

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, MARCH 25, 2004,**
4 **AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-**
5 **DISPATCH ON MARCH 4 AND 11, 2004.**
6

Members Present: R. A. Wright, Chairman
James W. Nunnally, Vice-Chairman
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 - Ladies and Gentlemen, welcome to the March meeting of
9 the Board of Zoning Appeals of Henrico County. Please stand and join me for the
10 **Pledge of Allegiance to the Flag of our Country.** At this time I'm going to ask the
11 Honorable Daniel T Balfour to join me at the rostrum. Ladies and Gentlemen, I don't
12 know whether all of you know, but Mr. Balfour has been elected as a Judge of the
13 Circuit Court of Henrico County since our last meeting. As a judge now, he is not
14 eligible to sit any further on the Board of Zoning Appeals, and we're going to really miss
15 him. He has served with distinction on this Board of Zoning Appeals since August of
16 1996, and served as our Chairman for the past two years. So Dan, we certainly
17 appreciate your contributions to Henrico County through your service on the Board of
18 Zoning Appeals. We'd like to present you with this resolution adopted by the Board,
19 and I'll read it for you.

20
21 **RESOLUTION OF THE BOARD OF ZONING APPEALS OF HENRICO**
22 **COUNTY, VIRGINIA**
23

24 **WHEREAS,** Daniel T. Balfour has served the Henrico County Board of Zoning
25 Appeals with wisdom and integrity from August 22, 1996, to March 25, 2004, and
26

27 **WHEREAS,** the quality of life in Henrico County has been improved by his seven
28 years of hard work and dedication, and
29

30 **WHEREAS,** he has found it necessary to leave the Board of Zoning Appeals to
31 answer a higher calling as Circuit Court Judge, now
32

33 **THEREFORE,** be it resolved that the Henrico County Board of Zoning Appeals
34 expresses appreciation to Daniel T. Balfour for seven years of a job well done,
35 and wishes him well on the bench.

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Russell A. Wright, Chairman

Benjamin W. Blankinship, Secretary

As of the 25th day of March 2004

We also have a little remembrance for you here. This is something from us, the Board, and the County, that you can look at in your leisure moments, if you have any.

Mr. Balfour - Thank you Mr. Chairman, members of the Board. It has been my pleasure to serve Henrico County as Chairman and member of the Board of Zoning Appeals. I'm certainly going to miss being with these people up here, and I'm glad to serve the County. Thank you.

Mr. Wright - Mr. Blankinship, would you read the rules, please.

Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each case. While I'm reading it, the applicant should come down to the podium. I will ask all those, in favor or in opposition, to stand and be sworn in. The applicants will then present their testimony. When the applicant has finished, the Board will ask them questions, and then anyone else who wants to speak will be given the opportunity. After everyone has spoken, the applicant, and only the applicant, will have the opportunity for rebuttal. After hearing the case, and asking questions, the Board will take the matter under advisement. They will render all of their decisions at the end of the meeting. If you wish to know their decision on a specific case, you can either stay until the end of the meeting, or you can call the Planning Office later this afternoon, or you can check the website. The vote on each case will be posted to our website within an hour of the end of the meeting. This meeting is being tape recorded, so we will ask everyone who speaks, to speak directly into the microphone on the podium, to state your name, and to spell your last name please. And finally, out in the foyer, there are two binders, containing the staff report for each case, including the conditions that have been suggested by the staff. Mr. Chairman, we have two requests for deferral on this morning's agenda, UP-4-2004 Country Club of Virginia – they had some conversations with some neighbors and have asked for a deferral until May 27, 2004. The other is A-31-2004, the last case on the agenda. The applicant has requested deferral until the April 22, 2004, meeting.

Beginning at 9:00

A -144-2003 **RCI BUILDERS** requests a variance from Sections 24-95(c)(2) and 24-95(k) of Chapter 24 of the County Code to build a one-family dwelling at 1800 Terrace Avenue (Hermitage Club Terrace) (Parcel 782-750-2829), zoned R-2, One-family Residence District (Fairfield). The rear yard setback and street side yard setback are not met. The applicant has 12 feet rear yard setback, and 10 feet street side yard setback, where the Code requires 25 feet rear yard

82 setback and 25 feet street side yard setback. The applicant
83 requests a variance of 13 feet rear yard setback and 10 feet street
84 side yard setback.

85
86 Mr. Wright - Does anyone else desire to speak with reference to this
87 case? Please stand and raise your right hands, so you can all be sworn at the same
88 time?
89

90 Mr. Blankinship - Do you swear that the testimony you are about to give is the
91 truth, the whole truth, and nothing but the truth, so help you God?
92

93 Mr. Rogers - I do. Gentlemen, my name is Todd Rogers, with RCI
94 Builders. We were approached by a realtor to buy this lot, subject to our being able to
95 put a house on it that would meet all the County requirements. In doing so, we found
96 that the lot would not fit to meet the setback requirements on this lot, and through the
97 process here, we changed the plan once also to be in more conformity with the
98 neighborhood. What we have designed here for this particular lot is a Cape Cod style
99 house with a front porch. There will be brick on the front of the house, with vinyl siding
100 on the sides and rear, and with the irregular shape of the lot, being a corner lot, one of
101 the roads that is adjacent to this lot is not improved at this time. That's Club Road,
102 approved as a right-of-way; it's an unimproved road. We are encroaching, trying to
103 meet the 25-foot setback towards the front of the lot; we meet that okay. It's when the
104 back of the lot is where we come within 15 ½ feet, where the requirement is 25. On the
105 rear yard, 25 feet, we meet it about a third of the way for the house, and the other two
106 thirds we go as close as 12 ½ feet, so we're asking for a variance to be able to build
107 that house on that lot.
108

109 Mr. Wright - Any questions of members of the Board?
110

111 Mr. McKinney - I noticed on your rendering, Mr. Rogers, you've got a brick
112 front – what's the rest of it going to be?
113

114 Mr. Rogers - It's going to be vinyl siding on the rear and sides, brick
115 foundation all the way around.
116

117 Mr. McKinney - What type of roof?
118

119 Mr. Rogers - Asphalt shingles.
120

121 Mr. McKinney - 1548 square feet? That's finished area? Have you built this
122 house before? Whereabouts.
123

124 Mr. Rogers - Yes sir. Yes. Yes, we have. We have several lots up in the
125 Ashland area that we've built it, and also over in Hanover County, in the Mechanicsville
126 area.
127

128 Mr. McKinney - Do you have a contract to sell this house?
129
130 Mr. Rogers - No, I do not.
131
132 Mr. McKinney - Spec house.
133
134 Mr. Rogers - We've had several interested people, but I didn't want to do
135 that until then.
136
137 Mr. Nunnally - How would you access this house?
138
139 Mr. Rogers - It would be from Terrace Avenue.
140
141 Mr. Wright - Which side of the house would the driveway be on? The
142 Club Road side or the other side?
143
144 Mr. Rogers - If there's a preference, we would grant that, but we could put
145 it on either side.
146
147 Mr. Wright - Do you have any plan right now as to which side the drive
148 would be on?
149
150 Mr. Rogers - As you're facing the house from Terrace, I would think that it
151 would be on the left-hand side, further away from the intersection.
152
153 Mr. Wright - Is anyone here in opposition to this request? Would you all
154 come down to the podium and state your case, please. We'd like to hear everything
155 you say, but please don't repeat what's been said by the person ahead of you. If you'll
156 all come down and be prepared, however you want to do it. Each one of you state your
157 name for the record and then proceed to tell us what you desire to state.
158
159 Ms. Chandler - Good morning; my name is Linda Chandler. I live at 7156
160 Club Road. My property faces the golf course, and the front yard of my property is
161 perpendicular to the property that is being discussed today for the variance.
162
163 Mr. Wright - You're not the house next to this; you're the second house
164 up.
165
166 Ms. Chandler - No sir, I am not. Yes sir, I am. In looking at the case report,
167 I wanted to point out a couple of things that I felt were necessary for you to know. In the
168 evaluation, the first finding, it said that "The parcel is larger than most lots in the
169 Hermitage Club Terrace subdivision." I have a copy of the plat, and I made copies for
170 everybody here, and I also highlighted individual lots, and I highlighted in purple the lot
171 that we are speaking of. Mr. Secretary, could you pass these back. **(Unintelligible**
172 **comment, off mike)** It would be great if everyone could see this. I guess you're not
173 going to be able to see the color, unfortunately. You'll have to move it over to the left,

174 please. I guess what I want to clarify is that lot 122 is larger – do you see lot 122 there
175 at the corner – is larger than most lots in that subdivision, if you were to compare it to lot
176 121 next to it and 123 behind it. However, most parcels with homes are built on more
177 than three lots, which is why I colored the plat that I had. In fact, this lot is not larger
178 than most. It is in fact the smallest in the subdivision. I just wanted to clarify that.

179
180 Mr. Wright - But it does meet the minimum requirements under the
181 Henrico Code though, the size requirements.

182
183 Ms. Chandler - For R-2?

184
185 Mr. Wright - Yes. The lot size is not in question.

186
187 Ms. Chandler - But that's why it needs the variance, sir, to put a house on it.

188
189 Mr. Wright - That's not what my information says; it's a variance of 13
190 feet rear yard and ten feet side yard – that has nothing to do with the size of the lot.

191
192 Ms. Chandler - What I am clarifying, sir, is that the statement saying that the
193 parcel is larger than most lots in Hermitage Club Terrace. What I'm saying to you is that
194 most parcels in Hermitage Club Terrace include more than one lot, but it's a buildable
195 lot with a variance.

196
197 Mr. Wright - I understand, I understand. It's a buildable lot without the
198 variance if they could meet the side yard and the rear yard requirements. The area of
199 the lot is as required by the Henrico Code, is that not right, Mr. Blankinship? We don't
200 have an area problem; we have a location of the house problem. Because it's a corner
201 lot presents a problem.

202
203 Ms. Chandler - On # 2, "Denial of the variance would appear to prohibit any
204 reasonable use of the property," Mrs. Parham, the owner of the property, owns the rent
205 property next door, and I do have a picture of that. I don't know if that is necessary, but
206 her property next door does sit on four lots. Reasonable use of the property – she could
207 have enlarged her home, added onto it; she could have built a garage. She just
208 chooses not to, so denial of the variance would not prohibit reasonable use of the
209 property. The landowner just chooses not to use it for her purpose, which I understand.
210 The third finding that I have a problem with, it says that "Since Club Road is not
211 maintained as a public street, the variance from the street side yard setback should not
212 create any substantial detrimental impact. There is a house to the rear of the property,
213 which may be affected by the variance from the rear yard setback." My neighbor here
214 will address that issue. My issue for me is that, and I do have pictures of this, the
215 detrimental impact to my property is that, in looking at the house plan, you will note that
216 this is a three-bedroom, possibly a four-bedroom, with a loft, and if you look at the
217 house plan on the first floor, living room, there's two bedrooms, bathroom, kitchen,
218 washer, drier, and a deck off the back. What bothers me most is that there is no garage
219 or storage for anything. Where are they going to put their lawn mower, their lawn

220 equipment, tools, bikes, toys, trashcan, their dog? Where are they going to put these
221 things? I have a picture of this property, if Mr. Benjamin would please, you could either
222 pass it along, or you could

223
224 Mr. Blankinship - Apparently the color camera is not working.
225

226 Ms. Chandler - This picture actually shows me driving down Club Road (I'm
227 taking it from my vehicle). My portion of Club Road is maintained. It is paved, and it is
228 maintained by the County. It dead-ends at my property line. When I drive into Club
229 Road, if you look at the plat, I drive into the rear, I have the full rear view of this house,
230 and I wanted you to know that, and from my front porch as well, as you can see from
231 the plat up there, I will have full view of the back. I personally would prefer not to look at
232 their trashcans, not to look at their bikes, not to look at their lawnmower. I have a
233 superior view because I face the golf course, and the value of my property is enhanced
234 by that view. If you put a house there without facilities to store these items, then this is
235 where I'm going to be looking at them all the time, coming and going from my home,
236 enjoying the front yard view that I've worked so hard to have. The other thing I wanted
237 to tell you about is that it is a disservice to any future homeowner to not put a garage
238 here. This house borders the Belmont Golf Course, and it will pepper any vehicle
239 parked close to it. It's very close to the Belmont Golf Course, and I'm peppered all the
240 time, but I'm set back further. I believe that it would be a real disservice not to put a
241 garage up there in order for someone to protect their vehicles. The gentleman before
242 said that he planned to put the driveway on the left side, but he said if there's a
243 preference, it could be either side. I do want to point out to you that there's only 9.5
244 feet, which is the County Code, rear side setback, on the left side of the house, looking
245 at it. Whether or not that is a large enough area for a driveway, I'm sure it is because
246 most driveways are ten; mine are wider. It depends on how many vehicles you have.
247 We certainly do not want them parking on the street because actually I do have a
248 picture of a car that actually turned the corner yesterday, and you will see that as he
249 turns the corner, if there are cars parked on that corner, it creates a traffic hazard. So
250 obviously we don't want cars on the street, and we would certainly like to have storage
251 and garage facilities for cars and for any outdoor equipment that this house may bring to
252 it in future homeowner use. I would like to pass these pictures on to you as well.
253

254 Mr. McKinney - Ms. Chandler, I have a question. Do all the houses in this
255 subdivision have garages?
256

257 Ms. Chandler - No sir, they don't, but all the houses on Club Road, which is
258 golf course, have either garages or carports. I have a carport, which is going to be
259 enclosed as a garage. I do have an active building permit, mechanical permit, plumbing
260 and electrical. My house is under renovation.
261

262 Mr. McKinney - You face directly onto Club Road. Any you say you're going
263 to be looking into the back yard of this house?
264

265 Ms. Chandler - That's correct.

266
267 Mr. McKinney - How's that? You're 7156, you got 7104 and 7102; then you
268 drop down to the corner lot, which is 1800.
269
270 Ms. Chandler - I can show you pictures. Oh, 7104, the lot that you show
271 right there, that lot is actually a part of my neighbor's lot, and her house sits back, and
272 my house is actually sitting forward. You can actually see it. So when they put that
273 house there, the whole rear view is visible from my front porch.
274
275 Mr. McKinney - Is there a house on 7102?
276
277 Ms. Chandler - Yes sir, but she sits back.
278
279 Mr. McKinney - You were talking about storage, because most people, in a
280 new house that's left up to the homeowner, whether they're going to put a storage shed
281 in the back to put their lawnmowers, and I'm sure whoever buys it, if they don't have a
282 yard person, will do that.
283
284 Ms. Chandler - However, sir, the case report says on the recommendation,
285 "Only the improvements shown on the plans filed with the application may be
286 constructed pursuant to this approval. No substantial changes or additions to the layout
287 may be made without the approval of the Board of Zoning Appeals. Any additional
288 improvements shall comply with the applicable regulations of the County Code.
289
290 Mr. McKinney - Ms. Chandler, that refers to this house.
291
292 Mr. Blankinship - They could do additional improvements, as long as they
293 comply with the Code.
294
295 Ms. Chandler - Yes, but any improvements not, they're already needing a
296 variance to put a house there, so if they want to put a storage shed out there,
297 depending on the size.
298
299 Mr. McKinney - They don't have to come back to us for a storage shed.
300
301 Ms. Chandler - What about a carport?
302
303 Mr. McKinney - A carport they would, yes.
304
305 Ms. Chandler - In the February 8 Real Estate section of the Richmond
306 Times-Dispatch, there was an article by Kenneth Harney, who is a well-known columnist
307 who writes a column regarding real estate housing, and the added value to key real
308 estate parcels. I only want to tell you one part of this excerpt, because it's 80 pages
309 long, and I can give you the website where you can go and find it, but it says, "Water
310 and golf views are predictably strong value enhancers. A water view adds 7.8% to
311 sales price, but an actual waterfront location adds nearly 18%. A golf view, adjacent to

312 a golf course, adds 8.1. I face the golf course that has a water view, because there's a
313 pond with a fountain in it, and I have a golf view.

314
315 Since moving there, this lot is overgrown, and that area there was horribly overgrown;
316 we've cleaned it out. I think if this house was in Wyndham or the Crossings, and I'm
317 sure there are covenants I did not bring, but they would not allow outbuildings,
318 doghouses, because I used to live in the Snyder Hunt development of Wellesley. You
319 could not even see our swing set from the front street. What I'm saying is that last night
320 I went around, and I talked to all the neighbors. I spent the last three days in the
321 Record Room, and I talked to all the neighbors, and as with any typical older
322 neighborhood, this neighborhood was platted in 1922; it was approved in 1924, and we
323 have people in there, like my neighbor, who've been there for 52 years, and we have
324 people like me who are new, renovating, like the area, love Henrico County, like the
325 course, one of the last few affordable golf course properties that my husband and I
326 could possibly own in our lifetime. What I found out from my neighbors is that the truth
327 is, that they want something other than what is there. That's the truth. So do I. I would
328 prefer a house there than what's there. What's there is horrible, and it doesn't do any
329 good for my property.

330
331 However, based on what I see here, and if you're going to give a variance, this house
332 could easily be turned towards the golf course, front porch view on the golf course.
333 They could enter into a driveway on Terrace; it would add profitability, profit, truthfully. It
334 would sell very quickly. Now that I've cleaned up my place, people have stopped me
335 and say "are you going to sell your property?"

336
337 Mr. McKinney - Ms. Chandler, you can't turn a house to the side yard. One
338 other question, suppose the developer put up some evergreen screening across the
339 back yard so you couldn't see it. Would that satisfy you?

340
341 Ms. Chandler - Why not? It's a remedy; it's not a cure. I think that it would
342 be better than nothing. I personally think the best remedy would be to not approve, not
343 deny, but defer one more time, but to allow this builder to make some kind of storage
344 allowance on that home.

345
346 Mr. McKinney - Have you had a chance to talk to the builder?

347
348 Ms. Chandler - I tried calling them, and I talked with Mr. Kerwin once; he
349 really wasn't interested in speaking to me; I called Sandy Slater. She did send me a
350 copy of the home front elevation.

351
352 Mr. McKinney - How about Mr. Rogers? Have you talked to him?

353
354 Ms. Chandler - No sir. I left my number and asked him to call me, asked
355 him to meet me there, and I have never heard from them.

356
357 Mr. McKinney - I think you've got their attention now.

358
359 Ms. Chandler - Thank you. In all honesty, distinguished members, we just
360 refinanced our home, and the appraiser – our house is under renovation; I do not even
361 have a kitchen; I have no appliances; I have no air conditioning – my house appraised
362 for \$50,000 more than what I bought it for, because the framing was completed. We
363 took off the back because it was so sub-standard. The header over a door was a two
364 by four turned on end.

365
366 Mr. Wright - We've got to move on.

367
368 Ms. Chandler - I'm sorry. I'm very passionate about this. I understand. I
369 would appreciate if we could defer it one month, let the builders put some kind of
370 storage on this so that I will not be looking at their trash cans, their dog, and everything
371 else, and do know that there will not be a choice as far as where that driveway goes,
372 because if they put it on the right side where it borders the golf course, they will not
373 leave their cars there; they will end up parking on the street, which is not good. I would
374 like to leave with you a petition with some neighbors' signatures, saying that they do
375 oppose this variance; they're not opposed to the house; they're opposed to this variance
376 for this house, based on the reasons that I've stated.

377
378 Mr. Wright - Thank you very much.

379
380 Mr. McKinney - Did she leave anything for you other girls?

381
382 Mr. Wright - We want to listen to each one of you, but please don't repeat
383 what's been said before.

384
385 Ms. Hartman - She said it all, but I made my notes, so I'm going to read
386 them. My name is Deloris Hartman. I live at 7102 Club Road. I have lived there for 52
387 years. My house is at the rear of this property, and I will be greatly affected by the
388 variance from the rear yard setback. The back corner of the proposed house is only 12
389 ½ feet from my property line, and the 12-foot by 10-foot deck, shown on the house, will
390 only be within 2 ½ feet of my property. I'm very concerned about that, and I get very
391 upset about it. You can probably tell that by my voice. My deck is on the front of my
392 house, and their deck on the back of their house, well, we would almost meet me sitting
393 on my deck, since it's going to be 2 ½ feet from my property line. I love my deck. I love
394 to go out there and have my morning coffee. Please deny this variance.

395
396 Mr. Wright - Thank you very much.

397
398 Ms. Bennett - My name is Judith Bennett. I live at 1804 Terrace, which is
399 the strangely shaped lot at the corner there. I moved into that house in 1991. Like the
400 gentleman you honored at the beginning today, I answered a higher calling, and I'm a
401 retired United Methodist Minister. I won't preach a sermon, but I will tell you that I live
402 on my clergy pension and my social security, and I have maybe \$5,000 in my savings
403 account, and everything else in the world that I have is at 1804 Terrace. I moved here

404 from New York City, and I know something about absentee landlords. I hate to say it, I
405 hear that Mrs. Parham has sentimental feelings about her property on Terrace Avenue,
406 because she raised her family there, but I don't see that in the way she's handled the
407 rental property next door, and I don't see it in what's proposed for this lot, and I don't
408 see that it's going to do anything but bad stuff to my property values. My back yard
409 looks over into Deloris's back yard, the lady who just spoke. In fact her late husband
410 brought me a batch of ginger cookies the day that I moved into the house. If you know
411 anything about Methodist preachers, you know that they move around a lot, and that's
412 the first house in my adult life that was really mine. It's everything in the world that I
413 have, and I care about the neighborhood, and I don't know that I'm ready to say deny
414 this request, but I am ready to say "send it back to the drawing board," because it's for
415 all of the reasons listed above. It is not going to do anything for the property values of
416 the rest of us, and I've had, in my time of living there, four golf balls in my front yard,
417 and you can see how far that is from the golf course.

418
419 Ms. McLaughlin - Good morning; I'm Tildy McLaughlin. I live at 7110 Club
420 Road, and I'm here to support my neighbors and to request that the variance be denied
421 this time and re-worked. I too would like to see an attractive, neighborhood-compatible
422 house on this lot, but the decking close to Ms. Hartman's is too close, and I agree with
423 Ms. Chandler that some storage is required, some sort of creative architectural re-
424 working of this proposal could make us all happy. In addition, while the evergreen
425 screen is possibly a good idea, please do not allow Leyland Cypress, because they will
426 fall over and make trouble very soon. I'm a master gardener and really interested in the
427 routing out of the Leyland Cypress plague. Thank you very much.

428
429 Ms. Genier - Good morning. I'm Judith Genier; I live at 1805 Terrace
430 Avenue. We built that house in 1952. I'm taking care of my elderly father right now,
431 and my concern is the on street parking, as Ms. Chandler said. If we do not get these
432 cars off of the street, we have children riding bicycles; it's a blind corner, there's going to
433 be accidents, and things are going to happen.

434
435 Mr. Wright - Thank you ma'am. Does that conclude the opposition?
436 Does anyone else desire to speak, because once the opposition is concluded, we are
437 not permitted under our rules for you to say anything further. The applicant has a
438 moment to rebut and maybe answer some of your questions. Mr. Rogers, you have a
439 short time to rebut.

440
441 Mr. Rogers - Thank you very much. I'm trying to address some of the
442 concerns that have been brought out. I've got a list here, that I'll try to go one at a time.

443
444 Mr. Wright - Excuse me, first thing – they've asked that this be deferred
445 for another month to permit you to get with them or to talk with them about this. Are you
446 willing to do that at this point?

447
448 Mr. Rogers - My contract doesn't allow me to without asking the owner of
449 the lot, and the owner's not here, so I can't commit on their behalf whether I can defer,

450 but what I can do is try to address the concerns, and if that's satisfactory, then I guess
451 we can. I know how Board of Supervisors defer and change things, but I guess you
452 have to go back through

453
454 Mr. McKinney - The story, Mr. Rogers is, if you don't get with them, I can't
455 say whether it would be passed or denied, but if it's denied, you can't bring it back for
456 another year. And they said they tried to get in touch with you, and you didn't return
457 their calls, so I don't know, that's entirely up to you. You don't think somebody, nobody
458 else can come in and buy that lot, can they? You say your contract's going to expire,
459 you don't think that lady would give you an extension?

460
461 Mr. Rogers - She has already through this process. The point being, I
462 can't speak for her. I'm assuming that she would, but that was the point.

463
464 Mr. McKinney - We can't defer it without your approval; that's the point.
465 Unless you want to defer it, we could do that. But if you're not willing to defer it, then we
466 want to go ahead and hear what you want to say; then we'll go ahead and decide it at
467 the end of the docket.

468
469 Mr. Rogers - Okay, if I could just try real quickly to address some of the
470 questions, and then if it's a choice whether to defer or deny, I would accept a deferral.

471
472 Mr. Wright - We can't tell you that right now.

473
474 Mr. Rogers - Let me try to address them real quickly again. As far as the
475 driveway location, our intention would be to put it on the left, because it does get it
476 further away from the intersection, and you do have about 9 ½ feet there, so the
477 driveway would come in front of the house a little bit. We start with the left property line
478 and come on up that way, and the driveway is certainly a sufficient length and width to
479 park at least two cars in there, which would be adequate for any house. As far as guest
480 parking, obviously we don't have any control over that. Nor do they, when they have
481 guest parking on the street out there. The screening on the rear, we would certainly be
482 agreeable to do something there, and I hear that the Leyland Cypress is not a
483 preferable means, but between Cypress or potentially a fence with the framing
484 members on the inside, so it would have the finished look on the perimeter, as opposed
485 to having the framing members on the outside, would be a way that we could hopefully
486 overcome that objection, or at least help overcome it. The deck on the rear, we could
487 simply reverse the house, so the deck would actually be on the right side of the house,
488 which wouldn't have it come in to within 12 ½ feet of the property line; it would actually
489 be 12 ½ feet on the right side at that point, coming in that way. So we could have the
490 deck on the right-hand side and just mirror image or reverse the house, since it is a
491 rectangular house. Two other things that I hear, a lot about property values and that
492 sort of thing, and this particular neighborhood has varying styles of houses throughout
493 the neighborhood and varying values in there. Just so everybody understands, this
494 house the way it's priced out right now, would be around \$167,000 on that lot, and
495 obviously the overgrown lot would be cleaned up when we develop the lot and hopefully

496 make it an attractive addition to the neighborhood, as opposed to a nuisance in the
497 neighborhood. Those are my answers to the questions.

498
499 Mr. Wright - How about storage? That was one of the big questions.

500
501 Mr. Rogers - If the customer wants to put in a building or something like
502 that, typically what we would do, is we retain some sort of architectural control, make
503 sure it's in the same design characteristics of the house, so that if it had vinyl siding, it
504 would match the house, and it would have to be a detached obviously, because of the
505 nature of this variance, you wouldn't be able to add anything to this house, so it would
506 have to be some sort of detached storage.

507
508 Mr. Wright - You don't propose to put any storage type facility on there?

509
510 Mr. Rogers - We don't at this time, no sir.

511
512 Mr. Wright - All right – is that it? That concludes the case. Thank you all
513 for appearing.

514
515 Mr. McKinney - In other words, you want us to hear the case?

516
517 Mr. Rogers - I'll be glad to

518
519 Mr. McKinney - I just asked you the question.

520
521 Mr. Wright - It's up to you. If you want to defer it, we have to do that at
522 this point. We're not going to consider deferral later on, either now, or we'll decide the
523 case at the end of the docket.

524
525 Mr. Rogers - In an effort to try to, I'll go ahead and ask for a deferral to
526 meet with the neighbors also, and if the owner decides they don't want to do that, then I
527 guess we'll just drop the case.

528
529 Mr. McKinney - How many times has this been deferred?

530
531 Mr. Blankinship - Three I believe. Mr. Wright made the point; the applicant
532 can request a deferral but the Board cannot defer it against the applicant's desire at this
533 point.

534
535 Upon a motion by Mr. McKinney, seconded by Mr. Kirkland the Board **deferred**
536 application **A-144-2004** for a variance to build a one-family dwelling at 1800 Terrace
537 Avenue (Hermitage Club Terrace) (Parcel 782-750-2829). The case was deferred at
538 your request, from the March 25, 2004, until the April 22, 2004, meeting. The public
539 hearing will not be reopened for further comments.

540
541 Affirmative: Kirkland, McKinney, Nunnally, Wright

5

542 Negative: 0
543 Absent: 0

544
545 The Board deferred your request to allow an opportunity to address further concerns
546 raised by the neighbors at the hearing.

547
548 **UP- 4-2004 COUNTRY CLUB OF VIRGINIA** requests a conditional use permit
549 pursuant to Section 24-12(b) of Chapter 24 of the County Code to
550 add a maintenance building and parking area at 710 S Gaskins
551 Road (Parcel 735-733-6834), zoned R-0, One-family Residence
552 District (Tuckahoe).

553
554 Upon a motion by Mr. McKinney, seconded by Mr. Kirkland the Board **deferred**
555 application **UP-4-2004** for a conditional use permit to add a maintenance building and
556 parking area at 710 S Gaskins Road (Parcel 735-733-6834). The case was deferred at
557 the request of the applicant, from the March 25, 2004, until the May 27, 2004, meeting.

558
559 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
560 Negative: 0
561 Absent: 0

562
563 **A - 20-2004 CONVENIENCE RETAILERS** requests a variance from Section 24-
564 94 of Chapter 24 of the County Code to build a 4-bay car wash at
565 400 West Nine Mile Road (Highland Springs) (Parcel 822-725-
566 1143), zoned B-3C, Business District (Conditional) (Varina). The
567 rear yard setback is not met. The applicant has 25 feet rear yard
568 setback, where the Code requires 40 feet rear yard setback. The
569 applicant requests a variance of 15 feet rear yard setback.

570
571 Mr. Wright - Does anyone else desire to speak? Would you raise your
572 right hand and be sworn please?

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

576
577 Ms. Isaac - I do. My name is Lorraine Isaac, representing this case. I
578 believe most of the testimony was taken at the last meeting, and the Board wanted to
579 get some input from the police on safety issues. We have gotten the revised staff
580 report. Mr. Perrotti, the owner of the property, who's with me today, has read the
581 comments from Kim Vann, the Crime Prevention Specialist. He thinks that these
582 comments make good business sense, and they're good common sense. If this
583 variance is approved, we still have to have a Plan of Development, that will go to the
584 Planning Commission, and the police will be involved with that review, so we have
585 another time to meet with the police to review the final development plans, to make sure
586 that their comments have been addressed, that the property is secure, that everything
587 that can be done to prevent crime and noise and loitering will be done.

588
589 Mr. Wright - Ms. Isaac, have you seen the report from the Community
590 Services Division of Police? This voluminous report?
591
592 Ms. Isaac - I can't say I really understood it.
593
594 Mr. Wright - They go into a lot, but I just wanted to make sure you've had
595 an opportunity.
596
597 Ms. Isaac - I think the four pages from the police on what can be done
598 are certainly things that will be done, if this variance is approved.
599
600 Mr. McKinney - Mr. Blankinship, what's the condition on this B-3?
601
602 Mr. Blankinship - It should be in the file.
603
604 Mr. McKinney - It's a conditioned zoning case. I just wondered what the
605 condition was. Do you know, Ms. Isaac?
606
607 Mr. Perrotti - I don't know per se. I'm Luke Perrotti, and I'm the owner of
608 the location. I looked at the zoning, because it recently was rezoned, and that was the
609 first thing I wanted to look at to clarify that the stipulation didn't prohibit from being built,
610 and it's not listed on the list of businesses that wouldn't be appropriate for that area.
611 There's about a dozen different businesses listed, I think that were sort of like a
612 contingency upon it being rezoned, but that's not on the list.
613
614 Mr. Blankinship I know there's a requirement for the fence that's being
615 extended along the back of the property,

616
617 Ms. Isaac - There is a requirement for an eight-foot fence, not a six-foot.
618
619 Mr. Nunnally - Would your client be interested in a smaller, instead of a
620 four-bay, a two-bay or a one-bay?
621
622 Ms. Isaac - Just off the top of my head, I would take it into consideration,
623 but part of the process when I looked at it, because the lot is so small, to get an
624 adequate return on my investment, that's kind of why I spread it across the entire lot,
625 but I would be willing to take a look at the car wash as far as downsizing it. The only
626 concern I guess I would have is, that my rate of return would be a lot longer than it
627 would if I had maximized it, the lot size there.
628
629 Mr. McKinney - Mr. Perrotti, did you have in your contract when you
630 purchased this convenience/gas station, that you would be able to put a car wash next
631 door?
632
633 Mr. Perrotti - No sir, it was my original intention. I have owned car

634 washes before in the past, and to be honest with you, this is sort of a learning process
635 for me, because I've always managed them, what I thought was a good job, and I've
636 never had any problems any more so than I've had in any other businesses, as far as
637 convenience stores or laundromats that I've run.

638
639 Mr. McKinney - Where were your other car washes?

640
641 Mr. Perrotti - The other car wash was at 5308 Brook Road.

642
643 Mr. McKinney - And you never had any problems there?

644
645 Mr. Perrotti - No sir.

646
647 Mr. McKinney - You sure?

648
649 Mr. Perrotti - Yes sir.

650
651 Mr. McKinney - I have a friend of mine who lives right behind it, said he
652 could never sleep in the morning. At night the boom boxes were going at 3:00 and 4:00
653 o'clock in the morning, and he had to move out of the neighborhood.

654
655 Mr. Perrotti - I think that was something we addressed in the last meeting,
656 as far as the time of operation, and I agreed that it would be a good idea to mirror the
657 operation hours of the store, which closes at 10:00 o'clock at night.

658
659 Mr. McKinney - So this is totally going to close down at 10:00 o'clock?

660
661 Mr. Perrotti - Yes sir.

662
663 Mr. Wright - Anything further? I think we took the opposition last time,
664 didn't we?

665
666 Ms. Isaac - We had no opposition.

667
668 Mr. Wright - Anyone here in opposition to this request?

669
670 Mr. McKinney - Is there any today?

671
672 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
673 McKinney, the Board **denied** application **A-20-2004** for a variance to build a 4-bay car
674 wash at 400 West Nine Mile Road (Highland Springs) (Parcel 822-725-1143).

675
676 Affirmative: Kirkland, McKinney, Nunnally, Wright 4

677 Negative: 0

678 Absent: 0
679

680 The Board denied your request as it found from the evidence presented that approving
681 the permit would be of substantial detriment to adjacent property or would materially
682 impair the purpose of the zoning regulations.

683
684 **A - 21-2004** **GOODING CONSTRUCTION** requests a variance from Section 24-
685 95(b)(6) of Chapter 24 of the County Code to build a one-family
686 dwelling at 126 North Fern Avenue (Highland Springs) (Parcel 823-
687 725-5293 (part)), zoned R-4, One-family Residence District
688 (Varina). The total lot area requirement is not met. The applicant
689 has 5,000 square feet of lot area, where the Code requires 6,000
690 square feet of lot area. The applicant requests a variance of 1,000
691 square feet of lot area.

692
693 Mr. Wright - Does anyone else desire to speak? Would you raise your
694 right hand and be sworn please?

695
696 Mr. Blankinship - Do you swear that the testimony you are about to give is the
697 truth, the whole truth, and nothing but the truth, so help you God?

698
699 Mr. Gooding - I do. My name is Glenn Gooding; I'm the owner of Gooding
700 Construction Company. We have entered into a purchase agreement to purchase this
701 lot, subject to the approval of the variance, in order to build a single-family dwelling.
702 Upon the Board's approval, we'd be able to erect a home that would be compliant to the
703 current zoning of this area, except we would not be meeting the lot size. The original
704 layout of Highland Springs would have presented this to be an actual buildable site, but
705 due to the fact that the current zoning ordinances make it noncompliant. Other lots like
706 this in the area have been approved with like applications in the past.

707
708 Mr. Nunnally- Mr. Gooding, are you going to sell this house, or is it a spec
709 home or a rental, do you know?

710
711 Mr. Gooding - Mr. Nunnally, it is my intention to sell it. I'm not one, at this
712 point, likes to manage rental property.

713
714 Mr. Nunnally - Did you buy this brick home too?

715
716 Mr. Gooding - Actually, we have that house for sale. It is currently under
717 contract. The current owner has gotten older and is not able to take care of the
718 property, so we actually listed the property with the idea that we would sell the brick
719 home next door and then purchase the lot in order to make the numbers work for the
720 seller, to help her with some obligations that she had. This is the best way to do it from
721 the numbers standpoint, to help them. We agreed to purchase the lot, build a home,
722 and this would serve the purpose of the seller.

723
724 Mr. Nunnally - What size house are you going to put on it?

725

726 Mr. Gooding - It would be a three-bedroom home, about 980 square feet,
727 just a little bit under 1,000 square feet, vinyl siding, we would have a brick front
728 foundation. It would meet the criteria of a custom-built home from that standpoint, just a
729 smaller scale down.]

730
731 Mr. Nunnally - I rode down there the other day and noticed that there are
732 about 20-21 houses on a 50-foot lot on that street, so there are other houses that have
733 5,000 square feet, about 20 on that one block.

734
735 Mr. Wright - Any further questions of members of the Board? Anyone in
736 opposition to this request?

737
738 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
739 McKinney, the Board **granted** application **A-21-2004** for a variance to build a one-family
740 dwelling at 126 North Fern Avenue (Highland Springs) (Parcel 823-725-5293 (part)).
741 The Board granted the variance subject to the following conditions:

742
743 1. This variance applies only to the lot area requirement. All other applicable
744 regulations of the County Code shall remain in force.

745
746 2. Connections shall be made to public water and sewer.

747
748 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
749 Negative: 0
750 Absent: 0

751
752 The Board granted this request, as it found from the evidence presented that, due to the
753 unique circumstances of the subject property, strict application of the County Code
754 would produce undue hardship not generally shared by other properties in the area, and
755 authorizing this variance will neither cause a substantial detriment to adjacent property
756 nor materially impair the purpose of the zoning regulations.

757
758 **New Applications**

759
760 **UP- 6-2004 WEST END ASSEMBLY OF GOD** requests a temporary
761 conditional use permit pursuant to Section 24-116(c)(1) of Chapter
762 24 of the County Code to park two temporary storage trailers at 401
763 North Parham Road (Parcel 753-736-0655), zoned R-1, One-family
764 Residence District (Tuckahoe).

765
766 Mr. Wright - Does anyone else desire to speak with reference to this
767 case? Would you raise your right hand and be sworn please?

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

771

772 Ms. Johnson - I do. My name is Cynthia Johnson; I am Missions
773 Administrator at West End Assembly of God. We'd like to have two storage trailers for
774 about five weeks, behind our building, not visible to Parham Road or to our neighbors,
775 because of a large board fence and a wooded area, for storage for our Missions Yard
776 Sale. I think we've done this for the last seven years, had no complaints from our
777 neighbors, and no problems.

778
779 Mr. Wright - Same use as before?

780
781 Ms. Johnson - Same use as before; same location.

782
783 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
784 Nunnally, the Board **granted** application **UP-6-2004** for a temporary conditional use
785 permit to park two temporary storage trailers at 401 North Parham Road (Parcel 753-
786 736-0655). The Board granted the variance subject to the following conditions:

787
788 1. This approval is only for locating two storage trailers on the property from March
789 31, 2004 through May 12, 2003. The trailers shall be removed prior to May 16, 2004.

790
791 2. All material shall be kept in the trailers. There shall be no storage of any
792 merchandise outside the trailers.

793
794 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
795 Negative: 0
796 Absent: 0

797
798 The Board granted the request because it found the proposed use will be in substantial
799 accordance with the general purpose and objectives of Chapter 24 of the County Code.

800
801 **A - 23-2004 WILLIAM AND PHYLLIS ROXBURGH** request a variance from
802 Section 24-95(c)(1) of Chapter 24 of the County Code to enclose
803 the existing porch at 8502 Rivermont Drive (Rivermont) (Parcel
804 754-739-3575), zoned R-3, One-family Residence District
805 (Tuckahoe). The total side yard setback is not met. The applicants
806 have 20 feet total side yard setback, where the Code requires 24
807 feet total side yard setback. The applicants request a variance of 4
808 feet total side yard setback.

809
810 Mr. Wright - Does anyone else desire to speak with reference to this
811 case? Would you raise your right hand and be sworn please?

812
813 Mr. Blankinship - Do you swear that the testimony you are about to give is the
814 truth, the whole truth, and nothing but the truth, so help you God?

815
816 Mr. Farrar - I do. Terry Farrar. This is an existing structure, already has
817 a roof, floor, and foundation; it's a screened porch, and all we're going to do is enclose

818 it. We're asking for four feet.
819
820 Mr. Wright - The enclosure would be not any larger than the screened
821 porch is now?
822
823 Mr. Farrar - No sir.
824
825 Mr. Wright - Same foundation?
826
827 Mr. Farrar - Same everything. In fact it's going to enhance and beautify
828 the house.
829
830 Mr. Wright - What type of construction would it be?
831
832 Mr. Farrar - I'll give you one of our brochures. It's aluminum structure,
833 with sliding windows and screen.
834
835 Mr. Wright - It will be compatible with the house? It will have glass
836 enclosures all around? Anything further? Anyone here in opposition to this request?
837 Any questions of members of the Board?
838
839 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
840 McKinney, the Board **granted** application **A-23-2004** for a variance to enclose the
841 existing porch at 8502 Rivermont Drive (Rivermont) (Parcel 754-739-3575). The Board
842 granted the variance subject to the following conditions:
843
844 1. The new construction shall match the existing dwelling as nearly as practical.
845
846 2. The property shall be developed in substantial conformance with the plan filed
847 with the application. No substantial changes or additions to the layout may be made
848 without the approval of the Board of Zoning Appeals.
849
850 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
851 Negative: 0
852 Absent: 0
853
854 The Board granted this request, as it found from the evidence presented that, due to the
855 unique circumstances of the subject property, strict application of the County Code
856 would produce undue hardship not generally shared by other properties in the area, and
857 authorizing this variance will neither cause a substantial detriment to adjacent property
858 nor materially impair the purpose of the zoning regulations.
859
860 **UP- 7-2004 RESOURCE DEVELOPMENT ASSOCIATES** requests a
861 conditional use permit pursuant to Sections 24-103 and 24-52(d) of
862 Chapter 24 of the County Code to extract materials from the earth
863 at 1801 Kingsland Road (Parcel 818-676-5915), zoned A-1,

864 Agricultural District (Varina).

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909

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

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

Ms. Isaac - I do. My name is Lorraine Isaac, representing this case. Every two years we have gotten an extension on this use permit. It is used only for S. B. Cox; there are no other commercial haulers. Reclamation has started, I think in the last two years they've probably taken out more material than they had in a while, and I don't know even, it's probably not going to be too many more years this is going to be completely completed. As the staff report says, there have been no complaints, no problems, so we're asking for a two-year extension.

Mr. Wright - Mr. Blankinship, any complaints?

Mr. Blankinship - No sir. We haven't had any. It looks like it's being reclaimed already.

Mr. Wright - So they're do what they're supposed to do? Are you satisfied with the conditions as proposed?

Ms. Isaac - Yes sir, I went through them; they're the same conditions from last year.

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

After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. McKinney, the Board **granted** application **UP-7-2004** for a conditional use permit to extract materials from the earth at 1801 Kingsland Road (Parcel 818-676-5915). The Board granted the use permit subject to the following conditions:

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

2. Before beginning any work, the applicant shall provide a financial guaranty in an amount of \$2,000.00 per acre for each acre of land to be disturbed, for a total of \$ 31,600.00, guaranteeing that the land will be restored to a reasonably level and drainable condition. This permit does not become valid until the financial guaranty has been approved by the County Attorney. The financial guaranty may provide for termination after 90 days notice in writing to the County. In the event of termination, this permit shall be void, and work incident thereto shall cease. Within the next 90 days the applicant shall restore the land as provided for under the conditions of this use permit.

910 Termination of such financial guaranty shall not relieve the applicant from its obligation
911 to indemnify the County of Henrico for any breach of the conditions of this use permit. If
912 this condition is not satisfied within 90 days of approval, the use permit shall be void.
913

914 3. Before beginning any work, the applicant shall submit erosion control plans to the
915 Department of Public Works for review and approval. Throughout the life of the
916 operation, the applicant shall continuously satisfy the Department of Public Works that
917 erosion control procedures are properly maintained, and shall furnish plans and bonds
918 that the department deems necessary. The applicant shall provide certification from a
919 licensed professional engineer that dams, embankments and sediment control
920 structures meet the approved design criteria as set forth by the State. If this condition is
921 not satisfied within 90 days of approval, the use permit shall be void.
922

923 4. Before beginning any work, the applicant shall obtain a mine license from the
924 Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied
925 within 90 days of approval, the use permit shall be void.
926

927 5. Before beginning any work, the areas approved for mining under this permit shall
928 be delineated on the ground by five-foot-high metal posts at least five inches in diameter
929 and painted in alternate one foot stripes of red and white. These posts shall be so
930 located as to clearly define the area in which the mining is permitted. They shall be
931 located, and their location certified, by a certified land surveyor. If this condition is not
932 satisfied within 90 days of approval, the use permit shall be void.
933

934 6. In the event that the Board's approval of this use permit is appealed, all
935 conditions requiring action within 90 days will be deemed satisfied if the required actions
936 are taken within 90 days of final action on the appeal.
937

938 7. The applicant shall comply with the Chesapeake Bay Preservation Act and all
939 state and local regulations administered under such act applicable to the property, and
940 shall furnish to the Planning Office copies of all reports required by such act or
941 regulations.
942

943 8. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Savings
944 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.
945

946 9. No operations of any kind are to be conducted at the site on Saturdays, Sundays,
947 or national holidays.
948

949 10. All means of access to the property shall be from the established entrance onto
950 Kingsland Road.
951

952 11. The applicant shall erect and maintain gates at all entrances to the property.
953 These gates shall be locked at all times, except when authorized representatives of the
954 applicant are on the property.
955

- 956 12. The applicant shall post and maintain a sign at the entrance to the mining site
957 stating the name of the operator, the use permit number, the mine license number, and
958 the telephone number of the operator. The sign shall be 12 square feet in area and the
959 letters shall be three inches high.
960
- 961 13. The applicant shall post and maintain "No Trespassing" signs every 250 feet
962 along the perimeter of the property. The letters shall be three inches high. The
963 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
964 enforce the "No Trespassing" regulations, and agreeing to send a representative to
965 testify in court as required or requested by the Division of Police.
966
- 967 14. Standard "Truck Entering Highway" signs shall be erected on Kingsland Road on
968 each side of the entrances to the property. These signs will be placed by the County, at
969 the applicant's expense.
970
- 971 15. The applicant shall post and maintain a standard stop sign at the entrance to
972 Kingsland Road.
973
- 974 16. The applicant shall provide a flagman to control traffic from the site onto the
975 public road, with the flagman yielding the right of way to the public road traffic at all
976 times. This flagman will be required whenever the Division of Police deems necessary.
977
- 978 17. All roads used in connection with this use permit shall be effectively treated with
979 calcium chloride or other wetting agents to eliminate any dust nuisance.
980
- 981 18. The operation shall be so scheduled that trucks will travel at regular intervals and
982 not in groups of three or more.
983
- 984 19. Trucks shall be loaded in a way to prevent overloading or spilling of materials of
985 any kind on any public road.
986
- 987 20. The applicant shall maintain the property, fences, and roads in a safe and secure
988 condition indefinitely, or convert the property to some other safe use.
989
- 990 21. If, in the course of its preliminary investigation or operations, the applicant
991 discovers evidence of cultural or historical resources, or an endangered species, or a
992 significant habitat, it shall notify appropriate authorities and provide them with an
993 opportunity to investigate the site. The applicant shall report the results of any such
994 investigation to the Planning Office.
995
- 996 22. If water wells located on surrounding properties are adversely affected, and the
997 extraction operations on this site are suspected as the cause, the effected property
998 owners may present to the Board evidence that the extraction operation is a contributing
999 factor. After a hearing by the Board, this use permit may be revoked or suspended, and
1000 the operator may be required to correct the problem.
1001

1002 23. Open and vertical excavations having a depth of 10 feet or more, for a period of
1003 more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the
1004 public safety.

1005
1006 24. Topsoil shall not be removed from any part of the property outside of the area in
1007 which mining is authorized. Sufficient topsoil shall be stockpiled on the property for
1008 respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled
1009 within the authorized mining area and provided with adequate erosion control
1010 protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought
1011 to the site to provide the required five-inch layer of cover. All topsoil shall be treated
1012 with a mixture of seed, fertilizer, and lime as recommended by the County after soil
1013 tests have been provided to the County.

1014
1015 25. No offsite-generated materials shall be deposited on the mining site without prior
1016 written approval of the Director of Planning. To obtain such approval, the operator shall
1017 submit a request stating the origin, nature and quantity of material to be deposited, and
1018 certifying that no contaminated or hazardous material will be included. The material to
1019 be deposited on the site shall be limited to imperishable materials such as stone, bricks,
1020 tile, sand, gravel, soil, asphalt, concrete and like materials, and shall not include any
1021 hazardous materials as defined by the Virginia Hazardous Waste Management
1022 Regulations.

1023
1024 26. A superintendent, who shall be personally familiar with all the terms and
1025 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms
1026 and conditions of this use permit, shall be present at the beginning and conclusion of
1027 operations each work day to see that all the conditions of the Code and this use permit
1028 are observed.

1029
1030 27. A progress report shall be submitted to the Board on March 31, 2005. This
1031 progress report must contain information concerning how much property has been
1032 mined to date of the report, the amount of land left to be mined, how much rehabilitation
1033 has been performed, when and how the remaining amount of land will be rehabilitated,
1034 and any other pertinent information about the operation that would be helpful to the
1035 Board.

1036
1037 28. Excavation shall be discontinued by March 31, 2006 and restoration
1038 accomplished by not later than March 31, 2007, unless a new permit is granted by the
1039 Board of Zoning Appeals.

1040
1041 29. The rehabilitation of the property shall take place simultaneously with the mining
1042 process. Rehabilitation shall not be considered completed until the mined area is
1043 covered completely with permanent vegetation.

1044
1045 30. All drainage and erosion and sediment control measures shall conform to the
1046 standards and specifications of the Mineral Mining Manual Drainage Handbook. Any
1047 drainage structures in place prior to October 14, 1992 and which do not conform to the

1048 Mineral Mining Manual Drainage Handbook may remain in place until such time as any
1049 reconstruction is required at which time said structures shall be brought into
1050 conformance with the Mineral Mining Manual Drainage Handbook.

1051
1052 31. Failure to comply with any of the foregoing conditions shall automatically void this
1053 permit.

1054
1055 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
1056 Negative: 0
1057 Absent: 0

1058
1059 The Board granted the request because it found the proposed use will be in substantial
1060 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1061
1062 **A - 24-2004** **THEODORE CLARK** requests a variance from Section 24-94 of
1063 Chapter 24 of the County Code to build an addition at 5834 Shady
1064 Hills Way (Shady Ridge) (Parcel 744-777-8399), zoned R-3C, One-
1065 family Residence District (Conditional) (Three Chopt). The rear
1066 yard setback is not met. The applicant proposes 36 feet rear yard
1067 setback, where the Code requires 40 feet rear yard setback. The
1068 applicant requests a variance of 4 feet rear yard setback.

1069
1070 Mr. Wright - Does anyone else desire to speak with reference to this
1071 case? Would you raise your right hand and be sworn please?

1072
1073 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1074 truth, the whole truth, and nothing but the truth, so help you God?

1075
1076 Mr. Matze - I do. My name's Craig Matze, President of R. C. Matze
1077 Construction. We're here to represent the homeowners to request a variance of four
1078 feet in the rear. The couple, due to the expansion of the family, would like to request
1079 this variance for the expansion downstairs for a home office. They currently have an
1080 office upstairs in one of the bedrooms and want to convert that back to a bedroom.
1081 Also, the family has, on both sides, out-of-state relatives and could use the additional
1082 space to help with that matter also.

1083
1084 Mr. Wright - What's located to the rear of this property?

1085
1086 Mr. Matze - There's another house back on the cul-de-sac that's kind of
1087 set a little bit further back there.

1088
1089 Mr. Wright - So there seems to be a pretty good distance between that
1090 and this one.

1091
1092 Mr. Matze - Yes, there's kind of a little ravine going down there that
1093 separates them also.

1094
1095 Mr. Wright - And this would be used for what?
1096
1097 Mr. Matze - Part of it would be used for office, and then an extension to
1098 the kitchen/family room.
1099
1100 Mr. Wright - I think you have a pretty good diagram in here of what you
1101 want; I just wanted to get that in the record. What type of construction will it be?
1102
1103 Mr. Matze - It will be brick and block foundation, vinyl siding, just three-
1104 tab dimensional shingles to match the existing structures in the neighborhood
1105
1106 Mr. Wright - It will be compatible with the house? Anything further? Any
1107 questions of members of the Board? Anyone here in opposition?
1108
1109 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1110 Kirkland, the Board **granted** application **A-24-2004** for a variance to build an addition at
1111 5834 Shady Hills Way (Shady Ridge) (Parcel 744-777-8399). The Board granted the
1112 variance subject to the following conditions:
1113
1114 1. The new construction shall match the existing dwelling as nearly as practical.
1115
1116 2. The property shall be developed in substantial conformance with the plan filed
1117 with the application. No substantial changes or additions to the layout may be made
1118 without the approval of the Board of Zoning Appeals.
1119
1120 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
1121 Negative: 0
1122 Absent: 0
1123
1124 The Board granted this request, as it found from the evidence presented that, due to the
1125 unique circumstances of the subject property, strict application of the County Code
1126 would produce undue hardship not generally shared by other properties in the area, and
1127 authorizing this variance will neither cause a substantial detriment to adjacent property
1128 nor materially impair the purpose of the zoning regulations.
1129
1130 **A - 25-2004** **KAREN JOHNSON** requests a variance from Section 24-94 of
1131 Chapter 24 of the County Code to build an addition at 9605
1132 Woodstream Drive (Quail Run) (Parcel 749-752-8007), zoned R-3,
1133 One-family Residence District (Tuckahoe). The minimum side yard
1134 setback and rear yard setback are not met. The applicant proposes
1135 8 feet minimum side yard setback and 37 feet rear yard setback,
1136 where the Code requires 12 feet minimum side yard setback and
1137 40 feet rear yard setback. The applicant requests a variance of 4
1138 feet minimum side yard setback and 3 feet rear yard setback.
1139

1140 Mr. Wright - Does anyone else desire to speak with reference to this
1141 case? Would you raise your right hand and be sworn please?

1142
1143 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1144 truth, the whole truth, and nothing but the truth, so help you God?

1145
1146 Mr. Matze - I do. My name is Craig Matze, R. C. Matze Construction,
1147 President. I'm here to represent the Johnson family for this project. They request a
1148 variance of four feet on the side and three feet in the back. They have a mother-in-law,
1149 who is in a wheelchair, and they want to put this addition on there for her. On this
1150 particular side, they have a little 12 by 12 den, as you notice, on the rear, and they
1151 thought the addition would be appropriate on this spot to use this little 12 by 12 addition
1152 on the back as part of her sitting area, next to the proposed suite that's to be built for
1153 her on the rear.

1154
1155 Mr. Wright - What type of construction will this be?

1156
1157 Mr. Matze - Brick and block foundation, cedar siding to match the
1158 existing house, regular three-tab composite shingles.

1159
1160 Mr. Wright - Any questions of members of the Board? Anyone here in
1161 opposition?

1162
1163 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1164 Nunnally, the Board **granted** application **A-25-2004** for a variance to build an addition at
1165 9605 Woodstream Drive (Quail Run) (Parcel 749-752-8007). The Board granted the
1166 variance subject to the following conditions:

- 1167
1168 1. The new construction shall match the existing dwelling as nearly as practical.
1169
1170 2. The property shall be developed in substantial conformance with the plan filed
1171 with the application. No substantial changes or additions to the layout may be made
1172 without the approval of the Board of Zoning Appeals.

1173
1174 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
1175 Negative: 0
1176 Absent: 0

1177
1178 The Board granted this request, as it found from the evidence presented that, due to the
1179 unique circumstances of the subject property, strict application of the County Code
1180 would produce undue hardship not generally shared by other properties in the area, and
1181 authorizing this variance will neither cause a substantial detriment to adjacent property
1182 nor materially impair the purpose of the zoning regulations.

1183
1184 **A - 26-2004** **MIKE AND NICOLE MCCABE** request a variance from Sections
1185 24-10(b) and 24-95(i)(2) of Chapter 24 of the County Code to build

1186 a barn and fenced pasture at 6521 Osborne Turnpike (Parcel 801-
1187 702-4485), zoned R-3, One-family Residence District (Varina). The
1188 agricultural distance requirements and maximum accessory
1189 structure size are not met. The applicants propose 2,673 square
1190 feet of accessory structures and 70 feet distance from a dwelling,
1191 where the Code allows 960 square feet of accessory structure and
1192 requires 400 feet distance from a dwelling. The applicants request
1193 a variance of 1,713 square feet of accessory structures and 330
1194 feet distance from a dwelling.

1195
1196 Mr. Wright - Does anyone else desire to speak with reference to this
1197 case? Would you raise your right hand and be sworn please?
1198

1199 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1200 truth, the whole truth, and nothing but the truth, so help you God?
1201

1202 Mr. Marshall - I do. John Marshall. Good morning, Mr. Chairman,
1203 members of the Board, and Mr. Blankinship. I'm here representing Mike and Nicole
1204 McCabe, the owners of this property. The property is a little over 6 ½ acres; they need
1205 two variances. They currently have a garage and a shed structure, which necessitates
1206 that if they want to build a barn, they need a variance for the additional accessory
1207 structure, so they need a variance for that. They also need a variance because of the
1208 fence that they want to put in to fence in this big open field. They want to fence in this
1209 field for pasture for the barn. By doing so, they will not meet the requirement of being
1210 the 70-foot distance from the house that is constructed out on New Market Road. I think
1211 it is important that the barn itself will, I believe, meet the 400-foot distance from any
1212 dwelling around there. I think there's a letter in your packet from the homeowner
1213 directly across Osborne; they have spoken with the homeowner directly behind them, as
1214 well as the one across New Market Road, and did not have any opposition from those
1215 neighbors with putting the barn out there or the fence. This is a strange request in this
1216 day and time, since this is an R-3 property, and somebody isn't coming for you, asking
1217 to build a bunch of houses. They basically want to fence in the farmland and put a barn
1218 up.

1219
1220 Mr. McKinney - They might do it if this is turned down.
1221

1222 Mr. Wright - Mr. Blankinship, what other accessory buildings do they
1223 have?
1224

1225 Mr. Marshall - The aerial shows them, Mr. Wright. Right behind the house
1226 there's a three-car garage, and at the very end of the garage, there's a tiny shed
1227 structure, a tool shed structure.
1228

1229 Mr. Wright - I think the problem comes about because the accessory size
1230 of whatever you can build is configured to what the lot size is normal for an R-3 zoning.
1231 Now you've got two or three times the size of this lot, sort of causes a problem.

1232
1233 Mr. Blankinship - Yes sir, the regulation assumes small, rectangular lots in a
1234 subdivision.
1235
1236 Mr. Wright - How far will the nearest residence be to your pasture. Have
1237 you got any idea, Mr. Marshall?
1238
1239 Mr. Marshall - I believe 75 feet or so. That would be the house out on New
1240 Market Road. As you can see from the aerial picture, there's nothing else anywhere
1241 close to it.
1242
1243 Mr. Wright - You have the road, and then you have the house sitting back
1244 a little.
1245
1246 Mr. Marshall - Yes sir, and the barn would actually be right in the middle of
1247 that field there, next to the house.
1248
1249 Mr. Wright - How many horses, or what do you propose to have, horses
1250 here?
1251
1252 Mr. Marshall - Yes sir.
1253
1254 Mr. Nunnally - You've got four stalls here, though, Mr. Marshall. Is this just
1255 a family?
1256
1257 Mr. Marshall - Yes sir. A horse lover.
1258
1259 Mr. Kirkland - No boarding or anything like that?
1260
1261 Mr. Marshall - No boarding.
1262
1263 Mr. Wright - Would you have any objection to our putting in the
1264 conditions, a limit on the number of horses?
1265
1266 Mr. Marshall - No, if you want to say four because there's four stalls, that's
1267 fine – that would be two per pasture, which is more than enough room.
1268
1269 Mr. Wright - I could see your problem if you really had a lot of horses
1270 roaming around close to these houses.
1271
1272 Mr. Marshall - The odors might be incompatible.
1273
1274 Mr. McKinney - Isn't there something in the Code that only allows so many
1275 horses per acre?
1276
1277 Mr. Blankinship - One per fenced acre.

1278
1279 Mr. Wright - How many acres do we have here?
1280
1281 Mr. Marshall - There's six and a half.
1282
1283 Mr. Nunnally - I still think we ought to limit it to four, one per stall.
1284
1285 Mr. Marshall - That's fine.
1286
1287 Mr. McKinney - They want three, so we gave him four.
1288
1289 Mr. Nunnally - You're not going to have any riding lessons or give any
1290 riding lessons or anything like that, or horse shows or anything? Just family pleasure.
1291
1292 Mr. Marshall - No sir; it's not a commercial operation.
1293
1294 Mr. Wright - How about a condition that would restrict it to family use?
1295 No type of business use. I just want to protect the neighbors here.
1296
1297 Mr. Marshall - That's fine.
1298
1299 Mr. Wright - Anything further? Any questions of members of the Board?
1300 Anyone here in opposition to this request? We have a lady in opposition here. Come
1301 down to the podium, please ma'am. Please raise your right hand and be sworn.
1302
1303 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1304 truth, the whole truth, and nothing but the truth, so help you God?
1305
1306 Ms. Jeffress - I do. Nicole Jeffress. Actually I stepped out and forgot to
1307 say that I had something to say about this. I live on New Market, 1187, and my
1308 husband and I didn't really have much of a problem because we would rather have that
1309 than have houses all beside us. I guess my question was, how close would the
1310 pastures be to the house? It looks like if this house is yours on this map, is it on this
1311 map here? You can see your house; the pasture would be within those green lines.
1312
1313 Mr. Blankinship - Mr. Chairman, I scaled it off when I did the staff report, and
1314 it's about 75 feet.
1315
1316 Mr. Wright - From her house to the fence would be about 75 feet, and as
1317 you heard, we're restricting them on that whole pasture area to no more than four
1318 animals.
1319
1320 Ms. Jeffress - That was one of my concerns too, on how many there would
1321 be.
1322
1323 Mr. Wright - Well, they said it would be three, but we've restricted it to

1324 four, and there would be no type of business venture there, no horse shows or anything
1325 like that, just for family use.

1326
1327 Ms. Jeffress - Another concern, I think you have addressed it, was the
1328 odor, would I be smelling an odor every time I went outside, and you know, the summer
1329 is coming up too.

1330
1331 Mr. Wright - It's considerable distance from your house; it's a lot further
1332 from the barn to your house than it is to the pasture.

1333
1334 Mr. McKinney - Ms. Jeffress, there's also the condition that the property will
1335 be maintained so as to reduce any noxious odor.

1336
1337 Mr. Wright - They're required to keep the property, to clean it up and
1338 keep it in good condition.

1339
1340 Ms. Jeffress - Those are all my questions.

1341
1342 Mr. Wright - Certainly appreciate your appearing. Thank you for coming.
1343 Anyone else in opposition? Mr. Marshall, you have a moment to rebut, if you desire.

1344
1345 Mr. Marshall - No sir.

1346
1347 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1348 McKinney, the Board **granted** application **A-26-2004** for a variance to build a barn and
1349 fenced pasture at 6521 Osborne Turnpike (Parcel 801-702-4485). The Board granted
1350 the variance subject to the following conditions:

1351
1352 1. The new construction shall match the existing dwelling as nearly as practical, as
1353 proffered by the applicant.

1354
1355 2. The property shall be developed in substantial conformance with the plan filed
1356 with the application. No substantial changes or additions to the layout may be made
1357 without the approval of the Board of Zoning Appeals.

1358
1359 3. The property will be maintained so as to reduce any noxious odors.

1360
1361 4. [ADDED] No more than four horses may be kept on the property.

1362
1363 5. [ADDED] The variance only applies to horses kept for the recreation of family
1364 members. There shall be no boarding, riding lessons or other commercial use of the
1365 stables.

1366
1367 Affirmative: Kirkland, McKinney, Nunnally, Wright 4

1368 Negative: 0

1369 Absent: 0

1370
1371 The Board granted this request, as it found from the evidence presented that, due to the
1372 unique circumstances of the subject property, strict application of the County Code
1373 would produce undue hardship not generally shared by other properties in the area, and
1374 authorizing this variance will neither cause a substantial detriment to adjacent property
1375 nor materially impair the purpose of the zoning regulations.
1376

1377 **UP- 8-2004** **DOMINION VIRGINIA POWER** requests a conditional use permit
1378 pursuant to Sections 24-52(a) and 24-116(c)(2) of Chapter 24 of
1379 the County Code to build an electrical substation at 2156 Charles
1380 City Road (Parcel 811-713-9128), zoned A-1, Agricultural District
1381 (Varina).
1382

1383 Mr. Wright - Does anyone else desire to speak with reference to this
1384 case? Would you raise your right hand and be sworn please?
1385

1386 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1387 truth, the whole truth, and nothing but the truth, so help you God?
1388

1389 Mr. Garrett - I do. My name is Blaine Garrett. I come before you this
1390 morning, representing Dominion Virginia Power. They are asking for a conditional use
1391 permit pursuant to Sections 24-52 (a) and 24-116(c)(2) of Chapter 24 of the Henrico
1392 Code. Dominion is requesting this permit in order to construct an electrical substation
1393 on 3.9 acres at 2156 Charles City Road, in order to adequately supply electrical load
1394 and increase reliability for the electrical customers in this area. This request is driven by
1395 the increase in economic growth of this area and its demand upon Dominion's electrical
1396 distribution system. The substation will be set back off of Charles City Road in excess
1397 of 1,200 feet. The site will be secured by a seven-foot high fence, and the screening
1398 and vegetation as indicated on the application will be put in place.
1399

1400 Mr. Wright - How far is the nearest residence from this location?
1401

1402 Mr. Garrett - I am not sure, sir. I think the nearest residence is

1403 Mr. Wright - Is that a house?
1404

1405
1406 Mr. Garrett - That is actually a recreational center that Dominion
1407 employees use, and they have get-togethers on certain times of the year. My
1408 understanding is that it's used approximately three to four times a year.
1409

1410 Mr. Wright - The map that's up on the screen doesn't show Charles City
1411 Road, does it?
1412

1413 Mr. Garrett - Not now.
1414

1415 Mr. Wright - The one we have in our materials – there it is. What are
1416 those structures right there where that hand is?
1417
1418 Mr. Garrett - That's an old abandoned barn that's falling down.
1419
1420 Mr. Blankinship - That's not on your property, right?
1421
1422 Mr. Garrett - No sir.
1423
1424 Mr. Wright - How many people will be needed to operate this facility?
1425
1426 Mr. Garrett - There will be no people stationed at this facility once it's
1427 constructed. It will take approximately three months to do a construction process, and
1428 as the substations operate that we have, you may have one or two passenger vehicles
1429 in and out of that substation for a week. They may be there for an hour or just a few
1430 minutes at a time.
1431
1432 Mr. Wright - So no one would be stationed there on a permanent basis?
1433
1434 Mr. Garrett - No sir, there will be no desk, no office, or anything of that
1435 nature.
1436
1437 Mr. Wright - You say maybe a couple of times a week somebody will
1438 come in to check things out?
1439
1440 Mr. Garrett - Yes sir, in a pick-up truck or an SUV-type vehicle.
1441
1442 Mr. Nunnally - The building's going to be built where the recreation area is
1443 now?
1444
1445 Mr. Garrett - No sir, if I can draw your attention to, there's the substation
1446 itself, darkened in grey, and the north area on here, the northeast corner of the property
1447 is a recreation pavilion.
1448
1449 Mr. Wright - This would be on the northwest side of the property, the
1450 western portion.
1451
1452 Mr. Garrett - Yes sir, the substation would be more on the southwestern.
1453
1454 Mr. Wright - On our plan, it looks like a lane back. Do you have legal
1455 access to get to this piece of property?
1456
1457 Mr. Garrett - Yes sir, we have a thirty-foot deeded access off of Charles
1458 City Road, that was purchased along with the property and titled for ingress and egress.
1459
1460 Mr. Wright - All right. Any further questions of members of the Board?

1461 Are these gentlemen in opposition? Do we have some opposition? Please come
1462 forward and state your name.

1463
1464 Mr. Tookes - Yes sir, my name is Chris Tookes; I represent the owner of
1465 the lot in front of the electric power property. It's four acres and about seven acres.

1466
1467 Mr. Wright - Right in front of it? Between Charles City Road and this
1468 property?

1469
1470 Mr. Tookes - We do have joint easement on the road with the electrical
1471 power lines. The lady is trying to develop the property, and Henrico County has already
1472 approved as long as we leave the power lines parking lot. She bought the property
1473 because she has an old house in there she wants to fix; she wants to move in, and she
1474 didn't mind having

1475
1476 Mr. Wright - Where is that? Where is that house?

1477
1478 Mr. Tookes - The house is the one right over there, the one he says is a
1479 barn. It's an old house, and she didn't mind if they played baseball behind there. We
1480 like to find out what they're going to build, how it's going to look. We're not trying to
1481 stop the process, but we need to be consulted to see what they're doing, because the
1482 property can be very devaluated, due to the fact that everybody says you live next to
1483 electrical lines that drive you crazy. I don't know. That's hasn't happened to me yet, but
1484 that's one of the biggest concerns we have.

1485
1486 Mr. Wright - Have you had a chance to speak with Mr. Garrett on this.

1487
1488 Mr. Tookes - This is the first time I ever heard of that; four days ago the
1489 lady called me. I represent her; I'm trying to sell the property. We have a contract on
1490 the four acres, and we want to know exactly what's going to happen, what the electrical
1491 building is going to look like. I think if they build over there, then her property will
1492 devalue. She's not a rich lady; she's saved enough money to build a house and sell
1493 the front land.

1494
1495 Mr. Wright - You have M-1 on the front and you have M-1

1496
1497 Mr. Tookes - No, four acres are M-1

1498
1499 Mr. Wright - And then you've got some agriculture A-1, but then adjacent
1500 to your property, there's M-1 on the east.

1501
1502 Mr. Tookes - And three and a half years ago we got an engineer trying to
1503 do four ward houses over there in Henrico County, approved way to build them, and you
1504 can use agriculture as a buffer in parking lot and use underneath the lines as a parking
1505 lot, but the building has to be far away, so we got that. She was not trying to rezone the
1506 other seven acres because she wants to build a house there.

1507
1508 Mr. Wright - I'll ask Mr. Garrett when he gets back if they have a
1509 rendering or some type of picture of the type of building that they propose to build that
1510 he could show you there.
1511
1512 Mr. Tookes - The house looks like it needs work and has a garage. You
1513 don't want to live there unless you spend some money on it.
1514
1515 Mr. Wright - Anything further? Anyone else to speak in opposition?
1516
1517 Mr. Hambright - Benny Hambright. The only problem that I have is the
1518 drainage from this property, because we own the property, the M-1 piece, east of where
1519 you're going to build the substation, and we've had a problem with Hudson Industrial
1520 about 40 years ago. I just want to know what kind of arrangements are going to be
1521 made on the drainage.
1522
1523 Mr. Wright - All right; we'll ask him to address that. Thank you. Anyone
1524 else in opposition? Mr. Garrett, do you want to address these concerns, the drainage,
1525 and also the type of facility they're going to build. One thing I forgot to ask you, is there
1526 any noise emanating from this facility?
1527
1528 Mr. Garrett - The transformers do have a slight hum, but it should be
1529 mitigated totally at the property line.
1530
1531 Mr. Kirkland - There's no generators or any other equipment involved with
1532 this?
1533
1534 Mr. Garrett - No, not at all. The substation is actually in the middle there,
1535 where there's a crawl so you can reach up, grab the transmission line without a tap, and
1536 it will come down. The guys will split it out in one transformer, and it will roll to another
1537 transformer. We're utilizing the transmission facilities that are there. If I could address
1538 the drainage issue first, we will get proper E and S permits and make sure that we have
1539 all proper sedimentation control measures in place for the substation. If there are any
1540 other drainage issues on that property at the time of construction, we will address those
1541 then. I can assure the gentleman we will take that into consideration, and if we have a
1542 problem out there now, we will take care of it also. We purchased this property back in
1543 1966 for a substation. As our needs changed, we never put it off the books for that use.
1544 It is now fit into this new type of plan that we have to put up probably more substations
1545 and try to build less distribution lines. It helps with reliability. It cuts down on a lot of
1546 things. As far as the access road on the property that our access road crosses to get to
1547 the piece of property we own, if our road could be incorporated into a parking lot, you
1548 wouldn't even know that we had an access road there. There could be some
1549 conditions, we would need highway-rated paving if it's anything of a solid surface.
1550 Gravel works fine for us; I think the first fifty feet even now is paved. We have that type
1551 of issue in some of our substations in northern Virginia and different areas of Virginia
1552 now, where we may have an access through a parking lot. As long as we have enough

1553 radius to turn, the curves are long enough to where we can get our equipment in and
1554 out, and I think that would pretty much be a straight shot. The substation itself is up
1555 under the transmission lines.

1556
1557 Mr. Wright - Are the transmission lines already there?

1558
1559 Mr. Garrett - Actually, there are four transmission lines, three different
1560 types of structures, two transmission lines on one structure, and this would be directly
1561 under one of those transmission lines.

1562
1563 Mr. Wright - So they're already in place, the transmission lines? How tall
1564 will this building be?

1565
1566 Mr. Garrett - Yes sir. The substation itself, there's a backbone as shown
1567 right there; that is 62 feet tall, but that is really not considered part of the substation.
1568 That is a transmission structure. The fence is seven feet tall, and most of the
1569 equipment in the substation will be at a height of 25 feet or less.

1570
1571 Mr. McKinney - Mr. Garrett, you mentioned noise. How many db's does this
1572 put out?

1573
1574 Mr. Garrett - I'm not sure.

1575
1576 Mr. McKinney - Is it a constant humming?

1577
1578 Mr. Garrett - There's a slight hum.

1579
1580 Mr. McKinney - Twenty-four hours a day?

1581
1582 Mr. Garrett - Yes sir.

1583
1584 Mr. McKinney - You haven't calculated what your db's would be at the
1585 property line? If somebody next door could hear this all the time

1586
1587 Mr. Garrett - No sir.

1588
1589 Mr. Blankinship - What would it be comparable to in your experience

1590
1591 Mr. Garrett - I hear humming now. It's probably the computers, the lights;
1592 I think if you were right up against the fence, it would be just a little bit louder than that.

1593
1594 Mr. Wright - We could put a condition in it to restrict the number of db's at
1595 the property line.

1596
1597 Mr. Garrett - I don't think that we would have a problem with that,
1598 because what we have done didn't have that information. We checked it out prior to, we

1599 run calculations on the manufacturer's transformers and the distance to the property
1600 line, and I wouldn't be here today if we didn't think we met it.

1601
1602 Mr. Wright - How much screening between this property and the property
1603 in front of it? What kind of screening would you propose?
1604

1605 Mr. Garrett - We have got screening around 2/3 or 3/4 of the substation
1606 now, except for the back corner where the pavilion is, which I don't think anybody can
1607 see that anyway.
1608

1609 Mr. Wright - What type of screening are we talking about?

1610 Mr. Garrett - Evergreens.

1611 Mr. Wright - So you have evergreens around the station?

1612
1613 Mr. Garrett - Yes sir. Evergreens are planted around, right there, up in
1614 the other corner.
1615
1616

1617 Mr. Kirkland - How tall do you think they are right now?

1618
1619
1620 Mr. Garrett - They will go in at a height of three feet, and they will grow to
1621 a maximum of twelve feet, or maybe even a little bit more, but not much more than
1622 twelve. We cannot permit them much more height because they are directly under the
1623 transmission lines.
1624

1625 Mr. Blankinship - You show a fence. I don't see a spec though. Is that chain
1626 link?
1627

1628 Mr. Garrett - It's a chain link fabric of six feet, and one foot of barbed wire.

1629
1630 Mr. Blankinship - Would you be willing to go to a privacy fence on just the
1631 south side of that?
1632

1633 Mr. Garrett - We could do that, yes sir.

1634
1635 Mr. Nunnally - Is there any way you could put insulation on the inside of
1636 that fence or something to cut down on the humming?
1637

1638 Mr. Garrett - I think that privacy fence would probably help with the visual
1639 and the db matter also, if that was a concern.
1640

1641 Mr. Wright - You'd have no problems with a condition that would require
1642 a privacy fence along the south line?
1643

1644 Mr. Garrett - No sir.

1645
1646 Mr. Wright - You say you already have screening there, along the south
1647 line?

1648
1649 Mr. Garrett - It's not there now, but it's shown on the drawing; it would be
1650 twelve feet of screening would be in place once it's constructed.

1651
1652 Mr. Wright - Put that in the conditions also, twelve-foot screen. What
1653 type of planting is it? Bush? Tree?

1654
1655 Mr. Garrett - At maturity, whatever you say.

1656
1657 Mr. Wright - Any further questions from members of the Board?

1658
1659 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1660 McKinney, the Board **granted** application **UP-8-2004** for a conditional use permit to
1661 build an electrical substation at 2156 Charles City Road (Parcel 811-713-9128). The
1662 Board granted the use permit subject to the following conditions:

1663
1664 1. The property shall be developed in substantial conformance with the plan filed
1665 with the application. No substantial changes or additions to the layout may be made
1666 without the approval of the Board of Zoning Appeals.

1667
1668 2. [ADDED] The fence along the south side of the substation shall be an opaque
1669 privacy fence.

1670
1671 3. [ADDED] The screening shown on the plan shall consist of evergreens that reach
1672 a mature height of 12 feet.

1673
1674 Affirmative: Kirkland, McKinney, Nunnally, Wright 4

1675 Negative: 0

1676 Absent: 0

1677
1678 The Board granted the request because it found the proposed use will be in substantial
1679 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1680
1681 Mr. Blankinship - Mr. Chairman, the next two cases are companions.

1682
1683 **A - 27-2004** **PETERSON CONSTRUCTION COMPANY** requests a variance
1684 from Section 24-95(c)(4) of Chapter 24 of the County Code to build
1685 a one-family dwelling at 1305 Virginia Avenue (Biltmore) (Parcel
1686 783-761-5213), zoned R-4, One-family Residence District
1687 (Fairfield). The front yard setback is not met. The applicant
1688 proposes 24 feet front yard setback, where the Code requires 35
1689 feet front yard setback. The applicant requests a variance of 11
1690 feet front yard setback.

1691
1692 **A - 28-2004** **PETERSON CONSTRUCTION COMPANY** requests a variance
1693 from Section 24-95(c)(4) of Chapter 24 of the County Code to build
1694 a one-family dwelling at 1307 Virginia Avenue (Biltmore) (Parcel
1695 783-761-4812), zoned R-4, One-family Residence District
1696 (Fairfield). The front yard setback is not met. The applicant
1697 proposes 24 feet front yard setback, where the Code requires 35
1698 feet front yard setback. The applicant requests a variance of 11
1699 feet front yard setback.
1700

1701 Mr. Wright - Does anyone else desire to speak with reference to this
1702 case? If you would please stand and raise your right hand and be sworn at the same
1703 time?
1704

1705 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1706 truth, the whole truth, and nothing but the truth, so help you God?
1707

1708 Mr. Wright - All right, you folks can sit down and wait till your time comes.
1709 Please state your name and present your case
1710

1711 Mr. Peterson - I do. My name is Byron Peterson. I am the President of
1712 Peterson Construction, and I'm a local homebuilder. I recently purchased these two
1713 lots, and am proposing to build single-family dwellings on them. Shall we do two lots or
1714 one lot at a time.
1715

1716 Mr. Blankinship - Do them both.
1717

1718 Mr. Peterson - I could build these houses under the current zoning
1719 requirements; however I feel it would be better if I were to be granted a variance to
1720 move these houses forward so that they would be in line with the rest of the houses in
1721 the neighborhood. The current code requires a 35-foot setback, and I'm proposing a
1722 24-foot setback, so I'm looking for an 11-foot variance. We surveyed the property on
1723 1303 Virginia Avenue, and found that it had a 22-foot setback. The houses I'm
1724 proposing to build are 1600 square feet, two-story, built in a Craftsmen style
1725 construction. They'll be three-bedroom and two-bath homes with vinyl siding and a
1726 large front porch. Like I said, I could build the houses under the current zoning, but I
1727 feel that it would be a nicer look for the neighborhood if we brought the houses forward
1728 to be in line with the rest of the houses.
1729

1730 Mr. Wright - So the only reason you're here is you want to put these
1731 houses in line with the other houses that have been constructed on the street.
1732

1733 Mr. Peterson - Yes sir. There is, on 1305 there is an existing garage, and if
1734 I move the houses back to the 35 feet, I believe that garage would have to be removed,
1735 because it's too close to the proposed new homes being built.
1736

1737 Mr. McKinney - Mr. Peterson, it looks like there's only one house on the
1738 whole block that meets the setback, and that's 1315. Is that correct?
1739
1740 Mr. Blankinship - Yes sir.
1741
1742 Mr. Peterson - I do not know what the setback is on that house. I know
1743 1303, 1301, are somewhere around 22 feet back.
1744
1745 Mr. McKinney - How about 1309?
1746
1747 Mr. Peterson - 1309 is less than 35; I do not know the exact dimension; I
1748 believe it's 26. It does not have a front porch. I'm proposing to have a setback of 24,
1749 that's with the six-foot front porch, so the actual house will be 30 feet back.
1750
1751 Mr. McKinney - The other houses on the block, that you say you're
1752 proposing 1600 square foot, two-story?
1753
1754 Mr. Peterson - Yes sir.
1755
1756 Mr. McKinney - What are the other houses on the block?
1757
1758 Mr. Peterson - The style of the houses; I think that most of them were built
1759 in the '50's, '60's, again in Craftsmen style, some two-story, some Cape styles, so the
1760 houses I'm proposing to build would fit very nicely that style house.
1761
1762 Mr. McKinney - Are the other houses basically 1500-1600 square feet?
1763
1764 Mr. Peterson - They're probably smaller than that.
1765
1766 Mr. Wright - Is that everything for right now? We'll hear from the
1767 opposition, and you'll have an opportunity to rebut. Those who would like to speak in
1768 opposition, please come to the podium, and please state your name for the record.
1769
1770 Mr. Walker - Douglas Walker; I live at 1309 Virginia, which is right next to
1771 these two proposed houses. Mr. Peterson's correct; 1301 and 1303 would be in line
1772 with the houses he proposes, that if you drive by those houses, that 24-foot variance
1773 looks terrible. These houses are right on the street. That's what happened the last time
1774 somebody asked for a variance, I guess back in the '50's. My house is 36 feet; the
1775 houses next to me are 36 feet to my left. 1308 is probably 20-some feet, and it's too
1776 close to the street. The house next to 1308 is also a spec home, and it meets the
1777 required setbacks, so what Mr. Peterson is saying is yes, 1305, 1307, do line up with
1778 1301 and 1303, but they don't line up with a lot of the other houses in the neighborhood.
1779 Actually there's no reason for this variance other than convenience. He had these
1780 houses staked out before he bought this property, and the original owner told me he
1781 was going to put houses there, but this garage and shed were in the way. It's just a
1782 block shed, is all it is, and obviously it's easier to come up here and ask for a variance

1783 than it is to remove the shed. He knew where these houses were before he bought the
1784 property; he knew what the zoning requirements were; he knew the setbacks I'm sure
1785 before he bought this property. It's just a matter of convenience. Another thing about
1786 this 24 feet, from the center, if you move these houses up closer to the road, you're
1787 moving the cars up closer to the road. These are long, narrow lots; there is no room for
1788 a garage on the side of these lots, so the parking is going to be in front of the houses,
1789 which put your front door and children closer to the street. It's just not a good idea
1790 when all he has to do is move the houses back in line with some of the other houses
1791 and meet the requirement. It's just a matter of convenience; it's not a matter of not
1792 having enough room to put these houses in line. There is the room there; he doesn't
1793 need this variance. Also, when you move the house forward, it puts the rear of his
1794 houses in view of my dining room, so it's not just the front of the house that's affected.
1795 It's the back of the house; then we've got a problem looking across the back of his
1796 house. Obviously, he's not going to live here; these are just spec homes. We live in
1797 this neighborhood; we'd like to have him meet the requirements that you set down
1798 earlier. Thank you.

1799
1800 Mr. McKinney - Mr. Walker, how long have you lived there?

1801
1802 Mr. Walker - Five years; I moved here from California.

1803
1804 Ms. Broach - I'm Mable Broach; I live at 1315 Virginia Avenue. I'm against
1805 Peterson Construction Company's request to build a one-family dwelling on 1305 and
1806 1307 on Virginia Avenue with a 24-foot front yard setback, where the County Code calls
1807 for a 35-foot front yard setback. In my opinion, these buildings will distract from the
1808 looks of this neighborhood.

1809
1810 Mr. McKinney - Ms. Broach, how long have you lived there ma'am?

1811
1812 Ms. Broach - Sixty-three years.

1813
1814 Mr. McKinney - How many square feet are in your house?

1815
1816 Ms. Broach - It's sixty feet long and 28 feet wide, ranch. I have a picture
1817 of it if you want to see it.

1818
1819 Mr. Wright - That's not necessary; we just wanted to know what the size
1820 was. That's 1680, correct?

1821
1822 Mr. Broach - My name's William Broach; I live at 1400 Virginia Avenue. In
1823 1978 I prepared my house plans for that area. I was told by the County I could not set
1824 the front of the house any closer than the adjacent house at 1404, so I set the house
1825 currently at 41 feet back. I do not feel like this proposed construction of these houses at
1826 1305 and 1307 will improve the appearance of the neighborhood, and definitely I'm not
1827 in favor. Thank you.

1828

1829 Mr. McKinney - Mr. Broach, how long have you been there?
1830
1831 Mr. Broach - Sixty-four years.
1832
1833 Mr. McKinney - Now the house at 1404, when you look to the right out of
1834 your front yard, that house is blocking your view going down Virginia Avenue, correct?
1835
1836 Mr. Broach - Yes sir, but I chose to set it back further, but I was told at the
1837 time I could set it in line with that.
1838
1839 Mr. McKinney - Was 1404 there when you built your house, 64 years ago?
1840
1841 Mr. Broach - I didn't build the house. I've been living in the area 64 years.
1842
1843 Mr. McKinney - How long have you been in this house?
1844
1845 Mr. Broach - Since 1978.
1846
1847 Mr. Wright - Anyone else in opposition? We'll hear from Mr. Peterson.
1848
1849 Mr. Peterson - I didn't know I was going to have so many people opposing.
1850 Actually, the reason I only did this was, I felt, for a more harmonious setting for the
1851 house. Obviously, these people live in the neighborhood, which I respect their opinions,
1852 have something to say about that. It would be easier, I think, for me to build a house,
1853 and like I say, I could build a house under the current zoning. The reason I asked for
1854 this variance was to line them up with the existing houses directly beside them. I still
1855 feel that it would like nicer and make a better neighborhood where I proposed it, versus
1856 going to the 35-foot setback. I understand their opposition and respect that, so
1857 whatever you feel is appropriate will be fine with me.
1858
1859 Mr. McKinney - You're asking for 24 feet – how about if you moved them
1860 back just some?
1861
1862 Mr. Peterson - That would be fine too. The house to the left of the property
1863 is 22, and I proposed 24-foot setbacks. If you wanted to go

1864
1865 Mr. McKinney - You're talking about facing the house off Virginia Avenue.
1866
1867 Mr. Wright - How about 1309 – how far is that back?
1868
1869 Mr. Peterson - I did not survey that property, so I don't know the exact. I
1870 believe it was something like 26 feet; I'm not sure on that, it does not have a front porch.
1871
1872 Mr. McKinney - If you moved it back to thirty feet, would that hurt you very
1873 much?
1874

1875 Mr. Peterson - No, I believe, like I said, I could build these houses; it would
1876 be a better look for the neighborhood to keep them in line, but thirty feet would

1877
1878 Mr. McKinney - Does that affect your garage on the other house? Doesn't
1879 look like it would.

1880
1881 Mr. Peterson - I don't know what the requirement is for an existing garage,
1882 ten feet, so if you took off six, it would be close.

1883
1884 Mr. McKinney - But you could still keep your garage?

1885
1886 Mr. Peterson - I don't know for sure.

1887
1888 Mr. McKinney - Would you like to defer it for thirty days and check it out?

1889
1890 Mr. Peterson - I would request that you maybe go 28 feet, and I think I
1891 would be fine.

1892
1893 Mr. Wright - Anything further from members of the Board. Thank all of
1894 you for appearing.

1895
1896 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1897 Kirkland, the Board **granted** application **A-27-2004** for a variance to build a one-family
1898 dwelling at 1305 Virginia Avenue (Biltmore) (Parcel 783-761-5213). The Board granted
1899 the variance to allow the proposed dwelling at a front setback of 28 feet, subject to the
1900 following conditions:

1901
1902 1. Only the improvements shown on the plan filed with the application may be
1903 constructed pursuant to this approval. No substantial changes or additions to the layout
1904 may be made without the approval of the Board of Zoning Appeals. Any additional
1905 improvements shall comply with the applicable regulations of the County Code.

1906
1907 2. Connections shall be made to public water and sewer.

1908
1909 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
1910 Negative: 0
1911 Absent: 0

1912
1913 The Board granted this request, as it found from the evidence presented that, due to the
1914 unique circumstances of the subject property, strict application of the County Code
1915 would produce undue hardship not generally shared by other properties in the area, and
1916 authorizing this variance will neither cause a substantial detriment to adjacent property
1917 nor materially impair the purpose of the zoning regulations.

1918
1919 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
1920 Nunnally, the Board **granted** application **A-28-2004** for a variance to build a one-family

1921 dwelling at 1307 Virginia Avenue (Biltmore) (Parcel 783-761-4812). The Board granted
1922 a variance to allow the proposed dwelling at a front setback of 28 feet, subject to the
1923 following conditions:

1924
1925 1. Only the improvements shown on the plan filed with the application may be
1926 constructed pursuant to this approval. No substantial changes or additions to the layout
1927 may be made without the approval of the Board of Zoning Appeals. Any additional
1928 improvements shall comply with the applicable regulations of the County Code.

1929
1930 2. Connections shall be made to public water and sewer.

1931
1932 Affirmative: Kirkland, McKinney, Nunnally, Wright 4
1933 Negative: 0
1934 Absent: 0

1935
1936 The Board granted this request, as it found from the evidence presented that, due to the
1937 unique circumstances of the subject property, strict application of the County Code
1938 would produce undue hardship not generally shared by other properties in the area, and
1939 authorizing this variance will neither cause a substantial detriment to adjacent property
1940 nor materially impair the purpose of the zoning regulations.

1941
1942 **A - 29-2004** **DAVID NEELY** requests a variance from Section 24-95(c)(1) of
1943 Chapter 24 of the County Code to build an addition at 1014 Sharon
1944 Lane (University Heights Addition) (Parcel 755-740-4833), zoned
1945 R-2, One-family Residence District (Tuckahoe). The minimum side
1946 yard setback is not met. The applicant proposes 4 feet minimum
1947 side yard setback, where the Code requires 13 feet minimum side
1948 yard setback. The applicant requests a variance of 9 feet minimum
1949 side yard setback.

1950
1951 Mr. Wright - Does anyone else desire to speak with reference to this
1952 case? If you would please stand and raise your right hand and be sworn at the same
1953 time?

1954
1955 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1956 truth, the whole truth, and nothing but the truth, so help you God?

1957
1958 Mr. Neely - I do. My name is David Neely. I'm proposing to build a one-
1959 story bedroom/bath addition on my house, and I'm requesting a variance of nine feet,
1960 which would leave the minimum side yard setback at four feet at the narrowest point on
1961 the lot. The lot is irregular-shaped and as the addition goes back, the setback does
1962 increase, and I believe it increases to the minimum of thirteen by the end of the addition.
1963 There's an existing hedge that would provide a buffer between the two properties. The
1964 reason for this addition is that I've got a growing family. I've got a three-bedroom
1965 house, and this would be the fourth bedroom.

1966

1967 Mr. Wright - What is that picture we have on the screen?
1968
1969 Mr. Neely - That's the area where the addition would be, and that post,
1970 marker, right there, would be the edge of the addition. The addition would be
1971 constructed in a like fashion as a previous addition I did, which was a kitchen addition.
1972 You can see that to your left, and that's all in brick and matches the house, and this
1973 addition would also match the house. The screened porch would be incorporated in the
1974 addition; the roofline would stay the same, and I would tie the rest of the addition back
1975 into that screened porch.
1976
1977 Mr. Wright - Doesn't that screened porch violate the sideline requirement
1978 now?
1979
1980 Mr. Neely - Yes it does.
1981
1982 Mr. Wright - How close is that to the property line?
1983
1984 Mr. Neely - That is ten feet off of my house; I'm requesting to bump out
1985 the screened porch another five feet to accommodate a viable bedroom, which I would
1986 need about fifteen feet width to make it a viable addition. The reason I'm not proposing
1987 this on the other side of my house is I've got an in-ground oil tank in the driveway, and it
1988 would require me to do quite a bit more of an addition than I'm desiring. All I want is a
1989 bedroom/bath. This is a quad, and it sits well above grade at the other end of the
1990 house, and I would have to build both a garage and a much more elaborate addition.
1991 Another reason for this is I've got a rather severe water problem as the lot slopes, and
1992 I'm getting a lot of run-off from the adjacent lot, and I would be able to correct that
1993 problem with this addition as well. That mandates me having a French drain system
1994 that ties into the easement that runs behind my property. I've got active water moving
1995 through my property now; I've got pictures of it if you want to see. I've got both a
1996 sinkhole at the bottom, lower end of my property that's approximately three to four feet
1997 deep and fills with water constantly and is doing so now. I've got another hole against
1998 the side of my house that fills up constantly. I'm having to do pump systems to remove
1999 the water, and this water has seeped under the house into the crawl space. If I can
2000 build this addition on the upper part of my property, I'll be able to rectify this problem
2001 and save some serious damage that is already occurring with my property, and it's
2002 settling. I'm living in this property, and I want to live in this property for a long time, but if
2003 I can't find a viable addition and solve this water problem, I will not be able to do that.
2004
2005 Mr. McKinney - What's the size of your master bedroom now?
2006
2007 Mr. Neely - It's approximately twelve by thirteen, I believe.
2008
2009 Mr. McKinney - How many bedrooms do you have?
2010
2011 Mr. Neely - Three bedrooms.
2012

2013 Mr. McKinney – Three now? And this would be the proposed new master
2014 bedroom, right?
2015
2016 Mr. Neely - It's a 15 by 35, approximately, addition.
2017
2018 Mr. McKinney - But your master bedroom is eighteen feet.
2019
2020 Mr. Neely - But this is also a bath and closet.
2021
2022 Mr. McKinney - No, your bedroom is eighteen feet long, your new bedroom,
2023 by fifteen feet wide, and I see the new bathroom, etc.
2024
2025 Mr. Wright - How is the house on the side that you propose this new
2026 construction situated with respect to your house. Is yours lower or higher than that
2027 house?
2028
2029 Mr. Neely - It is lower.
2030
2031 Mr. Wright - So you are below that house?
2032
2033 Mr. Neely - Yes, and there is a driveway on their side of the property, on
2034 the other side of the hedge, there is a driveway, and that also, I believe I bear the brunt
2035 of the run-off from that as well.
2036
2037 Mr. Wright - So their property drains down onto your property?
2038
2039 Mr. Neely - Yes.
2040
2041 Mr. Wright - Do you have those pictures? Is there anything further that
2042 you wish to state? Any other questions of members of the Board.
2043
2044 Mr. McKinney - If you put it on the other side of the house would you need a
2045 variance?
2046
2047 Mr. Neely - No, I would not.
2048
2049 Mr. McKinney - Have you thought about that?
2050
2051 Mr. Neely - Yes, I have, but it would also require much more
2052 construction, while all I'm looking to do is add a bedroom and bath. It would be in my
2053 driveway, and I can't build it further in the back of the yard, because that's where I'm
2054 going to have to dig a hole for a French drain termination, and then I tie in with the
2055 easement that's going through my back yard now.
2056
2057 Mr. Nunnally - How long have you lived there?
2058

2059 Mr. Wright - You've got a drainage easement on the right side.
2060
2061 Mr. Neely - Yes, and the drainage easement is not solving the moving
2062 water that's coming through that back yard and side yard; it's a very serious problem.
2063
2064 Mr. Wright - Is that an underground pipe?
2065
2066 Mr. Neely - Yes it is.
2067
2068 Mr. Wright - It's an underground facility to take the water through
2069
2070 Mr. Neely - And there's a drop inlet in the rear of my property as well.
2071
2072 Mr. Wright - We'll hear from the opposition, please, and you'll have an
2073 opportunity to rebut. Please state your name.
2074
2075 Ms. Giegerich - My name is Mary Ann Giegerich, and I live at 710 Keats
2076 Road, which is next door to the Neelys. I object to the use of the variance, because our
2077 two houses are already closer together than any of the other houses in the
2078 neighborhood. The other thing is that my main floor of my house on the Neely side is
2079 on the second floor, because it's a walk-in basement, and so with an addition, I will be
2080 looking out of my two main bedrooms right at the roof. Already the addition that's been
2081 put on has cut off the view, and I'm looking into the roof of that, but that's over on the lot
2082 some. The other thing is that the structure that's over the variance now is the porch,
2083 which is fine, because you can see through the porch, but I'm thinking a solid structure
2084 is going to be a different ball game to look at. I hadn't thought about the water situation
2085 until Mr. Neely mentioned it, but I have a much bigger water situation than I've known,
2086 from the Neely's house, and I think it's because I am down from my three neighbors
2087 above me that are higher. So the water was cut down quite a bit when the man on the
2088 other side of me built an addition. But now I'm thinking if this addition is going to help
2089 the Neely's water, then what it's going to do is back up the water to me, because I really
2090 do have a water problem. The other thing is that the property between the two houses
2091 at this point is mostly on my side of the line, and I feel like there would be nothing I
2092 could do in the future if this addition is there. I couldn't even use the property that's not
2093 in the variance, because it would put us just really too close together. I feel like my
2094 property value will go down with this addition, mainly because of looking out on the roof,
2095 and I have some pictures, if you would like.
2096
2097 Mr. Wright - All right, if you would submit those to us. Any questions of
2098 Ms. Giegerich? Mr. Neely, you have an opportunity to rebut and to address some
2099 concerns that have been stated. Start with your water problem, since that was the last
2100 thing.
2101
2102 Mr. Neely - There would be no problem with her receiving any more
2103 water from; there would be no water flow from my property back onto her property with
2104 the construction of this addition. Like I'm telling you, there would be a French drain

2105 system that would remove all the water at the property line surrounding the addition and
2106 carry it across my property and put it into the County system. As for the view of the
2107 roof, I believe that with the bedroom situation, that it would enhance the privacy
2108 between the two properties rather than detract. I don't think that there would be any
2109 worry for her on her part, that her property values would go down. This is not the
2110 closest addition in the property of like properties in the neighborhood. There's many
2111 additions in this neighborhood that are an close or closer than this addition I'm
2112 proposing.

2113
2114 Mr. Wright - Any further questions of members of the Board?
2115

2116 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
2117 Nunnally, the Board **granted** application **A-29-2004** for a variance to build an addition at
2118 1014 Sharon Lane (University Heights Addition) (Parcel 755-740-4833). The Board granted
2119 the variance subject to the following conditions:

2120
2121 1. Only the improvements shown on the plan filed with the application may be constructed
2122 pursuant to this approval. No substantial changes or additions to the layout may be made
2123 without the approval of the Board of Zoning Appeals. Any additional improvements shall comply
2124 with the applicable regulations of the County Code.

2125
2126 2. The new construction shall match the existing dwelling as nearly as practical.
2127

2128 Affirmative:	Kirkland, McKinney, Nunnally, Wright	4
2129 Negative:		0
2130 Absent:		0

2131
2132 The Board granted this request, as it found from the evidence presented that, due to the
2133 unique circumstances of the subject property, strict application of the County Code
2134 would produce undue hardship not generally shared by other properties in the area, and
2135 authorizing this variance will neither cause a substantial detriment to adjacent property
2136 nor materially impair the purpose of the zoning regulations.

2137
2138 **A - 30-2004** **VELOCITY SPORTS** requests a variance from Section 24-96(b) of
2139 Chapter 24 of the County Code to operate a sports training facility
2140 at 2812 East Parham Road (Parcel 772-756-7275), zoned M-1,
2141 Light Industrial District (Brookland). The required number of
2142 parking spaces is not met. The applicant has 37 parking spaces
2143 where the Code requires 91 parking spaces. The applicant
2144 requests a variance of 54 parking spaces.

2145
2146 Mr. Wright - Does anyone else desire to speak with reference to this
2147 case? If you would please stand and raise your right hand and be sworn at the same
2148 time?
2149

2150 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2151 truth, the whole truth, and nothing but the truth, so help you God?

2152
2153 Mr. Miller - I do. My name is Richard Miller. Yes, we are here today
2154 applying for this variance based upon Section 24-96(b) with parking, and we're basing
2155 this on an extraordinary and exceptional situation. Velocity Sports, I'm with Brandywine
2156 Realty Trust. We represent the owners of Parham Forest, which is Parham Forest
2157 Associates. They have entered into a lease with Velocity Sports for a sports training
2158 facility, and I thought if I explained the process of what their business is, you'd
2159 understand why the need for the parking isn't nearly what this requirement has put forth.
2160 Velocity Sports trains athletes to basically run faster and be quicker. It's a franchise,
2161 and the local franchisee is Stuart Brothers LLC, which is Dr. Bruce Stuart, who is a
2162 Henrico resident and his son Shawn, who has a Ph. D. in sports training from the
2163 University of Kentucky. Their operation, or the franchise, allows a maximum of six
2164 trainees with one trainer. They have two different training groups. One is age twelve
2165 and below, and the other is age thirteen and above. Eighty percent of their clients are
2166 within the age of eleven and eighteen. Seventy percent of their client base do not have
2167 drivers licenses, so they are driven by parents and basically dropped off. If we use the
2168 six clients or trainees with one coach as the maximum use, during a one-hour session,
2169 the most groups that could be within the facility is three, so that would create eighteen
2170 trainees with three coaches. If they all had drivers licenses, they would be there, there
2171 would be eighteen parking spaces. When we originally, when I got involved with a lot of
2172 these sports they passed, their requirement was fifteen parking spaces. The operation,
2173 the majority of its training sessions are from 4:00 pm until 8:30 pm. At Parham Forest,
2174 the majority of the businesses there operate from 7:00 or 8:00 am until 5:00 pm, so
2175 there's one hour of overlap on the majority of businesses. Using this worst case
2176 scenario, the eighteen parking spaces would be enough to satisfy what the need is.
2177
2178 Mr. McKinney What are you hours of operation again sir?
2179
2180 Mr. Miller - They are open from 9:00 am until 8:30 pm, but since the
2181 majority, about 80%, are basically high school and middle school students, so during
2182 the school time, they obviously can't attend these training sessions, so they schedule
2183 the majority of their appointments are from 4:00 pm until 8:30 pm.
2184
2185 Mr. McKinney - This strip mall really doesn't close down until 5:00?
2186
2187 Mr. Miller - Yes, by 5:00 o'clock usually everybody's out of there.
2188
2189 Mr. McKinney - And you've got them coming in at 4:30?
2190
2191 Mr. Miller - The first round of 18 at 4:00. It's an hour-long session. The
2192 thirteen-year-olds and above, it's usually an hour and a half session, and the difference
2193 between thirteen-year-olds and the older age group is
2194
2195 Mr. McKinney - So you've got 18 coming in at 4:00 o'clock?
2196
2197 Mr. Miller - It's staggered. Typically the actual training consists of a

2198 fifteen-minute warm-up period

2199

2200 Mr. McKinney - What time does your first group come in?

2201

2202 Mr. Miller - Typically 4:00, lasts an hour, and the largest the first group

2203 can be is six. The second group, another six, comes in about 4:30, because you're

2204 going to have three of the six groups operating at one area or another within the facility.

2205 That's the most you could have.

2206

2207 Mr. McKinney - How many sessions do you have?

2208

2209 Mr. Miller - The most sessions you can have in a given hour is three.

2210

2211 Mr. McKinney - What's the most students you'd have at one time?

2212

2213 Mr. Miller - Eighteen.

2214

2215 Mr. McKinney - Eighteen, and they would come in at six students, and then

2216 thirty minutes later you'd have another six come in, and then thirty minutes later you'd

2217 have another six come in? So when your third session comes in, the first session is

2218 leaving, so you'd have a total of twelve automobiles or parents or whoever.

2219

2220 Mr. Miller - The six is using the maximum number; the ideal number for

2221 the training is four, and it could be as little as one, so there's no price difference for the

2222 individuals if it's one or if you're in a group of four. The individual price is the same. But

2223 four is the most efficient, especially in the thirteen-year-old group, because during the

2224 weight training, they facilitate each other.

2225

2226 Mr. McKinney - Mr. Miller, do you have a problem with a condition that you

2227 stagger these thirty minutes apart? And you will not have on any day, any more than

2228 eighteen through these three sessions.

2229

2230 Mr. Miller - Eighteen for the three sessions? The franchiser won't allow

2231 more than eighteen.

2232

2233 Mr. McKinney - But you don't mind having a condition in there that it's

2234 required.

2235

2236 Mr. Wright - You now have thirty-seven spaces, is that correct?

2237

2238 Mr. Miller - We have thirty-seven; for this use we were able to provide

2239 thirty-seven.

2240

2241 Mr. Wright - How many people work at the facility?

2242

2243 Mr. Miller - They have, there is a receptionist who is there during the

2244 day; then there is Shawn Stuart, who is the Ph. D. in sports training, and then there are
2245 probably four or five part-time coaches who would be employed.

2246
2247 Mr. Wright - Even if you put, that's five or six more added to your
2248 eighteen, you're still looking at 20-some. Any more questions of the Board? Anything
2249 further you desire to offer? Mr. Miller? Anyone here in opposition to this request?

2250
2251 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
2252 McKinney, the Board **granted** application **A-30-2004** for a variance to operate a sports
2253 training facility at 2812 East Parham Road (Parcel 772-756-7275). The Board granted
2254 the variance subject to the following conditions:

2255
2256 1. This variance applies only to the parking requirement as applied to individualized
2257 athletic instruction. It does not apply to any other uses. All other applicable regulations
2258 of the County Code shall remain in force.

2259
2260 2. All other conditions of POD 90-85 shall remain in effect.

2261
2262 3. [ADDED] No more than 18 students shall be on the site before 5:00 PM.

2263
2264 Affirmative: Kirkland, McKinney, Nunnally, Wright 4

2265 Negative: 0

2266 Absent: 0

2267
2268 The Board granted this request, as it found from the evidence presented that, due to the
2269 unique circumstances of the subject property, strict application of the County Code
2270 would produce undue hardship not generally shared by other properties in the area, and
2271 authorizing this variance will neither cause a substantial detriment to adjacent property
2272 nor materially impair the purpose of the zoning regulations.

2273
2274 **A - 31-2004** **SARAH J. BRITT** requests a variance from Section 24-9 of
2275 Chapter 24 of the County Code to build a one-family dwelling at
2276 4720 South Laburnum Avenue (Parcel 816-715-1082), zoned R-3,
2277 One-family Residence District (Varina). The public street frontage
2278 requirement is not met. The applicant has 0 feet public street
2279 frontage, where the Code requires 50 feet public street frontage.
2280 The applicant requests a variance of 50 feet public street frontage.

2281
2282 Upon a motion by Mr. Nunnally, seconded by Mr. McKinney the Board **deferred**
2283 application **A-31-2004** for a variance to build a one-family dwelling at 4720 South
2284 Laburnum Avenue (Parcel 816-715-1082). The case was deferred at the request of the
2285 applicant, from the March 25, 2004, until the April 22, 2004, meeting.

2286
2287 Affirmative: Kirkland, McKinney, Nunnally, Wright 5

2288 Negative: 0

2289 Absent: 0

2290
2291 Mr. Wright - The last case was deferred. Let's take a five-minute break
2292 before we decide these cases.

2293
2294 On a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **approved**
2295 **as corrected**, the Minutes of the **September 25, 2003**, Henrico County Board of
2296 Zoning Appeals meeting.

2297
2298 Mr. Wright - On April 22, 2004, right after the meeting, we will
2299 have a two-hour working session, a lunch session, assuming that the new Board
2300 member is appointed by that time. We'll meet and eat in the Conference Room.

2301
2302 There being no further business, and on a motion by Mr. McKinney, seconded by
2303 Mr. Kirkland, the Board adjourned until **March 23, 2003**, at 9:00 am.

2304
2305

2306

2307 Russell A. Wright, Esq.

2308 Chairman

2309

2310

2311 Benjamin Blankinship, AICP

2312 Secretary

2313

2314

2315