'd be fine. We weren't aware of it  
795 until we went to the building permit.

796  
797 Mr. Wright- If the line was straight across, you wouldn't have any  
798 problem.

799  
800 Mr. Gustafson- Right, it is just that the people on lot 6 – their lot is strangely  
801 shaped.

802  
803 Mr. Wright- Do you have any screening to the rear?

804  
805 Mr. Gustafson- There are trees along the back. The fence right there is  
806 where the problem is. The Association and the neighbors on both sides have approved  
807 it.

808  
809 Mr. Wright- What type of construction will this be?

810  
811 Mr. Gustafson- It will be vinyl siding and windows, with a brick foundation.  
812 Patio doors on the side and a door on the left side.

813  
814 Mr. Wright- Any questions from members of the Board? Hearing none,  
815 that concludes the case.

816  
817 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
818 McKinney, the Board **approved** application **A-79-2004** for a variance to construct a  
819 sunroom at 2815 Woodmark Court (Tax Parcel 373-758-5768). The approval is subject  
820 to the following conditions:

821  
822 Affirmative: Dwyer, Kirkland, McKinney, Nunnaly, Wright 5  
823 Negative: 0  
824 Absent: 0

825  
826 1. Only the improvements shown on the plan filed with the application may be  
827 constructed pursuant to this approval. No substantial changes or additions to the layout  
828 may be made without the approval of the Board of Zoning Appeals. Any additional  
829 improvements shall comply with the applicable regulations of the County Code.

830  
831 2. The new construction shall match the existing dwelling as nearly as practical.  
832

833 The Board approved the request as it found from the evidence presented that approving  
834 the permit would not be of substantial detriment to adjacent property nor would  
835 materially impair the purpose of the zoning regulations.  
836

837 **A- 80-2004** **DENISE CAESAR-JUBA** requests a variance from Section  
838 24-43(a) to build a sunroom on the existing deck at 2728  
839 Glen Point Circle (Ashley Glen) (Parcel 735-753-5322),  
840 zoned RTHC, Residential Townhouse District (Conditional)  
841 (Tuckahoe). The rear yard setback is not met. The applicant  
842 proposes 26 feet rear yard setback, where the Code requires  
843 35 feet rear yard setback. The applicant requests a variance  
844 of 9 feet rear yard setback.  
845

846 Mr. Wright- Is there anyone else here who desires to speak with  
847 reference to this case? Please raise your right hand and be sworn.  
848

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

852 Mr. George Britt- I'm with Melani Brothers and I represent the applicant in this  
853 case. The owner would like to build a sunroom on the back of their home.  
854 Unfortunately, because of the lot configuration, the rear setback is not met.  
855

856 Mr. Wright- This house fronts on Glen Point Circle?  
857

858 Ms. Dwyer- The rear of this house abuts the side of the house next  
859 door?  
860

861 Mr. Britt- Yes.  
862

863 Mr. Wright- Will the sunroom be larger than the current deck?  
864

865 Mr. Britt- No, the deck projects about 15' and the sunroom stops  
866 about  $\frac{3}{4}$  of the way out. That is in anticipation of the setback dilemma. A little porch will  
867 be the remaining portion of the deck. We'll move a little set of steps so that she has  
868 access off the deck.  
869

870 Ms. Dwyer- The existing deck is not in accordance with the Code, is that  
871 correct?  
872

873 Mr. Blankinship- Yes, I believe they built the deck 3' farther back than is  
874 allowed.  
875

876 Ms. Dwyer- How close will it be to the existing shed? I guess you're not  
877 building any farther out, so it won't matter.  
878

879 Mr. Britt- That's correct.  
 880  
 881 Mr. Wright- Any screening between this house and the one next door?  
 882  
 883 Mr. Britt- Yes, there is the shed and some trees.  
 884  
 885 Mr. Wright- Anyone here in opposition? Hearing none, that concludes  
 886 the case.  
 887

888 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.  
 889 Kirkland, the Board **approved** application **A-78-2004** for a variance to construct a  
 890 sunroom at 2728 Glen Point Circle (Tax Parcel 735-753-5322). The approval is subject  
 891 to the following conditions:  
 892

893 Affirmative:	Dwyer, Kirkland, McKinney, Nunnally, Wright	5
894 Negative:		0
895 Absent:		0

- 896  
 897 1. Only the improvements shown on the plan filed with the application may be  
 898 constructed pursuant to this approval. No substantial changes or additions to  
 899 the layout may be made without the approval of the Board of Zoning Appeals.  
 900 Any additional improvements shall comply with the applicable regulations of  
 901 the County Code.  
 902  
 903 2. The new construction shall match the existing dwelling as nearly as practical.  
 904

905 The Board approved the request as it found from the evidence presented that approving  
 906 the permit would not be of substantial detriment to adjacent property nor would  
 907 materially impair the purpose of the zoning regulations.  
 908

909 **A- 81-2004** **SHIRLEY HALL** requests a variance from Section 24-94 to  
 910 build a carport at 9501 Wyndhurst Drive (Westbriar) (Parcel  
 911 753-753-0005), zoned R-3, One-family Residence District  
 912 (Three Chopt). The minimum side yard setback and total  
 913 side yard setback are not met. The applicant proposes 0 feet  
 914 minimum side yard setback and 15 feet total side yard  
 915 setback, where the Code requires 12 feet minimum side yard  
 916 setback and 30 feet total side yard setback. The applicant  
 917 requests a variance of 12 feet minimum side yard setback  
 918 and 15 feet total side yard setback.  
 919

920 Mr. Wright- Is there anyone else here who desires to speak with  
 921 reference to this case? Please raise your right hand and be sworn.  
 922

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

925 Mr. Grayson Johnson- I represent Ms. Hall, who is standing to my right. Ms. Hall  
926 purchased this property within the past year. Ms. Hall had a home out in Hanover  
927 County and purchased the property when her husband passed away. Her house is  
928 somewhat inconvenient in that she is 73 years old and she'd like to get a covered place  
929 to park. The existing driveway goes up to the end of the house where there is a door.  
930 That's where she intends to put the carport.

931  
932 As you can see, there's a semi-circular drive in the front of the house, but due to the  
933 topography of the lot, it is steep to go into the front of the house. Ms. Hall is anxious to  
934 do this the right way. There are a number of houses in the immediate area that are like  
935 this – whether they were done with our without a variance I don't know. When she  
936 checked, she did not meet the setback requirements.

937  
938 Mr. William Spell, who is a landscape architect, evaluated the site for Ms. Hall 2 or 3  
939 months ago. He sent me a written memo that I'll present to you. He indicates that he  
940 looked at the site to determine if anything could be done in the backyard. He says that  
941 there is just not enough room – a retaining wall and steps would have to be put in. He  
942 indicates that he does not recommend proceeding in that fashion.

943  
944 Ms. Hall has spoken with either adjoining property owners and they do not have  
945 opposition to what she's proposing. There is enough room, next to the next-door lot, to  
946 place screening so that the car port would be screened from the adjoining property  
947 owners. I'm not sure whether you have this - it is a photograph that shows the end of  
948 the house where she proposes to build the carport. She would like to have a carport  
949 right over top of where the blacktop is.

950  
951 Mr. Wright- Mr. Blankinship, I have a question. Mr. Johnson states that  
952 there is additional space beside the carport to plant screening, but in your staff report  
953 you say there isn't – why is that?

954  
955 Mr. Blankinship- I think because the site plan shows 0'. I'm assuming he  
956 thinks they can plant something on the neighbors property.

957  
958 Mr. Johnson- Actually, the proposed carport does not go right to the  
959 property line. I believe that there's actually between 8 and 10 inches. That end of the  
960 carport will not be enclosed. What I was getting at was a lattice-work panel that shrubs  
961 could be added.

962  
963 Mr. Wright- Will the carport be open on the rear?

964  
965 Mr. Johnson- Yes, sir.

966  
967 Ms. Hall- The roof line will tie into the roof of the house. I'd like to  
968 have brick pillars, but that'll depend on the cost.

969  
970 Mr. Wright- So it'll be open on the ends?

971  
972 Ms. Hall- Yes, I'm just putting a roof over the driveway.  
973  
974 Ms. Dwyer- Mr. Wright, it looks like there may be half a foot...not enough  
975 to plant anything. Did you look into whether the parking could be reduces in size so that  
976 you have some setback?  
977  
978 Mr. Johnson- It could possible be cut back a bit, but I don't think it would  
979 provide enough width to let a car open its doors. She doesn't want it for but one  
980 vehicle, but with the steps coming down from the door, I don't think you could do it with  
981 much less width than what she's asking for.  
982  
983 Mr. Wright- The landscape architect did say that there would be room for  
984 landscape screening or a privacy fence.  
985  
986 Mr. Johnson- I spoke with him yesterday, and while I didn't ask him about  
987 that specifically, I get the feeling that he was talking about some sort of lattice along that  
988 side of the carport.  
989  
990 Mr. Wright- Anyone here in opposition? That concludes the case.  
991  
992 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
993 Kirkland, the Board **approved** application **A-81-2004** for a variance to construct a  
994 carport at 9501 Wyndhurst Drive (Tax Parcel 753-753-0005). The approval is subject  
995 to the following conditions:  
996  
997 Affirmative: Dwyer, Kirkland, McKinney, Nunnaly, Wright 5  
998 Negative: 0  
999 Absent: 0  
1000  
1001 1. Only the improvements shown on the plan filed with the application may be  
1002 constructed pursuant to this approval. No substantial changes or additions to the layout  
1003 may be made without the approval of the Board of Zoning Appeals. Any additional  
1004 improvements shall comply with the applicable regulations of the County Code.  
1005  
1006 2. The new construction shall match the existing dwelling as nearly as practical.  
1007  
1008 The Board approved the request as it found from the evidence presented that approving  
1009 the permit would not be of substantial detriment to adjacent property nor would  
1010 materially impair the purpose of the zoning regulations.  
1011  
1012 **A- 82-2004** **STARLA W. CROSSLEY** requests a variance from Section  
1013 24-95(c)(4) to build an addition at 6812 Locust Street  
1014 (Greendale Forest) (Parcel 769-747-3085), zoned R-4, One-  
1015 family Residence District (Brookland). The front yard setback  
1016 is not met. The applicant has 25 feet front yard setback,

1017 where the Code requires 35 feet front yard setback. The  
1018 applicant requests a variance of 10 feet front yard setback.  
1019  
1020 Mr. Wright- Is there anyone else here who desires to speak with  
1021 reference to this case? Please raise your right hand and be sworn.  
1022  
1023 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1024 whole truth and nothing but the truth, so help you God?  
1025  
1026 Mr. Mark Crossley- My wife is Starla Crossley. We'd like to build an addition on  
1027 the side of the house, but we can't meet the setback. This house was built before the  
1028 neighborhood was built around it, and that's why I'm asking for a variance.  
1029  
1030 Mr. Wright- What do you want to construct?  
1031  
1032 Mr. Crossley- I'm going to add on to the house – a new living room and  
1033 bedroom and bath.  
1034  
1035 Mr. Wright- What type of construction will it be?  
1036  
1037 Mr. Crossley- I'll have new vinyl siding on the complete house and a new  
1038 roof.  
1039  
1040 Ms. Dwyer- Most of the homes in the neighborhood have the same  
1041 setback?  
1042  
1043 Mr. Crossley- That's right – the neighborhood was built around the house.  
1044  
1045 Mr. Wright- Does the fact that the rear line cuts across the lot have a  
1046 bearing on where the house was sited?  
1047  
1048 Mr. Blankinship- I'm not sure how the property was configured when the  
1049 house was built, so it may be hard to say.  
1050  
1051 Mr. Wright- It appears that the new addition will be in line with the house  
1052 that is there now.  
1053  
1054 Mr. Crossley- That's right. It is no closer to the street.  
1055  
1056 Mr. Wright- Anything further?  
1057  
1058 Mr. Bud Arbogast- I'm going to be helping Mark with the construction. When we  
1059 finish the house will be symmetrical. The roofline will be the same, a dormer will be  
1060 added to the addition. It appears to me that the 35' setback was from the center of the  
1061 road, and why we're having the problem.  
1062



1063 Mr. Wright- Anyone in opposition? Hearing none, that concludes the  
1064 case.

1065  
1066 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
1067 Nunnally, the Board **approved** application **A-82-2004** for a variance to construct an  
1068 addition at 6812 Locust Street (Tax Parcel 769-747-3085). The approval is subject to  
1069 the following conditions:

1070  
1071 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1072 Negative: 0  
1073 Absent: 0

1074  
1075 1. Only the improvements shown on the plan filed with the application may be  
1076 constructed pursuant to this approval. No substantial changes or additions to the layout  
1077 may be made without the approval of the Board of Zoning Appeals. Any additional  
1078 improvements shall comply with the applicable regulations of the County Code.

1079  
1080 2. The new construction shall match the existing dwelling as nearly as practical.

1081  
1082 The Board approved the request as it found from the evidence presented that approving  
1083 the permit would not be of substantial detriment to adjacent property nor would  
1084 materially impair the purpose of the zoning regulations.

1085  
1086 **A- 83-2004** **TAYLOR AND LEVONNE COUSINS** request a variance  
1087 from Section 24-95(c)(1) to build a carport at 7706  
1088 Hampshire Road (Westham) (Parcel 760-737-4401), zoned  
1089 R-3, One-family Residence District (Tuckahoe). The  
1090 minimum side yard setback and total side yard setback are  
1091 not met. The applicants propose 4 feet minimum side yard  
1092 setback and 16 feet total side yard setback, where the Code  
1093 requires 10 feet minimum side yard setback and 30 feet total  
1094 side yard setback. The applicants request a variance of 6  
1095 feet minimum side yard setback and 14 feet total side yard  
1096 setback.

1097  
1098 Mr. Wright- Is there anyone else here who desires to speak with  
1099 reference to this case? Please raise your right hand and be sworn.

1100  
1101 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1102 whole truth and nothing but the truth, so help you God?

1103  
1104 Mr. Taylor Cousins- We wish to add a carport to our home. I had a heart  
1105 transplant and have had complications. A carport would mean that I wouldn't be  
1106 shoveling snow off our cars or getting into hot cars in the summertime. We have a letter  
1107 from our immediate neighbor who supports the application.

1108

1109 Mr. Wright- Is that Mr. Dominic? What type of construction do you  
1110 propose?

1111  
1112 Mr. Cousins- The roofline will be the same as our home. The side will be  
1113 4' of vinyl and then louvered slats. There's currently a row of bushes between the  
1114 houses and they will remain.

1115  
1116 Mr. Wright- Will the carport be open?

1117  
1118 Mr. Cousins- Yes, sir, on the front and rear. There will be slats on the  
1119 side.

1120  
1121 Ms. Dwyer- What do you mean by slats?

1122  
1123 Mr. Cousins- They will be placed vertical, places at an angle. It'll be in  
1124 keeping with the age of the community.

1125  
1126 Mr. Wright- Anything further? Any opposition? Hearing none, that  
1127 concludes the case.

1128  
1129 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.  
1130 McKinney, the Board **approved** application **A-83-2004** for a variance to construct a  
1131 carport at 7706 Hampshire Road (Tax Parcel 760-737-4401). The approval is subject to  
1132 the following conditions:

1133  
1134 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1135 Negative: 0  
1136 Absent: 0

1137  
1138 1. Only the improvements shown on the plan filed with the application may be  
1139 constructed pursuant to this approval. No substantial changes or additions to the layout  
1140 may be made without the approval of the Board of Zoning Appeals. Any additional  
1141 improvements shall comply with the applicable regulations of the County Code.

1142  
1143 The Board approved the request as it found from the evidence presented that approving  
1144 the permit would not be of substantial detriment to adjacent property nor would  
1145 materially impair the purpose of the zoning regulations.

1146  
1147 **A- 84-2004** **TOM KACZMAREK** requests a variance from Section 24-94  
1148 to build a screened porch at 5613 Stoneacre Place  
1149 (Stoneacre at Wyndham) (Parcel 736-776-2850), zoned R-  
1150 2C, One-family Residence District (Conditional) (Three  
1151 Chopt). The rear yard setback is not met. The applicant has  
1152 44 feet rear yard setback, where the Code requires 45 feet  
1153 rear yard setback. The applicant requests a variance of 1  
1154 foot rear yard setback.  
1155

1156 Mr. Wright- Is there anyone else here who desires to speak with  
1157 reference to this case? Please raise your right hand and be sworn.

1158  
1159 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1160 whole truth and nothing but the truth, so help you God?

1161  
1162 Mr. Tom Kaczmarek- My wife and I would like to add a screened porch to the back  
1163 of our house. The right corner is in compliance, but the left corner is off by about 4  
1164 inches.

1165  
1166 That would make a room that is by 15' x 18'. The front and back line are parallel.  
1167 Unfortunately, the sides aren't.

1168  
1169 Mr. Wright- So it is just 1'?

1170  
1171 Mr. Kaczmarek- Yes, sir, just 1'. Behind us is a good 200' of trees.

1172  
1173 Mr. Wright- Anything further? Any opposition? Hearing none, that  
1174 concludes the case.

1175  
1176 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
1177 McKinney, the Board **approved** application **A-84-2004** for a variance to construct a  
1178 screened porch at 5613 Stoneacre Place (Tax Parcel 736-776-2850). The approval is  
1179 subject to the following conditions:

1180  
1181 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1182 Negative: 0  
1183 Absent: 0

1184  
1185 1. Only the improvements shown on the plan filed with the application may be  
1186 constructed pursuant to this approval. No substantial changes or additions to the layout  
1187 may be made without the approval of the Board of Zoning Appeals. Any additional  
1188 improvements shall comply with the applicable regulations of the County Code.

1189  
1190 2. The new construction shall match the existing dwelling as nearly as practical.

1191  
1192 The Board approved the request as it found from the evidence presented that approving  
1193 the permit would not be of substantial detriment to adjacent property nor would  
1194 materially impair the purpose of the zoning regulations.

1195  
1196 **A- 85-2004** **KEVIN GRIFFIS** requests a variance from Section 24-95(k)  
1197 to build a garage at 3036 Lakewood Road (Forest Lodge  
1198 Acres) (Parcel 769-767-0502), zoned R-2, One-family  
1199 Residence District (Brookland). The street side yard setback  
1200 is not met. The applicant proposes 15 feet street side yard  
1201 setback, where the Code requires 55 feet street side yard  
1202 setback. The applicant requests a variance of 40 feet street

1203 side setback.  
1204  
1205 Mr. Wright- Is there anyone else here who desires to speak with  
1206 reference to this case? Please raise your right hand and be sworn.  
1207  
1208 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1209 whole truth and nothing but the truth, so help you God?  
1210  
1211 Mr. Kevin Griffis- I bought this property with plans to build a house and garage  
1212 on it. I was given a price by the builder, but I've run into a problem with the side yard  
1213 setback.  
1214  
1215 If you look at the property, the garage will face Warren Road. It requires a 55' setback,  
1216 but the property isn't anywhere near wide enough for a garage with a 55' setback.  
1217  
1218 Ms. Dwyer- So you'll access the garage from the side road?  
1219  
1220 Mr. Griffis- Yes, the proposed driveway is in the back, just about the  
1221 floodplain.  
1222  
1223 Mr. Wright- What size is the proposed garage?  
1224  
1225 Mr. Griffis- It'll be 30' x 40'.  
1226  
1227 Mr. Wright- Is that a 3 car garage?  
1228  
1229 Mr. Griffis- Yes.  
1230  
1231 Mr. Kirkland- What's the size of your home going to be?  
1232  
1233 Mr. Griffis- 2800 square feet.  
1234  
1235 Mr. Kirkland- Why do you need a 3 car garage?  
1236  
1237 Mr. Griffis- I have several collector cars scattered around the County,  
1238 and I'd like to be able to keep them at my home.  
1239  
1240 Mr. Kirkland- When you bought the property, the builder told you you  
1241 could build a garage there?  
1242  
1243 Mr. Griffis- Yes, sir. I was given a price for both. It is in my contract.  
1244  
1245 Mr. Wright- I see from the plat that this violates the building setback line.  
1246 Is that a problem, Mr. Blankinship?  
1247

1248 Mr. Blankinship- That's sort of the variance he's asking for. The building  
1249 setback line is for the principal structure, the variance he's applying for is for the  
1250 accessory structure.  
1251  
1252 Mr. Wright- It looks like part of the garage is over the building line – isn't  
1253 that a subdivision issue?  
1254  
1255 Mr. Blankinship- That's not a building line on the plat, I believe they're just  
1256 showing the setbacks.  
1257  
1258 Mr. Tyson- I checked that and it isn't a recorded building line.  
1259  
1260 Mr. Wright- Anything else you'd like to add?  
1261  
1262 Mr. Griffis- There are several garages in the area – up and down on  
1263 Warren Road and on Lakewood Road on corner lots. Most of them are closer and less  
1264 setback than I'm proposing here.  
1265  
1266 Mr. Wright- What type of construction are you proposing?  
1267  
1268 Mr. Griffis- It'll match the house exactly.  
1269  
1270 Mr. Wright- Anything further from the Board?  
1271  
1272 Mr. Blankinship- I'm sorry, where did you say there was a garage closer to  
1273 the street?  
1274  
1275 Mr. Griffis- If you go right across the street – their garage is 20' off  
1276 Warren Road. At the other end, their garage is 8' off Mountain Road. At the other end  
1277 of Lakewood, there are also garages within 20' of the road.  
1278  
1279 Mr. Kirkland- When was your home built?  
1280  
1281 Mr. Griffis- In December.  
1282  
1283 Mr. Kirkland- When were the other homes built?  
1284  
1285 Mr. Griffis- In the 50s.  
1286  
1287 Mr. Kirkland- I know – my dad built every one of them. There's a big  
1288 difference now.  
1289  
1290 Mr. Wright- Any further question? Anyone in opposition? Hearing none,  
1291 that concludes the case.  
1292

1293 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
1294 McKinney, the Board **denied** application **A-85-2004** for a variance to construct a garage  
1295 at 3036 Lakewood Road (Tax Parcel 769-767-0502).

1296  
1297 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1298 Negative: 0  
1299 Absent: 0

1300  
1301 The Board denied the request as it found from the evidence presented that approving  
1302 the permit would be of substantial detriment to adjacent property and would materially  
1303 impair the purpose of the zoning regulations.

1304  
1305 **A- 86-2004** **KIM AND DENNIS KIRVEN** request a variance from Section  
1306 24-94 to build a screened porch at 5913 Kelbrook Lane  
1307 (Benning Oaks at Wyndham) (Parcel 736-777-5291), zoned  
1308 R-3C, One-family Residence District (Conditional) (Three  
1309 Chopt). The rear yard setback is not met. The applicants  
1310 propose 38 feet rear yard setback, where the Code requires  
1311 40 feet rear yard setback. The applicants request a variance  
1312 of 2 feet rear yard setback.

1313  
1314 Mr. Wright- Is there anyone else here who desires to speak with  
1315 reference to this case? Please raise your right hand and be sworn.

1316  
1317 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1318 whole truth and nothing but the truth, so help you God?

1319  
1320 Mr. Dennis Kirven- I am asking consideration for a 2' variance to construct a  
1321 screened porch. We need a variance from the rear yard setback that results from non-  
1322 parallel configuration of the property lines. The setback requirement is 40', but the west  
1323 corner is non-compliant.

1324  
1325 Mr. Wright- Couldn't you just cut the corner off?

1326  
1327 Mr. Kirven- It would be an interesting porch.

1328  
1329 Mr. Wright- What's to the rear?

1330  
1331 Mr. Kirven- We have a rear neighbor, that's their fence.\

1332  
1333 Mr. Wright- So you have screening?

1334  
1335 Mr. Kirven- Yes, sir. They've been approached and have not problem  
1336 with the construction. It will conform to the current aesthetics and materials.

1337  
1338 Ms. Dwyer- How will you work the roofline?

1339  
1340 Mr. Kirven- That's the challenge. I'll provide you with an illustration. The  
1341 lower portion shows the roof and the "A" frame accent keeps it in line with the existing  
1342 shed roof. We have a gable accent that comes out as well.

1343  
1344 Mr. Wright- Any further questions? Any opposition? Hearing none, let's  
1345 move on. It is 10:00. We'll take a 10-minute recess.

1346  
1347 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
1348 Kirkland, the Board **approved** application **A-86-2004** for a variance to construct a  
1349 screened porch at 5913 Kelbrook Lane (Tax Parcel 736-777-5291). The approval is  
1350 subject to the following conditions:

1351  
1352 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1353 Negative: 0  
1354 Absent: 0

1355  
1356 1. Only the improvements shown on the plan filed with the application may be  
1357 constructed pursuant to this approval. No substantial changes or additions to the layout  
1358 may be made without the approval of the Board of Zoning Appeals. Any additional  
1359 improvements shall comply with the applicable regulations of the County Code.

1360  
1361 The Board approved the request as it found from the evidence presented that approving  
1362 the permit would not be of substantial detriment to adjacent property nor would  
1363 materially impair the purpose of the zoning regulations.

1364  
1365 **THE BOARD RECESSED FOR 10 MINUTES**

1366  
1367 Mr. Wright- Mr. Secretary, please review the rules for our meeting.

1368  
1369 Mr. Blankinship - Mr. Chairman, Members of the Board, ladies and gentlemen.  
1370 The rules for this meeting are as follows. As Secretary, I will call each case. Then at  
1371 that time the applicant should come down to the podium. I will then ask all those who  
1372 intend to speak, in favor or in opposition to the case, to stand and be sworn in. The  
1373 applicants will then present their testimony. After the applicant has finished, anyone  
1374 else who intends to speak will be given the opportunity. After everyone has spoken, the  
1375 applicant, and only the applicant, will be given the opportunity for rebuttal. After hearing  
1376 the case, and asking questions, the Board will take the matter under advisement. They  
1377 will make all of their decisions at the end of the meeting. If you wish to know their  
1378 decision on a specific case, you can either stay until the end of the meeting, or you can  
1379 call the Planning Office later this afternoon, or you can check the Planning Office  
1380 website. This meeting is being tape recorded, so we will ask everyone to speak directly  
1381 into the microphone on the podium, and to state your name, and please spell your last  
1382 name for the record. And finally, out in the foyer, there are two binders that contain the  
1383 staff report for each case.

1384

1385 Mr. Wright- Alright, call the next case.  
1386  
1387 **UP-19-2004** **WORLD WIDE ENTERTAINMENT GROUP** requests a  
1388 temporary conditional use permit pursuant to Section 24-  
1389 116(c)(1) to operate a carnival at 10101 Brook Road (Parcel  
1390 785-771-0111), zoned B-3C, Business District (Conditional)  
1391 (Fairfield).  
1392  
1393 Mr. Wright- Is there anyone else here who desires to speak with  
1394 reference to this case? Please raise your right hand and be sworn.  
1395  
1396 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1397 whole truth and nothing but the truth, so help you God?  
1398  
1399 Mr. Rob Webber- We're applying for a permit to operate a carnival at Virginia  
1400 Center Commons for 5 days.  
1401  
1402 Mr. Wright- Have you had a carnival at this location before?  
1403  
1404 Mr. Webber- I have not, but the mall has had several at this location.  
1405  
1406 Mr. Wright- Will this be the same operation?  
1407  
1408 Mr. Webber- Exactly. It is about 14 rides or so. It is fairly small – not like  
1409 a big county fair.  
1410  
1411 Mr. Wright- And a very limited time? What about this interoffice  
1412 memorandum from the Division of Police?  
1413  
1414 Mr. Blankinship- The Division of Police had some communication back and  
1415 forth with Mr. Webber, and I don't think they're satisfied with his security arrangements  
1416 at this time. They've also asked to limit the hours of operation to 10:00 p.m. on  
1417 Wednesday, Thursday, and Sunday.  
1418  
1419 Mr. Webber- I agreed to that in my e-mail.  
1420  
1421 Mr. Wright- So you agree to that? 11:00 p.m. is OK for Friday and  
1422 Saturday? The other issue there is security. Have you discussed this with the Division  
1423 of Police?  
1424  
1425 Mr. Webber- We work with the Simon Group a lot and they have a  
1426 security force called IPC, and we work with them. Their head of security recommends  
1427 how many we hire at each location. The police weren't specific about what they wanted  
1428 – I'll do whatever it is they want, they just haven't told me.  
1429  
1430 Mr. Wright- You propose to employ two of the mall security personnel?



1431  
1432 Mr. Webber- Specifically on the lot, then they people patrolling the lot.  
1433  
1434 Mr. Kirkland- Do you have any off-duty police officers?  
1435  
1436 Mr. Webber- No, but I can't.  
1437  
1438 Mr. Kirkland- I need to know what Ms. Vann recommends.  
1439  
1440 Mr. Blankinship- 2 on Friday and Saturday nights and one on each of the  
1441 other days. That has been standard in the past.  
1442  
1443 Mr. Webber- That's fine – is that Sheriff or police, or does it matter?  
1444  
1445 Mr. Blankinship- Normally, it is police.  
1446  
1447 Mr. Wright- So that will be 2 off-duty police on Friday and Saturday. Do  
1448 you have any problem with that?  
1449  
1450 Mr. Webber- Absolutely not. Is that in addition to the mall people?  
1451  
1452 Mr. Kirkland- Yes, you need someone there with arrest power.  
1453  
1454 Mr. Wright- So that's our standard conditions. With that we've met the  
1455 police's concerns. Any further questions? Anyone in opposition? Hearing none, that  
1456 concludes the case.  
1457  
1458 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
1459 Nunnally, the Board **approved** application **UP-19-2004** for a use permit to operate a  
1460 carnival at 10101 Brook Road (Tax Parcel 785-771-0111). The approval is subject to  
1461 the following conditions:  
1462  
1463 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1464 Negative: 0  
1465 Absent: 0  
1466  
1467 1. This approval is only for a carnival at the shopping center August 11 - 15, 2004.  
1468  
1469 2. [Amended] The applicant shall satisfy all requirements of the Henrico County  
1470 Division of Police concerning the security of the site and the patrons of the event. In  
1471 addition to mall security, the applicant shall employ two off-duty officers on site Friday  
1472 and Saturday evenings and one off-duty officer on Wednesday, Thursday and Sunday.  
1473  
1474 3. The applicant shall satisfy all requirements of the Henrico County Department of  
1475 Health and the Henrico County Department of Building Inspections.  
1476

1477 4. [Amended] Hours of operation shall be limited to 5:00 PM to 10:00 PM  
1478 Wednesday and Thursday, 5:00 PM to 11:00 PM Friday and 12:00 Noon to 11:00 PM  
1479 Saturday and 12:00 Noon to 10:00 PM Sunday.

1480  
1481 5. All tents and accessory structures shall be removed from the site by August 18,  
1482 2004, at which time this permit shall expire.

1483  
1484 The Board approved the request as it found from the evidence presented that approving  
1485 the permit would not be of substantial detriment to adjacent property nor would  
1486 materially impair the purpose of the zoning regulations.

1487  
1488 **UP-20-2004** **BRENDA LEE GRAY** requests a conditional use permit  
1489 pursuant to Section 24-12(g) to operate a family day home at  
1490 7808 Kahlua Drive (Three Fountains North) (Parcel 792-  
1491 753-1908), zoned R-2A, One-family Residence District  
1492 (Fairfield).

1493  
1494 Mr. Wright- Is there anyone else here who desires to speak with  
1495 reference to this case? Please raise your right hand and be sworn.

1496  
1497 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1498 whole truth and nothing but the truth, so help you God?

1499  
1500 Ms. Brenda Gray- I currently run and operate a family day home at my in  
1501 Henrico. I'm here to request a conditional use permit to permit me to have an assistant  
1502 to help me with the running of the day care.

1503  
1504 Mr. Wright- Will there be anything different than what you're doing now?

1505  
1506 Ms. Gray- No, sir.

1507  
1508 Mr. Wright- How many children do you have?

1509  
1510 Ms. Gray- I have 5.

1511  
1512 Mr. Wright- Is that the maximum number you can have?

1513  
1514 Ms. Gray- That's the maximum I can have by myself. You can have  
1515 more depending on their ages and the points of your home. The Department of Social  
1516 Services has a point system that we're required to use.

1517  
1518 Mr. Wright- If this is approved would you increase the number of  
1519 children?

1520  
1521 Ms. Gray- Yes, sir. I'd have 2 more to join me.

1522

1523 Mr. Kirkland- What's the maximum you could have?  
1524  
1525 Ms. Gray- Right now I'm going to take on 2 more infants, but I could  
1526 have 2 more infants or a little older, because they are worth fewer points. It could be up  
1527 to 6 depending on their ages.  
1528  
1529 Mr. Wright- That would 11.  
1530  
1531 Ms. Gray- Yes, I'm licensed to have up to 12.  
1532  
1533 Mr. Wright- What are their ages?  
1534  
1535 Ms. Gray- I have a 6 month old, 16 month old, 2 2-year olds, and a 4  
1536 year old.  
1537  
1538 Mr. Wright- How long do you keep them?  
1539  
1540 Ms. Gray- From 8:00 to 5:30, Monday through Friday.  
1541  
1542 Mr. Wright- Will the hours remain the same?  
1543  
1544 Mr. Kirkland- Do you have off street parking for this person Will they park  
1545 in your drive-way?  
1546  
1547 Ms. Gray- Yes.  
1548  
1549 Mr. Wright- What type of facilities do you have to accommodate these  
1550 children?  
1551  
1552 Ms. Gray- Currently I have a fenced play area. I also have my family  
1553 room so that it is a classroom. My dining room is set up like an infant room. I have all  
1554 the material and equipment that I need to care for and teach them.  
1555  
1556 Mr. Kirkland- Does anyone else live in the house beside you?  
1557  
1558 Ms. Gray- My husband and my 2 children.  
1559  
1560 Mr. Wright- How old are your children?  
1561  
1562 Ms. Gray- One is 14 and one is 16.  
1563  
1564 Mr. Wright- Do you have anything else? Any further questions from  
1565 members of the Board? Alright, we'll hear from these folks.  
1566  
1567 Ms. Janice Marshall- I live directly across the street and Miss Brenda has been  
1568 living in the neighborhood since 1999 and she's a good neighbor. I refer to her as the

1569 “neighborhood mother.” She loves these children. Her patience is so great. If the  
1570 parents aren’t able to get home on time, we know they can always go to Miss Brenda  
1571 and they’ll be taken care of. I’m a former Deputy here in Henrico and a minister, and  
1572 I’m in favor of this being in the neighborhood.

1573  
1574 Mr. Wright- And you live across the street?

1575  
1576 Ms. Marshall- Yes, right across the street.

1577  
1578 Mr. Wright- Does anyone else wish to speak or echo those sentiments?

1579  
1580 Ms. Brandy Clark- My 4 year old son is attending Miss Brenda’s day care. I  
1581 was introduced to her by Ms. Marshall and I’m very satisfied with the level of service.  
1582 My husband and I both have to work. Miss Brenda is very patient and my son adores  
1583 her. We have taken her in as part of our family. I’d appreciate it if she could receive  
1584 this permit because we’re expecting another child and I’d like them to be together.

1585  
1586 Mr. Wright- Thank you very much. Anyone else?

1587  
1588 Ms. Florence Canada- I can speak on Miss Brenda’s behalf in several capacities. I  
1589 am the pastor at the church where her family worships, so I can speak to her character.  
1590 She has a love for children. I can also speak on her behalf as far as the care provided  
1591 at the center and the quality of the academic program that is provided at the center. I  
1592 have a degree in Christian education and a background in working with day care  
1593 centers and the quality is impeccable. Ms. Gray is the sort of person that makes sure  
1594 that everything is exactly how it is supposed to be.

1595  
1596 As far as state licensure, I worked with her when she was first licensed and everything  
1597 was done exactly according to Code. I’ve recommended people attend the day care. I  
1598 certainly am in favor of her receiving her permit.

1599  
1600 Mr. Ellis Henderson- My son has two years attendance at Ms. Gray’s day care  
1601 and he’s improved. I’d like my daughter to be able to attend the same school with the  
1602 same love and care.

1603  
1604 Ms. Teshana Henderson- I’m going back to work in September, and when you leave  
1605 your child in someone else’s care, you want to make sure that they receive the same  
1606 type of love, care, and instruction that you’d provide. I’d like my daughter to receive the  
1607 same care.

1608  
1609 Mr. Blankinship- We’ve got 8 or 9 letters in the file echoing the same  
1610 sentiments.

1611  
1612 Mr. Wright- Please call the next case.

1613



1660 never put on it because we all have County water. The lot size and area are similar to  
1661 other lots in the neighborhood. From the County map it appears that if Maplevue  
1662 Avenue were extended, it would come into from the northeast and the lot would have  
1663 had road frontage. When the subdivision was built to the east, I've heard that either the  
1664 developer or the county wanted to tie the roads together. There is no road frontage, but  
1665 a 12' easement for ingress to the lot is on the northwestern edge of Lot 1. This  
1666 easement was included in the sale of the well-lot by deed.

1667  
1668 I've talked to several of the neighbors and have their signatures on a letter which states  
1669 that they are aware of the application and that there would be no problem with having a  
1670 house built on this lot. Since turning in the paper I've got a few more signatures.

1671  
1672 The house size would be similar to others in the neighborhood. Similar to how they are  
1673 now, not how they were originally built, because several have been expanded. It will  
1674 built to Code. I'd like for you to consider this.

1675  
1676 Mr. Wright- Where do you live?

1677  
1678 Mr. Woolard 2803 Darnell Road.

1679  
1680 Mr. Wright- We have something in the file from Ms. Melissa Nye. Have  
1681 you seen that?

1682  
1683 Mr. Woolard- Yes, I have.

1684  
1685 Mr. Wright- I don't understand what she's saying about someone  
1686 building a driveway through her property. I don't see how that could be done without  
1687 her consent.

1688  
1689 Mr. Woolard- It was deeded with the well-lot that there was a 12'  
1690 easement across the edge of her property.

1691  
1692 Mr. Wright- It runs along the east line of her property?

1693  
1694 Mr. Woolard- Along the west line. Between Lots 1 and 2.

1695  
1696 Mr. Wright- So that's the easement. Is it of record? How wide is it?

1697  
1698 Mr. Woolard- Yes, it is recorded. It is 12'.

1699  
1700 Mr. Blankinship- And that was put there when the well-lot was created? So if  
1701 a well was built there would be access?

1702  
1703 Mr. Woolard- I'm not sure if it was put there then or not. I think it was just  
1704 added.

1705

1706 Ms. Dwyer- What's the width?  
1707  
1708 Mr. Woolard- 12'.  
1709  
1710 Mr. Kirkland- Where will you bring water and sewer to the house?  
1711  
1712 Mr. Woolard- It would come straight up the driveway.  
1713  
1714 Mr. Kirkland- Not up the utility easement, where is says "existing utility  
1715 easement?"  
1716  
1717 Mr. Woolard- I guess I could. I'm not sure where it is. That looks like it is  
1718 on her property also.  
1719  
1720 Mr. Wright- This house would face Mapleview?  
1721  
1722 Mr. Woolard- Yes, sir.  
1723  
1724 Mr. Wright- Is there any screening along that line between this lot and  
1725 8506?  
1726  
1727 Mr. Woolard- 8506 is existing. 8504 is the new house where Melissa Nye  
1728 lives.  
1729  
1730 Mr. Wright- Oh, that's a new house? Will those trees be between that lot  
1731 ...  
1732  
1733 Mr. Woolard- Yes, those trees start about the edge of the well-lot to the  
1734 rear of the other two lots. Some of those would have to come down to make room for  
1735 the house. If it causes too much clearing, we'd put something up as a screen.  
1736  
1737 Mr. Blankinship- Would construction vehicles come in this same way?  
1738  
1739 Mr. Woolard- Yes, they'd have to.  
1740  
1741 Mr. Blankinship- Then everything you see there will be gone.  
1742  
1743 Ms. Dwyer- This easement that you'll use as access. It wasn't an  
1744 easement granted for access to a home, it was granted for access to a well, which  
1745 would have been considerably less traveled.  
1746  
1747 Mr. Woolard- Yes, of course, but the home we propose – I don't think  
1748 there'll be a lot of traffic. Only one person is going to be living there.  
1749  
1750 Mr. Kirkland- Mr. Blankinship, I'm assuming you guys researched this Lot  
1751 1 and made sure that this easement was separate from Lot 1's property, correct?

1752 Mr. Blankinship- No. The easement is across Lot 1.  
1753  
1754 Mr. Kirkland- So it is on her property?  
1755  
1756 Mr. Blankinship- Yes.  
1757  
1758 Ms. Dwyer- It is on the property to allow access to a well-lot, not to a  
1759 home.  
1760  
1761 Mr. Blankinship- Mr. Walker, who is going to speak in a minute, may be able  
1762 to address that.  
1763  
1764 Ms. Dwyer- Could you allow access to this lot through your own  
1765 property?  
1766  
1767 Mr. Woolard- Not really. It wouldn't be feasible. On Lot 1 the driveway is  
1768 already there for her home and goes straight into her garage. This area is already  
1769 cleared. My property has a couple trees that could be taken down. But it isn't feasible.  
1770 It would be as far as my mother-in-law living there, but in the next 20 years or so, if we  
1771 sold it, there would be a problem.  
1772  
1773 Ms. Dwyer- That's what Ms. Nye is concerned about as well.  
1774  
1775 Mr. Woolard- About selling the property:  
1776  
1777 Ms. Dwyer- About people having access across her property and not  
1778 knowing who might live there in the future.  
1779  
1780 Mr. Woolard- Well, I understand that, but we're not planning on my  
1781 mother-in-law moving. Once she's there, she's there.  
1782  
1783 Ms. Dwyer- But you just said you'd be concerned about who might live  
1784 there next.  
1785  
1786 Mr. Wright- So the easement would run between the two houses.  
1787  
1788 Mr. Woolard- Yes, but it is totally right on her property. It is on Lot 1.  
1789  
1790 Mr. Wright- Anything further?  
1791  
1792 Mr. Bill Rhodenhiser- I own 8506 and see that it would do no harm whatsoever to  
1793 the neighborhood. I intend to keep this property and leave it to one of my children. It  
1794 will not hurt it in any way.  
1795  
1796 Mr. Wright- So you own 8506?  
1797



1798 Mr. Rhodenhiser- Yes.  
1799  
1800 Ms. Dwyer- But the easement isn't on your property?  
1801  
1802 Mr. Wright- The easement is on the other property.  
1803  
1804 Mr. Kirkland- 8506 is your residence.  
1805  
1806 Mr. Rhodenhiser- No. It is a rental property.  
1807  
1808 Mr. Wright- And Ms. Nye lives at 8504?  
1809  
1810 Mr. Rhodenhiser- As far as traffic is concerned, it would have not detrimental  
1811 effect on my property and would be a very good cause in my opinion to give this woman  
1812 a place to live near her children.  
1813  
1814 Mr. Wright- OK. Any further questions from the Board? Anyone in  
1815 opposition?  
1816  
1817 Mr. Eric Walker- I'm here in opposition to the variance. Approximately a year  
1818 ago, I purchased Lot 1 and the well-lot from Mr. Rhodenhiser. He is the owner of Lot 2,  
1819 which he rents out. I attempted approximately a year ago to get a variance on the well-  
1820 lot to build two homes there together. That variance was denied by the Board. That 12'  
1821 easement that you see along Lot 1 was something I put in place if the variance was  
1822 approved.  
1823  
1824 When the Board denied the variance, Mr. Woolard stopped me and said 'Mr. Walker,  
1825 ultimately I do want a house built on the lot, would you consider selling it since you can  
1826 build on it?' So, I did that. He said to me that he never plans to build on it, that he  
1827 understands that the variance was denied. So, I sold him that lot. I built a house and  
1828 sold it on Lot 1.  
1829  
1830 I mentioned to the current owner of Lot 1 that we tried to get a variance, but were  
1831 denied. Unless something changed, no one would build back there. She understood  
1832 what happened and I understand Mr. Woolard, immediately after purchasing the  
1833 property, attempted to get a variance. For the variance I applied for, there was a  
1834 petition given throughout the neighborhood that said if an additional house was built on  
1835 this well-lot, it would adversely effect the property values in the neighborhood and  
1836 increase traffic. That was one of the major reasons the Board denied the original  
1837 variance. So, now, I'm in opposition. Ms. Nye, who will be immediately impacted if this  
1838 variance is approved, is in opposition for the specific reason that a driveway put on her  
1839 property would adversely affect her property values. The house they are proposing is  
1840 going to face the rear of her house. It wouldn't be aesthetically pleasing.  
1841

1842 My thoughts were, if I were to get the variance, to slide the house further to the east of  
1843 Lot 1 to give more direct access to the well-lot, but that variance was denied. I'm  
1844 accessing you deny this variance.

1845  
1846 Mr. McKinney- Mr. Blankinship, can you pull up that file?

1847  
1848 Mr. Blankinship- Yes, sir. I believe that it is described in your staff report.

1849  
1850 Mr. Wright- I'm confused as to this easement. Why was the easement  
1851 put through that property.

1852  
1853 Mr. Walker- I had my engineer put that easement on the survey, and  
1854 when I applied for the variance I had the easement shown, to give you an  
1855 understanding on how access was going to be supplied to the well-lot. That easement  
1856 wasn't created when the well-lot was created – I created it.

1857  
1858 Ms. Dwyer- Was that recorded?

1859  
1860 Mr. Walker- Yes.

1861  
1862 Ms. Dwyer- And it wasn't undone when you sold the well-lot separately?

1863  
1864 Mr. Walker- No, because when I spoke with Mr. Woolard I had the  
1865 understanding that he wasn't going to build on the lot, but I didn't want to sell him  
1866 anything that didn't have direct access. So we kept the easement on there.

1867  
1868 Ms. Dwyer- Isn't his property adjacent to the well-lot?

1869  
1870 Mr. Walker- It is. He could potentially access the well-lot through his  
1871 property.

1872  
1873 Mr. Wright- What did he need the property for if he wasn't going to build  
1874 on it?

1875  
1876 Mr. Walker- He said to me that he opposed my variance, that he didn't  
1877 want another house built that close to him. I'm sure if you review the minutes, he  
1878 vigorously said that he didn't want any more traffic in his neighborhood. He said to me  
1879 that if I sold him this property, it would ensure that no one else would ever build on it. I  
1880 sold it to him on a reduced property based on the idea that you can't build on it.

1881  
1882 Mr. Wright- Have you seen this petition?

1883  
1884 Mr. Walker- I haven't been privy to that petition, but the petition that was  
1885 sent when I applied for the variance, there were approximately 22 people, including him  
1886 and his wife, that were opposed to it. They said it would adversely affect property  
1887 values and increase traffic.

1888 Mr. Wright- This one is signed by 12 people in favor of it.  
1889  
1890 Mr. Walker- I understand that they were opposed to it when I tried it, but  
1891 they're in favor of it when he tries it.  
1892  
1893 Mr. Wright- Can we show him the petition?  
1894  
1895 Mr. McKinney- The same people were opposed to it, now they're in favor.  
1896  
1897 Mr. Walker- From my recollection, it appears to be some of the same  
1898 people, but I can't say for sure. I don't understand what the difference is.  
1899  
1900 Mr. Blankinship- The petition is almost identical.  
1901  
1902 Mr. Wright- Is that the one from the prior case?  
1903  
1904 Mr. Blankinship- It is the same – it looks like he called it up on the computer  
1905 and changed “against” to “for.”  
1906  
1907 Ms. Dwyer- Mr. Woolard is on it as well.  
1908  
1909 Mr. Wright- What is the date of that?  
1910  
1911 Ms. Dwyer- May 12, 2003.  
1912  
1913 Mr. Wright- Just over a year ago. Do you have anything further? Mr.  
1914 Woolard, you have a brief time to rebut.  
1915  
1916 Mr. Woolard- As far as the petition being identical – that's one of the  
1917 benefits of computers. It was the same I printed out last year. I went around the  
1918 neighborhood because they had signed the original petition and I wanted to explain the  
1919 situation. Originally, I wanted to buy both properties and build on the well-lot and save  
1920 Lot 1 for privacy. I explained that to the neighbors and wanted to let them know so that  
1921 they didn't feel like they were misled. People can have a change of heart.  
1922  
1923 Mr. Wright- What's different?  
1924  
1925 Mr. Woolard- Well, my mother-in-law wasn't retired last year...  
1926  
1927 Mr. Wright- I don't care about that – I care about building a house  
1928 there...  
1929  
1930 Mr. Blankinship- The impact on the neighbors would be the same. What  
1931 would be different about the impact of your house versus Mr. Walker's house?  
1932

1933 Mr. Woolard- Well, Mr. Walker had tried to build two houses and a  
1934 variance needs to be approved on some kind of hardship. Apparently, he was just  
1935 building these two just to get a profit, more like a commercial venture.  
1936

1937 Mr. Wright- But he only wanted to build one on this lot.  
1938

1939 Mr Woolard- But he wanted to build one on Lot 1 and the well-lot.  
1940

1941 Mr. Wright- But there wasn't any issue with Lot 1.  
1942

1943 Mr. Woolard- That's right, but he needed a variance to build on two lots.  
1944 He said that there was a lady interested in the house because he had built a house  
1945 somewhere else in the County. Whether is was Ms. Nye, I'm not sure, but if she has  
1946 bought the house and well-lot, she would have had a house in front of her on Lot 1.  
1947 That was his intention at the time. The house is there now, it is the same outcome.  
1948 This is for my mother-in-law, and not for a profit, because we're not planning on selling  
1949 it.  
1950

1951 Mr. McKinney- It is the same thing he wanted to do, it is just a different  
1952 person.  
1953

1954 Mr. Woolard- Somewhat, but the circumstances are different.  
1955

1956 Ms. Dwyer- Mr. Woolard, if your property is contiguous to the well-lot,  
1957 why did you need the easement from Lot 1 to remain?  
1958

1959 Mr. Woolard- I had thought about building back there years ago. Like Mr.  
1960 Walker said, it was written in there by his surveyor for his use. It came with the sale of  
1961 the property and I would have requested it because it was there before. Also, in case I  
1962 ever sold it, I may want to have access from there. Just like anybody else, I don't want  
1963 equipment coming past my house.  
1964

1965 Mr. Wright- Alright, anything further?  
1966

1967 Mr. Woolard- Ms. Hemenway knows about the house being in front of her.  
1968 She's willing to live with that. She feels that it is a needed for the coming years.  
1969

1970 Mr. Wright- OK. Thank you.  
1971

1972 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
1973 McKinney, the Board **denied** application **A-88-2004** for a variance to construct a one  
1974 family dwelling at 8504 Maplevue Drive (Tax Parcel 761-757-8820).  
1975

1976 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1977 Negative: 0  
1978 Absent: 0

1979  
1980 The Board denied the request as it found from the evidence presented that approving  
1981 the permit would be of substantial detriment to adjacent property and would materially  
1982 impair the purpose of the zoning regulations.

1983  
1984 **A- 89-2004** **LORI L. BRENDLINGER** requests a variance from Sections  
1985 24-9 and 24-94 to build a one-family dwelling at 2431 Pump  
1986 Road (Parcel 741-753-0370 (part)), zoned A-1, Agricultural  
1987 District (Tuckahoe). The public street frontage requirement  
1988 and total lot area requirement are not met. The applicant has  
1989 0.88 acre total lot area and 0 feet public street frontage,  
1990 where the Code requires 1 acre total lot area and 150 feet  
1991 public street frontage. The applicant requests a variance of  
1992 0.12 acre total lot area and 150 feet public street frontage.

1993  
1994 Mr. Wright- Is there anyone else here who desires to speak with  
1995 reference to this case? Please raise your right hand and be sworn.

1996  
1997 Mr. Blankinship- Do you swear that the testimony you are about to give is the  
1998 whole truth and nothing but the truth, so help you God?

1999  
2000 Ms. Lori Brendlinger- I choose to build a one family dwelling. I've been diagnosed  
2001 with multiple sclerosis and the land is just too much to take care of. I want my mother to  
2002 move closer to me. My son is going to college and he'll be able to stay with either her  
2003 or me and attend the University of Richmond. That's what I want to do.

2004  
2005 My driveway would be used as the entrance. It will be used as a utility easement. I  
2006 checked with Public Utility and they are there. Those two trees would be taken out and  
2007 the easement will go there to get to the back of the property. The new home will be  
2008 facing Crown Crest, not Thistledown. That's where the house will be located.

2009  
2010 Ms. Dwyer- Do you mean Crown Crest Drive to the rear?

2011  
2012 Ms. Brendlinger- It will facing the rear of that lot.

2013  
2014 Ms. Dwyer- So the new house wil face...

2015  
2016 Ms. Brendlinger- Yes...

2017  
2018 Ms. Dwyer- The rear of the new house will face the rear of your house?

2019  
2020 Ms. Brendlinger- Yes. Actually, the side. The back will face Thistledown.

2021  
2022 Mr. Wright- Mr. Blankinship, has Ms. Brendlinger seen this letter from  
2023 Ms. Pamela Herrington?

2024

2025 Mr. Blankinship- I don't know.  
2026  
2027 Ms. Brendlinger- Actually, the engineer, Robert Brendlinger, who was going  
2028 to represent me, had to be out of town and he got the letter instead of me. Apparently,  
2029 they're concerned about some environmental run-off...  
2030  
2031 Mr. Blankinship- We've had about 5 people call the office with concerns about  
2032 the drainage and standing water. They've proposed an engineering study in order to  
2033 deal with the facts, but in order to do that we'd need a deferral on this case. I guess  
2034 we'd have to defer the hearing.  
2035  
2036 Ms. Brendlinger- Well, I am zoned for Agriculture and I need to do something  
2037 with this property. I can't take care of this. According to Agriculture I can put in a  
2038 manufacture home for a single family use.  
2039  
2040 Mr. Blankinship- How would that affect the drainage differently?  
2041  
2042 Ms. Brendlinger- Well, according to Agriculture I can do it without anyone's  
2043 permission.  
2044  
2045 Mr. Blankinship- So it doesn't have anything to do with the drainage?  
2046  
2047 Ms. Brendlinger- No. As far as the drainage, I'd make sure the contractor did  
2048 everything need to insure property drainage.  
2049  
2050 Mr. Blankinship- But do you know what is required for proper drainage?  
2051  
2052 Ms. Brendlinger- I have a contractor who is looking at who told me he'd build it  
2053 to specifications. That whole area doesn't drain well.  
2054  
2055 Mr. Blankinship- The neighbors have propped that we take a month to  
2056 conduct an study to find out...  
2057  
2058 Mr. Brendlinger- But if it doesn't pass, I will be doing one of these other things  
2059 with the lot.  
2060  
2061 Mr. Wright- I take it that this letter is from the opposition. They are  
2062 requesting that this be deferred for one month to the next meeting so that an engineer  
2063 can do a study so all the facts will be known. Do you have an objection to continuing it  
2064 for one month.  
2065  
2066 Ms. Brendlinger- I'd like to get it started. Are they going to pay for this study?  
2067  
2068 Mr. Wright- I take it, they're requesting it. You wouldn't have to pay for  
2069 something they've requested. They want to have a study done, but the engineer

2070 couldn't get it done by today and is requesting more time. The next meeting date will be  
2071 August 26. My question is are you willing to defer it for one month?

2072  
2073 Ms. Brendlinger- I've already had an engineer look at it.

2074  
2075 Mr. Wright- I need a 'yes' or 'no.' If not, we'll proceed. Are you willing to  
2076 defer it? If not, we'll go ahead with the case.

2077  
2078 Ms. Brendlinger- I'd like to hear what they have to say.

2079  
2080 Mr. Wright- If we're going to hear the case, we'll hear the case.

2081  
2082 Ms. Brendlinger- OK, I don't want to defer it.

2083  
2084 Ms. Dwyer- Mr. Chairman, can I defer it?

2085  
2086 Mr. Wright- Yes.

2087  
2088 Ms. Dwyer- I'd like to defer it because issues have been raised about  
2089 drainage, and I'd also like to hear what the County's engineer has to say about this  
2090 area.

2091  
2092 On a motion by Ms. Dwyer, seconded by Mr. McKinney, the Board **deferred** application  
2093 **A-89-2004** for a variance to construct at one family dwelling at 2431 Pump Road (Tax  
2094 Parcel 741-753-0370 (part of)) until the August 26, 2004 meeting.

2095  
2096 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5

2097 Negative: 0

2098 Absent: 0

2099

## 2100 **APPROVAL OF MINUTES**

2101

2102 On a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board approved  
2103 the minutes of the January 22, 2004 meeting.

2104

2105 Affirmative: Kirkland, McKinney, Nunnally, Wright 4

2106 Negative: 0

2107 Abstain: Dwyer 1

2108

## 2109 **APPROVAL OF 2005 BZA MEETING CALENDAR**

2110

2111 On a motion by Mr. Kirkland, seconded by Ms. Dwyer, the Board approved the  
2112 calendar for the 2005 meeting dates of the Board of Zoning Appeals.

2113

2114 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5

2115	Negative:	0
2116	Absent:	0
2117		
2118	There being no further business, the meeting was <b>adjourned</b> .	
2119		