

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**  
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**  
3 **HENRICO COUNTY GOVERNMENT COMPLEX, ON THURSDAY, JUNE 24, 2004, AT**  
4 **9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**  
5 **DISPATCH ON JUNE 3 AND 10, 2004.**  
6

**Members Present:** R. A. Wright, Chairman  
James W. Nunnally, Vice-Chairman  
Elizabeth G. Dwyer, Esq., CPC  
Richard Kirkland  
Gene L. McKinney, C.P.C., C.B.Z.A.

**Also Present:** Benjamin Blankinship, Secretary  
Lee J. Tyson, County Planner  
Priscilla M. Parker, Recording Secretary

7  
8 Mr. Wright - Good morning, ladies and gentlemen, and welcome to the  
9 June meeting of the Board of Zoning Appeals. Would you stand and join me for the  
10 **Pledge of Allegiance to the Flag of our Country.** Mr. Secretary, would you read the  
11 rules, please.  
12

13 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies  
14 and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each  
15 case. Then at that time the applicant should come to the podium. I will ask all those  
16 who intend to speak on that case, in favor or in opposition, to stand and be sworn in.  
17 The applicants will then present their testimony. After the applicant has spoken, the  
18 Board will ask them questions, and then anyone else who wishes to speak will be given  
19 the opportunity. After everyone has spoken, the applicant, and only the applicant, will  
20 have an opportunity for rebuttal. After hearing the case, and asking questions, the  
21 Board will take the matter under advisement. They will render all of their decisions at  
22 the end of the meeting. If you wish to know their decision on a specific case, you can  
23 either stay until the end of the meeting, or you can call the Planning Office later this  
24 afternoon, or you can check the website. The vote on each case will be posted to our  
25 website within an hour of the end of the meeting. This meeting is being tape recorded,  
26 so we will ask everyone who speaks, to speak directly into the microphone on the  
27 podium, to state your name, and to spell your last name please. And finally, out in the  
28 foyer, there are two binders, containing the staff report for each case, including the  
29 conditions that have been recommended by the staff. Mr. Chairman, I've been asked to  
30 extend Mr. O'Kelly's apologies for not being with us this morning; he's in the Growth  
31 Retreat with the Board of Supervisors.  
32

33 ***Beginning at 9:00***  
34

35 **Call for deferrals and withdrawals**

36  
37 Mr. Wright - Thank you sir. Do we have any requests for withdrawals or  
38 deferrals?

39  
40 Mr. Blankinship - Yes sir, we have one deferral and two withdrawals on the  
41 9:00 o'clock agenda. **UP-4-2004 The Country Club of Virginia** had a little trouble  
42 making up their minds whether to withdraw or defer one more time, and they absolutely  
43 assured me that they will be prepared for the July meeting, so they would like to be  
44 deferred to July 22.

45  
46 **UP- 4-2004 COUNTRY CLUB OF VIRGINIA** requests a conditional use permit  
47 pursuant to Section 24-12(b) of Chapter 24 of the County Code to  
48 add a maintenance building and parking area at 710 S Gaskins  
49 Road (Parcel 735-733-6834), zoned R-0, One-family Residence  
50 District (Tuckahoe).

51  
52 Upon a motion by Ms. Dwyer, seconded by Mr. McKinney the Board **deferred**  
53 application **UP-4-2004** for a conditional use permit to add a maintenance building and  
54 parking area at 710 S Gaskins Road (Parcel 735-733-6834). The case was deferred at  
55 the request of the applicant, to allow time to submit revised plans, from the June 24,  
56 2004, until the July 22, 2004, meeting.

57  
58 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
59 Negative: 0  
60 Absent: 0

61  
62 Mr. Blankinship - **UP-11-2004 SHOWS BY JUTTA** was withdrawn before we put the  
63 packets together, but after the agenda was published.

64  
65 **UP- 11-2004 SHOWS BY JUTTA** requests a temporary conditional use permit  
66 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code  
67 to hold a carnival at 10101 Brook Road (Parcel 785-771-0111),  
68 zoned B-3, Business District (Fairfield).

69  
70 Because the Board allowed withdrawal without prejudice, the case may be re-filed at  
71 any time.

72  
73 Mr. Blankinship - **A-42-2004 STEPHEN McDANIEL** was withdrawn after we  
74 sent your packets.

75  
76 **A - 42-2004 STEPHEN MCDANIEL** requests a variance from Section 24-94 of  
77 Chapter 24 of the County Code to build a sunroom and ramp at  
78 2805 Maplewood Road (Hermitage Park) (Parcel 777-746-7298),  
79 zoned R-4, One-family Residence District (Brookland). The front  
80 yard setback is not met. The applicant has 23 feet front yard

81 setback, where the Code requires 35 feet front yard setback. The  
82 applicant requests a variance of 12 feet front yard setback.

83  
84 Because the Board allowed withdrawal at the request of the applicant, without prejudice,  
85 the case may be re-filed at any time.

86  
87 Mr. Wright - All right, no action is required on those. Call the first case.

88  
89 **Deferred from Previous Meeting**

90  
91 **A - 55-2004** **BOBBY AND PHYLLIS POORE** request a variance from Sections  
92 24-95(c)(4) and (1) of Chapter 24 of the County Code to build a  
93 covered front porch at 7109 Walford Avenue (Fort Hill) (Parcel 764-  
94 744-0521), zoned R-3, One-family Residence District (Three  
95 Chopt). The front yard setback and minimum side yard setback are  
96 not met. The applicants have 32 feet front yard setback and 5 feet  
97 minimum side yard setback, where the Code requires 35 feet front  
98 yard setback and 7 feet minimum side yard setback. The  
99 applicants request a variance of 3 feet front yard setback and 2 feet  
100 minimum side yard setback.

101  
102 Mr. Wright - Is there anyone here on this case? Does anyone else desire  
103 to speak with reference to this case? Would you raise your right hand and be sworn  
104 please?

105  
106 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
107 truth, the whole truth, and nothing but the truth, so help you God?

108  
109 Mr. Poore - I do. I'm Bobby Poore. I want to build a thirteen by eight  
110 porch on the front of my house; I had a stoop which disintegrated, and I tore it down in  
111 February and ever since then I have been trying to get this passed so I could go ahead  
112 and get my porch built. I had the property line done away with, so hopefully you will get  
113 the neighbors off my back so I can go ahead and get a porch built on it.

114  
115 Mr. Wright - You want to build a front porch? Looks like your house is  
116 sort of angled on the lot there.

117  
118 Mr. Poore - Yes sir, it was angled on the lot, and that's the reason I had  
119 to have the property line variance done away with, so it would give me room enough to  
120 build it.

121  
122 Mr. Wright - What's the size of this proposed porch?

123  
124 Mr. Poore - The size will be thirteen long by eight feet deep, with the  
125 steps going off to the driveway.

126

127 Mr. Wright - The driveway is on which side?  
128

129 Mr. Poore - The driveway is on the right-hand side facing the house.  
130

131 Mr. Wright - What type of material do you propose to construct this porch  
132 out of? It's going to be cinderblock foundation, and everything will be vinyl and wood.  
133

134 Mr. Wright - Are there any other porches on the houses on your street or  
135 in your area?  
136

137 Mr. Poore - Yes sir, there are.  
138

139 Ms. Dwyer - Sir, what did you mean when you said you wanted to get the  
140 neighbors off your back?  
141

142 Mr. Poore - I tore my stoop down back in February, thinking that I could  
143 get this built with no problem, and my contractor, Herman Blake, told me to go ahead  
144 and tear it down, and he would start on it, get the permit on Monday, and he would start  
145 on it. I took off Fri., Sat., and Sun., tore everything down, hauled it to the dump, and of  
146 course it's still like that; I don't have nothing on the front.  
147

148 Ms. Dwyer - So they don't object to the porch you're proposing; they're  
149 just asking you why you haven't built something to replace your stoop.  
150

151 Mr. Wright - Do your neighbors object to the porch?  
152

153 Mr. Poore - No, they don't object to it; they just wonder why it's been torn  
154 off and just sitting there with nothing. It just looks crummy. I told them I was going to  
155 put a ladder up there, and that's all I was going to use. But I would like to go ahead and  
156 get it passed if I could and get this thing up and get it over with, because like I said, it's  
157 been since February since we started it, and here it is, almost July, and I still have  
158 nothing.  
159

160 Ms. Dwyer - Just for information, what was the Board of Supervisors  
161 vacation of the building line, what was involved with that?  
162

163 Mr. Poore - I think we lacked a foot or two feet of the property line of  
164 having the space, and then they said if I have the property line done away with, it would  
165 be no problem, and I had that done, I think it was June 6 they passed it.  
166

167 Mr. Blankinship - Because the building line is shown on the subdivision plat,  
168 that's considered almost like a real property interest to the County, and it has to be  
169 vacated as if it were a right-of-way or an easement.  
170

171 Ms. Dwyer - So that's just something the County used to do when they  
172 passed the zoning, they would show that line on the plat?

173  
174 Mr. Wright - If this is approved, you'll certainly enjoy it; you've been  
175 through enough to try to get it.

176  
177 Mr. Poore - I certainly hope so. I've talked to Mr. Blankinship about two or  
178 three times on it.

179  
180 Mr. Wright - Any further questions of members of the Board? Do you  
181 have anything further to say?

182  
183 Mr. Poore - No, that's it. I just hope you'll let me build it and get it over  
184 with.

185  
186 Mr. Wright - Is there anyone here in opposition to this request?

187  
188 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Ms.  
189 Dwyer, the Board **granted** application **A-55-2004** for a variance to build a covered front  
190 porch at 7109 Walford Avenue (Fort Hill) (Parcel 764-744-0521). The Board granted  
191 the variance subject to the following conditions:

192  
193 1. Only the improvements shown on the plan filed with the application may be  
194 constructed pursuant to this approval. No substantial changes or additions to the layout  
195 may be made without the approval of the Board of Zoning Appeals. Any additional  
196 improvements shall comply with the applicable regulations of the County Code.

197  
198 2. The new construction shall match the existing dwelling as nearly as  
199 practical.

200  
201 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
202 Negative: 0  
203 Absent: 0

204  
205 The Board granted this request, as it found from the evidence presented that, due to the  
206 unique circumstances of the subject property, strict application of the County Code  
207 would produce undue hardship not generally shared by other properties in the area, and  
208 authorizing this variance will neither cause a substantial detriment to adjacent property  
209 nor materially impair the purpose of the zoning regulations.

210  
211 **A - 56-2004** **MURLE L. VAUGHAN, JR.** requests a variance from Section 24-94  
212 of Chapter 24 of the County Code to build an addition at 10815  
213 Westek Drive (Cross Keys) (Parcel 747-755-4091), zoned R-3,  
214 One-family Residence District (Three Chopt). The rear yard  
215 setback and total side yard setback are not met. The applicant has  
216 20 feet rear yard setback and 28 feet total side yard setback, where  
217 the Code requires 40 feet rear yard setback and 30 feet total side  
218 yard setback. The applicant requests a variance of 20 feet rear

219 yard setback and 2 feet total side yard setback.  
220  
221 Mr. Wright - Does anyone else desire to speak with reference to this  
222 case? Would you raise your right hand and be sworn please?  
223  
224 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
225 truth, the whole truth, and nothing but the truth, so help you God?  
226  
227 Mr. Vaughan - I do. Murle L. Vaughan, Jr. My wife and I would like to build  
228 a first-floor master suite on the back of our house with a screened porch and deck  
229 attached to that, all across the back part of our house. The bedroom would be sixteen  
230 by twenty, and the deck would not exceed the twenty-foot request on the variance. It  
231 would be equal to the bedroom on the side.  
232  
233 Ms. Dwyer - It's not clear to me from your drawing, Mr. Vaughan, what  
234 the distance is from the rear of the master bath to the rear of the property line.  
235  
236 Mr. Vaughan - It's twenty-seven feet from where I'm requesting the variance  
237 to the back of the property line.  
238  
239 Mr. Blankinship - So it's the same from the master suite as it is from the deck?  
240  
241 Mr. Vaughan - Yes, yes, all the way across the back.  
242  
243 Ms. Dwyer - The staff report says twenty feet?  
244  
245 Mr. Blankinship - I'm not sure that we interpreted that drawing the same way,  
246 since the rear line of the house is not parallel to the rear lot line.  
247  
248 Mr. Wright - I was having difficulty when I looked at this sketch – the  
249 master bedroom, that's twenty feet across the back? What's the distance from the  
250 master bedroom to the rear line?  
251  
252 Mr. Blankinship - The applicant is saying 27 feet.  
253  
254 Mr. Wright - So the master bedroom will be on the same line as the deck,  
255 is that what we're saying, basically?  
256  
257 Mr. McKinney - Looks like that rear line goes on an angle also, so it'd  
258 probably be further.  
259  
260 Mr. Wright - The rear line is sort of on an angle somewhat, so it'd be a  
261 little more distance.  
262  
263 Mr. Vaughan - Yes, it kind of curves a little bit; it slants more to the left side  
264 of the lot than it does to the right; I have more room to the right where we're building, so

265 it will probably be a little farther.  
266  
267 Mr. Wright - Do you plan to leave the screened porch as it is? On your  
268 drawing, you show a screened porch, so you're building the deck around the screened  
269 porch?  
270  
271 Mr. Vaughan - The master's going to be on the end, the screened porch will  
272 be next to that, and the deck will be right where my old existing deck is will come out  
273 right next to that, all run together.  
274  
275 Mr. Blankinship - Is there a screened porch there now?  
276  
277 Mr. Vaughan - No, just the deck that was originally built onto the house.  
278  
279 Mr. Wright - So when you say screened porch, that's your proposed  
280 screened porch?  
281  
282 Mr. Vaughan - Yes sir.  
283  
284 Ms. Dwyer - You did this drawing yourself, just to give us an idea of  
285 where it would all be? Are you going to have a professional?  
286  
287 Mr. Vaughan - Yes. Actually, my next-door neighbor who submitted the  
288 letter of support in favor of my building, the same builder who built that addition is going  
289 to build ours.  
290  
291 Mr. Wright - Is there any screening along the rear line of your property,  
292 between your property and the property to the rear?  
293  
294 Mr. Vaughan - Not yet, sir. I plan to start this weekend; I'm going to put an  
295 eight-foot high privacy fence up that my neighbor behind me has requested that I do,  
296 and he is going to assist me in building that. I have ordered the materials; they should  
297 be here this weekend.  
298  
299 Mr. Wright - It looks like you have some trees there though, from this  
300 picture.  
301  
302 Mr. Blankinship - You meant to say seven-foot high fence?  
303  
304 Mr. Vaughan - Yes sir. It's going to be landscaped up at the top.  
305  
306 Mr. Wright - What type of construction will this be?  
307  
308 Mr. Vaughan - It will be brick foundation, right now I have the Masonite  
309 siding on it. We will probably either put that or Hardy plank siding on the side of the  
310 new addition and go from there.

311  
312 Mr. Wright - I take it will be compatible with your existing house?  
313  
314 Mr. Vaughan - Yes sir, most definitely.  
315  
316 Ms. Dwyer - In this photo we're looking at now, is this the neighbor who  
317 requested the fence, because your house is quite a bit higher in elevation.  
318  
319 Mr. Vaughan - Yes, my lot's slopes from front to back, and he sits down  
320 below us, and the only concern that he had was just to give it some more privacy. I  
321 agreed to pay for the fence myself, to make everybody happy.  
322  
323 Mr. Wright - If this is approved, would you object to our putting that in as  
324 a condition? What's the height limit on the rear fence?  
325  
326 Mr. Blankinship - Seven feet.  
327  
328 Mr. Wright - So you can't build an eight-foot fence.  
329  
330 Mr. Vaughan - I've ordered eight-foot boards, but what we're going to do, is  
331 we're going to curve it with a scrolling saw to make it look nice.  
332  
333 Mr. Wright - Is this a one-story addition?  
334  
335 Mr. Vaughan - Yes sir, just a one-story.  
336  
337 Ms. Dwyer - Mr. Blankinship, what's our policy regarding sketches and  
338 drawings that we receive and their accuracy?  
339  
340 Mr. Blankinship - We accept pretty much whatever the applicant submits. We  
341 do occasionally run into trouble where the Board approves a variance based on a  
342 drawing that's in front of them, and when the applicant comes back with a more  
343 accurate drawing, it exceeds what was approved by the Board, and we have to ask  
344 them to resubmit or redesign at that point.  
345  
346 Mr. McKinney - The building inspector's office is going to require a plat, a  
347 drawing on a plat, and so forth, before they will issue a permit.  
348  
349 Ms. Dwyer - Right, but in this case the staff report says there's a 20-foot  
350 setback, and the applicant has testified, and his drawings sort of show a 27-foot, so  
351 when we have a discrepancy like that in the application, which would control? I mean,  
352 what are we approving?  
353  
354 Mr. Wright - What did the applicant request, how much of a variance?  
355 You said 20 feet. This says a variance of 20 feet rear yard and two feet total side yard.  
356



357 Mr. Blankinship - I think my concern in a case like this, is to make sure that the  
358 discussion before the Board included understanding that there was some lack of clarity  
359 of exactly what was in front of you, a fairly narrow range, I would hope, of what it is  
360 you're approving. Of course, if there is a doubt, the staff always errs on the side of  
361 putting more in front of you, because we can always draw back from that, but we can't  
362 approve more than that later. The applicant requested 27 feet on the applicant, but of  
363 course that was also filled out before he changed his plans.

364  
365 Mr. Wright - It looks like he only needs thirteen feet.

366  
367 Mr. Blankinship - Requested to have a setback of 27 feet, which would be a  
368 variance of 13 feet. This drawing is partly dimensioned, and scales approximately to  
369 those dimensions, so as I say, we did err some. I put that twenty feet on to leave some  
370 wiggle room, that if it turns out to be twenty-five or twenty-four of a setback.

371  
372 Mr. Wright - But in reality it's going to be about thirteen feet.

373  
374 Mr. Blankinship - Possibly. We won't know for sure until he has an architect or  
375 someone draw a measured drawing.

376  
377 Ms. Dwyer - But we could approve a thirteen-foot rear setback, which is  
378 what the applicant has requested in person and on paper.

379  
380 Mr. Blankinship - But if it comes out to be thirteen feet, 6 inches, I'd hate to  
381 drag him back in here.

382  
383 Mr. Wright - We could make it fourteen feet; that's a lot better than twenty  
384 feet. Any further questions of members of the Board? Anyone here in opposition to this  
385 request?

386  
387 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
388 McKinney, the Board **granted** application **A-56-2004** for a variance of 14 feet from the  
389 rear yard setback, to build an addition at 10815 Westek Drive (Cross Keys) (Parcel 747-  
390 755-4091). The Board granted the variance subject to the following conditions:

391 1. The new construction shall match the existing dwelling as nearly as practical.

392  
393 2. The property shall be developed in substantial conformance with the plan filed  
394 with the application. No substantial changes or additions to the layout may be made  
395 without the approval of the Board of Zoning Appeals.

396  
397 3. [Added] By the time construction of the addition is complete, the owner shall  
398 provide a privacy fence seven feet tall along the rear property line.

399  
400 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5

401 Negative: 0

403 Absent:

0

404

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

410

411 **New Applications**

412

413 **UP- 14-2004**            **RICHMOND ELKS LODGE NO. 45** requests a temporary  
414 conditional use permit pursuant to Section 24-116(c)(1) of Chapter  
415 24 of the County Code to conduct a turkey shoot at 10022 Elks  
416 Pass Lane (Parcel 750-768-4929), zoned A-1, Agricultural District  
417 (Three Chopt).

418

419 Mr. Wright -                            Does anyone else desire to speak with reference to this  
420 case? Would you raise your right hand and be sworn please?

421

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

424

425 Mr. Nisbet -                            I do. My name is Basil Nisbet. I'm currently the Exalted  
426 Ruler of the Elks Lodge. The Elks have had a turkey shoot at this location since 1984.  
427 We have never had any incidents, and we police it as well as we can, and we're asking  
428 for an extension of another two years for this permit.

429

430 Mr. Wright -                            Mr. Secretary, we've had no complaints to your knowledge?

431

432 Mr. Blankinship -                    No sir.

433

434 Mr. Wright -                            The only little concern we might have is that a lot of  
435 development has occurred there since you started, so we have to exercise extreme  
436 care, but I believe the conditions set forth are what we consider to be enough  
437 protection, is that not right Mr. Blankinship?

438

439 Mr. Blankinship -                    Yes sir, so far that's done the job.

440

441 Mr. Wright -                            Any questions of members of the Board? Anyone here in  
442 opposition to this request?

443

444 Ms. Dwyer -                            I have a question. It has to do with the conditions, not with  
445 the request made by the applicant. Looking at Condition # 2, when it relates to alcoholic  
446 beverages, it says may not "be consumed in the area of the turkey shoot," and then it  
447 says, "No person under the influence of alcohol may be permitted .....", and I guess just  
448 from an enforcement standpoint, those are vague terms in the area of the turkey shoot.

449 Does that mean outside the building, or does it mean consumption of alcohol inside the  
450 building would be permissible?  
451  
452 Mr. Blankinship - That's the way I would read it, yes ma'am.  
453  
454 Ms. Dwyer - You'd be able to drink alcohol in the building and then go  
455 shoot?  
456  
457 Mr. Blankinship - Not and then go shoot. I mean assuming that you drank to  
458 the point that you were under the influence of alcohol, you would then not be permitted  
459 into the shooting area.  
460  
461 Ms. Dwyer - Which leads to my next question, is how do we define "under  
462 the influence"?  
463  
464 Mr. Blankinship - I guess we would use whatever the police use for the same  
465 term for driving under the influence.  
466  
467 Mr. McKinney - Mr. Chairman, Mr. Blankinship, under "Suggested  
468 Conditions" and under the "Background" of the staff report, you've got the hours of  
469 operation. Are they going to automatically carry over into these conditions?  
470  
471 Mr. Blankinship - No, they probably should be attached as a condition.  
472  
473 Mr. McKinney - As Condition # 6?  
474  
475 Mr. Wright - That should be a condition.  
476  
477 Ms. Dwyer - I think we should be a little more specific as to what "under  
478 the influence" means if there's ever an enforcement issue.  
479  
480 Mr. Blankinship - Do you have a suggested language?  
481  
482 Ms. Dwyer - If we're going to define it in the same way that we define it  
483 for "driving under the influence," for vehicles, we could say that.  
484  
485 Mr. Nisbet - May I just say one thing. If people come to do the turkey  
486 shoot, and we suspect that they have been drinking, we do not allow them to shoot.  
487 We, as a club, fall under the ABC laws, and we have a liquor license for the clubhouse,  
488 which is extended to the pavilion. It was grandfather-claused that if we do have  
489 functions, we can, if we have people who are members of the club, and their guests can  
490 consume alcoholic beverages. That is for specific functions, not for the turkey shoot.  
491  
492 Ms. Dwyer - Is the pavilion that area shown that's near the firing line on  
493 the picture?  
494

495 Mr. Nisbet - Yes. We do have signs in the pavilion saying, no alcoholic  
496 beverages allowed.  
497  
498 Ms. Dwyer - But the ABC license does allow .....

499  
500 Mr. Nisbet - Yes, if we're going to have a picnic, we are allowed to  
501 consume alcoholic beverages in the picnic area.  
502

503 Mr. McKinney - Do you have picnics during the turkey shoot?  
504

505 Mr. Nisbet - No we do not.  
506

507 Mr. Blankinship - Do you ever serve alcoholic beverages on the property at  
508 the same time as the turkey shoot?  
509

510 Mr. Nisbet - No we don't. Well, in the club itself we do.  
511

512 Mr. Wright - I think the concern is that somebody in the club might imbibe  
513 and then go out and engage in the turkey shoot or just wander his way around. What  
514 safeguard do you have there – is there somebody in particular who checks people when  
515 they come to insure that they're not under the .....

516  
517 Mr. Nisbet - What we do is that each person who shoots is supervised by  
518 a member of the Lodge, so you go down the line as each person shoots, you hand the  
519 individual the shot to shoot, and he stands with him. So we check and monitor the  
520 people who are shooting almost the entire evening. There is somebody there.  
521

522 Mr. Wright - Have you ever had any problems with anybody drinking  
523 during the turkey shoot?  
524

525 Mr. Nisbet - No, not to my knowledge.  
526

527 Mr. Wright - We can do the best we can to safeguard it.  
528

529 Ms. Dwyer - I think my question goes more to what the County's  
530 imposing; we should be clear.  
531

532 Mr. McKinney - Why couldn't we just put a condition in there, "no alcoholic  
533 beverages on the grounds outside of the clubhouse during the turkey shoot." That  
534 would take care of it.  
535

536 Ms. Dwyer - And then we could define "under the influence" using the  
537 Code Section; that would probably be the easiest. I'm not sure which one it is.  
538

539 Mr. Blankinship - I can find it.  
540

541 Mr. Wright - I think those are good suggestions. Anything further?  
542

543 Mr. McKinney - You don't have any problem with that, do you Mr. Nisbet, "no  
544 alcoholic beverages on the outside of the clubhouse during the turkey shoot."  
545

546 Mr. Nisbet - That would be acceptable, and we would enforce it.  
547

548 Mr. Wright - Thank you very much; that concludes the case.  
549

550 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
551 Kirkland, the Board **granted** application **UP-14-2004** for a temporary conditional use  
552 permit to conduct a turkey shoot at 10022 Elks Pass Lane (Parcel 750-768-4929). The  
553 Board granted the use permit subject to the following conditions:  
554

555 1. The land shall be clearly posted to show the particular area where the shooting is  
556 to occur and where the impact area is located.  
557

558 2. [Amended] No alcoholic beverages may be consumed outside of the main  
559 building during the turkey shoot. A sign to this effect must be conspicuously posted in  
560 the immediate vicinity of the shooting area. No person under the influence of alcohol,  
561 as defined in Section 18.2-266 of the Code of Virginia, may be permitted in the shooting  
562 area.  
563

564 3. Restrooms shall be provided.  
565

566 4. The turkey shoot shall only involve the use of shotguns no larger than 12 gauge  
567 and low powered shells containing No. 8 shot.  
568

569 5. A 6 foot high shot barrier of straw, hay bales, or mounded dirt shall be erected  
570 behind the targets as a precaution. This barrier shall be located a maximum of 10 feet  
571 behind the targets and extend 10 feet beyond each end of the target line.  
572

573 6. [Added] The hours of the turkey shoot shall be limited to 5:00 p.m. to 10:00 p.m.  
574 Friday and 2:00 p.m. to 10:00 p.m Saturday.  
575

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

577 Negative: 0

578 Absent: 0  
579

580 The Board granted the request because it found the proposed use will be in substantial  
581 accordance with the general purpose and objectives of Chapter 24 of the County Code.  
582

583 **A - 61-2004** **CENTEX HOMES** requests a variance from Section 24-94 of  
584 Chapter 24 of the County Code to build a one-family dwelling at  
585 11404 Country Oaks Court (Cobblestone Landing at Twin Hickory)  
586 (Parcel 743-765-0237), zoned R-3C, One-family Residence District

587 (Conditional) (Three Chopt). The rear yard setback is not met. The  
588 applicant proposes 37 feet rear yard setback, where the Code  
589 requires 40 feet rear yard setback. The applicant requests a  
590 variance of 3 feet rear yard setback.  
591

592 **A - 62-2004** **CENTEX HOMES** requests a variance from Section 24-94 of  
593 Chapter 24 of the County Code to build a one-family dwelling at  
594 11504 Country Oaks Way (Cobblestone Landing at Twin Hickory)  
595 (Parcel 742-765-7703), zoned R-3C, One-family Residence District  
596 (Conditional) (Three Chopt). The rear yard setback is not met. The  
597 applicant proposes 31 feet rear yard setback, where the Code  
598 requires 40 feet rear yard setback. The applicant requests a  
599 variance of 9 feet rear yard setback.  
600

601 Mr. Wright - Does anyone else desire to speak with reference to this  
602 case? Would you raise your right hand and be sworn please?  
603

604 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
605 truth, the whole truth, and nothing but the truth, so help you God?  
606

607 Mr. James - Yes I do. My name is Sydney James, with Centex Homes.  
608 We're requesting rear yard setback for each of these lots so we can build houses  
609 compatible with the neighborhood.  
610

611 Mr. Kirkland - Mr. James, there are no other homes built in these cul-de-  
612 sacs, is that correct?  
613

614 Mr. James - Not yet.  
615

616 Mr. Kirkland - In either cul-de-sac?  
617

618 Mr. James - Not to my knowledge.  
619

620 Mr. Wright - It appears to me that if you need a variance to build this  
621 home, you may need one to build the other homes around this cul-de-sac, and the other  
622 cul-de-sac too.  
623

624 Mr. James - No sir, it's just the configuration of these lots that causes  
625 that.  
626

627 Mr. Wright - How about the configuration of 11500 and the ones right  
628 adjacent to it, 11505?  
629

630 Mr. James - We have no problems with those lots in our fits.  
631

632 Mr. Wright - You say that this particular problem is particular just to these

633 two lots?  
634  
635 Mr. James - These two, yes, and it's really just because in this  
636 neighborhood to accommodate the square footage requirements, we're doing a lot of  
637 the additions of the backs of the houses.  
638  
639 Ms. Dwyer - It looks like you have buildable area that you're not using.  
640 Couldn't you change the floor plans so that instead of extending into the setback area,  
641 you have a slightly different floor plan that allows an extension into the existing buildable  
642 area?  
643  
644 Mr. James - We don't have one, and we're a large production builder. In  
645 order to do something like that, we'd have to retool our whole system. We don't have  
646 anything that would fit like that. The engineers have tried to tweak it, and that's as close  
647 as we can come.  
648  
649 Ms. Dwyer - Just using your existing floor plans, not building a custom.  
650  
651 Mr. James - We do not do custom floor plans; we have a limited menu,  
652 so to speak.  
653  
654 Ms. Dwyer - But when this was purchased, it was clear that the buildable  
655 area had its limitations?  
656  
657 Mr. James - This was true, yes.  
658  
659 Mr. Wright - This is not just for the deck, is it?  
660  
661 Mr. James - No. For that corner you see there, yes.  
662  
663 Mr. McKinney - Mr. James, when Centex bought this property and  
664 Youngblood laid it out, that's when you found out, after you had the property under  
665 contract?  
666  
667 Mr. James - That's correct.  
668  
669 Mr. McKinney - So you really didn't know on these two lots?  
670  
671 Mr. James - Not up front, no. You take the bad with the good. We  
672 typically don't have this problem; once in a while it comes up.  
673  
674 Mr. McKinney - To the rear of one there's I-295? On both of them?  
675  
676 Mr. James - Both of them, yes, backed up to I-295.  
677  
678 Mr. Wright - You have nothing that would interfere to the rear with either

679 one of these. Mr. Blankinship, does the deck cause a problem, or is it just the house?  
680  
681 Mr. Blankinship - The deck is allowed to extend ten feet into the setback, so I  
682 think in both cases, the deck is okay. On A-61 it's very close.  
683  
684 Mr. Wright - So we're talking about just a little corner of the house?  
685  
686 Mr. Blankinship - On A-61 it's a fairly small request, I think 2.2 feet. On A-62  
687 it's more like a little over eight feet, almost nine.  
688  
689 Ms. Dwyer - Did you say that you were not aware of the limitations of this  
690 lot when you bought it? Because it was noted in the staff report that it's on a  
691 subdivision, that it's actually put on the plat.  
692  
693 Mr. James - I was not involved in this particular acquisition, but typically  
694 how we do this, especially on developed lots, we commit to take X number of lots from  
695 the developer. If there's somebody else in the neighborhood with us, we have a lot  
696 draw; you take one, I take one, and we find out when we get down to the end of it.  
697  
698 Ms. Dwyer - On a subdivision plat, it says lots marked with an asterisk  
699 have limitations for dwelling shape, size and location. That was at time of subdivision,  
700 so that was before you bought the lot.  
701  
702 Mr. James - We wouldn't know about that.  
703  
704 Mr. McKinney - Mr. James, we have a minimum square footage on the  
705 conditions of a zoning case.  
706  
707 Mr. James - There is. I'm standing here today for Steve Miller. I knew it  
708 was coming up. My guess is it's going to be 2500 square feet there, but there is a  
709 restriction, yes.  
710  
711 Mr. McKinney - When the developer rezoned the property, he had a  
712 condition in there with a minimum of 2500 square feet.  
713  
714 Mr. James - I'm sure. I'm guessing at the 2500, but in that neighborhood;  
715 I'm sure it's at least that.  
716  
717 Mr. Wright - Any further questions of members of the Board? Anyone  
718 here in opposition to this request?  
719  
720 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
721 McKinney, the Board **granted** application **A-61-2004** for a variance to build a one-family  
722 dwelling at 11404 Country Oaks Court (Cobblestone Landing at Twin Hickory (Parcel  
723 743-765-0237). The Board granted the variance subject to the following condition:  
724



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

729  
730 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
731 Negative: 0  
732 Absent: 0

733  
734 The Board granted this request, as it found from the evidence presented that, due to the  
735 unique circumstances of the subject property, strict application of the County Code  
736 would produce undue hardship not generally shared by other properties in the area, and  
737 authorizing this variance will neither cause a substantial detriment to adjacent property  
738 nor materially impair the purpose of the zoning regulations.

739  
740 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
741 McKinney, the Board **granted** application **A-62-2004** for a variance to build a one-family  
742 dwelling at 11504 Country Oaks Way (Cobblestone Landing at Twin Hickory) (Parcel  
743 742-765-7703). The Board granted the variance subject to the following condition:

744  
745 1. Only the improvements shown on the plan filed with the application may be  
746 constructed pursuant to this approval. No substantial changes or additions to the layout  
747 may be made without the approval of the Board of Zoning Appeals. Any additional  
748 improvements shall comply with the applicable regulations of the County Code.

749  
750 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
751 Negative: 0  
752 Absent: 0

753  
754 The Board granted this request, as it found from the evidence presented that, due to the  
755 unique circumstances of the subject property, strict application of the County Code  
756 would produce undue hardship not generally shared by other properties in the area, and  
757 authorizing this variance will neither cause a substantial detriment to adjacent property  
758 nor materially impair the purpose of the zoning regulations.

759  
760 **A - 63-2004** **RENEE FULLER HALTERMAN** requests a variance from Section  
761 24-94 of Chapter 24 of the County Code to build a one-family  
762 dwelling at 410 North Ivy Avenue (Parcel 825-727-2361), zoned R-  
763 3, One-family Residence District (Varina). The lot width  
764 requirement is not met. The applicant has 50 feet lot width, where  
765 the Code requires 80 feet lot width. The applicant requests a  
766 variance of 30 feet lot width.

767  
768 Mr. Wright - Does anyone else desire to speak with reference to this  
769 case? Would you raise your right hand and be sworn please?  
770

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

773  
774 Mr. Snipes - I do. I'm Harry Snipes. Renee Fuller's mother works for me.  
775 This particular piece of property, or that location where we're trying to go back and build  
776 a house, was originally their home site. The house was torn down a couple of years  
777 ago because of dilapidation, so she's trying to submit an application to build a new  
778 house there. They had left fifty feet there, thinking that we had 190 feet on the front lot.  
779 We have two lots, which we have combined together. We inadvertently thought that fifty  
780 feet is what the mortgage company required, that we had 200 feet, or 190 feet, in the  
781 back there, so when we applied for a building permit, we realized that we didn't have  
782 enough.

783  
784 Mr. Wright - They measure this at the building line; that's your problem.

785  
786 Mr. Snipes - Being a realtor and having to sell a mortgage, the mortgage  
787 companies typically require fifty feet, so we thought we had enough, and the lot is 197  
788 feet, and inadvertently we made a mistake, and we're trying to correct it.

789  
790 Mr. Wright - You've got the fifty-foot road frontage requirement, but you  
791 don't have the width at the building line. What's the building line on this lot, Mr.  
792 Blankinship?

793  
794 Mr. Blankinship - Thirty-five feet I believe.

795  
796 Mr. Wright - In other words, thirty-five feet from the road you should have  
797 the width requirement, and that's the problem.

798  
799 Mr. Snipes - We were looking to put the house on the back lot, you see  
800 where that little scribble is on there; so our vision was to put the house back there  
801 where it's actually several hundred feet, so we thought that where the house line was  
802 met the thirty-five feet requirement.

803  
804 Mr. Nunnally - You going to be back at 450 feet now?

805  
806 Mr. Snipes - Yes.

807  
808 Ms. Dwyer - I think at one time that was permissible, wasn't it, that you  
809 could have a stem lot like this?

810  
811 Mr. Blankinship - I want to say 1987.

812  
813 Ms. Dwyer I think I remember when that was changed.

814  
815 Mr. Wright - How long have you owned this property?

816

817 Mr. Snipes - They inherited it, and I don't really know how long they've  
818 owned it. It's been in their family for long as I've been alive. This is Buck Fuller's  
819 daughter.  
820  
821 Mr. Blankinship - They owned a much larger tract, and when Ivy Springs  
822 Subdivision was developed, they cut that out of this, so they left themselves with this  
823 situation when they sold the land off for that subdivision.  
824  
825 Mr. Nunnally - When was the subdivision created?  
826  
827 Mr. Blankinship - 2002.  
828  
829 Mr. Nunnally - So that's recently. This lot you have here, the fifty feet there,  
830 that's the last lot to the subdivision, right?  
831  
832 Mr. Snipes - It's not part of the subdivision.  
833  
834 Mr. Nunnally - I know it's not part of it; it's the last lot before you get to the  
835 subdivision.  
836  
837 Mr. Snipes - Right.  
838  
839 Ms. Dwyer - Looking at where you're thinking about locating the house,  
840 there's a whole lot of land elsewhere, and I'm wondering first why the location of the  
841 house in that front upper corner of the parcel leads me to think that you might be  
842 subdividing and wanting to put other houses on this parcel.  
843  
844 Mr. Snipes - No, the property's not suited but for one house; it slopes  
845 from there. The reason for the house being back there, that's where the original home  
846 site was, so they were pretty much going pretty close to the original home site, and it  
847 was to look over a bluff, but you can't really build anything in the bulk of that property.  
848  
849 Ms. Dwyer - You'd be surprised.  
850  
851 Mr. Snipes - That's basically a view of where the house would sit to the  
852 road.  
853  
854 Ms. Dwyer - Is this looking towards the front road?  
855  
856 Mr. Blankinship - This is looking straight down that fifty-foot stem.  
857  
858 Mr. Snipes - That looks like it's pretty much right down the stem of that  
859 property. It may not be that it'll sit there, but that picture that you've got up there is  
860 probably where they wanted to put the house.  
861  
862 Ms. Dwyer - The topography of the land is dictating the location of the

863 house, is what you're saying.

864

865 Mr. Snipes - We could build a narrow house up there in the front, a 36 by  
866 24 Cape and turn it sideways and put it right up on the front of the road, but the original  
867 thought was to put it back where the original home site was.

868

869 Mr. Nunnally - Are you purchasing this land to put a spec home on it?

870

871 Mr. Snipes - No, we're not building the house on it. Renee and Valerie,  
872 that's the two daughters – Valerie is sick right now, asthmatic and apparently got sent to  
873 the doctor, and they shoved this thing down her throat, well she lives in the other house  
874 where Buck's father lived. She needs a more environmentally sound house, so the  
875 thought was to build this house for her and Renee to kind of take care of her. She's out  
876 of work, so that's kind of where we were going with the plan. There were two houses on  
877 the property, one at one end which is sitting on fifty acres, and then this house, which  
878 got pulled down.

879

880 Mr. Wright - All right. Anything further sir? Any further questions of  
881 members of the Board? Anyone here in opposition to this request?

882

883 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
884 McKinney, the Board **granted** application **A-63-2004** for a variance to build a one-family  
885 dwelling at 410 North Ivy Avenue (Parcel 825-727-2361). The Board granted the  
886 variance subject to the following conditions:

887

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

890

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

895

896 3. Connections shall be made to public water and sewer.

897

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

899 Negative: 0

900 Absent: 0

901

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

907

908 **UP- 15-2004** **YOSEF GOEL** requests a conditional use permit pursuant to

909 Section 24-50.7(c) of Chapter 24 of the County Code to operate a  
910 restaurant at 1602 Rolling Hills Drive (Parcel 759-744-1150), zoned  
911 O-2, Office District (Three Chopt).  
912

913 Mr. Wright - Does anyone else desire to speak with reference to this  
914 case? Would you raise your right hand and be sworn please?  
915

916 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
917 truth, the whole truth, and nothing but the truth, so help you God?  
918

919 Mr. Hayward - I do. My name is Allen Hayward; I'm an attorney, and Mr.  
920 Goel has asked me to speak on his behalf. This application is actually for an existing  
921 use, not a new use or any kind of change. Apparently a use permit was granted in 1975  
922 to the original operator in this building, Mr. Dunst, and this operation has changed  
923 hands about three of four times since Mr. Dunst had it, and apparently no one realized  
924 that it was non-transferable, and in fact Mr. Goel acquired the operation about five years  
925 ago and had a business license. It was only when he decided to incorporate himself  
926 and have the business license transferred to his new LLC, that the County discovered  
927 that when it was originally granted, it was non-transferable, so that a reapplication would  
928 have to be made. It's always been operated in a manner consistent with the original  
929 conditions and perfectly consistent with the suggested conditions now, so we're just  
930 asking that the Board please grant Mr. Goel the right to continue the operation.  
931

932 Mr. Wright - You just want us to approve what they've been doing all  
933 along?  
934

935 Mr. Hayward - Yes sir.  
936

937 Mr. Wright - No changes in anything?  
938

939 Mr. Hayward - No changes are sought, intended or expected.  
940

941 Mr. Wright - Any questions of members of the Board? Anyone in  
942 opposition to this request?  
943

944 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
945 McKinney, the Board **granted** application **UP-15-2004** for a conditional use permit to  
946 operate a restaurant at 1602 Rolling Hills Drive (Parcel 759-744-1150). The Board  
947 granted the variance subject to the following conditions:  
948

949 1. There shall be no entrances directly from the street or parking lot to the  
950 restaurant.  
951

952 2. There shall be no signs or other evidence indicating the existence of such  
953 businesses visible from the outside of the building.  
954

955 3. The restaurant shall remain secondary to the primary use of the building for  
956 professional and general office purposes.

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

961  
962 The Board granted the request because it found the proposed use will be in substantial  
963 accordance with the general purpose and objectives of Chapter 24 of the County Code.

964  
965 **A - 64-2004** **STEWART G. FUTCHER** requests a variance from Section 24-94  
966 of Chapter 24 of the County Code to build a screened porch at  
967 11604 Bosworth Drive (Hampshire) (Parcel 743-774-6960), zoned  
968 R-2AC, One-family Residence District (Conditional) (Three Chopt).  
969 The rear yard setback is not met. The applicant proposes 35 feet  
970 rear yard setback, where the Code requires 45 feet rear yard  
971 setback. The applicant requests a variance of 10 feet rear yard  
972 setback.

973  
974 Mr. Wright - Does anyone else desire to speak with reference to this  
975 case? Would you raise your right hand and be sworn please?

976  
977 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
978 truth, the whole truth, and nothing but the truth, so help you God?

979  
980 Mr. Futchter - I so. Stewart Futchter. My wife and I desire to build a  
981 screened-in porch on the back of our house, 15 by 21. Our variance is 45 feet. We  
982 have an existing deck. Our intentions are basically to screen in the existing deck and  
983 go eight more feet past the deck on the right.

984  
985 Mr. Wright - The extension would not extend toward the rear line, or  
986 would it be on the side?

987  
988 Mr. Futchter - The fifteen feet would go from the house into the variance,  
989 into the back yard, from the house, and the 21 feet would be the width of the porch.

990  
991 Ms. Dwyer - It looks from your drawing that the new porch would extend  
992 farther toward the back property line than the existing deck.

993  
994 Mr. Futchter - Correct.

995  
996 Mr. Wright - It would be larger.

997  
998 Mr. Blankinship - Can you say how much farther? It's not labeled.

999  
1000 Mr. Futchter - Depending on the pitch, if you can look at the picture of the

1001 back of the house, depending on the pitch, it's going to match the bump-out from our  
1002 family room. That's looking from the house. It would probably extend beyond the deck  
1003 no more than two feet. I have a professional builder who said that. If you look at where  
1004 the gutter is, the pitch is going to match that pitch. So maybe two feet beyond where  
1005 the deck is, to match the pitch.

1006  
1007 Mr. Wright - What type of construction would this be?

1008  
1009 Mr. Futch - The materials have to be, with our homeowners association,  
1010 they have to be the wood frame, the siding has to match exactly the same, and the  
1011 shingles, and we'll have five brick piers to match aesthetically with the foundation of the  
1012 house.

1013  
1014 Mr. Wright - Your stairway, or access to the deck, would be off of the side  
1015 of the deck?

1016  
1017 Mr. Futch - Correct, right where the stairs are now, they will just  
1018 basically come toward us. He didn't put the stairs on it, but the stairs would be right in  
1019 front of the door of course.

1020  
1021 Mr. Wright - Any questions of members of the Board? Is anyone here in  
1022 opposition to this request?

1023  
1024 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
1025 McKinney, the Board **granted** application **A-64-2004** for a variance to build a screened  
1026 porch at 11604 Bosworth Drive (Hampshire) (Parcel 743-774-6960). The Board  
1027 granted the variance subject to the following condition:

1028  
1029 1. Only the improvements shown on the plan filed with the application may be  
1030 constructed pursuant to this approval. No substantial changes or additions to the layout  
1031 may be made without the approval of the Board of Zoning Appeals. Any additional  
1032 improvements shall comply with the applicable regulations of the County Code.

1033  
1034 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1035 Negative: 0  
1036 Absent: 0

1037  
1038 The Board granted this request, as it found from the evidence presented that, due to the  
1039 unique circumstances of the subject property, strict application of the County Code  
1040 would produce undue hardship not generally shared by other properties in the area, and  
1041 authorizing this variance will neither cause a substantial detriment to adjacent property  
1042 nor materially impair the purpose of the zoning regulations.

1043  
1044 **A - 65-2004** **EDITH H. WHITAKER** requests a variance from Section 24-95(k) of  
1045 Chapter 24 of the County Code to build an addition at 6300 Impala  
1046 Drive (Pinehurst Gardens) (Parcel 776-746-2646), zoned R-4, One-

1047 family Residence District (Brookland). The minimum side yard  
1048 setback is not met. The applicant has 15 feet minimum side yard  
1049 setback, where the Code requires 25 feet minimum side yard  
1050 setback. The applicant requests a variance of 10 feet minimum  
1051 side yard setback.  
1052

1053 Mr. Wright - Does anyone else desire to speak with reference to this  
1054 case? Would you raise your right hand and be sworn please?  
1055

1056 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1057 truth, the whole truth, and nothing but the truth, so help you God?  
1058

1059 Ms. Whitaker - I do. My name is Edith H. Whitaker. I need a variance of ten  
1060 feet to build a twelve-by-twelve foot utility room on the back of my house. The house  
1061 was built fifteen feet from the line, and the Code now requires 25 feet. I need a  
1062 variance of 10 feet.  
1063

1064 Ms. Dwyer - It looks like your addition is not going any farther into the  
1065 side yard than your existing house already is.  
1066

1067 Ms. Whitaker - Oh no, it will be about six inches back from the corner of the  
1068 house.  
1069

1070 Mr. Wright - And there also will be a bathroom in this addition?  
1071

1072 Ms. Whitaker - It's for a utility room and a half-bath. I had the plans all  
1073 drawn and the contract signed before I knew I had to have a variance.  
1074

1075 Mr. Wright - Will the construction be consistent with the construction  
1076 materials of your house?  
1077

1078 Ms. Dwyer - Mr. Blankinship, was the house in conformance with the  
1079 Code when it was built, and the laws changed?  
1080

1081 Mr. Blankinship - It may well have been. It looks like it was built in 1952. I'm  
1082 not sure how we handled reverse corner lots prior to 1960; in fact, that's part of the  
1083 1953 Ordinance, so yes ma'am, it probably was.  
1084

1085 Ms. Whitaker - I did not know it was what they call a grandfathered lot when  
1086 I bought the house.  
1087

1088 Mr. Wright - What is the side yard requirement here?  
1089

1090 Mr. Blankinship - Because it's a reverse corner lot, we require twenty-five feet.  
1091

1092 Mr. Wright - So the house violates it already?



1093  
1094 Mr. Blankinship - Yes, it does now, but it's non-conforming, because it was  
1095 built in 1952.

1096  
1097 Ms. Dwyer - When it was built, it was in conformance with the Code at the  
1098 time.

1099  
1100 Mr. Wright - Any further questions of members of the Board? Anyone  
1101 here in opposition to this request?

1102  
1103 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
1104 McKinney, the Board **granted** application **A-65-2004** for a variance to build an addition  
1105 at 6300 Impala Drive (Pinehurst Gardens) (Parcel 776-746-2646). The Board granted  
1106 the variance subject to the following conditions:

- 1107  
1108 1. The new construction shall match the existing dwelling as nearly as practical.  
1109  
1110 2. The property shall be developed in substantial conformance with the plan filed  
1111 with the application. No substantial changes or additions to the layout may be made  
1112 without the approval of the Board of Zoning Appeals.

1113  
1114 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1115 Negative: 0  
1116 Absent: 0

1117  
1118 The Board granted this request, as it found from the evidence presented that, due to the  
1119 unique circumstances of the subject property, strict application of the County Code  
1120 would produce undue hardship not generally shared by other properties in the area, and  
1121 authorizing this variance will neither cause a substantial detriment to adjacent property  
1122 nor materially impair the purpose of the zoning regulations.

1123  
1124 **A - 66-2004** **MICHAEL SCOTT** requests a variance from Section 24-94 of  
1125 Chapter 24 of the County Code to enclose the existing breezeway  
1126 at 7625 Rock Creek Road (Rollingwood) (Parcel 760-740-1901),  
1127 zoned R-3, One-family Residence District (Tuckahoe). The  
1128 minimum side yard setback is not met. The applicant has 10 feet  
1129 minimum side yard setback, where the Code requires 12 feet  
1130 minimum side yard setback. The applicant requests a variance of 2  
1131 feet minimum side yard setback.

1132  
1133 Mr. Wright - Does anyone else desire to speak with reference to this  
1134 case? Would you raise your right hand and be sworn please?

1135  
1136 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1137 truth, the whole truth, and nothing but the truth, so help you God?

1138

1139 Mr. Scott - I do. Michael Scott. I bought this house for my family to  
1140 move into in February of this year. I began the process of trying to make it large  
1141 enough for the five of us to live in. I soon discovered that the minimum setback  
1142 requirement on the garage, which you see there, violated the setback by nineteen  
1143 inches or so. I was told by the County that when the previous owners of the house  
1144 connected that garage to the existing house by a breezeway, which I have taken down,  
1145 that made the whole block of the house one, and therefore too close to the side yard  
1146 property line. What I desire to do, and I hope you will grant me a variance to do so, is  
1147 to enclose the breezeway and pull it forward by, I don't know exactly how many feet.  
1148 We're going, I believe, one or two feet past what looks like the front porch, that criss-  
1149 cross on the front. The problem seems to be that as I bought it, it violated the setback  
1150 requirement on that garage side by the nineteen inches. My building permit request to  
1151 the County was to do two things, to build a master bedroom on the back, which  
1152 conforms to all the requirements for setback, and also to enclose and extend forward  
1153 that breezeway. They gave me the permit for the back half, because it didn't do  
1154 anything to the lines that was nonconforming. But they wanted the whole thing finally  
1155 to be approved, because apparently that breezeway connection was never approved  
1156 by the County. So there I sit, hopeful that you will grant us the ability to have a dining  
1157 room and a kitchen in that space that we're pulling forward, and to grandfather the  
1158 position of the garage relative to the side lot line.

1159  
1160 Mr. Wright - The garage is already there?

1161  
1162 Mr. Scott - The garage is already there.

1163  
1164 Ms. Dwyer - Been there since the '50's.

1165  
1166 Mr. Scott - Yes ma'am, and I believe I bought the house from the  
1167 owners who built it, but I'm not certain that they were the last owners.

1168  
1169 Ms. Dwyer - So when you bought the house, it had the carport attached,  
1170 and you tore the carport down, and you just want to re-do the carport?

1171  
1172 Mr. Scott - I want to enclose it and pull it forward with a dining room on  
1173 the front.

1174  
1175 Ms. Dwyer - I'm just wondering about the impact. One thing you have to  
1176 look at is the impact on the neighbors, and I'm curious as to how you're going to handle  
1177 the roof line, pulling this middle section forward, and you have some different roof lines  
1178 you have to connect to.

1179  
1180 Mr. Scott - Do you have a picture in here of the front façade of the  
1181 house? Unfortunately, what you can't tell is that garage is sitting well back of the  
1182 middle, about at the middle of the rectangular block of the house. It's a ranch style  
1183 house, in sort of an L-shape. It'll help if we look at the plat first, before going to the  
1184 front. If you've got the same plat drawing that I've got, that long horizontal "X" is a

1185 covered front porch, and the little square right in the center of the house, beside that, is  
1186 the front porch steps. Right beside that is a gable end, which faces the street the same  
1187 way the garage does. What we envision is when we pull forward the existing carport,  
1188 the whole idea is to match that same gable front, so that when you look at the house  
1189 you're going to see over here by the landing of the front porch, and then we're going to  
1190 pull the front out this way, so that this existing and this new will match. It'll actually  
1191 make the house look much, much better.

1192  
1193 Ms. Dwyer - The same height? The gables will be the same height?

1194  
1195 Mr. Scott - Yes, so what then happens is that the main body of the  
1196 house, that ridge line will just extend out to meet the garage wall, and I'll put a little  
1197 cricket in there to connect with that little cupola thing on top of the garage.

1198  
1199 Ms. Dwyer - So the gable on the addition will match sort of the same look  
1200 as the gable on the garage too, right.

1201  
1202 Mr. Scott - I wish there were a picture of the front of the house, because  
1203 it's quite an awkward-looking house from the street. This is actually an architect who  
1204 came to design and to suggest to us that we pull that forward and that we put that  
1205 gable end on it to balance the house out, so that we have the two gable ends and then  
1206 the center section with the porch.

1207  
1208 Ms. Dwyer - I'm just curious not as to how that roof is tying in now to the  
1209 garage, but the garage is substantially behind the addition.

1210  
1211 Mr. Scott - I think you can see on the house side, the bricks there –  
1212 they're all painted white except where the breezeway roof used to be. What we're  
1213 proposing to do is go up to the ridge line, extend straight over to a point at which the  
1214 wall of the garage raised straight up, would meet. And then down lower, to go back to  
1215 the little cupola on top of the garage, you'd have another matching ridge line just lower,  
1216 and then it would have the same pitches, etc., to get water and snow and all the rest of  
1217 that stuff off.

1218  
1219 Ms. Dwyer - But you did have an architect do that?

1220  
1221 Mr. Scott - Yes, I could not manage that three-dimensional space  
1222 myself. Had I realized I would need them, I could have brought you the plans; it would  
1223 have been more helpful.

1224  
1225 Ms. Dwyer - That was my main question, because on the drawing that  
1226 you had, it looked like the carport was just even with the garage, but from the photo, it  
1227 looked obviously like that foundation had come considerably forward.

1228  
1229 Mr. Scott - Yes, it's come forward to the front line of the porch, which in  
1230 this picture I think you can see the front column there of the covered porch is wrought

1231 iron, and the front of the new foundation is in a continuous line across that front, so it  
1232 will actually make the house look more balanced and even.

1233  
1234 Ms. Dwyer - And there's no front yard issue with that.

1235  
1236 Mr. Scott - No, the front yard is vast. And I will also say, just kind of for  
1237 perspective, this is one of the last few houses among about twenty, that haven't got  
1238 two-story, double-sized additions to the back, so this is quite under-improved for the  
1239 neighborhood as it sits.

1240  
1241 Mr. Wright - Anything further? Is anyone here in opposition to this  
1242 request?

1243  
1244 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.  
1245 McKinney, the Board **granted** application **A-66-2004** for a variance to enclose the  
1246 existing breezeway at 7625 Rock Creek Road (Rollingwood) (Parcel 760-740-1901).  
1247 The Board granted the variance subject to the following conditions:

- 1248  
1249 1. The new construction shall match the existing dwelling as nearly as practical.  
1250  
1251 2. The property shall be developed in substantial conformance with the plan filed  
1252 with the application. No substantial changes or additions to the layout may be made  
1253 without the approval of the Board of Zoning Appeals.

1254  
1255 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1256 Negative: 0  
1257 Absent: 0

1258  
1259 The Board granted this request, as it found from the evidence presented that, due to the  
1260 unique circumstances of the subject property, strict application of the County Code  
1261 would produce undue hardship not generally shared by other properties in the area, and  
1262 authorizing this variance will neither cause a substantial detriment to adjacent property  
1263 nor materially impair the purpose of the zoning regulations.

1264  
1265 **A - 67-2004** **SUSAN AND FREDERICK LONG** request a variance from Section  
1266 24-94 of Chapter 24 of the County Code to build a screened porch  
1267 over the existing deck at 6104 Kinglet Court (Wrentham at  
1268 Wyndham) (Parcel 736-778-1560), zoned R-3C, One-family  
1269 Residence District (Conditional) (Three Chopt). The rear yard  
1270 setback is not met. The applicants propose 35 feet rear yard  
1271 setback, where the Code requires 40 feet rear yard setback. The  
1272 applicants request a variance of 5 feet rear yard setback.

1273  
1274 Mr. Wright - Does anyone else desire to speak with reference to this  
1275 case? Would you raise your right hand and be sworn please?  
1276

1277 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1278 truth, the whole truth, and nothing but the truth, so help you God?

1279  
1280 Ms. Long - I do. Susan Long. We currently have a deck that sits behind  
1281 our house that is approximately 16 by 20 feet, and we wish to enclose it as a screened  
1282 porch.

1283  
1284 Mr. Wright - So this would be enclosing exactly what is there, no  
1285 extensions or additions to what's stated.

1286  
1287 Ms. Long - That's correct.

1288  
1289 Mr. Wright - What type of construction would it be?

1290  
1291 Ms. Long - The construction we have along the entire back side of our  
1292 house is a Hardy Plank siding, and the siding that would be used on the deck would  
1293 match the house exactly in color and in material, so all the materials would be  
1294 consistent with the current architecture of the house, which is also a requirement of our  
1295 homeowners association.

1296  
1297 Mr. Wright - So this has been approved by your homeowners  
1298 association?

1299  
1300 Ms. Long - Yes, it has, and I have that approval.

1301  
1302 Mr. Wright - Any further questions by members of the Board? Is anyone  
1303 here in opposition to this request?

1304  
1305 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
1306 Kirkland, the Board **granted** application **A-67-2004** for a variance to build a screened  
1307 porch over the existing deck at 6104 Kinglet Court (Wrentham at Wyndham (Parcel  
1308 736-778-1560). The Board granted the variance subject to the following conditions:

1309  
1310 1. The new construction shall match the existing dwelling as nearly as practical.

1311  
1312 2. The property shall be developed in substantial conformance with the plan filed  
1313 with the application. No substantial changes or additions to the layout may be made  
1314 without the approval of the Board of Zoning Appeals.

1315  
1316 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5

1317 Negative: 0

1318 Absent: 0

1319  
1320 The Board granted this request, as it found from the evidence presented that, due to the  
1321 unique circumstances of the subject property, strict application of the County Code  
1322 would produce undue hardship not generally shared by other properties in the area, and

1323 authorizing this variance will neither cause a substantial detriment to adjacent property  
1324 nor materially impair the purpose of the zoning regulations.

1325  
1326 **A - 68-2004**                    **MILTON W. AND MARIANA O. JOHNSON** request a variance  
1327 from Section 24-94 of Chapter 24 of the County Code to build an  
1328 addition at 4904 Glenspring Road (Hechler Village) (Parcel 811-  
1329 722-8160), zoned R-3, One-family Residence District (Fairfield).  
1330 The minimum side yard setback and total side yard setback are not  
1331 met. The applicants have 9 feet minimum side yard setback and 27  
1332 feet total side yard setback, where the Code requires 12 feet  
1333 minimum side yard setback and 30 feet total side yard setback.  
1334 The applicants request a variance of 3 feet minimum side yard  
1335 setback and 3 feet total side yard setback.

1336  
1337 Mr. Wright -                                    Does anyone else desire to speak with reference to this  
1338 case? Would you raise your right hand and be sworn please?

1339  
1340 Mr. Blankinship -                            Do you swear that the testimony you are about to give is the  
1341 truth, the whole truth, and nothing but the truth, so help you God?

1342  
1343 Mr. Johnson -                                    I do. Milton Johnson. I had a contract to build an addition to  
1344 my house, and he told me he could give me, at first, 25 by 10 feet, and in the meantime  
1345 I wanted another 12 feet to add a bathroom, so they totaled up the room addition. It  
1346 would be 37 by 10. When he did the construction, he made the foundation eight feet  
1347 wide by 37, and I questioned him about it, and he told me the County wouldn't allow him  
1348 to go out but eight feet, so he put up everything to the room, the roof, the siding, and  
1349 then he was cited because he didn't have a building permit, which we had questioned  
1350 him about. He said he already had a building permit; he didn't have a building permit,  
1351 so in the meantime the County sent me a letter saying there wasn't a building permit for  
1352 the property. I went out and got a building permit because the contractor refused to get  
1353 a building permit, and in the meantime I had to get rid of the contractor, and now I'm  
1354 trying to get the room completed, and the room is still two feet, six inches over the  
1355 amount the County allows. I'm asking for a variance for the three feet, because I'm two  
1356 feet, six inches over.

1357  
1358 Mr. McKinney -                                    Mr. Johnson, you didn't pay that contractor, did you?

1359  
1360 Mr. Johnson -                                    Yes, I paid him most of the money, in phases I did.

1361  
1362 Mr. Wright -                                    What's the contractor's name?

1363  
1364 Mr. Johnson -                                    J. P. Watkins – you've probably heard the name before.

1365  
1366 Mr. Wright -                                    We have a picture here. So this is already started, almost.

1367  
1368 Mr. McKinney -                                    Mr. Johnson, have you had any inspections on this?

1369  
1370 Mr. Johnson - Yes, I have, and the foundation passed, electrical passed,  
1371 they turned down the pitch on the rear part of the roof, so I had to put a different  
1372 material on there, and they had an engineer to come over and tell what had to be done  
1373 on the inside, and all that has been done. If I get the variance, I have to get the  
1374 inspectors back over before I can go any further.  
1375  
1376 Mr. McKinney - These inspections you got after you got the building permit?  
1377  
1378 Mr. Johnson - After I got the building permit, yes, because he didn't get a  
1379 building permit.  
1380  
1381 Mr. McKinney - So your rear roof line was picked up on a framing  
1382 inspection?  
1383  
1384 Mr. Johnson - Yes it was, and they said I could use the same pitch, but I  
1385 had to put a different material on there, which I did.  
1386  
1387 Mr. McKinney - A different material? You talking about for the sheathing?  
1388  
1389 Mr. Johnson - Yes, yes. I could not use that for shingles, is what he's  
1390 saying.  
1391  
1392 Mr. Kirkland - You have to use like a rubber roof?  
1393  
1394 Mr. Johnson - Exactly, on that part of the roof.  
1395  
1396 Mr. Wright - That's to insure that you get the proper drainage.  
1397  
1398 Mr. McKinney - Mr. Johnson, what are you doing with that band board  
1399 around the bottom, and on the side also?  
1400  
1401 Mr. Johnson - On the side it's not a band board. It's just the salt-treated  
1402 wood on the side.  
1403  
1404 Mr. McKinney - Are you going to cover that with something?  
1405  
1406 Mr. Johnson - Yes a vinyl. It will be covered with vinyl over top of that, and  
1407 brick will be on the front, as it is on the front right now. There will be a window there on  
1408 the side of the tree where that plywood is – that was cut out for a window. There will be  
1409 another window there, and it will be brick on the front and vinyl siding on the side and  
1410 the back.  
1411  
1412 Mr. McKinney - What plans did you present to the County to get your  
1413 building permit?  
1414

1415 Mr. Johnson - The contractor drew up plans, and then the engineer drew  
1416 plans up for the roof trusses inside the building.  
1417  
1418 Mr. McKinney - We don't have a copy of those plans.  
1419  
1420 Mr. Johnson - I left them here; I left all the plans with Building Inspections  
1421 office here. I thought everything would be in place here for that.  
1422  
1423 Ms. Dwyer - In the front, around the window, will that be brick to match  
1424 the house, or will that be vinyl?  
1425  
1426 Mr. Johnson - That will be brick.  
1427  
1428 Mr. Wright - So the brick will extend all the way out?  
1429  
1430 Mr. Johnson - All the way out to the end, to your left, on the front.  
1431  
1432 Mr. Wright - Which would match what you have on your house?  
1433  
1434 Mr. Johnson - Yes sir.  
1435  
1436 Mr. Wright - All right. Any further questions of members of the Board?  
1437 Anyone here in opposition to this request?  
1438  
1439 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
1440 Dwyer, the Board **granted** application **A-68-2004** for a variance to build an addition at  
1441 4904 Glenspring Road (Hechler Village) (Parcel 811-722-8160). The Board granted the  
1442 variance subject to the following conditions:  
1443  
1444 1. The new construction shall match the existing dwelling as nearly as practical.  
1445  
1446 2. The property shall be developed in substantial conformance with the plan filed  
1447 with the application. No substantial changes or additions to the layout may be made  
1448 without the approval of the Board of Zoning Appeals.  
1449  
1450 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1451 Negative: 0  
1452 Absent: 0  
1453  
1454 The Board granted this request, as it found from the evidence presented that, due to the  
1455 unique circumstances of the subject property, strict application of the County Code  
1456 would produce undue hardship not generally shared by other properties in the area, and  
1457 authorizing this variance will neither cause a substantial detriment to adjacent property  
1458 nor materially impair the purpose of the zoning regulations.  
1459  
1460 **A - 69-2004 ROBERT AND FLORENCE JONES** request a variance from



1461 Section 24-94 of Chapter 24 of the County Code to build an  
1462 addition at 1733 Forest Glen Road (Hungary Acres) (Parcel 780-  
1463 760-2519), zoned R-3, One-family Residence District (Fairfield).  
1464 The minimum side yard setback is not met. The applicants have 8  
1465 feet minimum side yard setback, where the Code requires 12 feet  
1466 minimum side yard setback. The applicants request a variance of 4  
1467 feet minimum side yard setback.  
1468

1469 Mr. Wright - Does anyone else desire to speak with reference to this  
1470 case? Would you raise your right hand and be sworn please?  
1471

1472 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1473 truth, the whole truth, and nothing but the truth, so help you God?  
1474

1475 Mr. Jones - I do. Robert Jones. I request a four-foot variance on the  
1476 side setback in order that we might build an extension to the bedroom on the southwest  
1477 corner, and it will be in line with the present construction that is currently there.  
1478

1479 Ms. Dwyer - Mr. Jones, it's not clear to me exactly from the plat where the  
1480 addition's going to be.  
1481

1482 Mr. Jones - Right off the far corner, the southwest corner, straight back  
1483 into the rear yard.  
1484

1485 Mr. McKinney - Into the concrete drive?  
1486

1487 Mr. Jones - Over on the right of the patio.  
1488

1489 Mr. McKinney - You're talking about something we don't see on this.  
1490

1491 Ms. Dwyer - Is it going to extend beyond the existing side of the house  
1492 right now, or is it going straight out the back?  
1493

1494 Mr. Jones - It's going straight out the back.  
1495

1496 Mr. Wright - So what you're stating is, this will be no closer to the  
1497 sideline?  
1498

1499 Mr. Jones - Than it already is. The house is built there. This is going  
1500 toward the rear.  
1501

1502 Mr. McKinney - What's the material that this is to be built out of, Mr. Jones?  
1503

1504 Mr. Jones - If we can find the existing brick, the brick that's already  
1505 there, I would like to build it in that brick, but if we can't find the same brick, I'll put vinyl  
1506 siding.

1507  
1508 Mr. Wright - What's the size of the proposed addition?  
1509  
1510 Mr. Jones - Eighteen by fourteen.  
1511  
1512 Ms. Dwyer - Oh it's on the other end of the house? Is it in the yellow?  
1513  
1514 Mr. Kirkland - Is that where it's going, the yellow square?  
1515  
1516 Mr. Jones - Yes, that's looking at the back yard.  
1517  
1518 Mr. Wright - I thought it was going on the other side.  
1519  
1520 Mr. Kirkland - Me too.  
1521  
1522 Mr. Blankinship - I apologize; we copied the wrong copy of the plat there.  
1523  
1524 Mr. Wright - He wouldn't need a variance if he put it on the other side.  
1525  
1526 Mr. McKinney - Is this an extension on your bedroom?  
1527  
1528 Mr. Jones - This is an extension on the bedroom.  
1529  
1530 Mr. McKinney - You're opening the bedroom up?  
1531  
1532 Mr. Jones - Yes, we just want to open the bedroom up.  
1533  
1534 Mr. McKinney - What's to be inside this addition, Mr. Jones?  
1535  
1536 Mr. Jones - A walk-in closet and a bathroom.  
1537  
1538 Mr. McKinney - You're putting a new bathroom in this?  
1539  
1540 Mr. Jones - Yes, in the extension.  
1541  
1542 Ms. Dwyer - So does the front corner of the house, is that in conformance  
1543 with the side yard setback requirement, and it's just because the house is angled that  
1544 he's getting into a problem?  
1545  
1546 Mr. Blankinship - Part of the confusion on this one is that the lot that you see  
1547 in front of you is not all of the lot that he owns. It extends to the top of the page, I'm  
1548 sorry I'm not sure which direction it is, because he and his neighbor split the next lot up.  
1549 He actually has one and a half lots, so you can't really see it from here, but the red line  
1550 with the 40-foot notation that's on this plat, that's his rear yard setback.  
1551  
1552 Ms. Dwyer - So it's not a side yard problem, it's a rear yard one?

1553  
1554 Mr. Jones - It's the side yard setback at the eight-foot, see where the  
1555 twelve and eight-foot side is?  
1556  
1557 Ms. Dwyer - Right, but is this a reverse corner? With a different set of  
1558 rules apply if it's on a corner? So he's supposed to have a forty-foot setback .....  
1559  
1560 Mr. Jones - In the back.  
1561  
1562 Mr. McKinney - Rear yard forty foot.  
1563  
1564 Ms. Dwyer - No, he would call it, and I would call it his side yard, so I  
1565 think Mr. Blankinship is saying that the rear yard setback applies.  
1566  
1567 Mr. Blankinship - I'm sorry, I don't know what that forty-foot notation is on  
1568 there; I'm the one who's confused.  
1569  
1570 Mr. Jones - At first, when it came up, it came up in the conversation that  
1571 we were dealing with a rear yard. This is all new to me. We bought the house back in  
1572 December, and we found out that we also own half of lot 21, which gives us much more  
1573 than you really see on this thing.  
1574  
1575 Mr. Blankinship - I told you it was confusing. Looking at just what's in front of  
1576 you, North Run Road appears to be the front yard, which means that there is a forty-foot  
1577 rear yard requirement, but actually, he owns not only what is shown here, but also half  
1578 of the next lot at the top of this page, which means that the North Run Road frontage is  
1579 longer than the Forest Glen frontage, so that Forest Glen is the front of this lot, and this  
1580 is a side yard setback.  
1581  
1582 Mr. Wright - He fronts on Forest Glen?  
1583  
1584 Mr. Blankinship - Right.  
1585  
1586 Mr. Jones - I front on Forest Glen.  
1587  
1588 Mr. Wright - That clears that up.  
1589  
1590 Mr. McKinney - But he's asking for four feet, where twelve feet is required on  
1591 the side yard .....  
1592  
1593 Mr. Jones - Which is where the house is anyway, so the house has been  
1594 there all the time.  
1595  
1596 Mr. McKinney - So the house is not in conformance either, is it, Mr.  
1597 Blankinship?  
1598

1599 Mr. Blankinship - Right, that's right.  
1600  
1601 Ms. Dwyer - Well, he's only asking for four feet. It looks like, from this  
1602 drawing anyway, that the house is slightly angled, so it may be that his front corner is in  
1603 conformity, .....  
1604  
1605 Mr. McKinney - But the rear corner is not.  
1606  
1607 Mr. Jones - The rear corner is what we're concerned with here.  
1608  
1609 Mr. Blankinship - Sorry about that – we couldn't get all the information we  
1610 needed on one drawing.  
1611  
1612 Mr. Wright - Any further questions of members of the Board. Anyone  
1613 here in opposition to this request?  
1614  
1615 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
1616 Nunnally, the Board **granted** application **A-69-2004** for a variance to build an addition at  
1617 1733 Forest Glen Road (Hungary Acres) (Parcel 780-760-2519). The Board granted  
1618 the variance subject to the following conditions:  
1619  
1620 1. Only the improvements shown on the plan filed with the application may be  
1621 constructed pursuant to this approval. No substantial changes or additions to the layout  
1622 may be made without the approval of the Board of Zoning Appeals. Any additional  
1623 improvements shall comply with the applicable regulations of the County Code.  
1624  
1625 2. The new construction shall match the existing dwelling as nearly as practical.  
1626  
1627 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1628 Negative: 0  
1629 Absent: 0  
1630  
1631 The Board granted this request, as it found from the evidence presented that, due to the  
1632 unique circumstances of the subject property, strict application of the County Code  
1633 would produce undue hardship not generally shared by other properties in the area, and  
1634 authorizing this variance will neither cause a substantial detriment to adjacent property  
1635 nor materially impair the purpose of the zoning regulations.  
1636  
1637 Mr. Wright - The Board will take a five-minute recess.  
1638  
1639 ***Beginning at 10:00***  
1640  
1641 Mr. Wright - Mr. Secretary, would you read the rules, please, for those  
1642 who have come in for the 10:00 o'clock docket.  
1643

1644 Mr. Blankinship - The rules for this meeting are as follows. As Secretary, I will  
1645 call each case. Then at that time the applicant should come to the podium. I will ask all  
1646 those who intend to speak on that case, in favor or in opposition, to stand and be sworn  
1647 in. The applicants will then present their testimony. After the applicant has spoken, the  
1648 Board will ask them questions, and then anyone else who wishes to speak will be given  
1649 the opportunity. After everyone has spoken, the applicant, and only the applicant, will  
1650 have an opportunity for rebuttal. After hearing the case, and asking questions, the  
1651 Board will take the matter under advisement. They will render all of their decisions at  
1652 the end of the meeting. If you wish to know their decision on a specific case, you can  
1653 either stay until the end of the meeting, or you can call the Planning Office later this  
1654 afternoon, or you can check the website. The vote on each case will be posted to our  
1655 website within an hour of the end of the meeting. This meeting is being tape recorded,  
1656 so we will ask everyone who speaks, to speak directly into the microphone on the  
1657 podium, to state your name, and to spell your last name please. And finally, out in the  
1658 foyer, there are two binders, containing the staff report for each case, including the  
1659 conditions that have been recommended by the staff.

1660

1661 **Call for deferrals and withdrawals**

1662

1663 Mr. Wright - Any deferrals or withdrawals on the 10:00 o'clock agenda?

1664

1665 Mr. Blankinship - No sir.

1666

1667 **New Applications**

1668

1669 **A - 70-2004** **MATTHEW B. AND ANDREA WHITAKER** request a variance from  
1670 Section 24-94 of Chapter 24 of the County Code to enclose an  
1671 existing screened porch at 214 Westham Parkway (Westham)  
1672 (Parcel 758-736-0924), zoned R-1, One-family Residence District  
1673 (Tuckahoe). The minimum side yard setback and total side yard  
1674 setback are not met. The applicants have 18 feet minimum side  
1675 yard setback and 39 feet total side yard setback, where the Code  
1676 requires 20 feet minimum side yard setback and 50 feet total side  
1677 yard setback. The applicants request a variance of 2 feet minimum  
1678 side yard setback and 11 feet total side yard setback.

1679

1680 Mr. Wright - Does anyone else desire to speak with reference to this  
1681 case? Would you raise your right hand and be sworn please?

1682

1683 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1684 truth, the whole truth, and nothing but the truth, so help you God?

1685

1686 Mr. Everett - I do. Kenneth Everett. I'm the representative for the  
1687 Whitakers, looking to enclose the existing screened-in porch. The reading was that they  
1688 are two feet short on the side yard and eleven feet for the total side yard setback  
1689 requirements. The picture taken of the front of the house, the front right side which you

1690 can't see, is another room, which is pretty much the same size as the screened-in porch  
1691 that's there now on the left, and the front of that would match the windows, and  
1692 everything would match the other side of the house and have a hard board siding put on  
1693 to match the rest of the house. There would be a couple of windows on the side and  
1694 one on the back also, which is kind of the same as the other side of the home at this  
1695 point, so it would kind of balance the house out. In doing that, we'll get a little more  
1696 living space inside the home, and that's what we're trying to do for them.  
1697

1698 Mr. Wright - This would enclose exactly what's there, no extensions any  
1699 closer to the side.

1700  
1701 Mr. Everett - Yes sir. No more, exactly.

1702  
1703 Ms. Dwyer - So the existing house does not conform to the setback  
1704 requirements?

1705  
1706 Mr. Blankinship - Right, when this was built, the Code actually allowed a  
1707 screened porch, this was build in 1941, so the old Code allowed a screened porch but  
1708 did not allow an enclosed porch to extend into the setback. So at the time of enclosing  
1709 that, it becomes an issue. Now of course we wouldn't allow either to extend into the  
1710 setback.

1711  
1712 Ms. Dwyer - I'm looking at the statistics, the numbers from the rear corner  
1713 of the house to the property line. That seems to add up to 48, so I'm wondering if the  
1714 original house was even in conformity even without the porch.

1715  
1716 Mr. Blankinship - In R-1 zoning it may not have been.

1717  
1718 Mr. Wright - I also notice, Mr. Everett, that your side yard on the other  
1719 side of the house, that is away from where the porch is, seems to come back from a  
1720 slight curve in the street, and it comes in, which cuts off some of your side yard there.

1721  
1722 Ms. Dwyer - The front of your house may be in conformity; the rear is not,  
1723 because it angles in.

1724  
1725 Mr. Wright - You seem also to have considerable screening on the side  
1726 between the porch and the lot adjacent there, a lot of trees.

1727  
1728 Mr. Elliott - There are a lot of trees; the whole neighborhood is kind of  
1729 like that. The trees and natural stuff have kind of been left in place.

1730  
1731 Mr. Wright - Any further questions from members of the Board? Anyone  
1732 here in opposition to this request?

1733  
1734 After an advertised public hearing and on a motion by Mr. Dwyer, seconded by Mr.  
1735 Kirkland, the Board **granted** application **A-70-2004** for a variance to enclose an existing

1736 screened porch at 214 Westham Parkway (Westham) (Parcel 758-736-0924). The  
1737 Board granted the variance subject to the following conditions:

- 1738  
1739 1. The new construction shall match the existing dwelling as nearly as practical.  
1740  
1741 2. The property shall be developed in substantial conformance with the plan filed  
1742 with the application. No substantial changes or additions to the layout may be made  
1743 without the approval of the Board of Zoning Appeals.

1744  
1745 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
1746 Negative: 0  
1747 Absent: 0

1748  
1749 The Board granted this request, as it found from the evidence presented that, due to the  
1750 unique circumstances of the subject property, strict application of the County Code  
1751 would produce undue hardship not generally shared by other properties in the area, and  
1752 authorizing this variance will neither cause a substantial detriment to adjacent property  
1753 nor materially impair the purpose of the zoning regulations.

1754  
1755 **UP- 16-2004 RYAN HOMES** requests a temporary conditional use permit  
1756 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code  
1757 to locate a temporary sales trailer at 3621 Creighton Road  
1758 (Dominion Townes) (Parcel 809-729-7165), zoned RTHC,  
1759 Residential Townhouse District (Conditional) (Fairfield).

1760  
1761 Mr. Wright - Does anyone here desire to speak on UP-16-2004? Would  
1762 you raise your right hand and be sworn please?

1763  
1764 Mr. McKinney - Let's pass it by and hold it till the end.

1765  
1766 ***(The case was called again at the end of the 10:00 o'clock docket)***

1767  
1768 Mr. McKinney - This doesn't sound like Ryan Homes; they're always here.

1769  
1770 Upon a motion by Mr. McKinney, seconded by Mr. Kirkland the Board **deferred**  
1771 application **UP-16-2004** for a temporary conditional use permit to locate a temporary  
1772 sales trailer at 3621 Creighton Road (Dominion Townes) (Parcel 809-729-7165). The  
1773 Board deferred the case because there was no one available to present the case, from  
1774 the June 24, 2004, until the July 22, 2004, meeting.

1775  
1776 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1777 Negative: 0  
1778 Absent: 0

1779  
1780 **A - 71-2004 ROGER AND JACQUELINE FOSTER** request a variance from  
1781 Section 24-94 of Chapter 24 of the County Code to build a

1782 screened porch at 5904 Shady Willow Court (Shady Ridge) (Parcel  
1783 744-777-2150), zoned R-3, One-family Residence District (Three  
1784 Chopt). The rear yard setback is not met. The applicants propose  
1785 34 feet rear yard setback, where the Code requires 40 feet rear  
1786 yard setback. The applicants request a variance of 6 feet rear yard  
1787 setback.  
1788

1789 Mr. Wright - Does anyone else desire to speak with reference to this  
1790 case? Would you raise your right hand and be sworn please?  
1791

1792 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1793 truth, the whole truth, and nothing but the truth, so help you God?  
1794

1795 Mr. Foster - I do. Wesley Foster. My brother and my sister-in-law want  
1796 to add a screened porch to the back of their house, and they're going to need a  
1797 variance of six extra feet. Right now the Code calls for forty; they have 34.  
1798

1799 Mr. Wright - What type of construction would this be if approved?  
1800

1801 Mr. Foster - It would be matching the existing, which the association has  
1802 already approved.  
1803

1804 Mr. Wright - So it would be white siding.  
1805

1806 Mr. Foster - Yes sir, and it would match the shingles on the roof, and the  
1807 same pitch as the other roofs.  
1808

1809 Mr. Wright - What's located to the rear of this property?  
1810

1811 Mr. Foster - That row of mature cedar trees. And there is an open field  
1812 for about 300 feet or so.  
1813

1814 Mr. Wright - So you have an asphalt drive as you come in, facing the  
1815 house, to the left, to the rear. Any further questions of members of the Board? Anyone  
1816 here in opposition to this request?  
1817

1818 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
1819 McKinney, the Board **granted** application **A-71-2004** for a variance to build a screened  
1820 porch at 5904 Shady Willow Court (Shady Ridge) (Parcel 744-777-2150). The Board  
1821 granted the variance subject to the following condition:  
1822

1823 1. Only the improvements shown on the plan filed with the application may be  
1824 constructed pursuant to this approval. No substantial changes or additions to the layout  
1825 may be made without the approval of the Board of Zoning Appeals. Any additional  
1826 improvements shall comply with the applicable regulations of the County Code.  
1827



1828 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
 1829 Negative: 0  
 1830 Absent: 0

1831  
 1832 The Board granted this request, as it found from the evidence presented that, due to the  
 1833 unique circumstances of the subject property, strict application of the County Code  
 1834 would produce undue hardship not generally shared by other properties in the area, and  
 1835 authorizing this variance will neither cause a substantial detriment to adjacent property  
 1836 nor materially impair the purpose of the zoning regulations.

1837  
 1838 **A - 72-2004** **ANDWELE GARDNER** requests a variance from Section 24-9 of  
 1839 Chapter 24 of the County Code to build a one-family dwelling at  
 1840 3881 Rising Mount Zion Road (Parcel 846-709-3471 (part)), zoned  
 1841 A-1, Agricultural District (Varina). The public street frontage  
 1842 requirement is not met. The applicant has 0 feet public street  
 1843 frontage, where the Code requires 50 feet public street frontage.  
 1844 The applicant requests a variance of 50 feet public street frontage.

1845  
 1846 Mr. Wright - Does anyone else desire to speak with reference to this  
 1847 case? Would you raise your right hand and be sworn please?

1848  
 1849 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
 1850 truth, the whole truth, and nothing but the truth, so help you God?

1851  
 1852 Mr. Gardner - I do. Andwele Gardner. I have been given two acres of land  
 1853 where we propose to build a two-bedroom home, approximately 2,000 square feet, and  
 1854 without the variance, we won't be able to access the property. We've already had the  
 1855 site tested and certified by the public health.

1856  
 1857 Mr. Wright - I understand that this was a two-acre lot, or is a two-acre lot.

1858  
 1859 Mr. Gardner - This particular portion is two portions, the one my dad gave  
 1860 me is off a seven-acre parcel.

1861  
 1862 Mr. Wright - It was a seven-acre parcel, and this would be two acres? I  
 1863 understand this was also for immediate family members to be used? No problem, Mr.  
 1864 Blankinship, with subdivision?

1865  
 1866 Mr. Gardner - Yes. Yes.

1867  
 1868 Mr. Blankinship - None that I'm aware of.

1869  
 1870 Mr. Wright - And how would you access this property?

1871  
 1872 Mr. Gardner - I would plan to, it's about 410 feet, I estimate, you see where  
 1873 the line is, out to the private road, where the arrows are, at the other border of 3863 and

1874 3871.  
1875  
1876 Mr. Wright - What type of legal access do you have? I see where you  
1877 have it, but what gives you the right to use that area?  
1878  
1879 Mr. Gardner - I don't have anything yet; it's my dad's property.  
1880  
1881 Mr. Wright - You think you can convince him to give it to you?  
1882  
1883 Mr. Gardner - I think so.  
1884  
1885 Mr. Wright - You understand that if this is approved, when you apply for  
1886 your building permit, there are certain conditions that you have to meet. Have you read  
1887 these conditions?  
1888  
1889 Mr. Gardner - I did; I didn't quite understand them. It's kind of new to me.  
1890  
1891 Mr. Wright - Ask us what you need.  
1892  
1893 Mr. Gardner - It said immediate family members I think?  
1894  
1895 Mr. Blankinship - Because you are dividing the property , and it doesn't  
1896 comply with the subdivision regulations, the only way you can do that is if it's transferred  
1897 within the immediate family, so you'll just have to show evidence, when you apply for  
1898 your building permit, that the five acres and the two acres are both in the family still.  
1899  
1900 Mr. Gardner - I see. And the other one, I think you suggested or  
1901 recommended that the land not be divided.  
1902  
1903 Mr. Wright - Which one are you referring to?  
1904  
1905 Mr. McKinney - Can't divide but three times, can you Mr. Blankinship?  
1906  
1907 Mr. Blankinship - Family subdivisions are exempt from that, family divisions.  
1908  
1909 Mr. McKinney - This dotted line with the arrow going back and forth at the  
1910 top of the plat – is that where the proposed driveway is?  
1911  
1912 Mr. Blankinship - Yes.  
1913  
1914 Mr. McKinney - If we grant this approval, shouldn't that be a condition, that  
1915 this where we grant for it to be there? If he puts it somewhere else, we don't know  
1916 what's going to happen.  
1917  
1918 Mr. Blankinship - We can certainly do that.  
1919

1920 Mr. Wright - You said you had a question about one of the other  
1921 proposed conditions?  
1922  
1923 Ms. Dwyer - Number 5 relates to the legal proof of access; I think that's  
1924 what we were talking about when you said you had a question.  
1925  
1926 Mr. Wright - Number 5 is the one I was referring to that you have to  
1927 submit proof that you have legal access to the property when you obtain your building  
1928 permit, and I think Mr. McKinney wanted to say that it would go along the north line of  
1929 that property.  
1930  
1931 Mr. Gardner - I'm looking at Number 2, says, "The Board may find,  
1932 however, that while it is reasonable to allow one dwelling on the parcel, it is not  
1933 necessary to allow the parcel to be divided."  
1934  
1935 Mr. Wright - Number 2 where?  
1936  
1937 Mr. Blankinship - In the evaluation.  
1938  
1939 Mr. Wright - That's just for information. Really, what I'm referring to are  
1940 the suggested conditions which would apply to this case that we are talking about. Any  
1941 further questions of members of the Board? Anyone here in opposition to this request?  
1942  
1943 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
1944 McKinney, the Board **granted** application **A-72-2004** for a variance to build a one-family  
1945 dwelling at 3881 Rising Mount Zion Road (Parcel 846-709-3471 (part)). The Board  
1946 granted the variance subject to the following conditions:  
1947  
1948 1. This variance applies only to the public street frontage requirement. All other  
1949 applicable regulations of the County Code shall remain in force.  
1950  
1951 2. Approval of this request does not imply that a building permit will be issued.  
1952 Building permit approval is contingent on Health Department requirements, including,  
1953 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval  
1954 of a well location.  
1955  
1956 3. At the time of building permit application, the applicant shall submit the  
1957 necessary information to the Department of Public Works to ensure compliance with the  
1958 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
1959 water quality standards.  
1960  
1961 4. At the time of building permit application the owner shall demonstrate that the  
1962 parcel created by this division has been conveyed to members of the immediate family,  
1963 and the subdivision ordinance has not been circumvented.  
1964

1965 5. [Amended] The applicant shall present proof with the building permit application  
1966 that a legal access to the property has been obtained along the north property line, as  
1967 shown on the plan submitted with the application.  
1968

1969 6. The owners of the property, and their heirs or assigns, shall accept  
1970 responsibility for maintaining access to the property until such a time as the access  
1971 is improved to County standards and accepted into the County road system for  
1972 maintenance.  
1973

1974 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5

1975 Negative: 0

1976 Absent: 0

1977

1978 The Board granted this request, as it found from the evidence presented that, due to the  
1979 unique circumstances of the subject property, strict application of the County Code  
1980 would produce undue hardship not generally shared by other properties in the area, and  
1981 authorizing this variance will neither cause a substantial detriment to adjacent property  
1982 nor materially impair the purpose of the zoning regulations.  
1983

1984 Ms. Dwyer - May I ask Mr. Blankinship a question about that? Will this  
1985 applicant need to come back to get variances for setbacks, since they don't have road  
1986 frontage. How are they going to meet setbacks? As measured from the road to the  
1987 house for front yard setback and side yard setback and all that. How is all that handled  
1988 in such an unusual case as this?  
1989

1990 Mr. Blankinship - We would measure from their property line.  
1991

1992 Ms. Dwyer - So you wouldn't be measuring from Mt. Rising Zion Road?  
1993

1994 Mr. Blankinship - Right. We would count the property line where the access  
1995 meets this property, is what we would consider the front lot line.  
1996

1997 Mr. Wright - That's what we've been doing for years.  
1998

1999 Mr. Blankinship - And according to his sketch, it complies.  
2000

2001 Ms. Dwyer - Would they have to set back fifty feet from the property line  
2002 to account for their access road, or would it just be front setback from the property line?  
2003

2004 Mr. Blankinship - From the property line. This looks like he has plenty of room  
2005 there; we should be able to locate it if what he has sketched complies.  
2006

2007 **A - 73-2004** **JONATHAN W. POWELL** requests a variance from Section 24-9 of  
2008 Chapter 24 of the County Code to build a one-family dwelling at  
2009 2555 Yarnell Road (Parcel 815-695-1018), zoned A-1, Agricultural  
2010 District (Varina). The public street frontage requirement is not met.

2011 The applicant has 0 feet public street frontage, where the Code  
2012 requires 50 feet public street frontage. The applicant requests a  
2013 variance of 50 feet public street frontage.  
2014

2015 Mr. Wright - Does anyone else desire to speak with reference to this  
2016 case? Would you raise your right hand and be sworn please?  
2017

2018 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2019 truth, the whole truth, and nothing but the truth, so help you God?  
2020

2021 Mr. Powell - Yes I do. Jonathan W. Powell. I purchased a piece of  
2022 property that was actually behind this piece of property, I think, back in December or  
2023 January, I don't remember the exact date. When I purchased it, my agent explained to  
2024 me that a variance had already been approved to go ahead and build a house for me  
2025 and my family. After I closed on the house, I came to realize two things, the hard way.  
2026 Another thing, too, is it didn't meet normal perk conditions; I had to pay quite a  
2027 substantial amount of money to have an alternate septic system designed for it. I was  
2028 okay with that because I pretty much knew that going into it. Once I got to the point to  
2029 try to apply for a building permit, I realized two things, one, the variance had expired,  
2030 which I wasn't aware of when I bought it, so I had to reapply and come back a couple of  
2031 months ago and get that re-certified or re-issued. Another thing that I was very  
2032 surprised of, is once I got to the point of paying for everything, and months after the fact,  
2033 ready to build my house, I realized that the property was actually landlocked, and I  
2034 could not get access any way from anybody around there. Basically, my only option  
2035 after consulting my attorney, who represented me to buy it, if I still wanted to build a  
2036 house, was to buy the lot right in front of it, which is this lot, and pretty much the lot in  
2037 the back, the variance on that does me no good at this point. I'm just trying to build a  
2038 house down there for myself and my family. The access to this property is not a  
2039 problem; it just doesn't have a variance, and I thought the variance would extend to this  
2040 one because they were connected, but I found out that it wasn't connected. It is  
2041 connected, but the variance is not transferable to this piece of property as well.  
2042

2043 Mr. Wright - Mr. Powell, you say you own this parcel. Why do we have  
2044 the property owner listed as Edward R. and Nancy Baker?  
2045

2046 Mr. Powell - I just purchased it within the last two weeks.  
2047

2048 Mr. Wright - Since this application was done, you've purchased it?  
2049

2050 Mr. Powell - Yes sir. Actually I purchased it, I was closing on it at 5:00  
2051 o'clock the day I filed this application, and it took a couple of weeks for it to record.  
2052

2053 Mr. Wright - So you haven't actually closed on the purchased yet?  
2054

2055 Mr. Powell - Yes sir, I have.  
2056

2057 Mr. Blankinship - So how many houses do you intend to build now, one or  
2058 two?

2059  
2060 Mr. Powell - I intend to build one. The property in the back I have sold  
2061 because it has no value to me. Basically that's the purpose of me, I'm going to build my  
2062 house on this front lot because the back lot has no, in my opinion, value to me, for what  
2063 I want to do. I really didn't have the money to buy the front lot, so basically I had to sell  
2064 the back lot to pay for the front lot, out of necessity.

2065  
2066 Ms. Dwyer - It looks like a private road is noted on the drawing that we  
2067 have, so how is it that you have access to this lot, but not the lot behind it?

2068  
2069 Mr. Powell - It's a thirty-foot private road that goes back to both lots, and  
2070 it actually shows, I don't have the plat in front of me, it actually shows the road that  
2071 actually goes through both lots. The only difference is, apparently I'm just finding out  
2072 that Mr. Baker, originally when he divided he divided this property for his kids back in  
2073 the '40's or '50's, whenever he acquired it, I don't remember the exact date, but  
2074 basically what he did, is he gave access to this lot that I've now bought, but he didn't  
2075 give access to the one behind it. That's information that I found out the hard way.

2076  
2077 Mr. Wright - What you're saying is that the road that extends back, he  
2078 granted the right to use that to this lot but not to the lot to the rear of this.

2079  
2080 Mr. Powell - Yes sir, that's correct, and I did not know that when I bought  
2081 it.

2082  
2083 Mr. Wright - So he owns the road, I take it.

2084  
2085 Mr. Powell - Yes sir, that's correct. He also owns all the land behind it.

2086  
2087 Mr. Wright - Who maintains the road?

2088  
2089 Mr. Powell - I'm not really sure at this point. I've already talked to my  
2090 lender, and the attorney, as a requirement of building the house back here, I'm going to  
2091 have to have a road maintenance agreement of some type and take care of it, which I'm  
2092 willing to do.

2093  
2094 Ms. Dwyer - Has an easement been granted for the use of that road?

2095  
2096 Mr. Powell - Yes. I don't have a problem now that I've bought this lot, I  
2097 don't have an issue. Everything's ready to go. I still need a separate variance to be  
2098 able to build on this lot.

2099  
2100 Mr. Wright - What you're saying, there's something of record that grants  
2101 this lot the right to use that road, which would have to be submitted if proven to the  
2102 office when he applies for his building permit.

2103  
2104 Mr. Powell - Right. There's a road there, but I just didn't have the access  
2105 or right to use the road for the back lot.  
2106  
2107 Ms. Dwyer - So who bought the back lot?  
2108  
2109 Mr. Powell - I sold that to a guy who is going to try to obtain access from  
2110 the people in the front, I forget their name; it's Mr. and Mrs. Baker's son and daughter-  
2111 in-law, who will eventually build a house on it. My only intention was to sell that; I didn't  
2112 make one penny of profit, to get, to be able to buy this lot so I could build my house.  
2113  
2114 Mr. Wright - Have you read the suggested conditions for this case, Mr.  
2115 Powell?  
2116  
2117 Mr. Powell - I have read some of them, sir, and I apologize, I was actually  
2118 living in a hotel because I was planning on starting my house a couple of months ago,  
2119 and everything's in a P. O. Box, so I have not read what you have sent to me.  
2120  
2121 Mr. Wright - You'll need to look at those conditions to make sure that  
2122 you're in accord with it. If this is approved, it would be subject to these conditions.  
2123  
2124 Ms. Dwyer - So this is what happens when we have family subdivisions  
2125 down the line? I'm wondering if that was just an oversight, not including that last lot.  
2126 We'll probably be seeing that again when someone else buys it.  
2127  
2128 Mr. Wright - Each case has to stand on its own.  
2129  
2130 Mr. McKinney - Who's your closing attorney, Mr. Powell?  
2131  
2132 Mr. Powell - Brian Stevens. I've got title insurance, and he told me the  
2133 option would be to go to court and try to pursue some type of a variance, but he said  
2134 that could take up to two years to get. I wasn't in a position to wait two years to try to  
2135 build a house, after I'd already been six months behind schedule at that point.  
2136  
2137 Mr. McKinney - And you put a mortgage on this property?  
2138  
2139 Mr. Powell - No sir, I paid for the property with cash, and I can't get a  
2140 mortgage until I have access.  
2141  
2142 Mr. Wright - Would you just take a look at those conditions and insure  
2143 that you're in accord with them.  
2144  
2145 Mr. Powell - I actually have not applied for a new building permit on this,  
2146 because I knew that once I spoke to the guy on the original lot, that I couldn't do  
2147 anything without access. It was also without a variance that would adhere to the 50-foot  
2148 road frontage.

2149  
2150 Mr. Wright - All of this would apply when you apply for your building  
2151 permit. You have to satisfy these conditions.  
2152  
2153 Mr. Powell - Yes sir, I understand that.  
2154  
2155 Mr. Wright - Any further questions of members of the Board?  
2156  
2157 Ms. Dwyer - Would your house be oriented to the access road, the front  
2158 of the house would be facing the access road?  
2159  
2160 Mr. Powell - I'd planned on having the front of the house facing the main  
2161 road; it would be parallel with the main state road.  
2162  
2163 Ms. Dwyer - Is that Yarnell, as opposed to the access road?  
2164  
2165 Mr. Powell - Yes ma'am, that's correct.  
2166  
2167 Ms. Dwyer - The house next door to you, 2551, as it's identified on our  
2168 picture – how is that house oriented?  
2169  
2170 Mr. Powell - That house is actually oriented, facing toward the private  
2171 road that comes back, but the good thing about this whole situation is that the lots are  
2172 very wooded, and you can't even see the houses next to you back there behind that  
2173 house.  
2174  
2175 Mr. Wright - What size is the lot?  
2176  
2177 Mr. Powell - Each one of them is a 1.3-acre lot, approximately. I think  
2178 one of them may be a little less, but somewhere in the range.  
2179  
2180 Mr. Wright - Any further questions of members of the Board? Is anyone  
2181 here in opposition to this request?  
2182  
2183 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
2184 McKinney, the Board **granted** application **A-73-2004** for a variance to build a one-family  
2185 dwelling at 2555 Yarnell Road (Parcel 815-695-1018). The Board granted the variance  
2186 subject to the following conditions:  
2187  
2188 1. This variance applies only to the public street frontage requirement. All other  
2189 applicable regulations of the County Code shall remain in force.  
2190  
2191 2. Approval of this request does not imply that a building permit will be issued.  
2192 Building permit approval is contingent on Health Department requirements, including,  
2193 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval  
2194 of a well location.



2195  
2196 3. At the time of building permit application, the applicant shall submit the  
2197 necessary information to the Department of Public Works to ensure compliance with the  
2198 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
2199 water quality standards.

2200  
2201 4. The applicant shall present proof with the building permit application that a legal  
2202 access to the property has been obtained.

2203  
2204 5. The owners of the property, and their heirs or assigns, shall accept responsibility  
2205 for maintaining access to the property until such a time as the access is improved to  
2206 County standards and accepted into the County road system for maintenance.

2207  
2208 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5

2209 Negative: 0

2210 Absent: 0

2211  
2212 The Board granted this request, as it found from the evidence presented that, due to the  
2213 unique circumstances of the subject property, strict application of the County Code  
2214 would produce undue hardship not generally shared by other properties in the area, and  
2215 authorizing this variance will neither cause a substantial detriment to adjacent property  
2216 nor materially impair the purpose of the zoning regulations.

2217  
2218 **UP- 17-2004** **YOUTH LIFE FOUNDATION** requests a temporary conditional use  
2219 permit pursuant to Section 24-116(c)(1) of Chapter 24 of the  
2220 County Code to place a temporary classroom trailer at 3800  
2221 Delmont Street (Parcel 793-737-2374), zoned R-6, General  
2222 Residence District (Fairfield).

2223  
2224 Mr. Wright - Does anyone else desire to speak with reference to this  
2225 case? Would you raise your right hand and be sworn please?

2226  
2227 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2228 truth, the whole truth, and nothing but the truth, so help you God?

2229  
2230 Mr. Cullather - I do. Jack Cullather. This is Heather Brown, who runs the  
2231 Youth Life Foundation, which is located right now over at Delmont Plaza Apartments,  
2232 over on Delmont Street. The Youth Life Foundation is an offshoot of the Darryl Green  
2233 Foundation, which has helped fund this, and they operate on a one-on-one basis, with  
2234 after-school kids. The progress they've made has been very significant, and that has  
2235 led to the expanding of the program. These are strictly for kids at Delmont Plaza. What  
2236 we would like to request, while the suggestions of the staff normally would be  
2237 appropriate since this is a two-year grant for temporary use, is toilet facilities are only 16  
2238 feet away in the recreation building, we think we would like to have Number 3 not apply.  
2239 In addition, since this is a two-year basis, submitting a detailed landscape plan and  
2240 maintaining that would be not only costly, but it would also probably just start growing as

2241 we're moving the trailer back out. What they will be doing, is I'd like to have required  
2242 skirting put into this application so that the trailer does get skirted, and they will  
2243 voluntarily be planting flowers and things like that around the trailer.  
2244  
2245 Mr. Wright - You're saying, when would the trailer be removed?  
2246  
2247 Mr. Cullather - In two years.  
2248  
2249 Mr. Wright - So within the two-year deadline.  
2250  
2251 Mr. Cullather - Yes sir.  
2252  
2253 Mr. McKinney - What do they do in this Youth Foundation, Mr. Cullather?  
2254  
2255 Mr. Cullather - I'll let Ms. Brown answer that.  
2256  
2257 Ms. Brown - We meet with the children every day after school and for six  
2258 weeks in the summer. They are children who are at risk. The average income is  
2259 \$5,000, so we do academics with them, character training, computer skills, with the  
2260 children, and then we also have programs with the parents as well.  
2261  
2262 Mr. McKinney - What do you mean, at risk?  
2263  
2264 Ms. Brown - The children are in the lowest school in Henrico County,  
2265 Glen Lea Elementary School, so they have previously just kind of roamed around that  
2266 area, and so we're taking all the elementary school and getting them into a program to  
2267 get them off the streets and into something productive in their afternoons and in the  
2268 summer.  
2269  
2270 Mr. McKinney - What's the age group?  
2271  
2272 Ms. Brown - Kindergarten through sixth grade.  
2273  
2274 Mr. McKinney - Then what happens to them after sixth grade?  
2275  
2276 Ms. Brown - We keep them through high school; we just start with them in  
2277 elementary school, and so we took them K-5, and our fifth graders will now move on to  
2278 sixth, and so we'll keep them all the way through high school.  
2279  
2280 Mr. McKinney - But you said kindergarten through sixth grade.  
2281  
2282 Ms. Brown - Right now that's the ages.  
2283  
2284 Mr. Blankinship - Next year it'll be K-seventh.  
2285  
2286 Ms. Brown - It keeps adding each year.

2287  
2288 Ms. Dwyer - Can you show us on the aerial photograph where the trailer  
2289 will be located?  
2290  
2291 Mr. Cullather - Right where that mark is, where those two cars are, it would  
2292 be back in that corner right along there, that's correct.  
2293  
2294 Mr. McKinney - You say it's how far from the restroom?  
2295  
2296 Mr. Cullather - Yes, the restrooms are right there in that adjacent building.  
2297 It's a recreation room that I've let Youth Life use, and have been very excited about the  
2298 developments that have taken place there. It's really turned the community, especially  
2299 the single mothers, into being more responsible, and actually they are attending some  
2300 of the classes themselves. Keep in mind the ratio on some of these kids is almost one  
2301 to one. Heather has volunteers coming in from the other school systems to help with  
2302 these kids in the afternoon, so it's not like a child would go to the bathroom by herself.  
2303  
2304 Mr. Wright - So that building that we see there, to the left of the hand, is a  
2305 recreation building?  
2306  
2307 Mr. Cullather - Yes sir, that's where the classes are now. There are two  
2308 restrooms in there, that are handicapped accessible.  
2309  
2310 Mr. McKinney - Are you going to build a permanent building? You said two  
2311 years for this trailer – what happens after two years?  
2312  
2313 Mr. Cullather - I'll let her address that. My intention would be to pursue this  
2314 further. If the program continues as a success, it hopefully would lead to a permanent  
2315 building. This is only the third affiliation with the Darryl Green Foundation, and they are  
2316 now providing some substantial grants to this operation, so it's a very exciting  
2317 opportunity for a very high risk, at-risk children's neighborhood, to help the situation that  
2318 volunteers are doing this.  
2319  
2320 Mr. McKinney - What are their hours of operation, Ms. Brown?  
2321  
2322 Ms. Brown - In the summer we go from July 5 to August 12, from 9 to 3,  
2323 and then in the after school, we're with the children when they get off the bus at 2:15  
2324 until 6:00 o'clock.  
2325  
2326 Mr. McKinney - Do you run this through the winter months also?  
2327  
2328 Ms. Brown - Yes, it's a full-year program.  
2329  
2330 Mr. McKinney - What happens if you have real inclement weather, and  
2331 somebody has to use the restroom?  
2332

2333 Ms. Brown - If it's inclement weather, we won't be in session. We follow  
2334 what Henrico County does, and we wouldn't be in session. We'd be at home.  
2335  
2336 Mr. McKinney - I thought that was the reason for this, was to get them here  
2337 and out of the environment, but I would presume if they came, they would be in the  
2338 recreation center, and not in the trailer.  
2339  
2340 Ms. Brown - Correct, yes.  
2341  
2342 Mr. McKinney - Just for the purpose of using the facilities.  
2343  
2344 Ms. Dwyer - You'll still have full use of the recreation center?  
2345  
2346 Ms. Brown - Yes, we will. This will just provide us with extra space as we  
2347 grow and have more children, to have separate classrooms for the older ones.  
2348  
2349 Ms. Dwyer - I'm thinking in public schools when they have trailers, they  
2350 usually don't have restrooms.  
2351  
2352 Ms. Brown - And this trailer does not have restrooms in it.  
2353  
2354 Mr. McKinney - How many children do you have now?  
2355  
2356 Ms. Brown - Right now we have fifteen.  
2357  
2358 Mr. McKinney - You have how many supervisors, so to speak?  
2359  
2360 Ms. Brown - For the summer, we have myself, a certified teacher, two  
2361 interns, and another teacher who will be there just for the summer, and then we have  
2362 twenty volunteers who come throughout the week.  
2363  
2364 Mr. Wright - You say the hours are 9 to 6? Is that Monday through  
2365 Friday, or is that .....  
2366  
2367 Ms. Brown - No, the hours are 9 to 3 in the summer, Monday through  
2368 Thursday. The hours in the school year are 2:15 to 6:00 o'clock, and that runs Monday  
2369 through Friday.  
2370  
2371 Ms. Dwyer - Mr. Blankinship, with the detailed landscaping request, what  
2372 was envisioned there by the Planning Office?  
2373  
2374 Mr. Blankinship - Normally when we do office trailers, a sales trailer or  
2375 something like that, we get a row of shrubs in front of it, just to soften the look of the  
2376 screening. It's our standard condition.  
2377  
2378 Mr. Wright - This overhead picture shows some sort of screening to the

2379 right there. Do you see those trees or bushes or what?  
2380  
2381 M. Cullather - There are some pine trees there.  
2382  
2383 Mr. Wright - Doesn't show on that picture.  
2384  
2385 Mr. Kirkland - Would this trailer be handicapped accessible?  
2386  
2387 Ms. Brown - That is to be decided. The building is handicapped  
2388 accessible, and that would cost an extra \$2,000 to put the ramp, so we'd rather not, just  
2389 for our own raising support and everything, but if that's a condition, we'll raise the  
2390 money.  
2391  
2392 Ms. Dwyer - I guess, Mr. Blankinship, regarding the landscaping, if they  
2393 committed to a certain number of shrubs to be planted in front of the trailer, would that  
2394 be detailed enough?  
2395  
2396 Ms. Brown - Shrubs or flowers. If we're leaving in two years, the trailer is  
2397 going to be gone, and it's going to be a grassy space again.  
2398  
2399 Mr. Blankinship - Sometimes they're in pots; they just put out large potted  
2400 shrubs.  
2401  
2402 Ms. Brown - I don't know why that would be needed.  
2403  
2404 Mr. Blankinship - I'm not sure in this particular case, but like I say, it's a  
2405 standard condition.  
2406  
2407 Mr. Cullather - I might add that before they started using the recreational  
2408 building, there were no shrubs. Now there are beautiful plants and flowers that are  
2409 there, that I believe her father has been installing.  
2410  
2411 Ms. Brown - And the children. And a garden.  
2412  
2413 Ms. Dwyer - The commitment to having a garden area in front of the  
2414 trailer, between the trailer and the sidewalk would be sufficient?  
2415  
2416 Mr. Wright - Any further questions by members of the Board? Is anyone  
2417 here in opposition to this request?  
2418  
2419 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
2420 Kirkland, the Board **granted** application **UP-17-2004** for a temporary conditional use  
2421 permit to place a temporary classroom trailer at 3800 Delmont Street (Parcel 793-737-  
2422 2374). The Board granted the use permit subject to the following conditions:  
2423

2424 1. The property shall be developed in substantial conformance with the plan filed  
2425 with the application. No substantial changes or additions to the layout may be made  
2426 without the approval of the Board of Zoning Appeals.

2427  
2428 2. The trailer shall be removed from the property on or before June 24, 2006, at  
2429 which time this permit shall expire. This permit shall not be renewed.

2430  
2431 3. [Deleted]

2432  
2433 4. [Amended] A garden area shall be planted and maintained between the trailer  
2434 and Delmont Street.

2435  
2436 5. [Deleted]

2437  
2438 6. On or before June 24, 2005, the applicant shall submit a report to the Planning  
2439 Office describing their plans for permanent office space.

2440  
2441 7. [Added] The trailer shall be skirted on all sides with a durable material.

2442  
2443 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5

2444 Negative: 0

2445 Absent: 0

2446  
2447 The Board granted the request because it found the proposed use will be in substantial  
2448 accordance with the general purpose and objectives of Chapter 24 of the County Code.

2449  
2450 **A - 74-2004**            **ROBERT J. RAPPOLD III** requests a variance from Section 24-94  
2451 of Chapter 24 of the County Code to build an attached garage at  
2452 10307 Gayton Road (Canterbury East) (Parcel 744-745-2078),  
2453 zoned R-2, One-family Residence District (Tuckahoe). The  
2454 minimum side yard setback is not met. The applicant proposes 8  
2455 feet minimum side yard setback, where the Code requires 15 feet  
2456 minimum side yard setback. The applicant requests a variance of 7  
2457 feet minimum side yard setback.

2458  
2459 Mr. Wright -                            Does anyone else desire to speak with reference to this  
2460 case? Would you raise your right hand and be sworn please?

2461  
2462 Mr. Blankinship -                    Do you swear that the testimony you are about to give is the  
2463 truth, the whole truth, and nothing but the truth, so help you God?

2464  
2465 Mr. Rappold -                            I do. My name is Robert J. Rappold III, and this is Mr. Harry  
2466 Poston, our contractor. My wife and I request a variance to put a one-story garage on  
2467 the side of our house, as depicted on the diagram on the right. We request a seven-foot  
2468 side yard setback. The garage would be 24 by 30 as shown, hold two cars, and we'd  
2469 have an entrance from the front there, and a door in the back, and a couple windows, so

2470 we could put our cars in there and have them be covered. It would be a white color, just  
2471 like the rest of the house, and I show on the diagram, the top of the garage would be  
2472 below the roof of the house. It would be the same slope and be of suitable construction,  
2473 that it would fit right in with the house.

2474  
2475 Mr. Blankinship - Did you say a white color, the same as the house?

2476  
2477 Mr. Rappold - Yes, the house is white, so it would be .....

2478  
2479 Mr. Blankinship - The house is brick.

2480  
2481 Mr. Rappold - No, it has white on the gables, and also we have white  
2482 windows, and as you look at the house from the front, you see white there at the porch.  
2483 It's primarily white, so we wanted to match the color. We didn't want to have a different  
2484 color.

2485  
2486 Ms. Dwyer - The house is brick and frame.

2487  
2488 Mr. Rappold - Then it has white siding on it and things like that, so we  
2489 wanted to have not a different color than the white .....

2490  
2491 Mr. Blankinship - But not brick either.

2492  
2493 Mr. Rappold - Right, so it would be like that.

2494  
2495 Ms. Dwyer - And the siding would be horizontal?

2496  
2497 Mr. Rappold - Yes.

2498  
2499 Ms. Dwyer - I wasn't sure from your drawings whether you were going to  
2500 have sort of a wooden board and batten siding. That could be the framing plan; I wasn't  
2501 sure whether that was the framing plan.

2502  
2503 Mr. Rappold - That was just the frame, but the siding would be horizontal,  
2504 just like normal.

2505  
2506 Mr. Poston - You'd have vinyl siding on the front, and it would match on  
2507 the garage itself, whether it would be all the same thing.

2508  
2509 Mr. McKinney - What'd you say your last name was?

2510  
2511 Mr. Poston - Poston.

2512  
2513 Mr. Rappold - Mr. Poston is our contractor who did our addition in the back.

2514  
2515 Mr. Wright - From this photo we have, it appears that there's some

2516 screening between your lot and the lot next door, right near where that truck sits.

2517

2518 Mr. Rappold - Yes, we have some ligustrums there, yes.

2519

2520 Mr. Wright - Look like there are about 6 to 7 feet tall, some bushes in  
2521 there, could be red tip photinias.

2522

2523 Mr. Rappold - They're ligustrums, green in color.

2524

2525 Ms. Dwyer - It's better they're ligustrums; red tips are dying.

2526

2527 Mr. Rappold - Yes, Ligustrums are drought resistant; they're evergreen, so  
2528 they produce nice screening year round.

2529

2530 Mr. Wright - Any further questions of members of the Board? Anyone  
2531 here in opposition to this request?

2532

2533 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.  
2534 Nunnally, the Board **granted** application **A-74-2004** for a variance to build an attached  
2535 garage at 10307 Gayton Road (Canterbury East) (Parcel 744-745-2078). The Board  
2536 granted the variance subject to the following conditions:

2537

2538 1. The new construction shall match the existing dwelling as nearly as practical.

2539

2540 2. The property shall be developed in substantial conformance with the plan filed  
2541 with the application. No substantial changes or additions to the layout may be made  
2542 without the approval of the Board of Zoning Appeals.

2543

2544 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5

2545 Negative: 0

2546 Absent: 0

2547

2548 The Board granted this request, as it found from the evidence presented that, due to the  
2549 unique circumstances of the subject property, strict application of the County Code  
2550 would produce undue hardship not generally shared by other properties in the area, and  
2551 authorizing this variance will neither cause a substantial detriment to adjacent property  
2552 nor materially impair the purpose of the zoning regulations.

2553

2554 **UP- 18-2004** **BFI WASTE SYSTEMS OF VIRGINIA** requests a conditional use  
2555 permit pursuant to Section 24-116(c)(3) of Chapter 24 of the  
2556 County Code to expand the existing landfill at 2001 Charles City  
2557 Road (Parcels 812-711-4422, 4005, 811-711-5111, 811-710-9875,  
2558 811-709-7458, 810-710-6142, 811-686-1061, 809-711-9586, 6079  
2559 and 808-709-9287), zoned M-2, General Industrial District (Varina).

2560



2561 Mr. Wright - Does anyone else desire to speak with reference to this  
2562 case? We'd like for everyone to stand and be sworn at the same time, please?

2563  
2564 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2565 truth, the whole truth, and nothing but the truth, so help you God?  
2566

2567 Mr. Spotts - I do. Yes, Mr. Chairman, members of the Board, my name is  
2568 Meade Spotts, and I'll be representing the applicant, BFI, in regards to this matter. I  
2569 have with me Mike Rothermel from my firm; Eddie Snyder, who is BFI's District  
2570 Representative for Virginia; Mr. Carlton Dudding, who is the Site Manager at the Old  
2571 Dominion Landfill; Mr. Mike Fiore, with Resource International. Representing the  
2572 County, I believe, will be Mr. Steve Yob, who is the Chief of Solid Waste for the County.  
2573 Very briefly, the history and the background of the two sites today, as you're aware from  
2574 the staff report, you have the Old Dominion Landfill already in existence, which is  
2575 adjacent to the closed County Landfill, which is currently under contract, where BFI will  
2576 be buying that from the County. The desire of BFI is to buy the County land so that the  
2577 area marked on your report as Phase II can be filled, between the existing Old  
2578 Dominion BFI Landfill and the Closed County Landfill. It is somewhat of a valley  
2579 between the two landfills, created by the setbacks required by Code.  
2580

2581 The Old Dominion Landfill has been servicing the community of Henrico County now  
2582 since 1994. There is a ten-year track record; I know most of you are familiar with the  
2583 last case in 1995. The County Landfill opened, I believe, in 1978; it closed in 1991,  
2584 leaving the gap between the two sites. You'll note that these facilities are surrounded  
2585 primarily by either landfills or other industry. The one subdivision located to the  
2586 northeast of the site is protected by a large strip of vegetation, which has been proffered  
2587 to maintain its condition. In looking at this property, if you come off of Charles City on  
2588 Laburnum, for those of you not familiar with that area, you have the closed BFI Landfill,  
2589 the closed Cox Construction Demolition Debris Landfill, you have the closed County  
2590 Landfill, which is the subject of this use permit, and then the BFI Landfill. To the south,  
2591 across the CSX tracks, you have two open construction demolition debris landfills and  
2592 closed cells associated with them, and to the west and southwest you have the concrete  
2593 plant that's currently in operation. It's a very heavily industrialized area. In looking how  
2594 this use permit will affect current operations, as far as the Old Dominion facility, it's safe  
2595 to say not much will change. It will continue to operate the way it has basically for the  
2596 last ten years.  
2597

2598 I would touch briefly on the strong environmental record that this site has. It has not  
2599 had an environmental related notice of violation in its history. It's a fairly friendly site to  
2600 the neighboring community, due to the large amount of buffering that is naturally in  
2601 existence on this site. The total property of BFI is 432 acres, and of that only about  
2602 25% is directly involved with disposal. It leaves the other 75% as a buffer area around  
2603 the property, aside from the buffers that have been proffered. It also has about 20%  
2604 open water and wetlands, and when I say wetlands, but as far as ponds and lakes on  
2605 the site, it's very well buffered and very environmentally friendly.  
2606

2607 The current expected life of the landfill is four to eight years, without the expansion.  
2608 With the expansion, it will increase to twelve to fifteen years, providing this service to  
2609 Henrico and especially Henrico industries for at least a decade, if not more. It also will  
2610 help balance the County's waste disposal needs, in that the County currently has the  
2611 Nuckols Road/Springfield Landfill in the western part of the County, and this would  
2612 maintain the eastern location for the County. The contract and host agreement are  
2613 currently in place between BFI and the County.

2614  
2615 I will not go into the financial terms; I know they're not applicable to you, but I would like  
2616 to discuss on the terms that directly affect the health, safety and welfare of the citizens.  
2617 There is a real estate contract, which has been approved by the Board, and there is a  
2618 host community agreement that will go into effect, assuming that a use permit is  
2619 granted. The benefits to the County on health, safety, and welfare are substantial. It  
2620 will allow the County to dispose of 70,000 tons of municipal solid waste at this site, for  
2621 the life, basically, of the BFI Landfill. While that is free tipping at the County, the  
2622 health/safety issue is that this is waste that will not be transported from the eastern  
2623 district or any other area of the County through the County to the western district. It will  
2624 continue to go to this site. The consideration of an East End Landfill basically goes  
2625 away, and the County doesn't have to worry about paying for a replacement landfill.  
2626 BFI is also required under terms of the host community agreement, to provide the  
2627 County with a Solid Waste Safety Inspector, to be used anywhere in the County that the  
2628 County desires. This is not currently required, and that will be paid, again, for the life of  
2629 the Old Dominion Landfill, by BFI.

2630  
2631 A very important issue is the tons per day that this site will be allowed to take. That will  
2632 be capped under the new Host Community Agreement. Currently there is no cap in  
2633 place, and it's been designed to make sure that the traffic on Charles City Road could  
2634 not increase more than 5% if this use permit is approved. Again, that is protection the  
2635 County does not currently have. The last issue that I believe is a safety issue to some  
2636 degree, the old County Landfill, when it closed, the public use area remained in effect.  
2637 It's been ongoing, from my knowledge, for the last ten to fifteen years. It prevents  
2638 County residents in the East End from having to drive an exorbitant amount of distance  
2639 to go to the County's West End locations. This wouldn't be maintained under this Host  
2640 Community Agreement.

2641  
2642 The County would be allowed to basically use that public use area free of charge as  
2643 long as the landfill is open, and when the landfill does close, it will be given to the  
2644 County. Again, that prevents a great deal of traffic and volume on the roads, plus all the  
2645 waste going into that public use area, which is run by the County, local citizens, is  
2646 transferred immediately to the Old Dominion Landfill, and not going back on the roads.

2647  
2648 Ms. Dwyer - I'm sorry, what will be transferred back to the County, just  
2649 the public use area?

2650  
2651 Mr. Spotts - The public use area. In other words, they will not have to go  
2652 back and replicate that somewhere else.

2653  
2654 Mr. McKinney - Mr. Spotts, what is the cap that you're going to put on it?  
2655  
2656 Mr. Spotts - The cap will be 4,000 tons per day; there are currently  
2657 around 3400 to 3600 tons per day, and this would allow for some growth, knowing that  
2658 the County will probably redirect some of their waste to the County, based on their free  
2659 tipping. It's not allowing a great increase in tonnage.  
2660  
2661 Mr. McKinney - On this 200 feet, what percentage of this is of your total  
2662 property?  
2663  
2664 Mr. Spotts - I'm sorry, 200 feet?  
2665  
2666 Mr. McKinney - What you're asking for.  
2667  
2668 Mr. Spotts - I didn't understand the distance reference.  
2669  
2670 Mr. Wright - What he's saying is, what percentage of your .....  
2671  
2672 Mr. McKinney - You have 200 feet wide, unused area between two landfills,  
2673 and that's what you want to use, isn't it?  
2674  
2675 Mr. Spotts - Correct.  
2676  
2677 Mr. McKinney - What percentage is that of your total property?  
2678  
2679 Mr. Spotts - The 200 linear feet would probably be 5% of the total  
2680 property.  
2681  
2682 Mr. McKinney - That's why you said that the traffic would probably not  
2683 increase over 5%.  
2684  
2685 Mr. Spotts - The 5% was based on the number of trucks that are  
2686 currently accessing the site.  
2687  
2688 Mr. McKinney - How many trucks is that?  
2689  
2690 Mr. Spotts - The current number of trucks accessing the site today is  
2691 about 320, and that would let it go up to about 360, assuming that cap was met. I will  
2692 tell you the history of the landfill it's very difficult to meet a cap, in other words, get up to  
2693 exactly 4,000, because you run the risk of violating your cap, so it's pretty much  
2694 designed to keep the traffic where it is today.  
2695  
2696 Mr. McKinney - Do you accept waste now from 150 miles away?  
2697  
2698 Mr. Spotts - We accept waste just inside the Commonwealth of Virginia.

2699 The reason for that reference is, less than 10% of the waste coming into that site will  
2700 come from transfer stations picking up in northern Virginia area. Some of those waster  
2701 haulers will access a transfer station in Maryland, and BFI requires them to segregate  
2702 the waste. They have a separate tipping floor area; it's very convoluted, and the reason  
2703 for the 150-mile radius was to get away from that concern. That radius is also freely  
2704 proffered by BFI, so there's no question that this is not intended to be a northeast waste  
2705 site in any way, shape or form.

2706  
2707 Mr. McKinney - And what type of waste do you take?

2708  
2709 Mr. Spotts - Municipal solid waste is defined by Virginia's Department of  
2710 Environmental Quality. It's basically household business waste.

2711  
2712 Mr. McKinney - Is that garbage?

2713  
2714 Mr. Spotts - Yes.

2715  
2716 Mr. McKinney - Decaying food and stuff like that?

2717  
2718 Mr. Spotts - Hardees, business waste, County schools waste, residential  
2719 waste picked up through neighborhoods.

2720  
2721 Mr. McKinney - It generates flies and so forth. Let me ask you, when this is  
2722 deposited in a landfill, how fast do you cover it up?

2723  
2724 Mr. Spotts - I could have Mr. Dudding speak of that in detail, but the DEQ  
2725 mandates that it be covered, and at night it has to be covered by a certain layer of what  
2726 they call "alternate daily fill," which is basically dirt. It cannot sit exposed overnight.

2727  
2728 Mr. McKinney - I think, and I could be corrected, that the County Landfill, has  
2729 to close at 3:00 o'clock, and they start covering, so that it can be covered by nightfall. I  
2730 presume the guy from the County can correct me if I'm wrong.

2731  
2732 Mr. Spotts - In a situation where everything has to be covered on a daily  
2733 basis, I believe that holds true for all landfills, public or private.

2734  
2735 Mr. McKinney - I was at the western landfill, Henrico County, Father's Day,  
2736 and I want to tell you the odor was absolutely terrible, and I don't know what it is down  
2737 your way.

2738  
2739 Mr. Spotts - I appreciate your clarifying the western landfill. If I could  
2740 address that, odor, as you have probably seen in the papers, is a problem statewide  
2741 with landfills, always has been, always will be. There are quite a few steps you can take  
2742 to control that odor. One is in cover, and BFI in the last several months has been  
2743 covering with more permanent clay cover, areas of their landfill at Old Dominion. There  
2744 are also basically mechanical odor control devices that can be put in place. We've had

2745 one operating for over a month at BFI and Old Dominion; the residents we have spoken  
2746 with have noticed a marked, fairly substantial change, and next week, General Electric  
2747 (that's their subdivision) will be putting in a permanent odor control system. There are a  
2748 lot of things that can be done. Cover is the best way, as you pointed out, to control that,  
2749 but it has to be clay cover or a heavy cover that prevents the methane from coming  
2750 through, and BFI has also upgraded their gas collection system at Old Dominion, which  
2751 physically is a vacuum which pulls it out of the mass that's contained, and flares it. I  
2752 can't speak to any other landfill except that one.  
2753

2754 Mr. Wright - Mr. Blankinship, I don't see anywhere in our suggested  
2755 conditions that we have included this cap that has been referred to.  
2756

2757 Mr. Blankinship - We had some discussions between myself, Mr. Spotts, and  
2758 the County Attorney's office also, how to handle some of the details that are already  
2759 dealt with in both the real estate contract and the host community agreement. Rather  
2760 than try to duplicate all of those conditions, or triplicate all of those conditions, we took a  
2761 position that everything that's spelled out and that the County Manager has signed off  
2762 on, in either the real estate contract or the host community agreement, we decided to  
2763 leave there. If there's something in addition to these conditions that you want to bring  
2764 into the conditional use permit, by all means we can do that.  
2765

2766 Mr. Wright - We could just put a condition in that this is subject to  
2767 complying with those requirements.  
2768

2769 Mr. Blankinship - Yes sir.  
2770

2771 Mr. McKinney - I know we've got some opposition, so we'll find out.  
2772

2773 Mr. Kirkland - Mr. Spotts, on Condition # 3, where it says, "may be  
2774 accepted .....from 6:30 AM to 6:00 PM Monday through Friday, from 7:00 AM to  
2775 6:00.....," when do you start covering, at 6:00 o'clock, or do you work sections  
2776 all day long?  
2777

2778 Mr. Spotts - You have a face; in other words, the whole landfill is not  
2779 open. You try to keep what they refer to as the face of the landfill as tight and as  
2780 compact as possible for that very reason. If the amount of waste coming that day has  
2781 dribbled off, if you will, they can start closing earlier. They will start as soon as that  
2782 active face shuts down, and the last citizen or industry rep, or whoever comes in with a  
2783 load, stops, we're just limited by those hours. So it could be as late as 6:01; they could  
2784 have covered ¾ of it by 5:00 because there's no volume.  
2785

2786 Mr. McKinney - 6:00 pm on Eastern Standard Time, in the middle of winter,  
2787 is dark.  
2788

2789 Mr. Spotts - DEQ requires lighting if you're operating after the hours of  
2790 dark, and that's why you might expedite your coverage.

2791  
2792 Mr. McKinney – You will be operating after dark; your hours are till 6:00 pm,  
2793 and you’ve got trucks coming in at 6:00 pm, correct?  
2794  
2795 Mr. Spotts - They will come in, but basically the trucks controlled by BFI  
2796 will come in earlier because they do not want a surge of trucks coming in at 5:59, but  
2797 the DEQ regs mandate if you’re operating in the hours of darkness, which as you  
2798 correctly pointed out, fluctuates, you have to have adequate lighting.  
2799  
2800 Mr. McKinney - Do they have any problems with not taking any trucks an  
2801 hour before daylight?  
2802  
2803 Mr. Spotts - The problem with that is, as far as having them come in  
2804 stages, you want to get them off the road, so those hours are hours that everybody’s  
2805 been fairly comfortable with for the last ten years. The Saturday hours have been  
2806 revised to reflect several issues, one of which is taking the build-up of waste from the  
2807 public use area, which you can imagine is frequently quite heavy on weekends, out of  
2808 the County’s area, and into a landfill.  
2809  
2810 Mr. McKinney - Do you operate on Sundays?  
2811  
2812 Mr. Spotts - We do not currently operate unless it’s by request of the  
2813 County, and that’s a clarification also. For example, with the hurricane we experienced  
2814 last November, if we’re asked to open up because of a problem like that, it allows us to  
2815 do it without coming back to the BZA.  
2816  
2817 Mr. McKinney - Mr. Blankinship, should we have a condition for that?  
2818  
2819 Mr. Blankinship - We can certainly add that if you like.  
2820  
2821 Mr. McKinney - I mean other than “as requested by the County under a  
2822 disaster,” or something to that effect.  
2823  
2824 Mr. Kirkland - Number # kind of addresses that.  
2825  
2826 Mr. Spotts - We’ve tried to cover that very issue.  
2827  
2828 Mr. Blankinship - Or “such other times as expressly required or permitted by  
2829 the Director of Planning or the Director of Public Utilities. Or their designees.”  
2830  
2831 Mr. Spotts - Mr. McKinney, the cost of being open on Sundays for the  
2832 limited volume of waste that would come in, is not something BFI is happy about, but  
2833 they wanted to address the County’s concerns, because we hit that in November.  
2834  
2835 Mr. McKinney - Same as holidays.  
2836

2837 Ms. Dwyer - If you're picking up waste from a transfer station that's within  
2838 150 mile radius, how can you be sure that it's not coming from farther away?  
2839

2840 Mr. Spotts - They require segregation of the waste; it's inspected by the  
2841 engineers at BFI. If there's any question, it cannot be accepted. They're very  
2842 concerned about violating the intent of the agreement.  
2843

2844 Ms. Dwyer - So it's self monitored?  
2845

2846 Mr. Spotts - At the same time, someone could pick up a bag of  
2847 household waste from Bethesda, drive to Richmond, drop it in the County public use  
2848 area, it would come to the landfill; we couldn't certify that that bag didn't come from  
2849 Bethesda, Maryland, but we do everything we can do to meet the intent of the  
2850 agreement.  
2851

2852 Ms. Dwyer - Would you go over the proposed changes to the conditions  
2853 that have been suggested today.  
2854

2855 Mr. Spotts - I will.  
2856

2857 Mr. Blankinship - Before he begins, let me just say that we have discussed  
2858 these very briefly in just the last two days, and so I apologize that I didn't get you a set  
2859 of revised conditions, but the staff is comfortable with these suggested changes.  
2860

2861 Mr. Spotts - If I could just generalize, the vast majority of the conditions  
2862 that we offered as the applicant, in which the staff, in some form or fashion, included in  
2863 your report as their recommendation, are pretty much the same. There have been  
2864 changes due to the fact that when the original CUP, use permits were granted by this  
2865 Board, everything was done on a parcel number, and everything now has changed to a  
2866 GPIN number, and there's a very large GPIN number incorporating numerous parcels  
2867 that were identified in previously existing use permits. I think staff has worked very hard  
2868 to try to bring everything together. That has necessitated some changes to make sure  
2869 the intent of the '95, especially, restrictions go forward. If I could run over those with  
2870 you, the time of operation, Saturdays and Sundays, Mr. McKinney has already  
2871 addressed. The height change is primarily based on the fact that you've got two  
2872 landfills now going together, which allows a higher height. The DEQ mandates a 3 to 1  
2873 slope; you're not talking a square block; you're talking a rounded hill.  
2874

2875 Ms. Dwyer - You're talking now about Condition # 11?  
2876

2877 Mr. Spotts - Correct, and if I could get away from the 320 feet, from  
2878 Charles City Road, there currently allowed about 100 feet of height. This will allow them  
2879 to increase from 100 feet to about 150. Again, that's driven by the fact that you've got  
2880 two cells coming together, and as far as longevity of the landfill, the height is what  
2881 allows them the air space to keep the landfill open. And also the Board approves it.  
2882

2883 Ms. Dwyer - So you're allowed to go higher, because the footprint is  
2884 larger?

2885  
2886 Mr. Spotts - Correct. Also the Board approves it, and we could have  
2887 gone, I think in '95 originally, the Board had been requested for a higher location, but I  
2888 think the Board wanted to see the landfill operate for ten years, make sure the  
2889 screening and everything was working, which it has, before they went higher than that.  
2890 That is not a cap placed on BFI by the Department of Environmental Quality; that's just  
2891 as high as they would want to take it

2892  
2893 Ms. Dwyer - So 320 feet above mean sea level is about 150 feet from  
2894 Charles City Road.

2895  
2896 Mr. Spotts - That just gives you a little better reference point. The other  
2897 changes, and I've got a handout that can be passed out, you have a copy of these  
2898 already. If you look on that page, it says "Proposed Changes and Conditions." This will  
2899 answer most of those questions. Condition # 15 combines several conditions that came  
2900 out in '95, I believe many of the Board members will remember those. I'll discuss those  
2901 later as new conditions. We support the Phase I, Phase II, restrictions that show  
2902 specifically that area of the site that will be used for disposal. That's the most important;  
2903 it makes sure the proffers are maintained for surrounding properties. Revised Condition  
2904 # 16 that we would recommend is that the landfill needs to be fenced, and I believe it's a  
2905 DEQ requirement that it be fenced. The original condition in the staff report was  
2906 somewhat off-point, in that it wanted the fence on the northern line to be 1,000 feet off  
2907 the road. That is somewhat the last thing you want. You want the fence to be on the  
2908 outside perimeter of your site. The neighbors we met with on May 13, the one thing  
2909 they were very adamant about was if there was anything we could do to improve the  
2910 security of the site, to keep trespassers off of it, to keep children from getting on there,  
2911 they would like for us to do. If we were to take the fence 1,000 feet off Charles City, we  
2912 have to tear down a lot of existing fence, and it would also put the fence across the toe  
2913 of the slope, which I don't think DEQ would approve. I think everybody's intent now,  
2914 having reviewed it, is to have that fence as far against the outside perimeter as  
2915 possible, and this would allow us to do that.

2916  
2917 Mr. Blankinship - As he mentioned earlier, the previous conditions referenced  
2918 the old parcel numbers, and it was when I tried to figure out which of those parcels was  
2919 where on the property, that I mistook that 1,000-foot limit, so that was just an error on  
2920 my part.

2921  
2922 Ms. Dwyer - So how far off Charles City Road would the fence be?

2923  
2924 Mr. Spotts - It will be at least 500 or 600 feet off of Charles City, because  
2925 there are other properties not owned by BFI on Charles City. You will note on the  
2926 overhead, the area comprising the lake, where it says Phase I to the north of that, is  
2927 primarily a lake area. If you'll note the lake there, to the north center of the property, the  
2928 fence is further north and east. If you notice the greenish area there, the fence is



2929 already in place to the north of that lake and to the south of that green strip along  
2930 Charles City Road. That's already there, and that's well inside of 1,000 feet, but that's  
2931 where we keep people from accessing the lake that would cause a problem. It sort of  
2932 spills over into new condition 19 and 20. The '95 use permit basically had a provision  
2933 based on a parcel number that required that lake to remain in place. BFI has no  
2934 problem with that; we have no intention of doing anything with the lake. It would take an  
2935 act of Congress to drain a lake of that size. We want to make sure that provision stays  
2936 in, because we agreed with the neighbors ten years ago that would be the case and do  
2937 not want to change it. New condition 20 references that strip of land north of the lake  
2938 and south of Charles City Road. The neighbors ten years ago had wanted that strip to  
2939 remain in place; we want it to remain in place because you can see it provides the best  
2940 buffer possible from Charles City Road to the landfill area. Even though BFI owns every  
2941 house along that strip except one, they want to keep that strip in place, and that's why I  
2942 suggested we clarify what that is and leave it in place.

2943  
2944 Ms. Dwyer - Except for improvements to provide entrance or other  
2945 improvements. What improvements do you think might happen there?  
2946

2947 Mr. Spotts - That's really a quote from the existing use permit condition  
2948 from '95. The entrance is in; it's done. All the curb and gutter and asphalt and  
2949 everything you see there and several of those conditions to be done, are already done,  
2950 and I believe we've added a restriction, if we ever move that entrance, we'd have to get  
2951 approval on that.

2952  
2953 Ms. Dwyer - The entrance doesn't come in between the lake and Charles  
2954 City Road.  
2955

2956 Mr. Spotts - If you go the right about, right there, that's your entrance.  
2957

2958 Mr. Blankinship - It's there, but you can't read it.  
2959

2960 Mr. Spotts - To answer your general question, there really are no other  
2961 improvements scheduled except the actual landfill itself, the disposal area.  
2962

2963 Ms. Dwyer - Would you show the lake on this one?  
2964

2965 Mr. Blankinship - You can see the corner I believe.  
2966

2967 Ms. Dwyer - So technically that is *(unintelligible)*.  
2968

2969 Mr. Spotts - The only change we propose at that entrance is right  
2970 between the lake and the road itself, as it comes in, where we have a buffer area  
2971 approved by the County Planning Commission. We plan to double that to increase  
2972 planting. No other asphalt; all that's been done and in place.  
2973

2974 Mr. Blankinship - I can't read the fence in this photograph, but is it just along

2975 the north side of the lake?

2976

2977 Mr. Spotts - It's in the woods, slightly inside the north side of the lake.  
2978 Again, that's a DEQ requirement, even if the BZA were to not require that.

2979

2980 Ms. Dwyer - Going back to condition # 15, you're eliminating all areas  
2981 within 1,000 feet of Charles City shall remain in their natural state or be improved, and  
2982 that's been taken out?

2983

2984 Mr. Spotts - If I could explain why – that referenced a parcel number that  
2985 was the lake, and they had referenced it to say that that parcel number, which was the  
2986 lake, would be left in its natural condition. It covered the lake and the strip of woods we  
2987 just discussed. We're picking that up in 19 and 20. If you were to do that for the whole  
2988 rest of the site, especially what we're purchasing from the County, all of BFI's  
2989 operations buildings, the scale house, the County's public use area, would apply to all of  
2990 that.

2991

2992 Mr. Blankinship - That's the same mistake that I referred to before, that I just  
2993 misunderstood the maps as I was trying to revise the conditions.

2994

2995 Ms. Dwyer - So what you've taken out in 15, you've in effect added back  
2996 in 19 and 20.

2997

2998 Mr. Spotts - Correct.

2999

3000 Ms. Dwyer – Should we be more specific about the location of the fence, if  
3001 it doesn't need to be 1,000, or did you want to have the opportunity to have a variable?

3002

3003 Mr. Spotts - If I could reference that, we have to submit within 45 days of  
3004 this hearing, should this permit be granted, a fencing and landscaping design to the  
3005 County. I would hope that we could specify the exact location at that time. The BFI site  
3006 is already fenced; it's pretty much already complete. The County site has a great deal  
3007 of fencing. I know that even though it's more expensive to the applicant, BFI will want to  
3008 maximize it's fencing again to address the neighbors' concerns, to keep people away  
3009 from the site.

3010

3011 If I could just briefly touch on some of the Ordinance requirements, the Board of course  
3012 has to give their regard to the nature and condition of adjacent uses. I think we've  
3013 talked about that, the fact that this site is somewhat surrounded by the industrial use.  
3014 We've proffered the conditions to protect the residents on Pickwick Lane, to make sure  
3015 that the very heavily vegetated area remains that way. The special characteristics of  
3016 this industry do not change. That's one of the issues that I know you review. The traffic  
3017 impact is nominal. It will basically extend the life span of this site.

3018

3019 In regards to health, safety, and welfare, I would state there's one improvement here. If  
3020 you look at Phase II, one of the conditions that we have put forward, and the staff

3021 likewise has put forward, is that when Phase II impacts that closed County cell, we have  
3022 to cover the remainder of the County cell, even that which is not impacted by our fill,  
3023 with a Subtitle D Cap Covering System. Currently the County Landfill is closed in  
3024 accordance with the regulations existing at that time; however it was never a Subtitle D  
3025 Landfill; it was what we refer to as a 1205 Landfill or even prior to that. So that would  
3026 improve the environmental cover, protection, and more importantly, the monitoring of  
3027 that cell, which of course benefits everybody in that area. I would say that the supply of  
3028 light and air will not be affected here; there will be no increase to public danger; it's the  
3029 same operating facility that's been in effect; the value character that the neighborhood  
3030 has gained is not going to change as far as use, because there have been landfills on  
3031 this road since 1972, and they'll be still operating probably after this has gone, on the C  
3032 an D side.

3033  
3034 The project is not even compatible with the general plans and objectives of the County,  
3035 and I would stress again that a landfill can be an economic engine to growth in a county,  
3036 and if this landfill were to have to close early, it would definitely not benefit the property  
3037 owners who are trying to fill the vacancies in Laburnum Avenue and Williamsburg Road  
3038 and Charles City Road, as far as trying to get industry back in. I'd like to make you all  
3039 aware of the fact that on May 13 we held a neighborhood meeting. We mailed notices  
3040 to all the people who were on the County's list who were adjacent to the East permit  
3041 area. We also mailed to other people who were not adjacent to the East permit area  
3042 whom we thought should be made aware of it. We mailed to the people, what's called  
3043 the Carter Farm; it's the northwest block, I believe it's shown on your screen now. Mr.  
3044 Wright, there's one other change here that we would submit. That block is called the  
3045 Carter Farm, but agreement with the neighbors ten years ago; that was never to be  
3046 included in the use permit. The GPIN number has captured it. Today we would like to  
3047 exclude that from the use permit, in keeping with the agreements with the neighbors.  
3048 You've got a plat there, which I believe, marks that as the upper left-hand block that's  
3049 not shaded. Again, in speaking with the neighbors, we have tried to address all of their  
3050 concerns. I know there's one gentleman here who's concerns we could not address,  
3051 but we've only had one person raise issue with us on the project, and we have to  
3052 reiterate the real estate contract, the host community agreement, the regulations of the  
3053 Department of Environmental Quality, and the EPA, which governs the Subtitle D  
3054 Landfill. This site is replete with protective ordinances to protect the citizens and the  
3055 health, safety, and welfare of that community. If there are any questions you have,  
3056 there are people here more technically experienced in landfilling who will be glad to  
3057 answer them. I'll be glad to answer any other questions you might have.

3058  
3059 Mr. Wright - How long have you operated this landfill there at your  
3060 present location?

3061  
3062 Mr. Spotts - Since 1994. The County closed in 1991; I believe we  
3063 opened in 1994.

3064  
3065 Mr. Wright - Is the entire area now operational, or have you had to close  
3066 off any because it was used up or filled?

3067  
3068 Mr. Spotts - Looking at Phase I, the western side, that will close from  
3069 west to east, and so yes, we have filled up our footprint for Phase I. The Phase II will  
3070 allow up to go up more and out to the east until we hit the closed County cell, and then  
3071 we will pretty much stop at that point. In line with your question, you will note to the east  
3072 of the closed County landfill, you have the power line right-of-way. As you are familiar,  
3073 that is not a telephone line; they are major Virginia Power lines that I think the tipping  
3074 fee would have to be ten times what it is today to justify removing those. We have met  
3075 with Virginia Power, and they have allowed us two berms on their power line to block  
3076 any view from Charles City Road, but as far as your query about the expansion  
3077 capability, I don't think there will be much after this.  
3078  
3079 Mr. Wright - Then I understand that basically what this would permit you  
3080 to do is extend your operation more than would be to increase it.  
3081  
3082 Mr. Spotts - Yes sir, that's exactly correct.  
3083  
3084 Mr. Wright - You're closing off part, and you're just using unused areas to  
3085 extent your operation.  
3086  
3087 Mr. Spotts - Yes sir, we would be closing east to west.  
3088  
3089 Mr. Wright - Also, if this is approved, this would not enable you to use  
3090 any area any closer to Charles City Road than what is being used now or was being  
3091 used by the County.  
3092  
3093 Mr. Spotts - That is correct, exactly correct.  
3094  
3095 Ms. Dwyer - In looking at the map, the Phase II area seems to extend  
3096 beyond the two hundred foot buffer line. I'm assuming the dashed lines are buffer lines  
3097 that used to exist between the two landfills, is that correct?  
3098  
3099 Mr. Spotts - Correct. In looking at your Phase II line without getting out  
3100 the topos, what that does, is that is solid property. The land marked in the slash around  
3101 there, a lot of that is wetlands that we could not go into. So all the setbacks  
3102 requirements are met, and you're using to 200 feet; that's roughly the distance that was  
3103 mentioned earlier as you come along that boundary between the BFI property and the  
3104 closed County Landfill. It will come down to the south, but as you note, it goes just to  
3105 the edge of the current closed County cell.  
3106  
3107 Ms. Dwyer - I'm wondering, I'm just curious as to why Phase II includes  
3108 the area that is beyond the 200-foot buffer. I guess I assumed coming into this, that we  
3109 were just looking at the 200-foot buffer and allowing that to become a part of your  
3110 operation.  
3111  
3112 Mr. Spotts - If you went to where, again, it's sort of a variable point, if you

3113 went further north and cut 100 feet out of it because of that area where it loops down,  
3114 you would cut years off the life of the landfill. What they have done is come to the very  
3115 southern toe of the slope, and they have gone west where they can. They would have  
3116 gone straight west, but you've got wetlands in there that cannot be impacted, so they  
3117 just picked up a small piece of useable land, which again increases the facility's lifespan  
3118 without going into wetlands.

3119  
3120 Mr. Wright - Any further questions of members of the Board? Does that  
3121 take care of your concerns at this time, Ms. Dwyer?

3122  
3123 Ms. Dwyer - It does.

3124  
3125 Mr. Wright - Does that take care of your case at this time? Then we'll  
3126 hear from the opposition. Please come up and state your name, and I would ask that  
3127 we not have repetition, so if each person would speak, be sure that what you're saying  
3128 is something additional that we need to hear.

3129  
3130 Mr. Marshall - My name is Watson Marshall, and I'm an adjoining  
3131 landowner to the west of this site, and I've opposed it ever since it started. Mr. Spotts  
3132 tells you that the last several months they have been covering this up. Go back and  
3133 look at the history. When they get ready to want something, a permit or something, they  
3134 go down there and they clean the road, and they pick up all the trash, and they cover it  
3135 and do all kinds of things to satisfy the citizens and the County, and I'm really surprised  
3136 at this method that's been used to sell the land to the County. I went to a meeting with  
3137 Mr. Donati last week, and I asked him about this coming up use permit, and he acted  
3138 like it was already a done deal. He was really surprised that he was even being  
3139 questioned about it. I would dare say that very few citizens even know that the County  
3140 has contracted to sell this land to BFI, so they can expand the landfill.

3141  
3142 They tell you it's about 300-some trucks a day, and that's a hell of a lot of trucks. If you  
3143 go down there and watch them as they come down, it's a 35-mile-per-hour speed limit  
3144 on Brittles Lane or Masonic Lane that has three names; when you come off of Nine Mile  
3145 Road, it's Masonic Lane, and when you get to Gay Avenue, it's Brittles Lane, and when  
3146 you get to Williamsburg Road, it's Charles City Road. It's 45-miles-per-hour on Charles  
3147 City Road; it's a two-lane, narrow road, and these trucks don't run 45 miles an hour.

3148  
3149 Several times, five or six times in the last six or eight months, I've been called to the  
3150 restaurant (my son runs Yesterday's Restaurant on that corner, somebody breaking in,  
3151 or we had a fire, and these trucks are up there at 5:00 o'clock or 5:30. They have a  
3152 turning lane on Charles City Road, and they're all there, and I've run them off of the  
3153 property at Yesterday's, and they tell you all this trash is coming from Virginia.

3154  
3155 That's not so, unless these trucks that have Maryland license plates are working in  
3156 northern Virginia. And they say 150 miles; they want to go and get trash, and they're  
3157 going to police it. I don't know who polices what's going on down on Charles City Road,  
3158 and I dare say no one. It disturbs me that Mr. Yob, he used to be an employee of BFI;

3159 now he's on our side over here trying to sell you a bill of goods that this thing should be  
3160 extended. About five years ago they said you don't have to have a cap. You can't  
3161 regulate how far we go up, but you can, and the County did. Then they come here and  
3162 they want something, and they ask for a little bit. They come back, and they want to  
3163 raise the height. We opposed that, Mr. Conley Booth and I, we seem to be the only two,  
3164 because BFI, they send you a notice to come to a little party. They give you a coca cola  
3165 and a pack of Nabs or something and tell you what a wonderful neighbor they are and  
3166 how wonderful this trash dump is for the citizens who live around it. I got mine a day or  
3167 2 before they had the meeting. I wouldn't have gone anyway. I went last time, and they  
3168 just want to tell you how wonderful this is. They did the same thing, and they've sold  
3169 Mr. Binter; he seems to think that everything they're doing is wonderful. I can tell you;  
3170 you don't live there. There's not a person here except Jimmy Nunnally who probably  
3171 knows where the landfill is.

3172  
3173 But the traffic is tremendous on Charles City Road. It's the second highest traffic count  
3174 on Rt. 60 between here and Virginia Beach. The largest one is Laburnum Avenue. So  
3175 you've got a heck of a lot of traffic, and a lot of it is residents going home from working  
3176 in the west end or somewhere. Now they're going to increase that 350 or 325. If  
3177 somebody went down there and policed this thing, it would be more than 325, because  
3178 it's a constant convoy, and they're running like hell going down to that landfill.

3179  
3180 The stench, they say "oh, well, in the last several months we've been covering it up with  
3181 some heavy clay." Do you know why they've been doing it? Because they've been  
3182 coming here, and evidently the County has sold out to them by agreeing to sell them  
3183 this land, so they knew they were coming here to get a permit so they could operate it,  
3184 so they go down there and start covering up with the clay. Wonderful! Did they do it for  
3185 the last ten years? No! And there's not a soul here, not Mr. Yob with the County, or  
3186 anybody else with the County, can tell me they've been down there and policed this.  
3187 They didn't cover it up – it stinks! Mr. Spotts tells you it's a wonderful-smelling thing.  
3188 Flies – can you imagine how many flies that this thing generates? My son runs a  
3189 restaurant, and sometimes you go there and get out of the car, the damn stench is so  
3190 bad you don't even want to go in the restaurant.

3191  
3192 We were there before BFI. This originally was Commonwealth Sand and Gravel, all the  
3193 lakes and ponds you see there were dug when the gravel was taken out. The County  
3194 bought the first part of it when they closed the landfill and the trash over on Darbytown  
3195 Road and moved over there in '71 or '72. It was for the citizens. There's nothing wrong  
3196 with providing a place for the citizens to take their trash. Nothing. We don't have all the  
3197 luxuries that they have in the west end. We don't have trash pick-up; we don't have it in  
3198 the east end, unless you pay some private contractor. Most people in Varina go to this  
3199 landfill; it's a good thing, but they put it in containers and then take it next door and  
3200 dump it in BFI. Charles City is hell bent on creating the largest trash pile and business  
3201 in the state. Why don't we let BFI go down to Charles City, buy a piece of land and join  
3202 down there and take all this trash. It's not that far. It's about twenty miles; they could  
3203 go down to Charles City and they would welcome them down there, they'd be happy.

3204

3205 What are we going to do with this after they fill it up? The methane gas and all the  
3206 substance coming out of it for years and years, what are we going to do with it? I say  
3207 let them finish what they said when they came here, and you granted them permission  
3208 to put that landfill in there to start with, and they said they'd be through and gone in  
3209 eight or ten years. That didn't satisfy them. Now they want to go up to heaven and  
3210 keep on building it up. I say they shouldn't go more than 100 feet at any time. We  
3211 didn't even want 100 feet. I don't think you have any concept of what a nuisance that is.  
3212 When it rains, we get mud all over the road, and now they're just sweeping and cleaning  
3213 it up. We've got trash all up and down Charles City Road; they go down and pick it up.  
3214 For the last four or five months, they've been very attentive to what's going on outside of  
3215 that landfill, but I'll tell you for the other ten years, they don't care, and the County  
3216 doesn't care. There's nobody policing that landfill, and he can tell you all these  
3217 wonderful things they're going to do, and I can tell you it's not so. Unless you go down  
3218 there and look at it, I say deny this thing and don't let the County sell the land. If you  
3219 deny it, they can't sell it; that's conditional upon the contract. How much are they  
3220 paying or it anything? Are they like some of these developers, -- they're going to give  
3221 you a place for a school, a place for a fire station -- it'll be a hoax; they're going to let  
3222 you come there and dump your trash. But they're going to fill it up so fast that you'll  
3223 never, ever get any benefit from that hoax dump for the County. I'll be glad to answer  
3224 any of your questions; I'm just hot as a citizen; I've lived here all my life, and every time  
3225 we think that this thing is going away, we thought in 1995 when you let them go up to  
3226 have a little bit more, that was the end of it, but now ten years later, here we go again.  
3227 Now they want to explain it. Let them move; let them go somewhere else. I'm just  
3228 stressed that Virginia is known as the second largest importer of trash in the United  
3229 States, next to Pennsylvania. Are you proud of that? Is anybody in the County proud of  
3230 that? I hope not.

3231  
3232 Ms. Dwyer - Sir where do you live?

3233  
3234 Mr. Marshall - I live at 9740 Osborne Landing, which is on the James River;  
3235 it's at the intersection of Osborne Turnpike and Kingsland Road, and I also own 34  
3236 acres on Osborne Pike, own 110 acres down behind the old Bradley Scales, and I'm a  
3237 taxpayer. I'm just distressed at what our leaders are doing to us, and it's just not right.  
3238 They say it doesn't matter because everything else around here is industrial. I'm just  
3239 frustrated.

3240  
3241 Mr. Booth - I'm Conley Booth, and I reside at 4598 East Williamsburg  
3242 Road in the Varina District. I'm opposed to this, pretty much in the same basis that Mr.  
3243 Marshall was referring to. It's been going on a long time; they've been back several  
3244 times and got increases to leave them there longer. I'm like him; I realize that you, all of  
3245 us have refuse and trash, but that particular segment, as the attorney pointed out, has  
3246 been used since 1972, for one reason or another, for some sort of refuse area. I feel  
3247 like also that the area has been occupied long enough for that, and paid their fair share  
3248 of dues there, so I think that's even more reason to consider. He says it's zoned  
3249 industrial; it would have to be industrial in order to get rid of the waste, but I am in the  
3250 front door, across the street, with 14 ½ acres zoned B-3. That's a big difference,

3251 between B-3 and commercial use that they're using refuse for. It's killed the value and  
3252 any potential I have to develop my property, and I'm like Mr. Marshall. I was there  
3253 before they were. This has been ignored in the past, and I feel like it's time for them to  
3254 finish up what they've got and let it go. If you want to show my property, I'd like to point  
3255 it out to you. You see the entrance.

3256  
3257 Mr. McKinney - Put the zoning map up. You the B-3 on Williamsburg Road?

3258  
3259 Mr. Booth - No sir. I'm the B-3 on Charles City Road, right at the  
3260 entrance. You see the entrance there; that's my property. I've got over 300 feet of road  
3261 frontage there, and they're in front of me all the way. I also offered to negotiate with  
3262 them to sell the property to them and see if they could do something with it. I didn't get  
3263 a response. They said "do what you've got to do." You want to put the other picture  
3264 back up, the color picture, and you may see a better view of that. You see the property  
3265 across the street and the entrance? The entrance of their property is in the center of my  
3266 property, and to the left side of that is the State Library. I don't know if you're familiar  
3267 with that or not; it's a very nice building. I'm surprised they ever built it there. They  
3268 have trash and debris that comes from all these trucks. I ride by there daily because I  
3269 have a lot of interests in that particular area, along the Williamsburg Road corridor,  
3270 because I have several other properties in that immediate area, and I can give you the  
3271 addresses on those if you like. I have one location at 3118 Williamsburg Road, another  
3272 at 3200 Williamsburg Road, another at 3125 Williamsburg Road, and 3127 Williamsburg  
3273 Road, 3306 Williamsburg Road, 3310 Williamsburg Road, 3320 Williamsburg Road, and  
3274 5201 Coxson Road. I am also a taxpayer, and I would look for some help in this  
3275 situation.

3276  
3277 Mr. Wright - Mr. Booth, what type of business do you operate on your B-3  
3278 property there?

3279  
3280 Mr. Booth - There's no business there.

3281  
3282 Mr. Wright - That building is not your building?

3283  
3284 Mr. Booth - No sir, that building belongs to the State; it's the State  
3285 Library Archives.

3286  
3287 Mr. Wright - Your property is unimproved.

3288  
3289 Mr. Booth - Unimproved, and I have approached the County on this in  
3290 the past, and did have an approved POD. That expired on me; however, I'm sure they'd  
3291 re-enter it, but I could not get any takers, due to the fact of the location with the dump  
3292 and the problems that you have with the dump. I would like to put an office/warehouse  
3293 there, which would be income for the County, and gain some revenue. The whole area,  
3294 to the front of it, is all zoned B-3, the part that's developed and not developed, all the  
3295 way to Williamsburg Road. I don't think somebody looked at that to start with when they  
3296 allowed the dump aspect to continue there, because there's no way you're going to



3297 develop any business with the dump there. You can look at that area and see what is  
3298 built or developed new in business in the last 25 years. There's none, and there's not  
3299 going to be as long as that condition exists. As far as the health, safety and welfare, it's  
3300 unreal. You'd have to go and see these trucks and the way they come in there, and  
3301 they have accidents, one after another; they run on over top of people there, especially  
3302 at Gay and Brittles Lane, and they come down the grade on Masonic, come down to the  
3303 bottom of the hill, and those trucks are mostly, probably all overloaded, and they come  
3304 down the hill and they cross the railroad track, and they're running wide open to get up  
3305 that hill. All of them are running, whatever they can run, if it's 50 miles an hour, 60,  
3306 that's what they're doing. Then they cross that intersection at Williamsburg Road,  
3307 flying, and then it's 45 miles an hour going around a curve.  
3308

3309 Mr. Nunnally - Have you reported any of this to the police?

3310  
3311 Mr. Booth - No, but there are plenty of police over there; the police ought  
3312 to know about it.  
3313

3314 Mr. Nunnally - Why not call them and report them, so they can put  
3315 somebody on duty so they can catch them?  
3316

3317 Mr. Booth - I certainly will, but as a matter of fact, the speed limit should  
3318 be lower for those trucks, should be 25 miles an hour. That's a two-lane road, near  
3319 Charles City Road. It's designated by the County to be a four-lane road, but it didn't  
3320 happen. It should happen, either way, if they're going to allow it to operate, it should be  
3321 expanded. They already have the right-of-way. The health issues, with everything that  
3322 bad odors can attract, from flies and mosquitoes, the birds, seagulls, and crows,  
3323 buzzards. Seagulls - I have a property, a strip shopping center there at 3320  
3324 Williamsburg Road. There are hundreds of birds that come from that dump, over there  
3325 every morning. I go out there and drive my vehicle to try to get them off my property.  
3326

3327 Mr. McKinney - Why do they go to your property? They usually go  
3328 somewhere to feed.  
3329

3330 Mr. Booth - I don't know what they're doing. I'm not putting any feed out  
3331 there. Somebody else might be, but I'm not, but if I see any, I run them off. They're  
3332 usually around in a wet period, maybe low spots in the parking lot or something like that,  
3333 but somebody might feed them sometime; I don't know. But what's bringing them over  
3334 there? I know they carry diseases, and then you put up with the droppings and all of  
3335 that. Who's monitoring what they're bringing in? They say how much they're bringing  
3336 in, but who monitors other than them? It's a negative impact on anybody who wants to  
3337 build or develop over there. We had the same problem back when Nabisco came in  
3338 down there. You almost lost them on account of the dump situation. I'm just requesting  
3339 that some issues be looked at here, and to not allow them to extend operation any more  
3340 than they've already got, which is more than I agreed to, to start with.  
3341

3342 Mr. Wright - Anyone else in opposition? Mr. Spotts, you have a brief time

3343 to rebut.

3344

3345 Mr. Spotts - I'll be as brief as possible, sir; I appreciate the time. I've  
3346 read the transcripts of '95, and I'm aware that both Mr. Marshall and Mr. Booth  
3347 expressed opposition at that time. There's not a whole lot to say, except that the landfill  
3348 is there, we desire to expand it. I would like to comment on a couple of items that Mr.  
3349 Marshall mentioned. If you recall, two years ago we had a drought. This last year  
3350 we've had an incredible amount of rain. That is one thing that produces landfill gas  
3351 more than anything else, as far as getting it into the environment. That's why you've  
3352 read about the gas problem in other landfills, not Henrico's, and it's one of the reasons  
3353 we've been doing so much work on odor control. Definitely to get ready for the meeting,  
3354 there's no question about that, but it's also been mandated by the last twelve months of  
3355 rain. The other issue is the slope cover we're doing now, as I address, I believe to Mr.  
3356 McKinney, we are closing other areas of landfill. It's finished; it's reached its maximum  
3357 height, and that's when you put your final cover on it. You have to. As far as the traffic  
3358 on the road, both gentlemen are actually correct. One of the things that we brought out  
3359 at the meeting with the neighbors on May 13, is that we would support any restriction on  
3360 traffic. We would support any improvements on the road that we're told, based on the  
3361 current budget. VDOT funds for that road are pretty much non-existent, but we strongly  
3362 support any type of enforcement and lowering of speed on that road. As far as landfill  
3363 policing, to use the term, where is it coming from, are they covering it? I'm sure you  
3364 have read recently about the debacle in Page County, Virginia. Landfills are closed  
3365 down by the Department of Environmental Quality. Private landfills are under the gun  
3366 with the Department. They monitor them a great deal on a very great basis. If we do  
3367 not cover, if we violate any of our terms, we get a notice of violation; if we don't correct,  
3368 we are shut down. We've never had an environmental waste-related notice of violation  
3369 at this site. If we do not pick up on Charles City Road, and pick up the litter, which we  
3370 do the entire length of the landfill by agreement contained in the '95 use permit, we get  
3371 a phone call from the County. It happens very rarely because we do what we're  
3372 supposed to do. The cap that one gentleman referred to, we've always had a height  
3373 cap. I was referring to the cap on tons per day. I think there was confusion there. Mr.  
3374 Booth's concern, he's right across from the entrance to the property - I know that  
3375 anybody with property that's business related wants to be across from a park, not a  
3376 landfill, but I would submit to you that if you stand on his property and look across the  
3377 road, what you see is a park. You see the turn-in; it's been planted, landscape buffered,  
3378 if you look over that, you've got Lake Snyder. If you look at all the other entrances on  
3379 Charles City Road, and I don't mean to speak ill of any other business on Charles City  
3380 Road, I think you will find this is one of the nicer entrances along the whole front. Mr.  
3381 Booth was wise to connect his property to Williamsburg Road so he'd have two means  
3382 of ingress and egress, but I would point out to you, if you drive along Charles City Road,  
3383 you will see "For Sale" signs to some degree. If you drive Williamsburg Road, you see  
3384 a lot of vacant properties and "For Sale" signs. If you come off of 64 on Laburnum all  
3385 the way down to Charles City, there are hundreds of thousands of square feet of office  
3386 and especially office warehouse vacant, that I know the County and the Economic  
3387 Development people are working hard to try to find some use for. That's not because of  
3388 this landfill. If anything, when they find tenants to come there, those tenants are looking

3389 for power, water, sewer and waste. They want readily available waste so that they can  
3390 get rid of their waste cheaply and not go twenty or thirty miles or whatever the distance  
3391 is, and be held hostage by an out-of-County provider. I would submit to you again, if  
3392 BFI was not doing what it was supposed to do, and I don't mean the last three months, I  
3393 mean since 1994, and back to 1972, when they first came on Charles City, if a pack of  
3394 Nabs and a coke would buy people off, I would have delivered these gentlemen cases  
3395 of it prior to this meeting. We've done our job; if we ever miss something, we are  
3396 jumped on by the County, and by the DEQ, and that rarely happens, because we've  
3397 done what we said we were going to do. I think if you look back to 1995, we've done  
3398 what the Board was told in 1995. Any follow-up questions?  
3399

3400 Mr. McKinney - Mr. Spotts, you don't take care of the waste for the business  
3401 owners on Williamsburg Road and Charles City Road, do you?  
3402

3403 Mr. Spotts - Say again, do we take care of it?  
3404

3405 Mr. McKinney - You don't take their waste, do you?  
3406

3407 Mr. Spotts - We take all we can get. We have competition for that, but  
3408 we take all we can get, and I would imagine the bidding process, because of the  
3409 proximity, we're able to keep rates low. If we were not there, I believe the rates would  
3410 be much higher.  
3411

3412 Mr. McKinney - In other words, you have trucks that go up and down  
3413 Williamsburg Road and pick up trash and garbage? And also Charles City Road? To  
3414 take to your landfill?  
3415

3416 Mr. Spotts - BFI has a collection side as well. They pick up whatever  
3417 businesses that they can contract with, Mr. McKinney, and have the best rate to pick up.  
3418 Waste Management does; several other small private haulers go and pick up, and those  
3419 go to obviously to the Old Dominion Landfill. Now if Waste Management picks up,  
3420 they're going to take it either to the city of Richmond transfer station and ship it off one  
3421 of their landfills, or perhaps go directly to Charles City. I can't really speak for the  
3422 competing companies.  
3423

3424 Mr. McKinney - But you have trash trucks in that area?  
3425

3426 Mr. Spotts - Yes sir, we definitely do. As far as picking up on Charles  
3427 City Road, to clarify, BFI has personnel who go out and literally pick up along that  
3428 frontage road, all along Charles City Road by agreement with the County and the Board  
3429 for '95, and that is of great value to the neighbors because the public use area on the  
3430 weekends gets a lot of use. It's not the County's fault, but people drive in with trash in  
3431 the back of their cars with the trunks open, with pick-up trucks. It creates quite a mess,  
3432 which is very difficult for the County to control, but Monday morning BFI is picking all  
3433 that up.  
3434

3435 Mr. McKinney - So you pick up all the trash on Charles City Road, whether  
3436 it's from your trucks or .....

3437

3438 Mr. Spotts - I'm talking litter, if I can restate that. They pick up litter along  
3439 the road. Now if there's a business on Charles City Road, and they've got a contract  
3440 with them, yes sir, they'll pick that up.

3441

3442 Mr. McKinney - I'm saying, you police Charles City Road on a daily basis?

3443

3444 Mr. Spotts - I'll let Mr. Dudding qualify that – yes we do.

3445

3446 Mr. McKinney - On a daily basis? So you literally have people who are  
3447 going out picking up littler, etc., on both sides of Charles City Road, whether it came off  
3448 of your trucks or came from private vehicles or whatever.

3449

3450 Mr. Spotts - We cannot discriminate. Yesterday around 3:30 or 4:00  
3451 o'clock, as I left the site, there was a gentleman out there with a pole in hand and a bag  
3452 on the edge of that road, and as pointed out, it's a very narrow road. I would not want  
3453 that job, but yes, it is done.

3454

3455 Mr. Wright - If this permit is not approved, how much longer will you be  
3456 able to operate at your present location?

3457

3458 Mr. Spotts - At the present location, they could continue to operate, four  
3459 to eight years, and I'd like to be very clear on the reason for that gap. If this permit were  
3460 not approved, my guess is my client would very clearly cut back and only take the waste  
3461 that was the most profitable to take in. That could extend the life longer.

3462

3463 Mr. McKinney - What does that mean? I understand where the profit is, but  
3464 does that cut out other area, or are you going to be taking it from other areas because  
3465 it's more profitable?

3466

3467 Mr. Spotts - For example, if they have a contract with a Hardees on  
3468 Laburnum Avenue, and the rough tonnage is \$40 a ton to come in the gate, and they've  
3469 got a contract with a neighborhood off Mechanicsville Turnpike that the effective rate is  
3470 \$50 a ton, they're going to raise their rates to get more \$50 a ton contracts to make the  
3471 landfill last longer and maximize the value of that air space.

3472

3473 Mr. Wright – So you say four to eight years at the outside from now if you  
3474 didn't get this permit approved? If this permit is approved, how much?

3475

3476 Mr. Spotts - As outlined, I believe somewhere between twelve to fourteen  
3477 years, and it's easier to estimate that because you'll have a cap. If BFI were bought out  
3478 tomorrow by another company, and they say we want the City of Richmond contract,  
3479 the Henrico County contract, every other local government, we're going to fill this up,  
3480 you could not do that.

3481  
3482 Mr. Wright - What you're saying is, the bottom line is, you would add  
3483 about six years to the life of that operation if this is approved?  
3484  
3485 Mr. Spotts - That's correct. If the tonnage numbers were to decrease, if  
3486 the market would be where they could not get the tonnage, it would only extend it  
3487 longer, and the County would have that facility for a longer period of time.  
3488  
3489 Mr. McKinney - If granted, what are you going to do to help the adjoining  
3490 property owners, that you're not doing now?  
3491  
3492 Mr. Spotts - The buffer and screening requirements have to be submitted  
3493 within 45 days will be done just as in '95 to block the visual of that landfill site.  
3494  
3495 Mr. McKinney - But you heard some of the objections to this and what you've  
3496 done in the past. Are you going to do anything to make it better?  
3497  
3498 Mr. Spotts - There's no question, as this landfill stays longer, more things  
3499 are done to improve it, and I use the odor control, which came up really last fall. Yes  
3500 sir, we're doing that. The system going in for odor has been improved; we've talked to  
3501 several landowners in the past and bought properties. The gentleman who referenced  
3502 he would gladly be bought out, the problem there was one of price. If we were to buy  
3503 every property owner out at that price, the landfill would be bankrupt.  
3504  
3505 Mr. McKinney - You heard the complaint. Are you going to do anything to try  
3506 to alleviate it – I know if this is denied, you're still going to operate there for some time.  
3507 The landowners have still got the same problem. If this is granted, it's a little give and  
3508 take on both sides, what are you going to do to help these people out?  
3509  
3510 Mr. Spotts - As far as the specific comments, the only ones we've  
3511 received are the ones we've received here today. The other issues from the neighbors,  
3512 we have already addressed. I don't want you to think these are the only people who  
3513 raised issues that they wanted answers. Throughout the ten-year operation, we've  
3514 been adding things to address issues. As far as these specific issues, anything we  
3515 could do for adjacent properties that actually want to develop business, whether it's  
3516 retail business or otherwise, office warehouse has one of the highest vacancy rates in  
3517 the Richmond area, much less Henrico, but assuming something were to go in there,  
3518 we would work with that property owner, especially if they were immediately adjacent to  
3519 our property, to try to help them with waste disposal rates.  
3520  
3521 Mr. McKinney - I'm talking about the concerns right now, what the property  
3522 owners have as far as flies, odor, whatever, is that going to be reduced?  
3523  
3524 Mr. Spotts - I would say it is, and I will tell you why. Number 1, the odor  
3525 control has been the focus of all the landfills in Virginia this last year, and based on the  
3526 neighbors we have gone and talked to as recently as yesterday, they have said, "we

3527 don't know what you're doing, but it's a lot better – continue it – which is why we're  
3528 going from a temporary system into a permanent system, in addition to all the landfill  
3529 extraction method. This is the actual odor control system.

3530  
3531 Mr. McKinney - These concerns that we've had over years and years have  
3532 got to get better.

3533  
3534 Mr. Spotts - Without going into too much detail, the GE Batts has a  
3535 system about a control; it's not just masking. Without going into it, a method of getting  
3536 the odor molecule attached to drop out of the air. You're correct; things are improving  
3537 every year, and that's what we're going to put into place.

3538  
3539 Mr. McKinney - Are you going to do this at this site?

3540  
3541 Mr. Spotts - We'll be doing it at both sites, both this and another site that  
3542 BFI controls. It's a statewide concern.

3543  
3544 Mr. McKinney - When?

3545  
3546 Mr. Spotts - The system will probably be in place at this site within the  
3547 next ten days. The temporary system has been there for several months. It's proven it  
3548 works, and the permanent system will go in. I would like to comment on one thing  
3549 though, so there's no misunderstanding. When you have heavy rain, combined with a  
3550 low atmosphere pressure day, you're going to get gas at any landfill. So I don't want to  
3551 say that when this system goes into effect, you'll never smell anything again at that site,  
3552 but we will have addressed it as you suggest, with the highest technology available.  
3553 Also, as we have capped the closed areas of this site, it's going to prevent a lot of gas  
3554 from coming out, which is why we at least, and I believe the County, are getting fewer  
3555 complaints about odor. As far as the traffic, very good points. We spoke with a  
3556 neighbor. We suggested two things. The police, in fairness, have to respond to the  
3557 number of complaints they receive on traffic. You should call every time you see a  
3558 vehicle out here, and we will support any traffic speed reduction on that road. That's  
3559 something we would like to do; we support the improvements on the road too. We've  
3560 already done the extension lane to get the trucks off the road. Flies, have not been an  
3561 issue that's been raised at the landfill. There are going to be flies on the face of the  
3562 landfill during the summer; there's no question, but that's not something that's been  
3563 brought to us from neighboring businesses.

3564  
3565 Mr. McKinney - Well, I'm familiar with the landfill, and I'm familiar with the  
3566 restaurant that Mr. Marshall's talking about, because I've eaten lunch there fairly often.  
3567 What you're saying is, it's going to be quite a bit better, a little bit better? Are you  
3568 speaking on behalf of BFI, or do we have somebody here from BFI who can assure us  
3569 of this?

3570  
3571 Mr. Spotts - I think I can assure you as well as anybody, and if you'll let  
3572 me just qualify this. As the landfill closes from west to east, Yesterday's Restaurant is

3573 all the way up on the top corner. We're going to be closing away from that area, so that  
3574 in and of itself is going to be an improvement. I can tell you on the odor, the County has  
3575 been very forceful with BFI. They know the problems; they have their own landfill in the  
3576 west end that they're dealing with, but we have had to address that, and I will tell you  
3577 that has already been an improvement. The flies and the birds – any time we can get a  
3578 permit to reduce the bird population, I would tell you the landfills do. Buzzards, when  
3579 you get those, they're federally protected, and you cannot take care of them in that  
3580 manner in which you would like to.

3581  
3582 Mr. McKinney - You can't put somebody out there with a gun and shoot them  
3583 down.

3584  
3585 Mr. Spotts - Technically, no sir, you cannot. I won't say that self-help has  
3586 not been used, but it's difficult.

3587  
3588 Mr. Nunnally - You said that you'd talked to somebody, a bunch of people,  
3589 yesterday, I think; you say you don't know what you're doing, but keep on doing it.  
3590 Where were they located?

3591  
3592 Mr. Spotts - They're located on Charles City Road and the Pickwick  
3593 neighborhood, I believe. I refer to Pickwick neighborhood; that's the one area of  
3594 residential development that's close to the landfill, and we've very cognizant of their  
3595 concerns and try to address them.

3596  
3597 Ms. Dwyer - How many people were at your citizens meeting?

3598  
3599 Mr. Spotts - Twenty-one or twenty-two citizens.

3600  
3601 Ms. Dwyer - And what were their complaints, because no one's here  
3602 today representing that group, so I'm assuming their complaints were addressed.

3603  
3604 Mr. Spotts - I don't mean to beat up on the County, but they talk about  
3605 smell, and they talk about traffic, and the things that we tried to address; the traffic was  
3606 the worst one. They know it's not us per se, but very correctly it should be a four-lane  
3607 road; it's a narrow two-lane road. The main issue they had was they were very upset  
3608 about the condition of the entrance. We were very shocked about that, because they  
3609 said, "no, not your entrance, but the public use entrance of the County." In fairness to  
3610 the County people, they get flooded on the weekends with people who don't come in  
3611 with a waste container type vehicles. They get a lot of trash that comes off that they  
3612 cannot help, and the residents don't like to see that. Of course we pick it up on Monday  
3613 morning along the road. The County picks up the entrance-way. One of the ways, Mr.  
3614 McKinney, to get back to your issue, our berms will go on both sides of the County's  
3615 entrance to the public use area, to try to at least screen off the public use area.

3616  
3617 Mr. McKinney - Mr. Blankinship, has Public Works and the Traffic  
3618 Department done any studies on the area down there?

3619  
3620 Mr. Blankinship - Mr. Yob could probably answer that better than I.  
3621  
3622 Mr. McKinney - As far as Tim Foster, or Lee Priestas, or any of those, as far  
3623 as speed limits or any of that?  
3624  
3625 Mr. Blankinship - Not that I'm aware of.  
3626  
3627 Mr. McKinney - That's been going on a long time. It is a narrow, dangerous  
3628 road, because I've driven it quite a few times, and I've seen trucks go up an down very  
3629 fast. I don't know what the accident count is.  
3630  
3631 Mr. Wright - These are some concerns, whether or not this is approved,  
3632 that staff ought to look into, to see if we can approve them. We should cooperate in  
3633 every way.  
3634  
3635 Ms. Dwyer - What will happen to the landfill when you are finished with it?  
3636  
3637 Mr. Spotts - When the landfill is finished, a very good example of what it  
3638 will be, when you drive down Charles City Road to the east, you will see the closed old  
3639 BFI landfill from 1972. You will basically see a hill, with grass on it. The regulations for  
3640 post-closure maintenance through the DEQ are substantial; there are millions of dollars  
3641 in environmental bonds, to make sure that hill stays a hill. I'll be glad to go into the  
3642 environmental inspections, the protests, the results, but in a nutshell, you'll end up with  
3643 a grass covered hill. The only difference is, the one that you will see along Charles City  
3644 Road to the east along Laburnum is very close to the road. This will be much more  
3645 removed from the road. You'll have all the vegetation. You probably won't be able to  
3646 see it, but if you did, you'd see a hill covered with grass. The Code mandates a cover,  
3647 and they monitor it for years.  
3648  
3649 Ms. Dwyer - You will continue to own the property in perpetuity and  
3650 monitor it?  
3651  
3652 Mr. Spotts - Correct. That's mandated again; the ownership is not  
3653 mandates, but no one would probably buy it from you at that time, which is why the  
3654 County wants to unload this albatross to someone who can use it. It would be owned  
3655 by BFI, and the bonds that are required, Ms. Dwyer, are required, whether we sell it and  
3656 go out of business; they have to be in place now. A lot has changed with landfills in the  
3657 last ten years.  
3658  
3659 Mr. Wright - Anything further, Mr. Spotts? That concludes the case.  
3660  
3661 **(Voice from audience)** - I have a petition here from 89 people that signed, and I  
3662 neglected to turn it in.  
3663  
3664 Mr. Wright - You can submit that. That concludes the case.



3665  
3666 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
3667 Kirkland, the Board **granted** application **UP-18-2004** for a conditional use permit to  
3668 expand the existing landfill at 2001 Charles City Road (Parcels 812-711-4422, 4005,  
3669 811-711-5111, 811-710-9875, 811-709-7458, 810-710-6142, 811-686-1061, 809-711-  
3670 9586, 6079 and 808-709-9287). The Board granted the use permit subject to the  
3671 following conditions:  
3672

3673 1. The landfill shall meet all applicable federal and state requirements regarding air  
3674 pollution, water pollution and solid waste management.  
3675

3676 2. The driveway to the landfill shall be paved for at least 400 feet off of Charles City  
3677 Road and the operator shall take all necessary steps to prevent the tracking of mud or  
3678 debris onto any public road.  
3679

3680 3. Waste may be accepted for disposal from 6:30 AM to 6:00 PM Monday through  
3681 Friday, from 7:00 AM to 6:00 PM Saturday, and such other times as expressly required  
3682 or permitted by the Director of Planning or the Director of Public Utilities or their  
3683 designees.  
3684

3685 4. The facility shall not be used for the disposal of toxic or hazardous waste as  
3686 defined by the Virginia Department of Environmental Quality or the U.S. Environmental  
3687 Protection Agency.  
3688

3689 5. Curb and gutter and necessary storm drainage facilities shall be constructed and  
3690 maintained along Charles City Road as required by the Department of Public Works.  
3691

3692 6. Within 45 days of approval, the applicant shall submit a detailed landscaping,  
3693 lighting and fencing plan for review and approval by the Planning Department.  
3694

3695 7. A slurry wall shall be constructed prior to the disposal of any waste within five  
3696 vertical feet of the ground water table.  
3697

3698 8. No landfilling shall take place on any part of the property that lies within the 100-  
3699 year floodplain.  
3700

3701 9. This facility shall not accept waste that was generated more than 150 miles from  
3702 this location.  
3703

3704 10. Water quality shall be monitored as required by the Virginia Department of  
3705 Environmental Quality and the results provided to the Henrico County Department of  
3706 Public Utilities.  
3707

3708 11. The final elevation of the property after completion shall not exceed 320 feet  
3709 above mean sea level. Such final elevation point of 320 feet MSL shall be at least

3710 1,500 feet from any residence or from any property zoned residential and not owned by  
3711 the applicant.

3712  
3713 12. All trucks hauling material to the property shall be covered with a tarp unless they  
3714 are completely enclosed.

3715  
3716 13. There shall be no entrance for the depositing of waste from any road other than  
3717 Charles City Road. The main entrance to the site shall not be relocated without the  
3718 approval of the Henrico County Director of Planning.

3719  
3720 14. The operator shall daily monitor and clean up trash on both sides of Charles City  
3721 Road from Williamsburg Road to Laburnum Avenue. This condition may be satisfied in  
3722 cooperation with the County operation of the convenience site on the adjoining property.

3723  
3724 15. [Amended] Only the areas shown as "Phase 1" and "Phase 2" on the exhibits  
3725 submitted with the application shall be used for the sanitary landfill disposal area.

3726  
3727 16. [Amended] The landfill shall be fenced and shall be secured or monitored at all  
3728 times.

3729  
3730 17. Prior to closing the landfill, the operator shall install a cover as required by  
3731 Subtitle D of the U.S. Environmental Protection Agency regulations on any portion of old  
3732 County landfill not already covered by the expansion of the applicant's landfill.

3733  
3734 18. All existing vegetation within 250 feet of Pickwick Lane shall be preserved  
3735 subject to easements and other agreements for ingress, egress or utilities.

3736  
3737 19. [Added] That portion of Parcel 808-712-0741 (formerly identified as Parcel 10-  
3738 A2-7) within 1,000 feet of Charles City Road and comprising a surface water body  
3739 known as Lake Schneider, consisting of approximately 14.3 acres, shall be left in its  
3740 natural condition and shall not be developed or used as a portion of the sanitary landfill.

3741  
3742 20. [Added] That portion of Parcel 808-712-0741 (formerly identified as Parcel 10-  
3743 A2-7) north of Lake Schneider and toward Charles City Road shall remain in its natural  
3744 state, except for improvements to provide the entrance to the landfill and for any other  
3745 improvements approved by the Henrico County Director of Planning.

3746  
3747 21. [Added] The requirements and conditions of the County's contract to sell the  
3748 property to BFI, and the Host Community Agreement, as they may be amended by both  
3749 parties from time to time, are incorporated as if fully set out herein.

3750  
3751 Affirmative: Dwyer, Kirkland, McKinney, Nunnally, Wright 5  
3752 Negative: 0  
3753 Absent: 0

3754

3755 The Board granted the request because it found the proposed use will be in substantial  
3756 accordance with the general purpose and objectives of Chapter 24 of the County Code.

3757  
3758 **A - 75-2004**                    **STUARD A. AND BETTE ROCK** request a variance from Section  
3759 24-94 of Chapter 24 of the County Code to build an addition at  
3760 2308 Pleasant Run Drive (Tuckahoe Village West) (Parcel 730-  
3761 750-2928), zoned R-2A, One-family Residence District (Tuckahoe).  
3762 The rear yard setback is not met. The applicants propose 32 feet  
3763 rear yard setback, where the Code requires 45 feet rear yard  
3764 setback. The applicants request a variance of 13 feet rear yard  
3765 setback.  
3766

3767 Mr. Wright -                    I will have to disqualify myself from this case. Our Vice  
3768 Chairman can take over.

3769  
3770 Mr. Nunnally -                    Is anyone else here interested in this case, other than Mr.  
3771 Axselle? Would you raise your right hand and be sworn please?

3772  
3773 Mr. Blankinship -                    Do you swear that the testimony you are about to give is the  
3774 truth, the whole truth, and nothing but the truth, so help you God?

3775  
3776 Mr. Axselle -                    I do. Mr. Chairman, my name is Bill Axselle; I'm here on  
3777 behalf of Al and Bette Rock, who are the applicants. Bette Rock is here with us; she's  
3778 been my legal assistant for thirty-five years, and I feel the same situation I felt when I  
3779 went to traffic court a number of years ago with my mother, but I did represent her, and  
3780 we were successful, but I remember the pressure I felt. Al and Bette Rock want to add  
3781 an addition onto their home, as shown in the document. It would be an addition of the  
3782 same material, the same construction, the same vinyl, the same look, the same  
3783 windows, similar to the addition that's already on the other side. As the staff said, the  
3784 requested variance shall not create any detrimental impact. I would like to provide to  
3785 Mr. Blankinship a petition that has been signed by the neighbors and that notifies them  
3786 of it, gives them a copy of the plan, and I quote, "The second purpose of this memo is to  
3787 ask you to sign this memo as indication that you have been informed of our plans and  
3788 have no objection to our variance request." The point is that all of the adjacent and  
3789 adjoining neighborhood folks have been notified and also have indicated they have no  
3790 objection. There are a number of factors that make this a very unusual case. This is a  
3791 reverse corner lot, as indicated in the staff report, and as you can see, it's the inside of  
3792 two curves. The staff also said it's an oddly shaped lot. Basically, you have two curved  
3793 lot lines on Elmington and Pleasant Run, and then the two other lines go back in an  
3794 angle and kind of come back in a narrowing effect. Also, the orientation of the house  
3795 limits the flexibility of the property, and I will explain that. The front of this lot is on  
3796 Elmington Road. The house faces Pleasant Run. The addition, which would be, if you  
3797 were standing facing the house on Pleasant Run, which would be on your left, which  
3798 would appear to be the side, is the side of the house, but it is the rear of the lot. That is  
3799 the problem. They do not have an adequate rear lot depth and are requesting the  
3800 variance. They could not go to what looked like the rear, because of the proximity to

3801 that line. The question might be, why could they not add the addition on towards  
3802 Elmington, and there are probably four or five reasons. That side has a chimney and a  
3803 fireplace. It has the air conditioning unit for the house on that side. It has the gas  
3804 coming in there. It has the parking area, which is there, and also it would unbalance the  
3805 house. I have a picture which I can pass up. I highlighted in yellow the paragraph  
3806 which I quoted to you. As you know the applicant used to give the notice to the  
3807 neighbors, and since I haven't visited with you for a while, that's what I started to do,  
3808 and then I added this, because the neighbors preferred this to be the approach.

3809  
3810 Ms. Dwyer - If we counted side yard, based on the way the house is  
3811 oriented, you'd have plenty of space. Because it's rear yard, you don't.

3812  
3813 Mr. Wright - Any other questions of Mr. Axselle?

3814  
3815 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.  
3816 Kirkland, the Board **granted** application **A-75-2004** for a variance to build an addition at  
3817 2308 Pleasant Run Drive (Tuckahoe Village West) (Parcel 730-750-2928). The Board  
3818 granted the variance subject to the following conditions:

3819  
3820 1. Only the improvements shown on the plan filed with the application may be  
3821 constructed pursuant to this approval. No substantial changes or additions to the layout  
3822 may be made without the approval of the Board of Zoning Appeals. Any additional  
3823 improvements shall comply with the applicable regulations of the County Code.

3824  
3825 2. The new construction shall match the existing dwelling as nearly as practical.

3826  
3827 Affirmative: Dwyer, Kirkland, McKinney, Nunnally 4  
3828 Negative: 0  
3829 Abstain: Wright 1

3830  
3831 The Board granted this request, as it found from the evidence presented that, due to the  
3832 unique circumstances of the subject property, strict application of the County Code  
3833 would produce undue hardship not generally shared by other properties in the area, and  
3834 authorizing this variance will neither cause a substantial detriment to adjacent property  
3835 nor materially impair the purpose of the zoning regulations.

3836  
3837 Mr. Wright - Would you call the case again that we passed.

3838  
3839 Mr. Wright - One of the members has requested a five-minute recess  
3840 before we get started on the decisions.

3841  
3842 Mr. Wright - We will go back to front, for the people who have waited to  
3843 hear their results.

3844

3845 On a motion by Mr. McKinney, seconded by Mr. Nunnally, the Board **approved**  
3846 **as corrected**, the Minutes of the **December 18, 2003**, Henrico County Board of  
3847 Zoning Appeals meeting.

3848  
3849 Affirmative: Kirkland, McKinney, Nunnally, Wright 4  
3850 Negative: 0  
3851 Abstain: Dwyer 1

3852  
3853 There being no further business, and on a motion by Mr. Nunnally, seconded by  
3854 Mr. McKinney, the Board adjourned until **July 22, 2004**, at 9:00 am.  
3855

3856

3857

3858 Russell A. Wright, Esq.

3859 Chairman

3860

3861

3862 Benjamin Blankinship, AICP

3863 Secretary

3864