

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, NOVEMBER 21,
4 2002, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND
5 TIMES-DISPATCH ON OCTOBER 31 AND NOVEMBER 7, 2002.
6

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

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

7
8 Mr. Balfour - I call the meeting of the County of Henrico Board of Zoning
9 Appeals to order. Would you stand for the **Pledge of Allegiance**.

10
11 Ladies and Gentlemen, it's my pleasure this morning to take a minute to recognize a
12 lady who's been with us the past 7 years, who's moving on to continue answering
13 questions, but this time, rather than answer questions of us and keep us straight, she's
14 going to be answering questions for the public in the Permit Department, so I'd like to
15 ask Ms. Susan Blackburn to come forward so I can read a resolution.
16

17 **Resolution of the Board of Zoning Appeals of Henrico County**

18
19 **Whereas**, Susan W. Blackburn (who's standing too far away) has served Henrico
20 County's Board of Zoning Appeals from October 26, 1995, to November 21,
21 2002, and
22

23 **Whereas**, her seven years of service have been marked by professional
24 excellence, integrity, consistency, and attention to detail, and
25

26 **Whereas**, the effectiveness and efficiency of this Board of Zoning Appeals has
27 been greatly increased by the benefit of her hard work and dedication, and now
28 therefore,
29

30 **Be It Resolved**, that the Henrico County Board of Zoning Appeals expresses
31 appreciation to Susan W. Blackburn for seven years of a job well done, and
32 wishes her well in the supervision of the Permit Center.
33

34 **Approved** this 21st day of November, 2002.
35

36 Congratulations and thank you.

37

38 Mr. Secretary, would you read the rules, please.

39

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

55

56 Mr. Balfour - Thank you sir. Do we have any deferrals or withdrawals, Mr.
57 Secretary.

58

59 Mr. Blankinship - Not on 9:00 o'clock. I just noticed Ms. Gloria Freye is in the
60 audience – she has a deferral for 10 o'clock. There's no point in her having to sit there
61 for a hour to request a deferral.

62

63 Mr. McKinney - How about the people who might be here at 10 o'clock, and
64 they're not here yet? You can't defer something at 9 o'clock that's on the 10 o'clock
65 agenda. She's going to have to stay here at least till then.

66

67 Mr. Balfour - Do we have any deferred from the previous meeting?

68

69 **A -162-2002** **TIMOTHY HARRISON** requests a variance from Section 24-
70 95(b)(5) of Chapter 24 of the County Code to build a one-family
71 dwelling at 221 Westover Avenue (Bungalow City) (Parcel 816-728-
72 5240), zoned R-3, One-family Residence District (Varina). The lot
73 width requirement and total lot area requirement are not met. The
74 applicant has 6,400 square feet total lot area and 50 feet lot width,
75 where the Code requires 8,000 square feet total lot area and 65
76 feet lot width. The applicant requests a variance of 1,600 square
77 feet total lot area and 15 feet lot width.

78

79 Mr. Balfour - Any others to speak on this matter? Raise your right hand
80 and be sworn please.

81

82 Mr. Blankinship - Do you swear that the testimony you are about to give is the
83 truth, the whole truth, and nothing but the truth, so help you God?
84
85 Mr. Harrison - I do. I'm Timothy Harrison, and I would like for you to
86 approve the variance so I can build a single-family dwelling.
87
88 Mr. Nunnally - Mr. Harrison, have you removed all the stuff off the property
89 that we asked you to?
90
91 Mr. Harrison - Yes sir, all except the construction stuff that I'm going to use
92 on the house.
93
94 Mr. Nunnally - What is all the stuff in the back there, or are you going to use
95 that on the house?
96
97 Mr. Harrison - Those are blocks that were there last time.
98
99 Mr. Nunnally - I understand the blocks.
100
101 Mr. Kirkland - Mr. Blankinship, did you make an inspection?
102
103 Mr. Blankinship - These photographs were taken Tuesday, day before
104 yesterday.
105
106 Mr. Kirkland - These look like the same photographs we saw last month.
107
108 Mr. Blankinship - They are very similar.
109
110 Mr. Harrison - Those boxes right there are toolboxes that I keep the stuff in
111 to keep people from taking it, or whatever, and the other stuff in the back is like a
112 lawnmower and a little storage place where I have tools inside the building. I was asked
113 to remove all my work stuff, like air compressor, a truck, and scaffolding that I had out
114 there. You asked me to remove that stuff, and I did, and a motor that was in the ditch.
115 Those are some tires that I took off the old truck, that I hadn't gotten rid of yet.
116
117 Mr. McKinney - Mr. Blankinship, has Mr. Harrison been cited for this in the
118 past?
119
120 Mr. Blankinship - Yes sir, he has.
121
122 Mr. McKinney - How long ago?
123
124 Mr. Blankinship - It was a Community Maintenance notice, so I don't know all
125 of the details on it.
126
127 Mr. McKinney - It doesn't look like any of it has been removed.

128
129 Mr. Harrison - It has sir. It was really a mess out there, and the inspector
130 came out and checked it, and she said that I was in compliance; I could only have one
131 truck back there, and I've gotten rid of the other trucks and whatever.
132
133 Mr. McKinney - I'm not talking about the trucks, Mr. Harrison. I'm talking
134 about these others, like those tires, etc. You're in an R-3 district, a single-family
135 dwelling, zoning district. The Code does not allow you to use that, as you see here, for
136 any outside storage. If you had a garage, and it was inside and couldn't be seen,
137 probably nobody would say anything about it. But look at this picture right here. What
138 is that?
139
140 Mr. Harrison - Most of it is stuff for construction. There are some pipes for
141 the plumbing system, and there are a couple pieces of board there that I'll build a little
142 shed out of, a little siding.
143
144 Mr. McKinney - Point out to me what pipes you say are for plumbing
145
146 Mr. Harrison - It's over on the right-hand side. See those white pipes right
147 there on the ground.
148
149 Mr. McKinney - Those PVC pipes?
150
151 Mr. Harrison - Yes sir, PVC pipes for the sewage system. And that board
152 right there; that's for the floor joists.
153
154 Mr. McKinney - Those boards right there, they're used boards. TGI I see
155 some of them down there; I see a few 2 by 4's, and 1 by 6's or 1 by 8's. They look like
156 they're about 30 years old.
157
158 Mr. Harrison - They're not quite that old sir. I was using them on that little
159 house that I'm building for a barn in the yard.
160
161 Mr. McKinney - They've been laying there a long time?
162
163 Mr. Harrison - They've been there about a month, two months.
164
165 Mr. McKinney - What's the polyethylene cover – go back to that other
166 picture. Go back to the previous picture with the tires. Mr. Harrison, what's the
167 polyethylene there for?
168
169 Mr. Harrison - I had a washing machine back there, and I had the tires
170 covered up with it.
171
172 Mr. McKinney - What's behind it now?
173

174 Mr. Harrison - It's still the same.

175

176

177 Mr. McKinney - Washing machine? And what's this black pipe to the right of
178 that polyethylene? And how about the empty bucket? How about just to the left of the
179 tires, what is that? Just to the left of the tires.

180

181 Mr. Harrison - That's not a pipe; that's a roll of roofing. For the top of the
182 shed. A joint compound bucket, to put water in. That's a little doghouse on the other
183 side; I've got a doghouse over in the next yard.

184

185 Mr. Balfour - Is there anyone here to speak in opposition or in favor of this
186 case? Any other questions of Board members?

187

188 Upon a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **denied**
189 application **A-162-2002** for a variance to build a one-family dwelling at 221 Westover
190 Avenue (Bungalow City) (Parcel 816-728-5240). The Board denied your request as it
191 found from the evidence presented that approving the permit would be of substantial
192 detriment to adjacent property or would materially impair the purpose of the zoning
193 regulations.

194

195 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

196 Negative: 0

197 Absent: 0

198

199 Mr. Blankinship - Mr. Nunnally made the motion to deny, but everyone voted
200 in favor of denial, so anyone could move to re-hear the denial.

201

202 Upon a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board rescinded the
203 above motion to deny application **A-162-2002**.

204

205 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

206 Negative: 0

207 Absent: 0

208

209 Upon a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board determined to re-
210 hear the above application **A-162-2002**.

211

212 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

213 Negative: 0

214 Absent: 0

215

216 Upon a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board allowed
217 withdrawal of application **A-162-2002** for a variance to build a one-family dwelling at 221
218 Westover Avenue (Bungalow City) (Parcel 816-728-5240). The Board granted
219 withdrawal without prejudice to allow you to bring the property into compliance.

220
221 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
222 Negative: 0
223 Absent: 0
224

225 **A -168-2002** **MARGARET ANDERSON** requests a variance from Section 24-94
226 of Chapter 24 of the County Code to build an addition at 2801
227 Rudwick Road (Laurel West) (Parcel 774-768-2803), zoned R-2A,
228 One-family Residence District (Fairfield). The rear yard setback is
229 not met. The applicant proposes 35 feet rear yard setback, where
230 the Code requires 45 feet rear yard setback. The applicant
231 requests a variance of 10 feet rear yard setback.
232

233 Mr. Balfour - Anyone here to speak on this case?
234

235 Mr. Blankinship - This was deferred because they did not attend last month.
236

237 Mr. McKinney - Let's pass it by.
238

239 Upon a motion by Mr. McKinney, seconded by Mr. Nunnally, the Board allowed
240 withdrawal of your application **A-168-2002** for a variance to build an addition at 2801
241 Rudwick Road (Laurel West) (Parcel 774-768-2803). The Board granted withdrawal
242 without prejudice because there was no one in attendance at the meeting to present
243 your case.
244

245 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
246 Negative: 0
247 Absent: 0
248

249 **A -171-2002** **DUC M. NGUYEN** requests a variance from Section 24-94 of
250 Chapter 24 of the County Code to build an addition at 600 Sleepy
251 Hollow (Parcel 751-739-0118), zoned R-2, One-family Residence
252 District (Tuckahoe). The rear yard setback is not met. The
253 applicant proposes 36 feet rear yard setback, where the Code
254 requires 45 feet rear yard setback. The applicant requests a
255 variance of 9 feet rear yard setback.
256

257 Mr. Balfour - Any others to speak on this matter? Raise your right hand
258 and be sworn please.
259

260 Mr. Blankinship - Do you swear that the testimony you are about to give is the
261 truth, the whole truth, and nothing but the truth, so help you God?
262

263 Mr. Nguyen - I do. My name is Duc Nguyen. Want to add a dining room
264 because my house doesn't have a dining room. I have a lot of family; some weekends
265 we get together.

266
267 Mr. Nunnally - I can't tell from the pictures – is this a porch or something
268 you are covering, or is this all-new construction? There is no deck or porch?
269
270 Mr. Nguyen - No.
271
272 Mr. Nunnally - And I gather there's a house next to you, but not to your
273 rear, is that right, it's a big open area there?
274
275 Mr. Nguyen - Yes sir.
276
277 Mr. Wright - You say you want to use this as a dining room? How many
278 rooms do you have in your house?
279
280 Mr. Nguyen - Yes sir. Three bedrooms, 1 living room, kitchen, no dining
281 room.
282
283 Mr. Wright - This is one story, right, and this would be put onto the rear of
284 your house?
285
286 Mr. Nguyen - Yes sir.
287
288 Mr. Nunnally - And it looks from those pictures that that area is very much
289 wooded, a lot of trees and bushes, etc.
290
291 Mr. Nguyen - Yes, a lot of trees around?
292
293 Mr. Nunnally - Your house faces Sleepy Hollow Road?
294
295 Mr. Nguyen - Yes sir.
296
297 Mr. McKinney - All the notices went out on this, Mr. Secretary?
298
299 Mr. Blankinship - Yes sir.
300
301 Mr. Nunnally - Your neighbor faces Derbyshire behind you.
302
303 Mr. Nguyen - On Derbyshire there are 2 houses. No other houses back
304 there.
305
306 M. Nunnally - The side of his house would face the addition of your house.
307
308 Mr. Kirkland - Anyone opposed? Anyone in opposition?
309
310 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
311 Kirkland, the Board **granted** application **A-171-2002** for a variance to build an addition

312 at 600 Sleepy Hollow (Parcel 751-739-0118). The Board granted the variance subject
313 to the following conditions:

314
315 1. Only the addition shown on the plan filed with the application may be constructed
316 pursuant to this approval. No substantial changes or additions to the layout may be
317 made without the approval of the Board of Zoning Appeals. Any additional
318 improvements shall comply with the applicable regulations of the County Code.

319
320 2. The new construction shall match the existing dwelling as nearly as practical.

321
322 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
323 Negative: 0
324 Absent: 0

325
326 The Board granted this request, as it found from the evidence presented that, due to the
327 unique circumstances of the subject property, strict application of the County Code
328 would produce undue hardship not generally shared by other properties in the area, and
329 authorizing this variance will neither cause a substantial detriment to adjacent property
330 nor materially impair the purpose of the zoning regulations.

331
332 **A -172-2002** **STEPHEN BELICZKY** requests a variance from Section 24-94 of
333 Chapter 24 of the County Code to build an attached garage at 1725
334 Pine Edge Lane (Pinecreek Village West) (Parcel 752-748-9568),
335 zoned R-2A, One-family Residence District (Tuckahoe). The rear
336 yard setback is not met. The applicant proposes 35 feet rear yard
337 setback, where the Code requires 45 feet rear yard setback. The
338 applicant requests a variance of 10 feet rear yard setback.

339
340 Mr. Balfour - Anyone else to speak on this case? Raise your right hand
341 and be sworn please.

342
343 Mr. Blankinship - Do you swear that the testimony you are about to give is the
344 truth, the whole truth, and nothing but the truth, so help you God?

345
346 Mr. Beliczky - I do. My name is Stephen Beliczky. My wife and I
347 purchased our home 18 months ago. Recently, my wife's father's health has been
348 failing. This was an unforeseen circumstance since the purchase of our home. We
349 have 3 bedrooms, one upstairs and two downstairs. The 2 downstairs bedrooms are
350 occupied by our children. It's our wish to assist in the care of my wife's father who
351 currently resides in Spotsylvania, Virginia. Building an attached garage will provide
352 additional living space, as well as storage space for his car, which is equipped with
353 hydraulic lift system for a battery-powered wheelchair. Thank you.

354
355 Mr. Nunnally - Does your house face Three Chopt or Pine Edge?

356
357 Mr. Beliczky - Pine Edge.

358
359 Mr. Wright - And there will be no kitchen facilities in this?
360
361 Mr. Beliczky - That's correct.
362
363 Mr. Wright - You understand that's not permitted under the ordinance?
364 So how will he access this living space? Is it upstairs in the garage where's he's going
365 to live?
366
367 Mr. Beliczky - No, he's going to live in our house. The stairs are accessed
368 through the inside of the garage.
369
370 Mr. Wright - Who's going to live in the garage, your children?
371
372 Mr. Beliczky - My two sons.
373
374 Mr. Nunnally - I see you've got a bath for them.
375
376 Mr. Beliczky - Yes sir.
377
378 Mr. McKinney - You're calling it a studio – is it going to be a studio, or is it
379 going to be a bedroom?
380
381 Mr. Beliczky - It's a bedroom. What it is, this is a plan that we had
382 purchased, and that's how it was termed on the plan.
383
384 Mr. Balfour - Is the outside, the roof, construction, going to be similar to
385 your main house?
386
387 Mr. Beliczky - Exactly. Exact match, same pitch.
388
389 Mr. Balfour - How come there's not a house on the other side of you, to
390 your left as you face the house – is that just a vacant lot not yet sold?
391
392 Mr. Beliczky - That's correct.
393
394 Mr. Blankinship - It's actually a large, undeveloped parcel there, I think.
395
396 Mr. Balfour - Any other questions by Board members? The driveway, I
397 gather, won't change? Any other questions? Thank you sir. Anyone else to speak on
398 this case?
399
400 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
401 McKinney, the Board **granted** application **A-172-2002** for a variance to build an
402 attached garage at 1725 Pine Edge Lane (Pinecreek Village West) (Parcel 752-748-
403 9568). The Board granted the variance subject to the following conditions:

404
405 1. Only the addition shown on the plan filed with the application may be constructed
406 pursuant to this approval. No substantial changes or additions to the layout may be
407 made without the approval of the Board of Zoning Appeals. Any additional
408 improvements shall comply with the applicable regulations of the County Code.

409
410 2. The new construction shall match the existing dwelling as nearly as practical.

411
412 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
413 Negative: 0
414 Absent: 0

415
416 The Board granted this request, as it found from the evidence presented that, due to the
417 unique circumstances of the subject property, strict application of the County Code
418 would produce undue hardship not generally shared by other properties in the area, and
419 authorizing this variance will neither cause a substantial detriment to adjacent property
420 nor materially impair the purpose of the zoning regulations.

421
422 **A -173-2002** **ADAM AND KAVITA KAUL** request a variance from Section 24-94
423 of Chapter 24 of the County Code to build an addition at 11429
424 River Run Drive (Rock Spring Estates) (Parcel 765-775-5698),
425 zoned A-1, Agricultural District (Brookland). The minimum side
426 yard setback is not met. The applicant has 10 feet minimum side
427 yard setback, where the Code requires 20 feet minimum side yard
428 setback. The applicant requests a variance of 10 feet minimum
429 side yard setback.

430
431 Mr. Balfour - Any others to speak on this matter? Raise your right hands
432 and be sworn please.

433
434 Mr. Blankinship - Do you swear that the testimony you are about to give is the
435 truth, the whole truth, and nothing but the truth, so help you God?

436
437 Mr. Kaul - I do. Yes, I am Adam Kaul, and we're hoping for a variance
438 for a proposed addition that will set back directly from the garage area, which you are
439 seeing on the picture right there. There was an unknown variance for that garage,
440 which as you also see, does not meet the minimum setback, unknown to us during title
441 search when we purchased the house last year, that was received in '86 or '87, of 10
442 feet. The current proposed structure is not going to encroach any further on that
443 property line, but will go directly back and is actually only visible to the neighbor, to the
444 left of this property. It is not visible even from the road or from any other property.
445 We've spoken with that neighbor, who is quite in favor of our building this addition, and
446 we're going to actually have vinyl siding placed all the way around the house once the
447 addition is completed, so roofing and everything will match.

448
449 Mr. Kirkland - Mr. Kaul, what is this addition going to be used for?

450
451 Mr. Kaul - Currently residing at our house are my wife, our 2 children,
452 her 2 parents from India, and me, and that will be a bedroom for them. We're actually
453 converting 2 bedrooms upstairs into 1 master bedroom, which will be our bedroom, and
454 then just adding one additional bedroom in this area. There won't be any additional
455 bedrooms in the house by number.

456
457 Mr. Nunnally - As you face your house, this will be on the left side rear, is
458 that right? And there's a deck, it looks like, on the other side already?

459
460 Mr. Kaul - That's correct.

461
462 Mr. Balfour - Any other questions by Board members? Thank you.

463
464 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
465 McKinney, the Board **granted** application **A-173-2002** for a variance to build an addition
466 at 11429 River Run Drive (Rock Spring Estates) (Parcel 765-775-5698). The Board
467 granted the variance subject to the following conditions:

468
469 1. Only the addition shown on the plan filed with the application may be constructed
470 pursuant to this approval. No substantial changes or additions to the layout may be
471 made without the approval of the Board of Zoning Appeals. Any additional
472 improvements shall comply with the applicable regulations of the County Code.

473
474 2. The new construction shall match the existing dwelling as nearly as practical.

475
476 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
477 Negative: 0
478 Absent: 0

479
480 The Board granted this request, as it found from the evidence presented that, due to the
481 unique circumstances of the subject property, strict application of the County Code
482 would produce undue hardship not generally shared by other properties in the area, and
483 authorizing this variance will neither cause a substantial detriment to adjacent property
484 nor materially impair the purpose of the zoning regulations.

485
486 **UP- 34-2002 FINER HOMES INC.** requests a temporary conditional use permit
487 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code
488 to locate a temporary sales trailer at 3132 Stone Dale Court (Stony
489 Run Estates) (Parcel 806-726-0373), zoned R-3AC, One-family
490 Residence District (Conditional) (Varina).

491
492 Mr. Balfour - Anyone here to speak on that case? Pass it by and call the
493 next one.

494
495 Mr. Blankinship - Do you swear that the testimony you are about to give is the

496 truth, the whole truth, and nothing but the truth, so help you God?

497

498 Upon a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **denied**
499 application **UP-34-2002** for a temporary conditional use permit to locate a temporary
500 sales trailer at 3132 Stone Dale Court (Stony Run Estates) (Parcel 806-726-0373). The
501 Board denied your request because no one attended the hearing to present the case,
502 and the trailer has already been erected in violation of the County Code.

503

504 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

505 Negative: 0

506 Absent: 0

507

508 **A -174-2002** **ELLIOT NORMAN** requests a variance from Section 24-95(k) of
509 Chapter 24 of the County Code to build a workshop at 201 Danray
510 Drive (Chamberlayne Farms) (Parcel 790-754-1300), zoned R-2A,
511 One-family Residence District (Fairfield). The minimum side yard
512 setback is not met. The applicant has 20 feet side yard setback,
513 where the Code requires 60 feet side yard setback. The applicant
514 requests a variance of 40 feet side yard setback.

515

516 Mr. Balfour - Anyone else to speak on this matter? Raise your right hand
517 and be sworn please.

518

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

521

522 Mr. Norman - I do. My name is Elliot Richard Norman. It's been my dream
523 for a long time to pursue ceramics for a hobby, and I have that opportunity now at this
524 house that I've moved into. We moved into this house about a year ago, and
525 unbeknownst to me, there was a variance that precluded my ability to build a workshop
526 where I wanted to build it. I thought it was a perfect site to be able to build a workshop,
527 and apparently, it's not, so I request a variance to be able to build this shop on the left
528 side, as you see in the picture. There's an open area there that would be perfect to put
529 the shop in, but there's restrictions against building it there.

530

531 Mr. McKinney - Mr. Norman, it appears that what you're proposing here goes
532 beyond your lot line or over Orchard Road, is that correct? What is that "existing" right
533 there?

534

535 Mr. Kirkland - That's your boat in that carport there?

536

537 Mr. Norman - No, that's a camper, and that's a carport that was previously
538 built before we moved there.

539

540 Mr. Kirkland - Are you going to have a kiln inside of this? Are there any
541 special requirements he'll have to meet for a kiln?

542
543 Mr. Norman - I am going to have a kiln, that's correct.
544
545 Mr. Blankinship - There may be some building code requirements he'll have to
546 meet. I believe someone on our staff has talked to you about, you can't use this for a
547 business. That's the zoning regulation.
548
549 Mr. Norman - Correct, and I understand that. It's strictly a hobby, and I'm
550 very interested in the hobby, but it's not a business. If I were able to break even on it,
551 but I'm not.
552
553 Mr. Blankinship - It looks like he's showing 8" CME walls; I guess the building
554 code - they'll review that.
555
556 Mr. Kirkland - Mr. Blankinship, this carport concerns me, it being over there
557 in somebody else's area. How did that get done like that?
558
559 Mr. Blankinship - Well, things like that get done without permits from time to
560 time. Is that a permanent structure, is that set into the ground, the existing carport?
561
562 Mr. Norman - I don't believe that there's concrete on the posts, but there
563 might be.
564
565 Mr. McKinney - How long has it been there?
566
567 Mr. Norman - I really couldn't say. The previous owner built it; I would
568 guess at least 5 years, from the look of the wood on it.
569
570 Mr. Wright - It's not in somebody else's yard; it's in the right-of-way.
571
572 Mr. Norman - No, it's in the right-of-way on the street side. It's probably
573 more than 10 or 12 feet from the street. There's a big culvert there, and it's up on top of
574 the culvert.
575
576 Mr. Blankinship - You were aware when you bought the property, that there
577 was an encroachment?
578
579 Mr. Norman - It wasn't pointed out to me. I saw the plan as you see it, and
580 there was a line drawn through that, but no one mentioned I should take that down. If
581 that's a condition, I'll be glad to take that down. I'd rather have the workshop than the
582 carport.
583
584 Mr. Blankinship - A lot of times a lender will require you to clear up that kind of
585 thing before they will lend on the property.
586
587 Mr. Norman - No one had mentioned a problem with it.

588
589 Mr. McKinney - Ms. Blackburn, could you go back to the picture where it
590 shows that carport? Mr. Norman, what is that in the, it looks like your home, and then
591 there's a breezeway or a walkway going back – what is that back there, right in front of
592 that car in the rear?
593
594 Mr. Norman - In front of the car is a pile of bricks.
595
596 Mr. McKinney - No, no, what is that building?
597
598 Mr. Norman - That's part of the house. It was a garage that was converted
599 into a room.
600
601 Mr. McKinney - It was a garage? You have a 2-story house – how many
602 square feet do you have in your house?
603
604 Mr. Norman - I believe it's approximately 2700.
605
606 Mr. McKinney - How many are there in your family?
607
608 Mr. Norman - We have 4.
609
610 Mr. McKinney - You could really take that and convert it back to a shop?
611
612 Mr. Norman - It would be difficult; it's set up as a room now. It's pretty dirty
613 and messy to have a workshop as part of the house. It's a little separated from the
614 house.
615
616 Mr. McKinney - But it was a garage?
617
618 Mr. Norman - It was at one time, but it's been completely finished.
619
620 Mr. McKinney - What's between that and the house; is that a laundry room?
621
622 Mr. Norman - Right, laundry room and bathroom for one of the bedrooms.
623
624 Mr. McKinney - And then you have an accessory or tool shed in the back.
625 How many square feet are required for this hobby that you want to do?
626
627 Mr. Norman - There's no direct requirement, but the building I'm proposing
628 is about 500 square feet.
629
630 Mr. Nunnally - This looks like it backs up to an easement area, right, where
631 you plan to put the building?
632
633 Mr. Norman - That's correct.

634
635 Mr. Kirkland - One more question. Back to this building. I assume that the
636 way you've got these double overhead doors, what concerns me is this kiln, because if
637 they get to a certain size, we get into a commercial use, whether you're ready to be
638 commercial or not . What size kiln, are you planning to make that whole area like a kiln
639 area, or what?
640
641 Mr. Norman - No, just a portion of it. Half of it would have a kiln.
642
643 Mr. Kirkland - How big?
644
645 Mr. Norman - Approximately 25 cubic feet, the size of 2 refrigerators, to put
646 it into perspective.
647
648 Mr. McKinney - And that would be fired how?
649
650 Mr. Norman - I would fire it with propane.
651
652 Mr. Kirkland - Need to be some fire restrictions in there.
653
654 Mr. Norman - I've investigated all the particulars about the kiln. All the
655 construction part seems to meet approval, from what I've researched. It's just the
656 building that's the problem, and I've talked to the neighbors around there, and none of
657 them have a problem with that. It's not noisy; it's not particularly smelly.
658
659 Mr. Kirkland - It vents out to the outside?
660
661 Mr. Norman - Right, but it's up at about a 10-foot level; it's not a lot. It's
662 basically like having a propane fireplace. Actually, the venting out of it is not that hot.
663 Most of the heat stays inside.
664
665 Mr. Balfour - Any other questions? Thank you.
666
667 Upon a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **denied**
668 application **A-174-2002** for a variance to build a workshop at 201 Danray Drive
669 (Chamberlayne Farms) (Parcel 790-754-1300). The Board denied your request as it
670 found from the evidence presented that approving the permit would be of substantial
671 detriment to adjacent property or would materially impair the purpose of the zoning
672 regulations.
673
674 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
675 Negative: 0
676 Absent: 0
677
678 Mr. Blankinship - As I call this, Mr. Chairman, I'm going to pass copies of 2
679 different letters, pertaining to this case, that were just given to me this morning.

680
681 **A -175-2002** **HAZEL WALKER** requests a variance from Section 24-94 of
682 Chapter 24 of the County Code to build an addition at 9609 Torno
683 Drive (North Mountain Ridge) (Parcel 778-761-8483), zoned R-4,
684 One-family Residence District (Fairfield). The minimum side yard
685 setback and total side yard setback are not met. The applicant
686 proposes 0.33 feet minimum side yard setback and 15.88 feet total
687 side yard setback, where the Code requires 10 feet minimum side
688 yard setback and 25 feet total side yard setback. The applicant
689 requests a variance of 9 .67 inches minimum side yard setback and
690 9.12 feet total side yard setback.
691

692 Mr. Balfour - Anyone else plan to speak on this matter, besides the 3
693 people at the rostrum? Anyone else who may plan to speak, stand up and all be sworn
694 in at the same time. Raise your 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? Would those of you
698 at the podium state your names, please.
699

700 Mr. G. Walker - I do. My name is Garland Walker.
701

702 Ms. Walker - I do. And my name is Hazel Walker.
703

704 Mr. E. Walker - I do. And my name is Ephrom Walker.
705

706 Mr. G. Walker - The reason we're asking for the variance is because of the
707 shape of the lot. As you can see, the lot narrows down to about 20 feet in the rear, and
708 we have a permit to do an addition on the back, and we're in the process of doing that
709 now, but what we want to do is take the construction all the way to the length of the
710 existing house, and we're going to add a Florida room to the side where we were
711 originally going to put the deck.
712

713 Mr. E. Walker - Good morning, members of the Board. This house was built
714 back in 1967. It currently has 3 bedrooms, no family room, and therefore, the reason for
715 the addition, for the extra space for a family room. Also, we have presented for you,
716 letters from 2 of our neighbors, especially the neighbor who will be most affected by this
717 addition, the Paces, and we're also fortunate enough to have them present with us
718 today.
719

720 Mr. Balfour - So what you're doing is, you already had approved a couple
721 of months ago, the addition with a patio, and now you're asking to be allowed to enclose
722 the patio, not enclose, but make it an enclosed porch.
723

724 Mr. E. Walker - Yes sir, as the result of modification in the plan to enclose
725 that area.

726
727 Mr. Balfour - No additional ground space is going to be covered, it's just
728 that you want to enclose the patio.
729
730 Mr. E. Walker - Yes sir.
731
732 Mr. Kirkland - Is the patio going to be a glass enclosure like a Florida
733 room?
734
735 Mr. E. Walker - Yes sir, sunroom, Florida room, on the side there.
736
737 Mr. G. Walker - And the whole area would be brick, the same as the house.
738
739 Mr. Wright - But this addition will go right back to your property line. It's
740 about 9 inches off the property line?
741
742 Mr. Balfour - There used to be a home behind you, but it's a lot of vacant
743 space as well, I gather?
744
745 Mr. E. Walker - Yes, it's quite a distance.
746
747 Mr. Balfour - It backs up to the back yard of the person at 8019, it
748 appears. You've got a funny-shaped lot.
749
750 Mr. G. Walker - At the time my mother purchased the home, she wasn't
751 aware of the shape of the lot, and that's primarily the problem with the addition, the way
752 that the lot slopes to the rear.
753
754 Mr. G. Walker - We are adding quite a bit of living space, yes sir.
755
756 Mr. McKinney - Mr. Secretary, isn't there a requirement by Fire to have an
757 access around the building?
758
759 Mr. Kirkland - Where that 4 inches is?
760
761 Mr. Blankinship - I do not know. We sent copies of this to Fire, to request their
762 review, and they didn't give us any comments that would be relevant to that.
763
764 Mr. McKinney - Depends on who reviewed it too.
765
766 Mr. Blankinship - I don't know that on a residence they would require to get all
767 the way around; I think if they can get by one side.
768
769 Mr. McKinney - Everything I've ever built, they've always required. You've
770 got to be able to get all the way around the house.
771

772 Mr. Blankinship - It's certainly very unusual to have only 4 inches between
773 them.

774
775 Mr. McKinney - To the Walkers, to the right of your home on lot 4, what is
776 right there at that corner, where this addition is proposed?

777
778 Mr. E. Walker - There is nothing there; that's the back, side yard area for the
779 house next door. There are no dwellings, just pure yard space there.

780
781 Mr. Blankinship - Jim, would you go to the photo that's not looking straight at
782 the addition. That shows you what it would look like to a fireman trying to get around
783 that corner.

784
785 Mr. Kirkland - You did say it's going to be brick construction?

786
787 Mr. Balfour - Any other questions of the Walkers? The 2 on the other side
788 who wanted to speak up, please.

789
790 Mr. Blankinship - Would you each state your name please.

791
792 Mr. Gibson - Good morning, I'm Arnold Gibson; I live directly across the
793 street, and I have no objections at all. We've been neighbors for over 30 years.

794
795 Mr. Blankinship - You would be 9612 or 9610?

796
797 Mr. Gibson - 9612.

798
799 Mr. Evans - Good morning. My name is Marion Evans, and I'm the
800 property owner at 8101 Langley, which is just above Mr. Gibson's line right there, which
801 is right across the street, and I don't oppose anything.

802
803 Mr. Pace - My name is Douglas Pace, and I live directly beside Mr.
804 Walker, 9607 Torno Drive, so I'm the neighbor on the right-hand side, so I'd be the one
805 most affected by his additions. No problem to me; it's OK.

806
807 Mr. Balfour - Anyone else to speak? Thank you.

808
809 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
810 Wright, the Board **granted** application **A-175-2002** for a variance to build an addition at
811 9609 Torno Drive (North Mountain Ridge) (Parcel 778-761-8483). The Board granted
812 the variance subject to the following conditions:

813
814 1. Only the addition shown on the plan filed with the application may be constructed
815 pursuant to this approval. No substantial changes or additions to the layout may be
816 made without the approval of the Board of Zoning Appeals. Any additional
817 improvements shall comply with the applicable regulations of the County Code.

818
819 2. The new construction shall match the existing dwelling as nearly as practical.

820
821 3. The addition shall be at least 3 feet from the property line.

822
823 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
824 Negative: 0
825 Absent: 0

826
827 The Board granted this request, as it found from the evidence presented that, due to the
828 unique circumstances of the subject property, strict application of the County Code
829 would produce undue hardship not generally shared by other properties in the area, and
830 authorizing this variance will neither cause a substantial detriment to adjacent property
831 nor materially impair the purpose of the zoning regulations.

832
833 **UP- 35-2002 SIMONS HAULING COMPANY** requests a conditional use permit
834 pursuant to Section 24-116(c)(3) of Chapter 24 of the County Code
835 to expand an existing landfill at 1820 Darbytown Road (Parcel 809-
836 707-1585), zoned M-2, General Industrial (Varina).

837
838 Mr. Balfour - Any others to speak on this matter? Raise your right hand
839 and be sworn please.

840
841 Mr. Blankinship - Do you swear that the testimony you are about to give is the
842 truth, the whole truth, and nothing but the truth, so help you God?

843
844 Mr. Sperry - I do. Bill Sperry – I’m with Draper Aden Associates, and I
845 represent Simons Hauling. We would like to have this conditional use permit approved
846 to expand the existing landfill on Darbytown Road. We’re going to expand it into the
847 area where she’s indicating right now. That will be proposed cell # 3. This is an
848 addition to some original cells that were once approved. We’re going to add into this
849 area. As far as the suggested conditions that are listed, we do have some comments
850 on a couple of those.

851
852 Mr. Blankinship - Let me interrupt you. Mr. Sperry called me a couple of days
853 ago, and we worked out some substitute conditions, which I’ll pass out. Go ahead.

854
855 Mr. Sperry - We had talked about and decided to leave the same – it’s on
856 the third sentence, third line down, on section 2, “the land will be restored to a
857 reasonably level and drainable condition.” This is going to be a landfill; it will be a
858 “mound,” rather than “level” when it is completed, but it will be drainable. It will have
859 erosion control measures built into the slopes. It will be at no more than a maximum of
860 3 to 1, as required by the Virginia Department of Environmental Quality. As a part of
861 that, there will be berms erosion collection systems to bring the water down, to prevent
862 the erosion of the eventual final cap.

863

864 If you go down to the 6th line, the original sentence said, "In the event of termination, this
865 permit shall be void, and work incident thereto shall cease." In the next sentence, we
866 would like to add those two together and say, "In the event of termination, this permit
867 shall be void, and work incident thereto shall cease, and within 180 days the applicant
868 shall restore the land as provided for under the conditions of this use permit." That
869 complies with the Department of Environmental Quality regulations for closure of a
870 landfill facility.

871
872 If we go down to section 3, the last sentence, we would like to change that to say, "If
873 this condition is not satisfied within 180 days of approval, the use permit shall be void."
874 This is dealing with the submission and approval of the erosion control plan, which is an
875 integral part of the permitting process with the Department.

876
877 Mr. Blankinship - That's usually 90 days, but they have some additional work
878 to do with DEQ before they can submit the E&S plans to the County, so they need a
879 little more time.

880
881 Mr. Sperry - The next to last condition, number 24, the original sentence
882 said, "A progress report shall be submitted to the Board on December 1 of each year."
883 We would like to change that to "March 31." This will comply with the reporting
884 requirements for the Department of Environmental Quality for the amount of waste
885 received, groundwater monitoring reports, and the various things that need to be done
886 to comply with that regulation. This will allow all of the data that is given to the State to
887 comply with the County, and vice versa.

888
889 Mr. Kirkland - Mr. Blankinship, I know on previous, this is a landfill, but on
890 previous borrow situations, on number 20, we have put sometimes a monetary value in
891 there, for wells for people who go dry in the area, or some sort of funding to help them
892 out. Do you foresee any problems with this?

893
894 Mr. Blankinship - I don't. When you're mining, of course, you're getting down
895 there and digging out, what constitutes the aquifer, so there's a lot of chance of
896 disturbing people's wells. Here, DEQ requires monitoring wells, in addition to the
897 double liner and everything else.

898
899 Mr. Kirkland - They're doing no excavating, they're just filling.

900
901 Mr. Blankinship - Right.

902
903 Mr. McKinney - Doesn't that come under a state ordinance?

904
905 Mr. Blankinship - Yes, it's all automatic; all we're adding here is if we have
906 credible evidence that they've destroyed somebody's well, then the County can join with
907 the State in action against them.

908
909 Mr. Sperry - Yes sir, this site is surrounded by groundwater monitoring

910 wells, and as far as setting the grades for the bottom of the cell, we're required to stay a
911 certain footage above the ground water. I would like to go back to number 2, and
912 address the bond for \$11,000, guaranteeing that the land will be restored. We have a
913 bond in place on this site now, for the previous permitted area, and in the picture there's
914 a map of an actual plat – could you bring that up again please. That's it. The area
915 designated by the heavy dashed lines on this, designate the cell areas. We're only
916 disturbing 31.77 acres of property on this site, and of that, a certain portion of it has
917 already been closed in accordance with DEQ standards. We've closed 6.9 acres of that
918 parcel, and we don't feel like that should be covered by a bond, as it is completed, it's
919 closed, we have a letter certifying complete closure. And of that 31.77, 6.9 is closed,
920 leaving 24.87 acres. If we comply with the \$2,000 per acre, that would give a bond of
921 \$49,740 for the landfill facility, and with the \$48,000 already in place, we would request
922 that we add an additional \$1,740, or replace it with a bond for that amount.
923

924 Mr. McKinney - Are you saying that with this total tract of land, you have an
925 existing bond on? And you also stated that some of it has been completed. Have you
926 requested a refund or portion of your bond back from the County Attorney?
927

928 Mr. Sperry - Yes sir, there is an existing bond. Not yet, no sir.
929

930 Mr. McKinney - How is the County Attorney going to handle this if somebody
931 goes in and says, "this is done, we want our money back," and we don't have a bond for
932 this piece right here. I know you have a bond for the whole thing, but now you've
933 changed the game a little bit.
934

935 Mr. Sperry - The bond on the original landfill did not include this area.
936

937 Mr. McKinney - Then why would you not want to put a bond on this area, if it
938 didn't include this area?
939

940 Mr. Sperry - We do. We're not disturbing the entire parcel of land.
941

942 Mr. McKinney - From what I can see, you're disturbing 5 ½ acres at \$2,000.
943

944 Mr. Sperry - Yes sir, the original bond covered the other parts of the
945 landfill that were to be constructed at a later date.
946

947 Mr. McKinney - What I'm trying to get through my mind is, when the bond, or
948 irrevocable Letter of Credit, or whatever, goes to the County Attorney to be returned,
949 how is he going to distinguish between this and the rest of it?
950

951 Mr. Blankinship - The staff does not support that final request. We don't feel
952 like that \$11,000 is an onerous amount for the company to put up, and we would just
953 rather see the additional.
954

955 Mr. McKinney - Really, it's \$110 cost to you, at 1%, on irrevocable Letter of

956 Credit.
957
958 Mr. Blankinship - As you point out, there are procedures in place for them to
959 draw down the bond as they complete the work. We would rather not combine that with
960 this process of approval.
961
962 Mr. McKinney - Am I not correct in saying that the cost to Simons would be
963 \$110 for this \$11,000?
964
965 Mr. Sperry - It's not going to be very great, but we already have the
966 \$48,000.
967
968 Mr. McKinney - But what I'm saying, the irrevocable Letter of Credit through
969 your bank is 1%, which would be \$110. I don't think you can complain about that too
970 much.
971
972 Mr. Balfour - Any other questions of Board members? I gather you're
973 asking us to make that change to which the County couldn't agree with you on, is that
974 right? They agreed with you on the other 2 changes.
975
976 Mr. Sperry - I think we agreed on the verbiage changes, but not the bond.
977
978 Mr. Balfour - Any other questions? Thank you. Anyone else to speak on
979 this case?
980
981 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
982 McKinney, the Board **granted** application **UP-35-2002** for a conditional use permit to
983 expand an existing landfill at 1820 Darbytown Road (Parcel 809-707-1585). The Board
984 granted the variance subject to the following conditions:
985
986
987 1. This use permit is subject to all requirements of the County Code.
988
989 2. Before beginning any work, the applicant shall provide a financial guaranty in an
990 amount of \$2,000 per acre for each acre of land to be disturbed, for a total of \$11,000,
991 guaranteeing that the land will be restored in accordance with Virginia Department of
992 Environmental Quality regulations. This permit does not become valid until the financial
993 guaranty has been approved by the County Attorney. The financial guaranty may
994 provide for termination after 90 days notice in writing to the County. In the event of
995 termination, this permit shall be void, and work incident thereto shall cease, and within
996 the next 180 days the applicant shall restore the land as provided for under the
997 conditions of this use permit. Termination of such financial guaranty shall not relieve
998 the applicant from its obligation to indemnify the County of Henrico for any breach of the
999 conditions of this use permit. If this condition is not satisfied within 90 days of approval,
1000 the use permit shall be void.
1001

- 1002 3. Before beginning any work, the applicant shall submit erosion control plans to the
1003 Department of Public Works for review and approval. Throughout the life of the
1004 operation, the applicant shall continuously satisfy the Department of Public Works that
1005 erosion control procedures are properly maintained, and shall furnish plans and bonds
1006 that the department deems necessary. The applicant shall provide certification from a
1007 licensed professional engineer that the landfill facilities and sediment control structures
1008 meet the approved design criteria as set forth by the State. If this condition is not
1009 satisfied within 180 days of approval, the use permit shall be void.
1010
- 1011 4. Before beginning any work, the applicant shall obtain a permit from the Virginia
1012 Department of Environmental Quality. If this condition is not satisfied within one year of
1013 approval, the use permit shall be void.
1014
- 1015 5. In the event that the Board's approval of this use permit is appealed, all
1016 conditions requiring action within 90 days will be deemed satisfied if the required actions
1017 are taken within 90 days of final action on the appeal.
1018
- 1019 6. The applicant shall comply with the Chesapeake Bay Preservation Act and all
1020 state and local regulations administered under such act applicable to the property, and
1021 shall furnish to the Planning Office copies of all reports required by such act or
1022 regulations.
1023
- 1024 7. Hours of operation shall be from 7:00 a.m. to 6:00 p.m. when Daylight Savings
1025 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.
1026
- 1027 8. No operations of any kind are to be conducted at the site on Sundays or national
1028 holidays.
1029
- 1030 9. All means of access to the property shall be from the established entrance onto
1031 Darbytown Road.
1032
- 1033 10. The applicant shall erect and maintain gates at all entrances to the property.
1034 These gates shall be locked at all times, except when authorized representatives of the
1035 applicant are on the property.
1036
- 1037 11. The applicant shall post and maintain a sign at the entrance to the site stating the
1038 name of the operator, the use permit number, the DEQ license number, and the
1039 telephone number of the operator. The sign shall be 12 square feet in area and the
1040 letters shall be three inches high.
1041
- 1042 12. The applicant shall post and maintain "No Trespassing" signs every 250 feet
1043 along the perimeter of the property. The letters shall be three inches high. The
1044 applicant shall furnish the Chief of Police a letter authorizing the Division of Police to
1045 enforce the "No Trespassing" regulations, and agreeing to send a representative to
1046 testify in court as required or requested by the Division of Police.
1047

- 1048 13. Standard "Truck Entering Highway" signs shall be erected on Darbytown Road
1049 on each side of the entrances to the property. These signs will be placed by the
1050 County, at the applicant's expense.
1051
- 1052 14. The applicant shall post and maintain a standard stop sign at the entrance to
1053 Darbytown Road.
1054
- 1055 15. The applicant shall provide a flagman to control traffic from the site onto the
1056 public road, with the flagman yielding the right of way to the public road traffic at all
1057 times. This flagman will be required whenever the Division of Police deems necessary.
1058
- 1059 16. All roads used in connection with this use permit shall be
1060 effectively treated with calcium chloride or other wetting agents to eliminate any dust
1061 nuisance.
1062
- 1063 17. The operation shall be so scheduled that trucks will travel at regular intervals and
1064 not in groups of three or more.
1065
- 1066 18. The applicant shall maintain the property, fences, and roads in a safe and secure
1067 condition indefinitely, or convert the property to some other safe use.
1068
- 1069 19. If, in the course of its preliminary investigation or operations, the applicant
1070 discovers evidence of cultural or historical resources, or an endangered species, or a
1071 significant habitat, it shall notify appropriate authorities and provide them with an
1072 opportunity to investigate the site. The applicant shall report the results of any such
1073 investigation to the Planning Office.
1074
- 1075 20. If water wells located on surrounding properties are adversely affected, and the
1076 landfill operations on this site are suspected as the cause, the effected property owners
1077 may present to the Board evidence that the landfill operation is a contributing factor.
1078 After a hearing by the Board, this use permit may be revoked or suspended, and the
1079 operator may be required to correct the problem.
1080
- 1081 21. The landfill shall only accept material originating in Virginia, hauled by the
1082 applicant and other contract haulers licensed by the Commonwealth of Virginia. The
1083 material to be deposited on the site shall be limited to construction, demolition and land-
1084 clearing debris, such as stone, bricks, tile, sand, gravel, soil, asphalt, concrete and like
1085 materials, and shall not include any hazardous materials as defined by the Virginia
1086 Hazardous Waste Management Regulations.
1087
- 1088 22. A superintendent, who shall be personally familiar with all the terms and
1089 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms
1090 and conditions of this use permit, shall be present at the beginning and conclusion of
1091 operations each work day to see that all the conditions of the Code and this use permit
1092 are observed.
1093

1094 23. Each day the applicant shall monitor and clean up any trash, dust or mud along
1095 Darbytown Road within 2,000 feet of the entrance to the site.

1096
1097 24. A progress report shall be submitted to the Board on March 31 of each year.

1098
1099 25. Failure to comply with any of the foregoing conditions shall automatically void this
1100 permit.

1101
1102 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1103 Negative: 0
1104 Absent: 0

1105
1106 The Board granted the request because it found the proposed use will be in substantial
1107 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1108
1109 **UP- 36-2002 RYAN HOMES WEST** requests a temporary conditional use permit
1110 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code
1111 to install a temporary sales trailer at 1195 Virginia Center Parkway
1112 (Magnolia Pointe) (Parcel 782-767-6816), zoned RTHC, Residential
1113 Townhouse District (Conditional) (Brookland).

1114 Mr. Balfour - Any others to speak on this matter? Raise your right hand
1115 and be sworn please.

1116
1117
1118 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1119 truth, the whole truth, and nothing but the truth, so help you God?

1120
1121 Mr. Meintzer - I do. Kenneth Meintzer. Good morning. I'm here on behalf
1122 of the applicant, Ryan Homes, to request a conditional use permit for a temporary sales
1123 trailer at our new Magnolia Point development. It's going to be a brand new 40 by 12
1124 trailer, fully landscaped, all the parking amenity will be in, lighted. It will look very
1125 attractive, very similar to the other projects that I've been before you requesting. If
1126 you've seen those, you know they look very nice. It will be truly temporary; I think we've
1127 requested through to June. I would be surprised if it was there that long. The model
1128 should be under construction fairly soon.

1129
1130 Mr. Kirkland - Have you read all the conditions for this case?

1131
1132 Mr. Meintzer - Yes sir, I did. We have no problems with those. We actually
1133 worked with the staff to re-site the trailer to a different location that was more suitable
1134 for them.

1135
1136 Mr. Balfour - Any questions by members of the Board?

1137
1138 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1139 Nunnally, the Board **granted** application **UP-36-2002** for a temporary conditional use

1140 permit to install a temporary sales trailer at 1195 Virginia Center Parkway (Magnolia
1141 Pointe) (Parcel 782-767-6816)). The Board granted the variance subject to the
1142 following conditions:

- 1143
- 1144 1. This approval is for a temporary office trailer that will be removed from the site by
1145 June 30, 2003.
 - 1146
 - 1147 2. The applicant will submit a landscape plan for Planning Office review with the
1148 building permit for review.
 - 1149
 - 1150 3. There shall be 5 off site parking spaces provided for customer parking at the site
1151 of the office trailer.
 - 1152
 - 1153 4. The trailer shall be served by a sanitary system approved by the Health
1154 Department at the time of building permit.
 - 1155
 - 1156 5. The hours of operation for the sales trailer shall be from 10 am to 8 pm.
1157 daily.

1158

1159 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
1160 Negative:		0
1161 Absent:		0

1162

1163 The Board granted the request because it found the proposed use will be in substantial
1164 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1165

1166 **A -176-2002** **WEST BROAD VOLKSWAGEN** requests a variance from Section
1167 24-104(l)(3) of Chapter 24 of the County Code to install a second
1168 detached sign at 9001 West Broad Street (Parcel 758-755-5863),
1169 zoned B-3C, Business District (Conditional) (Three Chopt). The
1170 maximum number of signs is not met. The applicant proposes a
1171 second detached sign, where the Code allows only one detached
1172 sign. The applicant requests a variance to allow two detached
1173 signs.

1174

1175 Mr. Balfour - Any others to speak on this matter? Raise your right hand
1176 and be sworn please.

1177

1178 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1179 truth, the whole truth, and nothing but the truth, so help you God?

1180

1181 Mr. Moore - I do. My name is Glenn Moore. I'm an attorney; I'm
1182 appearing today on behalf of West Broad Audi Volkswagen Automobile dealership in
1183 connection with this request to allow a second free-standing sign. You will recall that I
1184 was here just about a year ago, making a very similar request. In October 2001 this
1185 Board did approve a 2 variances, one, to allow a second free-standing sign at this site

1186 to allow identification of a body shop at the rear. If you look at the site plan on the
1187 screen before you, the building further from Broad Street, is where the body shop is
1188 located, and I think you can see from that site plan that it would be very difficult to see
1189 that building from Broad Street, given the fact that the dealership sales building is in
1190 front of it, and the topography is such that it is lower, you cannot see it from Broad
1191 Street. That was one of the reasons I'm sure that the Board approved that request last
1192 year. The second aspect of the request last year allowed the applicant to exceed the
1193 maximum square footage for free-standing signs, which is 150 square feet in the B-3
1194 zoning district, to allow a maximum of 180 square feet. One of the conditions of that
1195 approval was that a particular sign be the second sign that would be installed. What
1196 happened was that my client, Larry Page, who is one of the owners of the dealership, in
1197 talking to a Volkswagen representative prior to installing the sign, showed him the sign
1198 and said, "you can't put that sign up." We didn't realize, and this is something that I
1199 apologize on behalf of my client, we knew that we could not put the collision center
1200 information on the Volkswagen Audi sign. We didn't know that we had to get their
1201 approval on the second sign that we were going to put up. So once the representative
1202 of the dealership said, "you can't put that sign up," we would then work with the
1203 representatives of Volkswagen to come up with a sign that they would approve. That's
1204 in your package – it's got "VW" on it, and beneath it, it's got "Collision Center," and
1205 that's all they will approve for the second free-standing sign. The result of that,
1206 however, is probably favorable for the County in one respect, and that is that instead of
1207 the 60 square foot sign that you see there that you approved last year, this sign is only
1208 33 square feet. Consequently, when you combine the new sign that has been installed
1209 to identify the dealership, and I think that was included in the package as well, the
1210 square footage of that sign with the square footage of the "Collision Center" sign, it's
1211 less than 150 square feet. We no longer need the variance for to exceed 150 square
1212 feet, just for the second sign, and specifically just for this particular second sign.

1213
1214 Mr. Balfour - Is that going to go on a separate post, or is that going to go
1215 beneath the other?

1216
1217 Mr. Moore - It has to go on a separate post; if it were going to go on the
1218 same post, we wouldn't be here.

1219
1220 Mr. Balfour - I know, why couldn't you just put "Collision Center" right
1221 underneath?

1222
1223 Mr. Moore - Maybe they ought to hire you to talk to Volkswagen, Mr.
1224 Balfour. They won't allow it; that's their policy. It seems a little silly to me as well, but
1225 we ask your indulgence. I think you saw the need to provide some signage last year for
1226 the Collision Center, and now with the variance only really relating to the second sign
1227 and not increasing the amount of square footage, I think it's really a less obtrusive
1228 request, if you want to look at it in that respect. Again, I'm sorry to be back before you,
1229 bothering you about this again, but I would hope that you'd allow us to substitute this
1230 sign for the one that was approved last year.

1231

1232 Mr. Wright - What you're asking us to do, Mr. Moore, is just to replace the
1233 sign we've already approved, with this sign, which is a smaller sign.
1234
1235 Mr. Moore - Yes, that's correct, Mr. Wright.
1236
1237 Mr. McKinney - Mr. Moore, is this sign to be lighted?
1238
1239 Mr. Moore - No, it won't be lighted. Is the one out there now lighted?
1240
1241 Mr. McKinney - I don't know; it's your client.
1242
1243 Mr. Moore - It isn't internally lit.
1244
1245 Mr. McKinney - Will you have floodlights shining up on it?
1246
1247 Mr. Moore - I would say that it would be lit; however the one that's out
1248 there now I just don't know if that's lit. I'm guessing that it is; it's on Broad Street.
1249
1250 Mr. Balfour - Any other questions?
1251
1252 Mr. Blankinship - I have one. What size was the sign that was there 2 years
1253 ago?
1254
1255 Mr. Moore - I have a picture of that, and it was over 400 square feet.
1256 That's gone now.
1257
1258 Mr. Blankinship - This is less intrusive.
1259
1260 Mr. Balfour - Any other questions? Thank you sir.
1261
1262 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1263 Kirkland, the Board **granted** application **A-176-2002** for a variance to install a second
1264 detached sign at 9001 West Broad Street (Parcel 758-755-5863). The Board granted
1265 the variance subject to the following condition:
1266
1267 1. Only the sign shown on the plan filed with the application may be constructed
1268 pursuant to this approval. No substantial changes or additions to the layout may be
1269 made without the approval of the Board of Zoning Appeals. Any additional
1270 improvements shall comply with the applicable regulations of the County Code.
1271
1272 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1273 Negative: 0
1274 Absent: 0
1275
1276 The Board granted this request, as it found from the evidence presented that, due to the
1277 unique circumstances of the subject property, strict application of the County Code

1278 would produce undue hardship not generally shared by other properties in the area, and
1279 authorizing this variance will neither cause a substantial detriment to adjacent property
1280 nor materially impair the purpose of the zoning regulations.

1281
1282 **A -177-2002** **JOE AND SHELIA FOLLEY** request a variance from Section 24-94
1283 of Chapter 24 of the County Code to build an addition at 10915
1284 Newlands Court (Deep Run Manor) (Parcel 747-756-2399), zoned
1285 R-3, One-family Residence District (Three Chopt). The rear yard
1286 setback is not met. The applicants propose 40 feet rear yard
1287 setback, where the Code requires 33 feet rear yard setback. The
1288 applicants request a variance of 7 feet rear yard setback.

1289
1290 Mr. Balfour - Any others to speak on this matter? Raise your right hand
1291 and be sworn please.

1292
1293 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1294 truth, the whole truth, and nothing but the truth, so help you God?

1295
1296 Ms. Barfield - I do. My name's Joan Barfield; I'm here representing
1297 George Brothers Construction, who will be building the addition, and the property
1298 owner. We're requesting that you give us a variance of 7 feet at the rear yard setback.

1299
1300 Mr. Nunnally - What do you propose to build?

1301
1302 Ms. Barfield - They're building an addition on the back for an additional
1303 family room.

1304
1305 Mr. Nunnally - What size is it?

1306
1307 Ms. Barfield - I apologize; he didn't give me all this information.

1308
1309 Mr. Balfour - Looks like 28' by 20'.

1310
1311 Mr. Nunnally - Ms. Barfield, would you describe the shape of your lot; it
1312 seems to be causing your problem here. Looks like it's an odd-shaped lot. This is
1313 located to the rear of your property.

1314
1315 Mr. Balfour - That's a big building; what's that building behind it?

1316
1317 Mr. McKinney - Deep Run Baptist Church.

1318
1319 Mr. Nunnally - Looks like directly behind your property is pretty open space.
1320 Is that a parking lot for the church do you think, or do you know?

1321
1322 Mr. McKinney - You mean they sent you down here, Ms. Barfield, and didn't
1323 let you look at he site?

1324
1325 Ms. Barfield - Exactly.
1326
1327 Mr. Blankinship - They probably told you at 8:15 to be here at 9.
1328
1329 Ms. Barfield - No, it was last night.
1330
1331 Mr. Wright - What type of construction will it be? Can you tell us anything
1332 about that?
1333
1334 Ms. Barfield - All they told me was that it was an addition on the back, and
1335 I was to request a variance.
1336
1337 Mr. Wright - Is it going to be the same type of construction as the house?
1338
1339 Ms. Barfield - Yes it is.
1340
1341 Mr. McKinney - We probably should make that a condition.
1342
1343 Mr. Blankinship - I believe we did.
1344
1345 Mr. Wright - It does say that; it says it shall match the existing dwelling.
1346
1347 Mr. Balfour - It's going to be beside the swimming pool, it looks like. Any
1348 other questions? Thank you.
1349
1350 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **deferred**
1351 application **A-177-2002** for a variance to build an addition at 10915 Newlands Court
1352 (Deep Run Manor) (Parcel 747-756-2399). Because there was no one at the hearing
1353 with knowledge of the case to present it and answer questions, the case was deferred
1354 for 30 days, from the November 21, 2002, until the December 19, 2002, meeting.
1355
1356 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1357 Negative: 0
1358 Absent: 0
1359
1360 **A -178-2002** **DANNY W. AND DEBORAH B. PRIVETT** request a variance from
1361 Sections 24-95(i)(2) and 24-94 of Chapter 24 of the County Code to
1362 build an enclosed porch over the existing deck at 8329 Kraft Court
1363 (Glenhills) (Parcel 776-755-2452), zoned R-3, One-family
1364 Residence District (Brookland). The accessory structure location
1365 requirement and rear yard setback are not met. The applicants
1366 propose 21 feet rear yard setback and an accessory structure in the
1367 side yard, where the Code requires 40 feet rear yard setback and
1368 allows accessory structures in the rear yard. The applicants
1369 request a variance of 19 feet rear yard setback and to allow the

1370 existing accessory structure to remain in the side yard.
1371
1372 Mr. Balfour - Any others to speak on this matter? Raise your right hand
1373 and be sworn please.
1374
1375 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1376 truth, the whole truth, and nothing but the truth, so help you God?
1377
1378 Mr. Cowden - I do. I'm Mark Cowden, with Patio Enclosures, representing
1379 the Privetts. The reason on the application that I listed as hardship was that the house
1380 itself is actually a variance violation. The house itself only sits 33 feet from the rear
1381 property line, and looking at the garage also, it's mostly in the rear of the house. Only
1382 one corner of the garage overlaps the side yard, and that was a pre-existing structure
1383 when they moved in. They weren't aware that the garage itself was a variance violation
1384 when they bought the house, or that the house itself didn't sit 40 feet from the rear
1385 property line, that that was the setback requirement. When they decided to put this
1386 addition on the back of the house, first of all they didn't realize that it was going past the
1387 setback requirement. The reason that they decided to build the room – both Danny and
1388 Debbie suffer from clinical depression and are on prescribed medications for that. Their
1389 doctor recommended that they put a patio or a deck or something to get more sunlight
1390 and be able to get outside in the back yard more and enjoy it more. Deborah also
1391 suffers from allergies and is on a prescription for Allegra for that and also prescription
1392 inhalers for allergies and I think a mild asthmatic condition, and they put a patio in the
1393 back yard a few years ago, but she still wasn't able to sit outside very much because of
1394 the pollen problem. The room that they're looking at doing is only 12 feet by 12 feet.
1395 They're looking at closing in a small deck that's in the back. They've talked to the
1396 neighbors around; it's not a visual detriment to the surrounding property owners. None
1397 of them have a problem with it. It's not a whim of theirs to just build onto the house. It's
1398 recommended by her doctor that they do close a room in so she can sit outside more
1399 often to get more sunlight to help with her medical problems.
1400
1401 Mr. McKinney - Can you write a prescription for this? No, I say, did the
1402 doctor write a prescription for this addition?
1403
1404 Mr. Cowden - No, but she said if you'd like documentation for that, she can
1405 provide that.
1406
1407 Mr. Balfour - So what you're doing is enclosing a deck that's already
1408 there? Not enlarging it or anything like that?
1409
1410 Mr. Cowden - No, we're not enlarging it at all; the proposed room is only 12
1411 feet by 12 feet.
1412
1413 Mr. Nunnally - This side yard problem is already created by the garage, is
1414 that right Mr. Blankinship? So while they're doing it, they just want to get everything in
1415 order, is that right?

1416
1417 Mr. Blankinship - Yes sir. Exactly.
1418
1419 Mr. Cowden - That came up when we applied for the permit for the room
1420 addition, that the garage was also a variance violation. But that was already built when
1421 they bought the house.
1422
1423 Mr. Wright - I wonder, did they get a building permit for that garage?
1424
1425 Mr. Blankinship - Probably so. It's close enough so that if it's a little bit
1426 different from the sketch, it would have appeared to be completely in the rear yard.
1427
1428 Mr. Wright - No doubt the County approved the construction of the
1429
1430 Mr. Blankinship - I don't have the records in front of me, but I don't doubt that
1431 we
1432
1433 Mr. Nunnally - Sometimes they don't build them exactly where they say
1434 they're going to build them.
1435
1436 Mr. Blankinship - Exactly, and that's only off by a couple of feet there.
1437
1438 Mr. Cowden - It's only a small overlap into the side yard.
1439
1440 Mr. Blankinship - But with the new building, it will be substantially different.
1441
1442 Mr. Balfour - Any other questions? Thank you sir. That appears to be our
1443 9:00 o'clock docket.
1444
1445 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1446 Nunnally, the Board **granted** application **A-178-2002** for a variance to build an enclosed
1447 porch over the existing deck at 8329 Kraft Court (Glenhills) (Parcel 776-755-2452)).
1448 The Board granted the variance subject to the following conditions:
1449
1450 1. Only the addition shown on the plan filed with the application may be constructed
1451 pursuant to this approval. No substantial changes or additions to the layout may be
1452 made without the approval of the Board of Zoning Appeals. Any additional
1453 improvements shall comply with the applicable regulations of the County Code.
1454
1455 2. The new construction shall match the existing dwelling as nearly as practical.
1456
1457 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1458 Negative: 0
1459 Absent: 0
1460
1461 The Board granted this request, as it found from the evidence presented that, due to the

1462 unique circumstances of the subject property, strict application of the County Code
1463 would produce undue hardship not generally shared by other properties in the area, and
1464 authorizing this variance will neither cause a substantial detriment to adjacent property
1465 nor materially impair the purpose of the zoning regulations.

1466
1467 Mr. Balfour - Call the cases that were passed by. (No responses to the
1468 call for cases **A-168-2002 MARGARET ANDERSON** or **UP-34-2002 FINER HOMES**
1469 **INC.**)

1470
1471 Mr. Blankinship - Mr. Chairman, we actually have 2 requests for deferrals at
1472 10:00 o'clock.

1473
1474 Mr. Balfour - All right, we'll take 2 deferrals for 10:00 o'clock, so those
1475 people can leave, and then we'll take a recess.

1476
1477 Mr. Blankinship - **UP- 37-2002 VERIZON** requests a conditional use permit pursuant
1478 to Section 24-12(c) of Chapter 24 of the County Code to modify the
1479 existing telephone equipment building at 6102 Hermitage Road
1480 (Hermitage Park) (Parcel 780-748-2919), zoned B-1, Business
1481 District and R-4, One-family Residence District (Brookland).

1482
1483 Mr. Balfour - Anyone else here on these cases? Ms. Freye.

1484
1485 Ms. Freye - Good Morning, my name is Gloria Freye. I'm an attorney
1486 here on behalf of Verizon, and we would like to ask this case be deferred to your next
1487 meeting in December. We did have some questions come up from an adjacent property
1488 owner just day before yesterday, about the alley, and the responsibility for the alley, and
1489 some drainage questions, so we'd like a chance to meet with the staff and follow up with
1490 that neighbor, so that when we come back we'll have answers to those questions.

1491
1492 Mr. Balfour - Anyone object?

1493
1494 Upon a motion by Mr. Kirkland, seconded by Mr. McKinney, the Board **deferred**
1495 application **UP-37-2002** for a conditional use permit to modify the existing telephone
1496 equipment building at 6102 Hermitage Road (Hermitage Park) (Parcel 780-748-2919).
1497 The case was deferred for 30 days, at your request, to allow for further work regarding
1498 the recommended conditions, from the November 21, 2002, until the December 19,
1499 2002, meeting.

1500
1501 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1502 Negative: 0
1503 Absent: 0

1504
1505 **A -179-2002** **MICHAEL AND JOAN MORECROFT** request a variance from
1506 Sections 24-95(i)(2) and 24-94 of Chapter 24 of the County Code to
1507 build a screened porch at 5909 New Harvard Place (New Harvard

1508 at Wyndham) (Parcel 742-781-0757), zoned R-3C, One-family
1509 Residence District (Conditional) (Three Chopt). The accessory
1510 structure location requirement and rear yard setback are not met.
1511 The applicants propose 36.14 feet rear yard setback and an
1512 accessory structure in the side yard, where the Code requires 40
1513 feet rear yard setback and allows accessory structures in the rear
1514 yard. The applicants request a variance of 3.86 feet rear yard
1515 setback and to allow an accessory structure in the side yard.

1516
1517 Mr. Balfour - Anyone here on that case?

1518
1519 Mr. Blankinship - They've requested a deferral.

1520
1521 Upon a motion by Mr. Wright, seconded by Mr. McKinney, the Board **deferred**
1522 application **A-179-2002** for a variance to build a one-family dwelling at 1601 Kimbrook
1523 Lane (Parcel 830-721-6259). The case was deferred for 30 days, at your request, to
1524 allow for further discussions of the private road maintenance, from the November 21,
1525 2002, until the December 19, 2002, meeting.

1526
1527 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1528 Negative: 0
1529 Absent: 0

1530
1531 **(Recess, 10:00 o'clock Agenda)**

1532
1533 Mr. Balfour - I call the meeting back to order, please, and ask the
1534 Secretary to read the rules.

1535
1536 Mr. Blankinship - The rules for this meeting are as follows. As Secretary, I will
1537 call each case. Then at that time the applicant should come down to the podium. I will
1538 ask everyone who intends to speak on that case, in favor or in opposition, to stand and
1539 be sworn in. The applicants will then present their testimony. When the applicant has
1540 finished, the Board will ask them questions, and then anyone else who wishes to speak
1541 will be given the opportunity. After everyone has spoken, the applicant, and only the
1542 applicant, will be given the opportunity for rebuttal. After hearing the case, and asking
1543 questions, the Board will take the matter under advisement. They will render all of their
1544 decisions at the end of the meeting. If you wish to know their decision on a specific
1545 case, you can either stay until the end of the meeting, or call the Planning Office later
1546 this afternoon. This meeting is being tape recorded, so we will ask everyone who
1547 speaks, to speak directly into the microphone on the podium, and to state your name.
1548 And finally, out in the foyer, there are two binders, containing the staff report for each
1549 case, including the conditions that have been suggested by the staff.

1550
1551 **A -180-2002** **THOMAS S. COTTRELL** requests a variance from Section 24-
1552 95(i)(2) of Chapter 24 of the County Code to locate a spa and
1553 gazebo at 8 East Glenbrook Circle (Glenbrook Hills) (Parcel 755-

1554 733-6007), zoned R-1, One-family Residence District (Tuckahoe).
1555 The accessory structure location requirement is not met. The
1556 applicant proposes a spa and gazebo in the side yard, where the
1557 Code allows accessory structures in the rear yard.
1558

1559 Mr. Balfour - Any others to speak on this matter? Raise your right hand
1560 and be sworn please.
1561

1562 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1563 truth, the whole truth, and nothing but the truth, so help you God?
1564

1565 Mr. Cottrell - I do. Thomas S. Cottrell. Mr. Chairman, Board Members,
1566 I'm the owner of the property. I'm looking at placing a spa on the side yard of my
1567 house. The Code states that I need to put it in the back yard, and the reason that I
1568 prefer not to do that, is #1, that's a picture of the front property; the next one shows the
1569 back property. It's a pretty steep slope, # 1, which would be pretty difficult to do, but
1570 primarily, it's a safety issue to put the spa back there. I have a couple of kids. I know,
1571 myself, that's a pretty steep flight of steps. Secondly, it's a privacy issue. My adjoining
1572 neighbor in the back, I'm kind of right on top of them, and it would actually be more
1573 private in the front. As you can see on the left side of the gazebo that's already there,
1574 which by the way, I didn't know, hadn't met Code until I purchased the house a year
1575 ago. I found that out after I applied for a permit to get the spa put in. So I'm here to ask
1576 you to approve a variance on both of those structures. What I'm asking you to do is, to
1577 the left of that wooden structure, which is 9 feet by 9 feet, is to go to the left of it, over
1578 about 16 feet to an adjoining 6-foot brick wall. I've spoken to the neighbor on the left
1579 side, and they have no problem with it. I'm still going to have 9 feet back from that wall
1580 by placing the structure there. It's a 7 by 7 unit. It's no detrimental impact to them
1581 whatsoever. I've spoken to them; I've spoken to the neighbors directly across the street
1582 from me. They have no problem with it. We called all of them to let them know we
1583 wanted to do this, and there was no opposition. It's going to be completely out of sight,
1584 again, stuck back into a very thick hedge. I'm actually going to put more in front of it to
1585 create total privacy. I'm 40 feet back from the road, and the reason I'm getting this, is
1586 my necessary hardship, is I broke my leg and I need it for therapy purposes. The next
1587 person who buys it can pretty much put it on the back of a truck and take it out of there
1588 if they don't like it.
1589

1590 Mr. Balfour - Any questions of Mr. Cottrell?
1591

1592 Mr. Wright - Yes sir, the house that's on the side where this would be
1593 located, appears to face away from your property, sort of catty-cornered there at the
1594 Glenbrook Circle in Glenbrook Circle West.
1595

1596 Mr. Cottrell - I don't understand your question.
1597

1598 Mr. Balfour - What's it face? What's the front of his house? You front on
1599 Glenbrook Circle. The house that's on the side where you're putting the spa, it appears

1600 that the back of that house is sort of to your house, is that correct?
1601
1602 Mr. Cottrell - Yes sir.
1603
1604 Mr. Wright - You see what I'm saying, it faces sort of to that corner; it's
1605 catty-cornered on that lot.
1606
1607 Mr. Cottrell - Right, that's the back of their house, and that's the side of
1608 mine.
1609
1610 Mr. Wright - So this would be to the rear of their house? And the other
1611 house that's next to that one,

1612
1613 Mr. Cottrell - That's also to the rear of their house. There's the roof line;
1614 that's all the back line of their house, perpendicular to the piece of paper we're looking
1615 at. Needless to say, you have an odd-shaped lot.
1616
1617 Mr. Cottrell - All those lots in that neighborhood are relatively odd-shaped,
1618 I would say, but it's very dense, lot of trees, lots of shrubbery. Due to the character of
1619 the neighborhood, I don't want it to be seen from the street, and I'm going to actually
1620 plant more to make sure that it's not.
1621
1622 Mr. Blankinship - That's an interesting situation, that it would be less private in
1623 the rear yard; that's an unusual set of circumstances.
1624
1625 Mr. Cottrell - Well to my neighbor directly behind me, it would be because
1626 there's a 6-foot wall on the side yard that was built between those two properties, so
1627 that's just going to create a lot of privacy, which is what I was looking to do. It's a lot
1628 more convenient for us to access in the house, because it's a ranch style house, so it's
1629 on the same level that we're already on.
1630
1631 Mr. Balfour - Any other questions of Mr. Cottrell? Thank you.
1632
1633 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.
1634 McKinney, the Board **granted** application **A-180-2002** for a variance to locate a spa and
1635 gazebo at 8 East Glenbrook Circle (Glenbrooke Hills) (Parcel 755-733-6007). The
1636 Board granted the variance subject to the following condition:
1637
1638 1. This variance applies only to the location of the spa and existing gazebo in the
1639 side yard of this property. All other applicable regulations of the County Code shall
1640 remain in force.
1641
1642 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1643 Negative: 0
1644 Absent: 0
1645

1646 The Board granted this request, as it found from the evidence presented that, due to the
1647 unique circumstances of the subject property, strict application of the County Code
1648 would produce undue hardship not generally shared by other properties in the area, and
1649 authorizing this variance will neither cause a substantial detriment to adjacent property
1650 nor materially impair the purpose of the zoning regulations.
1651

1652 **A -182-2002** **PATRICIA M. RAPP** requests a variance from Section 24-94 of
1653 Chapter 24 of the County Code to build a one-family dwelling at
1654 1082 Sholey Road (Parcel 801-694-2977 (part)), zoned A-1,
1655 Agricultural District (Varina). The lot width requirement is not met.
1656 The applicant has 106.45 feet lot width, where the Code requires
1657 150 feet lot width. The applicant requests a variance of 43.55 feet
1658 lot width.
1659

1660 Mr. Balfour - Any others to speak on this matter? Raise your right hand
1661 and be sworn please.
1662

1663 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1664 truth, the whole truth, and nothing but the truth, so help you God?
1665

1666 Ms. Isaac - I do. Lorraine Isaac, representing Patricia Rapp. Mrs. Rapp
1667 inherited this property in 1981 from her mother. At that time she lived on an adjacent
1668 parcel on Sholey Road. The property has been divided once, and her son owns part of
1669 that property. A variance request is now being made so that her oldest daughter can
1670 build on the property. If that variance is granted, there will remain one parcel of land.
1671 Mrs. Rapp is considering moving back to Richmond, and is considering building a house
1672 on the remainder of the property. If she doesn't do that, the property will go to her
1673 younger daughter. No matter what happens in the future, the intent is that the land will
1674 remain in the family. Mrs. Rapp's family, the Terrys, have lived in the immediate vicinity
1675 of the property since 1951, and her brothers and niece still own property and live on
1676 Sholey Road. I know these family divisions create very odd shaped lots, but it is legal if
1677 the variance is granted, and as I say, the intent is for the property to remain in the
1678 family. I'll be happy to answer any questions.
1679

1680 Mr. Wright - You've read the conditions?
1681

1682 Ms. Isaac - Yes, they're acceptable. I do have one question though, just
1683 for clarification. When I spoke with Ms. Rapp, condition # 1 is "shall demonstrate that
1684 the parcelgoes to an immediate family member." What kind of information
1685 are they looking for?
1686

1687 Mr. Blankinship - We usually get a deed.
1688

1689 Ms. Isaac - That was what I told her I thought that you would require.
1690

1691 Mr. Wright - Mr. Secretary, I notice that you don't have the wetlands

1692 requirement in this one – how did that happen. Don't they have to comply with the
1693 wetlands?

1694
1695 Mr. Blankinship - They would, with or without the condition, but you're right,
1696 Mr. Wright, that's an oversight.

1697
1698 Mr. Wright - Normally we put in a condition # 4 just to alert the owners
1699 that they've got to comply with it.

1700
1701 Ms. Isaac - I'm not familiar, off the top of my head, with that condition
1702 though.

1703
1704 Mr. McKinney - You've got to comply with the Chesapeake Bay Act.

1705
1706 Ms. Isaac - I know that. I didn't know if there was anything else in that
1707 condition – that's no problem.

1708
1709 Mr. Balfour - Are there any other questions? Apparently not. Thank you.

1710
1711 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1712 Kirkland, the Board **granted** application **A-182-2002** for a variance to build a one-family
1713 dwelling at 1082 Sholey Road (Parcel 801-694-2977 (part)). The Board granted the
1714 variance subject to the following conditions:

1715
1716 1. At the time of building permit application the owner shall demonstrate that the
1717 parcel created by this division has been conveyed to members of the immediate family,
1718 and the subdivision ordinance has not been circumvented.

1719
1720 2. Approval of this request does not imply that a building permit will be issued.
1721 Building permit approval is contingent on Health Department requirements, including,
1722 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1723 of a well location.

1724
1725 3. This variance applies only to the lot width requirement. All other applicable
1726 regulations of the County Code shall remain in force.

1727
1728 4. At the time of building permit application, the applicant shall submit the
1729 necessary information to the Department of Public Works to ensure compliance with the
1730 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1731 water quality standards.

1732
1733 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1734 Negative: 0
1735 Absent: 0

1736
1737 The Board granted this request, as it found from the evidence presented that, due to the

1738 unique circumstances of the subject property, strict application of the County Code
1739 would produce undue hardship not generally shared by other properties in the area, and
1740 authorizing this variance will neither cause a substantial detriment to adjacent property
1741 nor materially impair the purpose of the zoning regulations.
1742

1743 **UP- 37-2002** **VERIZON** requests a conditional use permit pursuant to Section
1744 24-12(c) of Chapter 24 of the County Code to modify the existing
1745 telephone equipment building at 6102 Hermitage Road (Hermitage
1746 Park) (Parcel 780-748-2919), zoned B-1, Business District and R-4,
1747 One-family Residence District (Brookland).
1748

1749 *(Deferred at beginning of 10:00 o'clock agenda)*
1750

1751 **A -183-2002** **BRENDA AND KENNETH WAGNER** request a variance from
1752 Sections 24- 9 and 24-94 of Chapter 24 of the County Code to build
1753 a one-family dwelling at 1601 Kimbrook Lane (Parcel 830-721-
1754 6259), zoned A-1, Agricultural District (Varina). The public street
1755 frontage requirement and rear yard setback are not met. The
1756 applicants have 0 feet public street frontage and 25 feet rear yard
1757 setback, where the Code requires 50 feet public street frontage and
1758 25 feet rear yard setback.
1759

1760 Mr. Balfour - Any others to speak on this matter? Raise your right hand
1761 and be sworn please.
1762

1763 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1764 truth, the whole truth, and nothing but the truth, so help you God?
1765

1766 Mr. Harris - I do. My name is Brad Harris. I'm here representing Brenda
1767 and Kenny Wagner in 2 variance requests. The Wagners purchased this property from
1768 Mr. Wagner's mother in 1996; it was a split from her property. The Wagners no longer
1769 reside on this private road adjacent to the property. They did have a home there, and
1770 they would like to sell the property, and I will be purchasing, and I will be the builder,
1771 and we'd like to develop it. So the 2 requests are on a private road, so we'll need to
1772 have approval for the variance request for the public road and also due to the nature of
1773 the development in a small neighborhood, we'd like to be able to have the house back
1774 as far as possible away from the road so we can have a buffer, and that's why the
1775 second request for the 25-foot variance is there.
1776

1777 Mr. Wright - How deep is this lot?
1778

1779 Mr. Harris - The property is approximately 215 feet deep.
1780

1781 Mr. Nunnally - Have you read the conditions Mr. Harris?
1782

1783 Mr. Harris - Yes sir.

1784
1785 Mr. Nunnally - Now it's my understanding that this would not be for a family
1786 member, is that correct?
1787
1788 Mr. Harris - That is correct. That was a miscommunication between
1789 myself and the Planning Office. Either I will purchase it and live in it, or I will resell it.
1790
1791 Mr. Nunnally - What size house?
1792
1793 Mr. Harris - 1336 square feet.
1794
1795 Mr. Wright - Mr. Secretary, we don't have the Chesapeake Bay
1796
1797 Mr. Blankinship - I was going to read it from this case into the other case.
1798
1799 Mr. Harris - I'm familiar with the act and know that we have to comply.
1800
1801 Mr. McKinney - Mr. Secretary, what's the minimum zoning floor size in A-1?
1802
1803 Mr. Blankinship - 900 square feet, I believe.
1804
1805 Mr. Balfour - Are there other questions of the Board Members? If there
1806 are no other questions, I believe we have someone else to speak.
1807
1808 Mr. Leake - Good morning. My name is Bill Leake. I live at 1620
1809 Kimbrook Lane, which is directly across the street from where the Wagners want to
1810 build their house. I'm not here to oppose their variance; I'm just asking that you take
1811 into consideration a few things that the neighbors on this private road have discussed
1812 with me. The maintenance agreement that we have is somewhat zilch; I mean there's
1813 really nothing to it. The people who signed the original agreement which you have a
1814 copy of, have all moved away. I've been trying to get the owner of the road to draw up
1815 a new one or turn the land over to us like he promised he would at another meeting, but
1816 nothing has happened there. The owner of the road is also now building a house, and
1817 I've got some pictures of the house and the road conditions. They're throwing trash all
1818 over the yard; the trash is coming into all the neighbors' yards and along the road into
1819 the ditches. The construction workers are flying up and down the road, throwing gravel
1820 everywhere, endangering our kids and grandkids. They have a tendency to relieve
1821 themselves wherever they are standing. Mrs. Day, who is on the second page there,
1822 has seen it several times. There are no restroom facilities while the house is being built;
1823 of course the house is now almost completed. Mr. and Mrs. Wagner went through a
1824 variance several years ago with the Sullivans, and they were opposing several things,
1825 and one was the condition of the road and the wells. We are concerned about our
1826 wells, so we are asking the Board to take into consideration for this variance, a few
1827 simple things: 1) to maintain the road while the house is being built and after they
1828 complete it, 2) have the builder or the owner try to maintain a minimum speed limit for
1829 all their construction vehicles, 3) supply proper trash receptacles, restroom facilities,

1830 and ask them to dig deep well. Brad Harris did build a house right beside me not too
1831 long ago, and he did do a very good job of building the house. I didn't have that
1832 problem with him. But I would like to keep this in consideration, that things do change,
1833 and I'd for you to keep in consideration to put this into the variance if you do accept it.
1834

1835 Mr. Balfour - In other words, you've read the conditions that are already
1836 suggested, and you're asking us to add these as conditions – restrooms, trash, deep
1837 wells, and speed limit.
1838

1839 Mr. Nunnally - Did you give Mr. Harris a copy of this?
1840

1841 Mr. Leake - No sir, I have not. I wasn't aware he was the builder until I
1842 got here this morning.
1843

1844 Mr. McKinney - Mr. Leake, this that was recorded in the Circuit Court as far
1845 as the road maintenance agreement, notarized back in 1989, who's supposed to
1846 enforce that "\$50 a year contributed by each of the below undersigned"? Are you
1847 asking that Mr. Harris come in on this?
1848

1849 Mr. Leake - No, I'm not. Now I'm sure that the property will have this
1850 some way in it that will tell the owner of the property who buys it, or Mr. Harris, that he
1851 does need to abide by that same thing.
1852

1853 Mr. McKinney - No, that's not what this is. It only has "the undersigned," the
1854 undersigned here, and you've only got 3 landowners. It doesn't take any other
1855 landowners, and they're using the road too. Don't you think you should have some kind
1856 of road maintenance agreement with these new houses going in here?
1857

1858 Mr. Leake - That is another situation I've been dealing with now with Mr.
1859 Sullivan. He owns the road; he's moved away; he doesn't want to turn the road over to
1860 us; he's asking an extremely high price for the road; he doesn't want to give us another
1861 maintenance agreement. Yes, it's a big issue with the neighbors.
1862

1863 Mr. McKinney - How old is this road?
1864

1865 Mr. Leake - Mrs. Wagner can probably answer that better than I can. I
1866 moved there 12 years ago.
1867

1868 Mr. Blankinship - You're not one of the signatures to this.
1869

1870 Mr. Leake - No, I'm not; I'm presenting it.
1871

1872 Mr. Blankinship - Are you subject to this?
1873

1874 Mr. Leake - Yes, I live right across the street.
1875

1876 Mr. Blankinship - Did you buy your property from one of these three people?
1877
1878 Mr. Leake - I actually bought my property from Barry Sullivan, who is the
1879 son of the Sullivan you see on there.
1880
1881 Mr. Blankinship - So because your lot was cut off of his, you're also subject to
1882 this agreement? According to the information Mr. Leake submitted, all the other lots
1883 that are out there now, although there are 9 of them, they all came off of these 3
1884 properties, so they're all subject to this agreement.
1885
1886 Mr. McKinney - Why would you say that?
1887
1888 Mr. Blankinship - Because it appears to me at least, to run with the property.
1889
1890 Mr. McKinney - I'd like an opinion from these 2 attorneys here. I don't know
1891 how you can hold these people responsible for these people's signatures. It doesn't say
1892 that it's like any other easement.
1893
1894 Mr. Nunnally - It's not quite broad enough perhaps.
1895
1896 Mr. McKinney - I understand, but if you've got a problem with the road
1897
1898
1899 Mr. Blankinship - It's a condition on their variance that you have a road
1900 maintenance agreement, a condition that you approved last year or 2 years ago, and
1901 I'm presuming that they're meeting that condition by accepting this road maintenance
1902 agreement.
1903
1904 Mr. McKinney - It doesn't look like it from the pictures of the road.
1905
1906 Mr. Blankinship - No, it doesn't look like they are actually doing a very good
1907 job of maintaining.
1908
1909 Mr. Leake - I actually did speak with Mr. Blankinship last week and
1910 confirmed with him that the Sullivans would have to bring the road up to standard with
1911 the 22 feet of gravel before they can close on the next house and that all the variances
1912 applied each time they built a house.
1913
1914 Mr. Blankinship - Each of those 3, yes, and I put a hold on the CO on the
1915 house.
1916
1917 Mr. Leake - So before they actually start doing the construction on their
1918 house, the road will be brought back up and have new gravel put back on it. All I'm
1919 asking them is to maintain the same thing.
1920
1921 Mr. McKinney - Mr. Leake, for your information, and you're saying they're

1922 using the road and the lots for bathrooms, you may call OSHA, and they should have a
1923 porta-john on each of these job sites.
1924
1925 Mr. Leake - Mr. Harris did have one the last time he built the house
1926 beside me, but Mr. Whitlock does not.
1927
1928 Mr. McKinney - All you have to do is make a phone call.
1929
1930 Mr. Leake - I wasn't aware of that.
1931
1932 Mr. Wright - It appears to me that the Sullivans have moved away, right.
1933 Enough pressure could be put upon them to cause enough headache that they would
1934 want to convey this road so you could form some sort of association.
1935
1936 Mr. Leake - Trust me, sir, I am putting pressure on him like you have
1937 never seen before.
1938
1939 Mr. Wright - Doesn't the County tax him for this road?
1940
1941 Mr. Leake - Yes sir. The land is actually valued at \$1200. He wanted
1942 \$10,000. I did get him down to \$6,000. I offered him \$3,000, and he doesn't want to
1943 turn it loose. I have done quite a few other things to convince him to do so, and I still
1944 am.
1945
1946 Mr. Wright - So you've got some pressure on him. He's got to bring the
1947 road up; that could cost him some money.
1948
1949 Mr. Blankinship - They won't get CO's until they do what you require.
1950
1951 Mr. Wright - Enough pressure on him

1952
1953 Mr. Leake - I'm doing my best sir.
1954
1955 Mr. McKinney - How long is that road?
1956
1957 Mr. Leake - About 3/8 of a mile.
1958
1959 Mr. McKinney - It's worth more than \$1200.
1960
1961 Mr. Leake - That's what it's assessed at. You don't ordinarily go out
1962 buying roads, so as far as the value of a road, what is it. I have a right to use it, so I
1963 don't need to buy it.
1964
1965 Mr. Wright - You say there are 6 houses now on the road, and 2 more to
1966 be built, is that what you're saying?
1967

1968 Mr. McKinney - 8 houses. Isn't there something in the Code about when you
1969 get so many houses on a road, it has to be brought up to standards and then taken into
1970 the County system?
1971
1972 Mr. Blankinship - No, we don't normally require that. The requirement is that
1973 when they create a lot, they have to have frontage on a public street, and that's why
1974 they have to come before you for a variance.
1975
1976 Mr. McKinney - When it goes before Public Works, do they say, "Okay, we
1977 want curb and gutter, and we want storm sewer and all this"?
1978
1979 Mr. Blankinship - If they wanted to dedicate it to the County, yes, the County
1980 would require them to bring it up to our standards before we would accept it, but there's
1981 no requirement that they do that, there's no requirement that they dedicate it. Unless
1982 the Board decides not to grant any more variances on that road.
1983
1984 Mr. McKinney - There comes a point when you've got a safety factor –
1985 you've got signs, police, emergency vehicles, etc. that have to use this road in some
1986 cases.
1987
1988 Mr. Blankinship - The mechanism for controlling that would be the Board
1989 denying variances.
1990
1991 Mr. McKinney - Have we got anything from the Traffic Engineer concerning
1992 this road? Should we?
1993
1994 Mr. Blankinship - No sir. They were sent a copy of the agenda.
1995
1996 Mr. McKinney - We send all these things out, and nobody makes any
1997 comments on them. Shouldn't we have some kind of comment back from them on this.
1998 You've got 8 homes on this.
1999
2000 Mr. Kirkland - Is there a place for a fire truck to turn around once he gets
2001 down to the end of the street, or does he back all the way out?
2002
2003 Mr. Leake - I have an asphalt driveway; I guess they could back in there
2004 if they had to.
2005
2006 Mr. Blankinship - They're usually more concerned with getting in than getting
2007 out.
2008
2009 Mr. Leake - If we can get some pressure on the owner, we'll be glad to
2010 take care of the road any way we need to, to widen it or whatever we need to do to it.
2011 I'm sure the neighbors would want to do that.
2012
2013 Mr. Balfour - Any other questions of Mr. Leake?

2014
2015 Mr. McKinney - Do any of the Sullivans live down there?
2016
2017 Mr. Leake - No sir. None.
2018
2019 Mr. Balfour - The sign says "Speed checked by residents."
2020
2021 Mr. Leake - Yes sir, we try to do a very good job of it.
2022
2023 Mr. Wright - Suppose they violate the speed limit – what do you do?
2024
2025 Mr. Leake - Usually Tommy Day catches you and gives you a little
2026 lecture on speeding up and down the road. If you get by his house, then I'll try and
2027 catch you.
2028
2029 Mr. Wright - There's nothing legal you can do?
2030
2031 Mr. Leake - Nothing legal, no. If someone persistently did it over and
2032 over again, then we would probably take action against them, but then again, we don't
2033 own the road, so I don't know if we could actually do that or not.
2034
2035 Mr. McKinney - The courts would throw it out; it's a private road.
2036
2037 Mr. Balfour - At this point are you asking us to either deny it or to require
2038 some restrictions relating to the 4 things you mentioned earlier?
2039
2040 Mr. Leake - I'm not asking you to deny it. The Wagners have the same
2041 rights that the Sullivans did to go ahead and build their houses, so I'm not asking you to
2042 deny that, no. I'm just asking you to keep these same things in consideration when you
2043 approve it, that they are to maintain the road while and after they've completed the
2044 house, to bring it back up to where it should be.
2045
2046 Mr. Balfour - We could add a condition, in other words, that includes these
2047 4 points you've mentioned.
2048
2049 Mr. Wright - Yes, but are we going to impose the responsibility of
2050 maintaining the road on this one house.
2051
2052 Mr. Blankinship - The standard condition, Mr. Wright, says "The owners of the
2053 property, and their heirs or assigns, shall accept responsibility for maintaining access to
2054 the property until such a time," etc., and that's the same condition that's on all 3 of the
2055 Sullivans variances.
2056
2057 Mr. McKinney - Who's going to enforce it?
2058
2059 Mr. Blankinship - We do, but the problem is, that we intentionally have left

2060 them responsible for deciding what level they're going to maintain, as long as it is safe
2061 to get a fire truck in there. We don't prescribe road standards; we don't prescribe how
2062 much they have to contribute; we don't prescribe that they set up an association or don't
2063 set up an association. In the past, it has not been the County's position that we wanted
2064 to get that deeply involved in matters of private roads.

2065
2066 Mr. Wright - All of these 6 houses had to have a variance?
2067

2068 Mr. Blankinship - The 3 of the Sullivans did, and this one does. The other 2, I
2069 don't know at what time they were built or whether they had to have variances or
2070 whether they were built before then.
2071

2072 Mr. Wright - If we were to check them and find out that we didn't put that
2073 condition in their variance, we could call them back in and put it in there. These are
2074 always subject to being amended. If you impose the obligation on every house owner,
2075 then they've all got to work together to do it.
2076

2077 Mr. Blankinship - Right, but the question that I hear being raised is "to what
2078 extent is the County going to tell them this is how your association's going to be
2079 structured, this is how much your fee is going to be, this is how often it's going to be
2080 collected.
2081

2082 Mr. Wright - We can't get into that.
2083

2084 Mr. Balfour - He's saying if we put these restrictions that Mr. Leake is
2085 asking for, and call the others back in if they don't have them after your investigation
2086 and require it of all of them, then they'd probably have to get together if they're going to
2087 abide by the restrictions in some form. We just won't tell them how.
2088

2089 Mr. Leake - If I may, I can understand what you're saying about not
2090 calling people back in, but basically the road maintenance that you have there is not
2091 really specifically enough to hold anybody to anything. \$50 worth of gravel I can get in
2092 the back of my truck right now, and it basically says that you've got to contribute \$50
2093 toward the road. It really doesn't mean anything as far as the maintenance agreement.
2094

2095 Mr. Kirkland - The house that's under construction right now,

2096
2097 Mr. Blankinship - I've put a hold on their CO; it won't be issued until they meet
2098 the conditions that were on their variance that was granted last year, or 2 years ago.
2099

2100 Mr. Wright - Is that Sullivan? That's where the pressure should be.
2101

2102 Mr. McKinney - It would appear that all of them would have to have a
2103 variance because they didn't have road frontage.
2104

2105 Mr. Wright - That's what I'm saying. I think we ought to try to put all of

2106 them under the same pressure.
2107
2108 Mr. Balfour - Any more questions of Mr. Leake? Thank you. Mr. Harris?
2109
2110 Mr. Nunnally - Are you in agreement with those conditions, Mr. Harris?
2111
2112 Mr. Harris - Yes sir. Mr. Leake is the only one who can testify to it, but I
2113 think he would agree that we met those requirements when I built the last house. Is that
2114 right, Mr. Leake, would you agree with that?
2115
2116 Mr. Leake - Correct.
2117
2118 Mr. Harris - We do have a deep well that's going to be on this property,
2119 so that means that we can do the best we can. I don't know how I can enforce that. If
2120 I'm not there and someone rides down the road 10 miles an hour instead of 5, I don't
2121 have any way of doing that. I don't think that is something I can guarantee, but I will do
2122 my best. As far as the trash, it is a requirement that we do have porta-johns, so that's a
2123 Code issue, so that's going to be there, and I can only give you my personal opinion or
2124 guarantee, I don't know if I can guarantee that the trash won't somehow get away, but
2125 we are very meticulous about how I keep the sites, and I think Mr. Leake would agree
2126 that we did a pretty good job last time, and we set a pretty good standard for that.
2127
2128 Mr. Balfour - Have you seen the restrictions that were placed on Mr.
2129 Sullivan in October 2000?
2130
2131 Mr. Harris - I'm aware of that, and my recollection is that the road
2132 needed to be expanded 5 feet on each side and there were a lot of potholes and that
2133 sort of thing.
2134
2135 Mr. Blankinship - Twenty-two feet of gravel over an appropriate base.
2136
2137 Mr. Harris - That's not happened?
2138
2139 Mr. McKinney - It's a 50-foot right-of-way. I know there was work done on
2140 that road, and it was widened, and there was gravel placed on the entire length of the
2141 road, so it's been brought up.
2142
2143 Mr. Nunnally - The CO has not been issued, is that right?
2144
2145 Mr. Blankinship - They got 3 variances. One house has a CO; 1 is under
2146 construction; and a third we don't have a building permit.
2147
2148 Mr. Wright - Why wouldn't we put the same conditions on all of these that
2149 we put on these others?
2150
2151 Mr. Blankinship - You certainly can.

2152
2153 Mr. Harris - I'm amiss at what restrictions are being missed.
2154
2155 Mr. Wright - I don't see what, if we put it on these, why we wouldn't put it
2156 on any house built on that road.
2157
2158 Mr. Blankinship - I haven't inspected the road, and I haven't asked Public
2159 Works to go out and really check it and see what was done. I have been told that they
2160 spread the gravel just on top of the ground, that they didn't do any kind of base materiel
2161 underneath that gravel.
2162
2163 Mr. Harris - So they have done a face lift, but it wasn't to the standards
2164 you had set?
2165
2166 Mr. Blankinship - That's what I've been told; I don't have any first-hand
2167 knowledge of that.
2168
2169 Mr. Harris - Obviously we would have no difficulty complying with
2170 whatever conditions of the road that you prescribe. I've got Mr. Nunnally's copy.
2171
2172 Mr. Wright - Three pages back – look at the conditions that were imposed
2173 on these other cases; they ought to all be the same.
2174
2175 Mr. McKinney - October 30 to Everette A. Felts, # 6, "Before a certificate of
2176 occupancy is issued. Kimbrook Lane shall be widened to 22' of gravel over an
2177 appropriate base material." What is an appropriate base material?
2178
2179 Mr. Blankinship - We would have to work with Public Works to determine.
2180
2181 Mr. Harris - I'm a builder, and I think Mr. Leake would agree that the road
2182 is in as good a shape as it's been in a good while, if we can maintain.
2183
2184 Mr. Leake - The Sullivans did put gravel on the road, and they came in
2185 and cut trees down to make it 22 feet wide. When I say 22 feet, that is from tree to tree.
2186 That's including the ditches, and all they did was spread gravel from ditch to ditch. To
2187 me, 22 feet from tree to tree is not a 22-foot road.
2188
2189 Mr. Balfour - Did they put a base down, or just put gravel down?
2190
2191 Mr. Leake - They put gravel on top of gravel – who's going to determine
2192 what a base is? Any way you want to do this is fine? I was under the impression that #
2193 6 was already met when we got a COI in the last house, and so we did get a CO for
2194 1600, and this requirement was already there. Because of the issuance of the CO, I
2195 was under the impression that # 6 had been met.
2196
2197 Mr. Nunnally - # 4 seems to also address one of Mr. Leake's concerns, and

2198 that is "ownersand their heirs or assigns, shall accept responsibility for
2199 maintaining access to the property until such a time as the access is improved to
2200 County standards....."

2201
2202 Mr. Harris - I have suggested to Mr. Leake that I would be glad to
2203 approach Mr. Sullivan and see if there's an amenable way that we could have the
2204 owners purchase the road and take on more sophisticated road maintenance
2205 agreement that could be enforced, and I'll be glad to be a conduit for that if you would
2206 like. It's to my advantage to see the neighborhood happy. I don't want to have anything
2207 imposed on anyone. I think it's a good idea. That way, whoever purchases this, if I live
2208 there we have something we can enforce.

2209
2210 Mr. Kirkland - Mr. Harris, do you think you could work that out in the next
2211 30 days?

2212
2213 Mr. Harris - I'll be glad to at least make an attempt.

2214
2215 Mr. Kirkland - Would you have any problem if the case were deferred for
2216 30 days?

2217
2218 Mr. Harris - None at all. I just would like to have # 6 clarified and have
2219 someone go out there and inspect it.

2220
2221 Upon a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **deferred**
2222 application **A-183-2002** for a variance to build a one-family dwelling at 1601 Kimbrook
2223 Lane (Parcel 830-721-6259). The case was deferred for 30 days, at your request, to
2224 allow for further discussions of the private road maintenance, from the November 21,
2225 2002, until the December 19, 2002, meeting.

2226
2227 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
2228 Negative: 0
2229 Absent: 0
2230

2230
2231 Mr. Balfour - Do we have any passes from the first docket that we need to
2232 call again?

2233
2234 Mr. Blankinship - **A-168-2002 – MARGARET ANDERSON?**
2235 **UP-34-2002 – FINER HOMES INC.?**

2236
2237 On a motion by Mr. McKinney, seconded by Mr. Kirkland, the Board **approved**
2238 the Minutes of the **September 26, 2002**, Henrico County Board of Zoning
2239 Appeals meeting.

2240
2241 There being no further business, and on a motion by Mr. Wright, seconded by
2242 Mr. Kirkland, the Board adjourned until **December 19, 2002**, at 9:00 am.

2243
2244

2245 Daniel T. Balfour,

2246 Chairman

2247

2248 Benjamin Blankinship, AICP

2249 Secretary

2250