

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 20,**  
4 **2003, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**  
5 **TIMES-DISPATCH ON OCTOBER 30 AND NOVEMBER 6, 2003.**  
6

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

**Also Present:** Benjamin Blankinship, Secretary  
Jim Lehmann, County Planner  
Priscilla M. Parker, Recording Secretary

7  
8 Mr. Wright - Welcome to the November meeting of the County of Henrico  
9 Board of Zoning Appeals. Would you stand for the **Pledge of Allegiance to the Flag**  
10 **of our Country.**  
11

12 Mr. Secretary, would you read the rules, please.  
13

14 Mr. Blankinship - Good morning, Mr. Chairman, Members of the Board, ladies  
15 and gentlemen. The rules for this meeting are as follows. As Secretary, I will call each  
16 case. While I'm speaking, the applicant should come down to the podium. I will ask  
17 everyone who intends to speak on that case, in favor or in opposition, to stand and be  
18 sworn in. The applicants will then present their testimony. After the applicant has  
19 finished, the Board will ask them questions, and then anyone else who wishes to speak  
20 will be given the opportunity. After everyone has spoken, the applicant, and only the  
21 applicant, will be given the opportunity for rebuttal. After hearing the case, and asking  
22 questions, the Board will take the matter under advisement. They will render all of their  
23 decisions at the end of the meeting. If you wish to know their decision on a specific  
24 case, you can either stay until the end of the meeting, or you can call the Planning  
25 Office later this afternoon, or you can check the website. The vote on each case will be  
26 posted to our website within an hour of the end of the meeting. This meeting is being  
27 tape recorded, so we will ask everyone who speaks, to speak directly into the  
28 microphone on the podium, to state your name, and to spell your last name please.  
29 And finally, out in the foyer, there are two binders, containing the staff report for each  
30 case, including the conditions that have been recommended by the staff.  
31

32 Mr. Wright - Thank you sir. Do we have any requests for withdrawals or  
33 deferrals?  
34

35 **Beginning at 9:00**

36

37 **Call for deferrals and withdrawals**

38

39 **Deferred from Previous Meeting**

40

41 **A -122-2003**      **HOME EXTERIOR CONCEPTS** requests a variance from Section  
42 24-94 of Chapter 24 of the County Code to build an attached  
43 carport at 804 Lakewater Drive (Sleepy Hollow Forest) (Parcel 746-  
44 740-1653), zoned R-3, One-family Residence District (Tuckahoe).  
45 The minimum side yard setback and total side yard setback are not  
46 met. The applicant has 10 feet minimum side yard setback and 25  
47 feet total side yard setback, where the Code requires 12 feet  
48 minimum side yard setback and 30 feet total side yard setback.  
49 The applicant requests a variance of 2 feet minimum side yard  
50 setback and 5 feet total side yard setback.

51

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

54

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

57

58 Mr. Dobrzeniecki -                I do. I am Jim Dobrzeniecki. I'm the owner of the property  
59 at 804 Lakewater Drive and would like to build a structure to store my car in. That's  
60 really the gist of the whole thing.

61

62 Mr. Wright -                      What type structure do you wish to build?

63

64 Mr. Dobrzeniecki -                It states here that we're looking for a carport, and we've  
65 gone before our homeowners' association, and they don't think that a carport is  
66 architecturally consistent with our neighborhood. Our objective would be to build a  
67 garage in the same space as we have here.

68

69 Mr. Wright -                      Does that have anything to do with our notice, Mr.  
70 Secretary?

71

72 Mr. Blankinship -                I wouldn't think so. I think anyone on notice that a carport  
73 was proposed would have equivalent notice that it could be a garage.

74

75 Mr. Wright -                      Would that be constructed at the end of your present  
76 driveway, or would you have a new driveway for that?

77

78 Mr. Dobrzeniecki -                It would be on top of the present driveway.

79

80 Mr. Nunnally -                    And what's the size of the garage?

81  
82 Mr. Dobrzeniecki - It would be 22 by 12 I believe.  
83  
84 Mr. Wright - So it would be a single-car garage?  
85  
86 Mr. Dobrzeniecki - Correct. There is a single-car garage today. We would be  
87 putting another one right next to it.  
88  
89 Mr. McKinney - And that would be entered from the side? You'd have a side  
90 entrance?  
91  
92 Mr. Dobrzeniecki - It faces the front of the house.  
93  
94 Mr. McKinney - You would enter the garage from the front of the house or  
95 the side?  
96  
97 Mr. Dobrzeniecki - From the front. The current garage also opens to the front of  
98 the house.  
99  
100 Mr. Nunnally - It looks like it opens from the side; that's why we're asking  
101 the questions. The garage opens to the front of the house?  
102  
103 Mr. Dobrzeniecki - The current garage opens to the front; so would this.  
104  
105 Mr. Blankinship - Let's put up a photo, Jim, would you.  
106  
107 Mr. McKinney - It enters from the side in this picture I have.  
108  
109 Mr. Blankinship - The top photograph shows the side of the existing garage.  
110 The bottom photograph shows the front corner of the garage, and looking to where the  
111 new construction would be. The center of the photo is where the new construction  
112 would be.  
113  
114 Mr. Nunnally - So that space where the driveway is, is where you intend to  
115 add your next garage.  
116  
117 Mr. McKinney - The existing garage that you have now, is that a one-car or a  
118 two-car garage?  
119  
120 Mr. Dobrzeniecki - It's a one-car garage.  
121  
122 Mr. Nunnally - So you'll be next to 806 on the left side.  
123  
124 Mr. Dobrzeniecki - That's correct.  
125  
126 Mr. Nunnally - What's between you and that house next to you?

127  
128 Mr. Dobrzeniecki - There's about fifty feet of trees and things like that.  
129  
130 Mr. Wright - Any further questions by members of the Board? Is anyone  
131 here in opposition to this? Did you want to speak sir? Are you for it or against?  
132  
133 Mr. Belleman - I'm for it, and I wanted to speak. My name is Bruce  
134 Belleman, and I live across the street, at the corner of Lakewater and Michelle, and I am  
135 the President of the homeowners association, and I wanted to support the opportunity to  
136 build a garage on this, as opposed to a carport. I was going to show you, if you had  
137 trouble seeing where the entrance is. We, as a Board, agreed that a garage would be  
138 more in line with the architectural integrity of the neighborhood, and we have no  
139 problems with him building a garage. We just wanted to put that on record that the  
140 Board does support a garage structure for this home.  
141  
142 Mr. Wright - Has the Board examined the plans, the type of structure, the  
143 material, etc.?  
144  
145 Mr. Belleman - We have not seen the completed structure plans for the  
146 garage as of yet, but we have told him that we would definitely look at, we would prefer  
147 a garage as opposed to a carport. We told him assuming that they met the guidelines,  
148 we would have no problem with it.  
149  
150 Mr. Wright - Thank you very much. Anything further, Mr. Dobrzeniecki?  
151 One question, what type of material will be used in this garage?  
152  
153 Mr. Dobrzeniecki - What we have planned on doing is very consistent with what  
154 the house has, which is vinyl siding, with wrap-around brick, absolutely consistent with  
155 what we're doing today.  
156  
157 Mr. Wright - Thank you very much. That concludes the case  
158  
159 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
160 McKinney, the Board **granted** application **A-122-2003** for a variance to build an  
161 attached carport at 804 Lakewater Drive (Sleepy Hollow Forest) (Parcel 746-740-1653).  
162 The Board granted the variance subject to the following conditions:  
163  
164 1. [Amended] Only a garage, not a carport, as shown on the plan filed with the  
165 application may be constructed pursuant to this approval. No substantial changes or  
166 additions to the layout may be made without the approval of the Board of Zoning  
167 Appeals. Any additional improvements shall comply with the applicable regulations of  
168 the County Code.  
169  
170 2. The new construction shall match the existing dwelling as nearly as practical.  
171  
172 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

173 Negative: 0  
174 Absent: 0

175  
176 The Board granted this request, as it found from the evidence presented that, due to the  
177 unique circumstances of the subject property, strict application of the County Code  
178 would produce undue hardship not generally shared by other properties in the area, and  
179 authorizing this variance will neither cause a substantial detriment to adjacent property  
180 nor materially impair the purpose of the zoning regulations.

181  
182 New Applications

183  
184 **A -127-2003**            **KAREN INMAN** requests a variance from Section 24-95(k) of  
185 Chapter 24 of the County Code to build a garage at 12510 Poplar  
186 Forest Drive (Ridgefield) (Parcel 733-752-4754), zoned R-2A, One-  
187 family Residence District (Tuckahoe). The minimum side yard  
188 setback is not met. The applicant has 18 feet minimum side yard  
189 setback, where the Code requires 25 feet minimum side yard  
190 setback. The applicant requests a variance of 7 feet minimum side  
191 yard setback.

192  
193 Mr. Wright -                            Please state your name. Does anyone else desire to speak  
194 with respect to this case? Would you raise your right hand and be sworn please?

195  
196 Mr. Blankinship -                    Do you swear that the testimony you are about to give is the  
197 truth, the whole truth, and nothing but the truth, so help you God?

198  
199 Ms. Inman -                            I do. My name is Karen Inman. I am the owner of the  
200 property at 12510 Poplar Forest, and I would like to build a garage attached to my home  
201 to cover the existing area where I already park the cars. Essentially, I would like to  
202 enclose it, consistent with the style of the existing home, something I've already  
203 discussed with my neighbors, who are in agreement that this is an appropriate action.  
204 They have not expressed any desire to impede that progress. That's pretty much it.

205  
206 Mr. Wright -                            What size would this garage be?

207  
208 Ms. Inman -                            To match up with the size of the house in terms of the  
209 length, it's 22 by 28.

210  
211 Mr. Wright -                            So that's a two-car garage?

212  
213 Ms. Inman -                            Yes, it's a two-car garage.

214  
215 Mr. Wright -                            And you would access this from Brewer Road?

216  
217 Ms. Inman -                            It's a rear access. The current parking structure already has  
218 the driveway on the side from Brewer, and you come up and park, and it would be a

219 rear access.  
220  
221 Mr. Wright - So you do access your property now on this same driveway?  
222  
223 Ms. Inman - Yes sir, and I will not be changing that.  
224  
225 Mr. Wright - The garage would then be constructed at the end of the  
226 driveway?  
227  
228 Ms. Inman - Yes. It essentially will cover the existing car parking.  
229  
230 Mr. McKinney - Ms. Inman, is this a one or two-story garage?  
231  
232 Ms. Inman - Actually it's not quite two-story; the house is a two-story  
233 house, so it doesn't come up to the existing roofline, to be consistent with the other  
234 garages that are constructed in the area. If you look at the picture of the house there, it  
235 will come right above the existing roof of the little side shed there, so it will come up not  
236 quite to the top of the house.  
237  
238 Mr. McKinney - So you're not going to use the upstairs for other than  
239 storage?  
240  
241 Ms. Inman - No.  
242  
243 Mr. Wright - I believe you have what's called a reverse corner lot, and  
244 that causes your problems.  
245  
246 Ms. Inman - I was not aware of that when I undertook the desire to have  
247 a garage. I'm kind of a single person who has to work a lot of late hours, so it was a  
248 security issue for me as well, but I did not include that in the request.  
249  
250 Mr. Wright - Any further questions from members of the Board? Is  
251 anyone here in opposition to this case?  
252  
253 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
254 McKinney, the Board **granted** application **A-127-2003** for a variance to build a garage  
255 at 12510 Poplar Forest Drive (Ridgefield) (Parcel 733-752-4754). The Board granted  
256 the variance subject to the following conditions:  
257  
258 1. Only the garage shown on the plan filed with the application may be constructed  
259 pursuant to this approval. No substantial changes or additions to the layout may be  
260 made without the approval of the Board of Zoning Appeals. Any additional  
261 improvements shall comply with the applicable regulations of the County Code.  
262  
263 2. The new construction shall match the existing dwelling as nearly as practical.  
264

265 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
266 Negative: 0  
267 Absent: 0

268  
269 The Board granted this request, as it found from the evidence presented that, due to the  
270 unique circumstances of the subject property, strict application of the County Code  
271 would produce undue hardship not generally shared by other properties in the area, and  
272 authorizing this variance will neither cause a substantial detriment to adjacent property  
273 nor materially impair the purpose of the zoning regulations.

274  
275 **A -128-2003 CAROLYN H. MONFALCONE AND LARRY R. SPARKES** request  
276 a variance from Sections 24-95(i)(2)b. and 24-95(q)(5) of Chapter  
277 24 of the County Code to build an addition and a workshop at 4714  
278 Mill Park Circle (Dunncroft) (Parcel 760-762-6278), zoned R-3,  
279 One-family Residence District (Brookland). The accessory  
280 structure height and rear yard setback are not met. The applicants  
281 propose 28 feet rear yard setback and 19 feet accessory structure  
282 height, where the Code requires 35 feet rear yard setback and  
283 allows 15 feet accessory structure height. The applicants request a  
284 variance of 7 feet rear yard setback and 4 feet accessory structure  
285 height.

286  
287 Mr. Wright - Please state your name. Does anyone else desire to speak?  
288 Would you raise your right hand and be sworn please?

289  
290 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
291 truth, the whole truth, and nothing but the truth, so help you God?

292  
293 Mr. Sparkes - I do. Larry Sparkes, and I am co-homeowner of 4714 Mill  
294 Park Circle. We want to put an addition on the back of our home. We're recently  
295 married, within the last six months, and we had been considering moving out of the  
296 neighborhood and buying another home to combine our homes. We like the  
297 neighborhood, and we like the neighbors, and we decided we would prefer to stay in the  
298 neighborhood and expand the house to suit our new needs. We feel that, after  
299 discussing it with the neighbors, and after looking at some of the plans that we can  
300 build, that we feel it's the right thing to do and the right place. The addition would be  
301 complimentary to the house; it would be in the back. The view of the house in the front  
302 would be unchanged. The view on the back of the house would be significantly  
303 improved; it would raise the values, not only of our home, but also of the rest of the  
304 neighborhood. Our neighbor just behind us has put a similar addition on their house,  
305 and we would be facing their addition with our addition. I know you don't have pictures  
306 of what the proposed new addition is, but I do have some pictures here, if you would be  
307 willing to look at them, as to what we plan to do. We plan to do a quality addition that is  
308 consistent with the house and consistent with the neighborhood. We feel that this will  
309 make our house a usable home for both of us and let us stay in the neighborhood with  
310 the existing neighbors, which we get along with very well.

311  
312 Mr. Wright - Mr. Blankinship, where does this accessory structure height  
313 problem come in?  
314  
315 Mr. Blankinship - The Code limits detached accessory structures to fifteen  
316 feet.  
317  
318 Mr. Wright - It will be a detached garage?  
319  
320 Ms. Monfalcone - Yes, they're two separate things. One is an addition,  
321 expansion of the house, and the other is a workshop with a room for games and such  
322 for the grandchildren on the second story.  
323  
324 Mr. Sparkes - We have quite a few grandchildren.  
325  
326 Mr. McKinney - Mr. Wright, that's to the center of the gable.  
327  
328 Mr. Wright - I see it.  
329  
330 Mr. Sparkes - The first section will contain a picture. The first page is a  
331 plat to scale of what the amended property will look like. The second sheet is what the  
332 addition will look like from the rear of the house. We propose to extend ten feet from  
333 the existing rear. We need to have the reduced setback by seven feet, so that we can  
334 put that ten-foot addition in.  
335  
336 Mr. Nunnally - You noticed the restriction about not moving trees, and that's  
337 okay with you?  
338  
339 Mr. Sparkes - That's fine. We prefer not to remove any trees.  
340  
341 Mr. Kirkland - Mr. Sparkes, when you say a "workshop," what exactly is it,  
342 a hobby shop. What is this going to be used for?  
343  
344 Mr. Sparkes - I'm retired from Dominion Virginia Power, and I like to build  
345 furniture as a hobby, and I would do some work like that; I'd build some furniture, and  
346 just general woodworking. The upper floor would be for the grandchildren to have as a  
347 game room.  
348  
349 Mr. Kirkland - I rode through the neighborhood. I didn't notice too many  
350 two-story garages.  
351  
352 Mr. Sparkes - There are, as a matter of fact. We spotted about three two-  
353 story units in our area. The first one you see is right around on the next street from us.  
354  
355 Ms. Monfalcone - There's a picture in the book.  
356

357 Mr. Kirkland - I saw the one that looks like barn board on the side of it or  
358 something  
359

360 Mr. Sparkes - There's another one that's a two-story with a garage under it,  
361 which is also in out Duncroft Subdivision.  
362

363 Ms. Monfalcone - And then there's a two-story that's used as a dwelling. You  
364 can see in the picture there are some dormer windows. What we envision, we believe  
365 will be quite an enhancement. We placed some pictures in there, one of the people  
366 directly behind us, and they are behind us the majority of the way across the back yard,  
367 where they added onto their house. Also, there is a series of three pictures on one  
368 page, that shows the corner where this two-story structure would actually go, and shows  
369 what our current view is now. There are little piles of stuff in the yard. That's a rental  
370 house. Our aim would be to improve our property, make it more usable, and also the  
371 trees are there. It would not do anything but enhance their view, and it would certainly  
372 enhance our view.  
373

374 Mr. Kirkland - Is the garage going to be built out of the same siding as your  
375 home? To match it?  
376

377 Mr. Sparkes/Ms. Monfalcone - Yes.  
378

379 Mr. Sparkes - We plan to make this a quality structure that will enhance the  
380 look of the entire property.  
381

382 Ms. Monfalcone - In fact, the people behind us, who added onto their house,  
383 they are very excited about this. She's a real estate person. They made the decision to  
384 stay in the neighborhood rather than build, which they'd considered. We, in turn, saw  
385 what they had done, and thought that would be the decision we would like to make. We  
386 feel that it's a winning situation for our neighborhood.  
387

388 Mr. Sparkes - We had actually gone through laying out what would happen  
389 if we stayed with the fifteen-foot height on that other building, and it would make the  
390 second floor virtually unusable as a game room. We need that extra height in order to  
391 make it a usable second floor.  
392

393 Mr. Wright - What is the height of your house, do you know?  
394

395 Mr. Sparkes - I really don't know.  
396

397 Ms. Monfalcone - But it's two-story, with an attic.  
398

399 Mr. Wright - And what would be the difference in height between the  
400 accessory building and your house?  
401

402 Mr. Sparkes - I don't know the footage, but I know it wouldn't be as tall as

403 the house. It would be considerably shorter.  
404  
405 Mr. McKinney - Mr. Sparkes, what's your ceiling height downstairs in the  
406 garage?  
407  
408 Mr. Sparkes - Eight foot, six.  
409  
410 Mr. McKinney - Why eight foot, six?  
411  
412 Mr. Sparkes - So I can take an eight-foot board and turn it on end.  
413  
414 Mr. McKinney - Now you say upstairs you want a game room? I have a  
415 garage, with a nine-foot ceiling, and I have a truss design to where I've got twelve-foot  
416 width upstairs, 36 feet long, with the required headroom, and it still met the required  
417 fifteen feet.  
418  
419 Mr. Sparkes - We looked at that. We saw that basically a gambrel roof  
420 was .....  
421  
422 Mr. McKinney - No, mine's just an "A." I'll tell you the reason it worked so  
423 well, I put dormers on it.  
424  
425 Mr. Sparkes - One of the things we were trying to do to set this up for the  
426 grandchildren, is we wanted to have a straight wall and a rectangular room so they  
427 could have a pool table and a couch and some TV and play, room for their games. If  
428 we had a dormer in there, that really would not be practical for the use we intend on it.  
429  
430 Ms. Monfalcone - When we worked with the builder on the design, he said that  
431 with the gabled roof, or what was recommended under the normal County policy, the  
432 ceiling would only be six feet tall, so consequently, we thought if we were going to do  
433 this, we'd better make it usable.  
434  
435 Mr. Sparkes - What I had done is, I went to Ruffin and Payne and had  
436 them lay out a truss for me for a gambrel roof, and they told me there was no way they  
437 could get a ceiling higher than six feet.  
438  
439 Ms. Monfalcone - Our feeling is, with the design that has been developed, it  
440 would be in keeping with the current structure of our home, and in keeping with the  
441 neighborhood, and the people behind us, over 90% of the space behind us, are very  
442 much in favor.  
443  
444 Mr. Sparkes - We have spoken with all of our neighbors, and none of them  
445 have any issues with it.  
446  
447 Mr. Wright - Any further questions of members of the Board? Is anyone  
448 here in opposition to this request?

449  
450 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
451 McKinney, the Board **granted** application **A-128-2003** for a variance from the rear yard  
452 setback to allow the addition to the house, and denied your request for a variance from  
453 the accessory structure height requirement to build a workshop at 4714 Mill Park Circle  
454 (Dunncroft) (Parcel 760-762-6278). The Board granted the variance subject to the  
455 following conditions:

456  
457 1. Only the improvements shown on the plan filed with the application may be  
458 constructed pursuant to this approval. No substantial changes or additions to the layout  
459 may be made without the approval of the Board of Zoning Appeals. Any additional  
460 improvements shall comply with the applicable regulations of the County Code.

461  
462 2. The new construction shall match the existing dwelling as nearly as practical.

463  
464 3. The mature trees in the northwest corner of the yard shall not be removed.

465  
466 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

467 Negative: 0

468 Absent: 0  
469

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

475  
476 **A -129-2003** **JEAN AND APRIL DUFOUR** request a variance from Section 24-  
477 95(i)(2) of Chapter 24 of the County Code to build a detached  
478 garage at 9517 Cragmont Drive (Tuckahoe North) (Parcel 743-736-  
479 4605), zoned R-1, One-family Residence District (Tuckahoe). The  
480 accessory structure location requirement is not met. The applicants  
481 propose a garage in the side yard, where the Code allows  
482 accessory structures in the rear yard.

483  
484 Mr. Wright - Please state your name. Does anyone else desire to speak?  
485 Would you raise your right hand and be sworn please?  
486

487 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
488 truth, the whole truth, and nothing but the truth, so help you God?  
489

490 Mr. Steeber - I do. My name is Don Steeber. I am a representative of  
491 Steeber and Father Co., and we are the designers and builders of this project. My  
492 clients would be here today, but they're both doctors, and their schedules didn't allow  
493 that. My clients would like to build a detached garage. The house on the property is  
494 currently very long and low and has a very deep "L" on the left-hand side of the house.

495 The current zoning would require that the detached building be in the rear yard, and  
496 since the "L" is so deep on the left-hand side, it would force the garage to be just under  
497 30 feet behind the main part of the house. What we would like to do is consider that the  
498 rear yard be defined by the line across the majority of the house, as it is shown there.  
499 That would allow the normal setbacks from the side and the front, and ten feet away  
500 from the house, which is part of the Code, and attached with a relatively short  
501 breezeway. It would cut down considerably on the amount of driveway that would be  
502 required. We feel that the look from the front and from the side would be essentially be  
503 in keeping with the zoning requirements. There is a fifty-foot piece of property along the  
504 side of the DuFours, which is owned by the people who own the property to the rear of  
505 theirs, and I believe that is an unbuildable lot because of the fifty-foot width, so there is  
506 a buffer there.

507  
508 Mr. Nunnally - Is that to the rear or to the right of the DuFours?

509  
510 Mr. Steeber - The people who own the fifty-foot piece of property there are  
511 the people who own the rear property.

512  
513 Mr. Nunnally - That's interesting. They want a back driveway one day.  
514 There's not a lot on 9601; that's a vacant lot. There's a fifty-foot get-away driveway  
515 between them, it looks like.

516  
517 Mr. Steeber - There's a vacant lot to the other side of the fifty-foot.  
518 Correct. We think with the shorter breezeway and that configuration, that it's more  
519 aesthetic. The design of the garage will be absolutely in keeping with the current  
520 property. There are two recommendations in the work-up by the County, and we would  
521 absolutely want to comply with those, that the look would be in keeping. I have a sketch  
522 of what I envision the garage to look like.

523  
524 Mr. Nunnally - How long is that garage?

525  
526 Mr. Steeber - It is about 25 by 40, two-car garage, tractor and garden  
527 storage and then, a doghouse. The last eight feet of the rear of the building would be in  
528 essence a doghouse. They have four dogs.

529  
530 Mr. Nunnally - How many square feet is that?

531  
532 Mr. Steeber - 25 by 40, right on 1,000.

533  
534 Mr. Wright - How wide is that breezeway that you propose to build?

535  
536 Mr. Steeber - The breezeway would be about 4 ½ to 5 feet, essentially  
537 enough to keep them out of the weather.

538  
539 Mr. Wright - If you could make it ten feet, you wouldn't need it.

540

541 Mr. Steeber - That's correct. There is a way of doing it without having to  
542 get a variance. We just think that aesthetically, this really is the better look.

543  
544 Mr. Wright - Any further questions of members of the Board? Is anyone  
545 here in opposition to this request?

546  
547 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
548 Kirkland, the Board **granted** application **A-129-2003** for a variance to build a detached  
549 garage at 9517 Cragmont Drive (Tuckahoe North) (Parcel 743-736-4605). The Board  
550 granted the variance subject to the following conditions:

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

556  
557 2. The new construction shall match the existing dwelling as nearly as practical.

558  
559  
560 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
561 Negative: 0  
562 Absent: 0

563  
564 The Board granted this request, as it found from the evidence presented that, due to the  
565 unique circumstances of the subject property, strict application of the County Code  
566 would produce undue hardship not generally shared by other properties in the area, and  
567 authorizing this variance will neither cause a substantial detriment to adjacent property  
568 nor materially impair the purpose of the zoning regulations.

569  
570 **A -130-2003** **FREDDY COBB** requests a variance from Section 24-95(d)(2) of  
571 Chapter 24 of the County Code to build a one-family dwelling at  
572 2725 Hungary Road (Parcel 770-758-9784), zoned R-3, One-family  
573 Residence District (Fairfield). The lot width requirement is not met.  
574 The applicant has 78 feet lot width, where the Code requires 100  
575 feet lot width. The applicant requests a variance of 22 feet lot  
576 width.

577  
578 Mr. Wright - I have to disqualify myself from this case.

579  
580 Mr. Blankinship - Does anyone else intend to speak on this matter? Would  
581 you raise your right hand sir? Do you swear that the testimony you are about to give is  
582 the truth, the whole truth, and nothing but the truth, so help you God?

583  
584 Mr. Cobb - I do. I'm Freddy Cobb. As was stated, the frontage on that  
585 lot is 78 feet. The requirement is 100 feet, so I'm requesting a variance.

586

587  
588 Mr. McKinney - Mr. Cobb, the house next door, 2727, what's the frontage on  
589 that one?  
590  
591 Mr. Cobb - I'm assuming it's real close to my lot, because if you look at  
592 that survey, it look's like when they divided it, they roughly divided it in half. I'm a little  
593 bit confused because it looks to me like the survey on my lot says the frontage is 83  
594 feet, but your work here says 78 feet.  
595  
596 Mr. Blankinship - We measure the width perpendicular to the centerline.  
597  
598 Mr. McKinney - But 2727 looks like that's a lot narrower.  
599  
600 Mr. Blankinship - Yes, he speaking of the one across Mayfair.  
601  
602 Mr. McKinney - I'm speaking of the one right next door. He's 2725; I'm  
603 talking about 2727.  
604  
605 Mr. Blankinship - On the other side of Mayfair, right?  
606  
607 Mr. Cobb - Oh, yes, that's a narrow lot. I don't know what it is.  
608  
609 Mr. Kirkland - Are 2727 and 2729 owned by the same person?  
610  
611 Mr., McKinney - That's laid out as one lot though, according to this map.  
612  
613 Mr. Wright - Any other questions?  
614  
615 Mr. McKinney - What type house are you going to build?  
616  
617 Mr. Cobb - I really haven't done much research, pending approval of  
618 being able to do something. I would think a relatively small rancher or cape or  
619 something like that.  
620  
621 Mr. McKinney - You going to build this to speculate and sell it or .....  
622  
623 Mr. Cobb - Probably. I'm not going to occupy it, and I am going to sell it,  
624 so whether it would be built for somebody or spec, I don't know.  
625  
626 Mr. McKinney - Thank you sir.  
627  
628 Mr. Nunnally - Any other questions of Mr. Cobb. Anyone here in opposition  
629 to this request? A gentleman back here on the left.  
630  
631 Mr. McKinney - You're going to have to be sworn in if you're going to come  
632 and speak on the mike.

633

634 Mr. Kirkland - I believe this gentleman back here raised his hand too.

635

636 Mr. McKinney - You want to speak too sir? You need to stand and be sworn

637 in.

638

639 Mr. Kirkland - He raised his hand and was sworn; he just didn't stand up.

640

641 Mr. Blankinship - Would you each raise your right hand sir? Do you swear

642 that the testimony you are about to give is the truth, the whole truth, and nothing but the

643 truth, so help you God?

644

645 Mr. Preddy - I do. Willis Preddy is my name. I live at 2723 Hungary

646 Road, and the property line runs so close to my house; I think it's within five feet, as

647 close as they could get it when they divided the property. There is a common drive that

648 runs between the two parcels, and it comes from the dirt road into the back of my house

649 and on around to Hungary Road. I would like to know what he proposes to do about

650 that common drive.

651

652 Mr. McKinney - What are you speaking of, Mr. Preddy? Right there?

653

654 Mr. Kirkland - Which house is yours again?

655

656 Mr. Blankinship - No, not there.

657

658 Mr. Kirkland - You've got a drive between your property and his.?

659

660 Mr. Preddy - It runs from the dirt road; it serves both parcels, mine and

661 Mr. Cobb's.

662

663 Mr. Nunnally - Which parcel is yours again, sir?

664

665 Mr. Preddy - 2723.

666

667 Mr. Kirkland - Where is the dirt road?

668

669 Mr. Preddy - It's Mayfair. That part is 2725.

670

671 Mr. McKinney - I presume he has his own driveway.

672

673 Mr. Preddy - I do, but .....

674

675 Mr. McKinney - I'm talking about the applicant.

676

677 Mr. Preddy - This has been there since 1942, and it comes off of the dirt

678 road right on through behind both pieces of property.

679  
680 Mr. Blankinship - So you want to be sure that that drive remains open.  
681  
682 Mr. Preddy - Yes, I would, because it's unsafe to back out. The lady who  
683 sold me the property didn't really give me enough property where I could hardly turn my  
684 car around. I hate to back out into Hungary Road; it's very dangerous. I can go right  
685 straight on around and come out of Mayfair onto Hungary, which is a safer exit. My  
686 main question is, what will be the disposition, or what will happen to that common drive?  
687  
688 Mr. Nunnally - You've got a driveway that crosses 2725 over to what would  
689 be Mayfair? How long have you used it?  
690  
691 Mr. Preddy - I've used it since I've been there, but it's been there since  
692 1942.  
693  
694 Mr. McKinney - How long have you been there?  
695  
696 Mr. Kirkland - Mr. Blankinship, whose property is this common drive on?  
697  
698 Mr. Blankinship - Sounds like it's crossing Mr. Cobb's property.  
699  
700 Mr. Preddy - Yes, it crosses his property.  
701  
702 Mr. Nunnally - And you say it's been used since 1942 as a driveway?  
703  
704 Mr. Preddy - No, I haven't, but it's been there.  
705  
706 Mr. Nunnally - How long have you used it?  
707  
708 Mr. Preddy - Since 1998.  
709  
710 Mr. Nunnally - And it was used as a drive before you moved there?  
711  
712 Mr. Preddy - It's been there since 1942.  
713  
714 Mr. Nunnally - We'll see what Mr. Cobb says.  
715  
716 Mr. McKinney - How long have you lived there, Mr. Preddy?  
717  
718 Mr. Preddy - I've lived there five years, going on six.  
719  
720 Mr. Nunnally - Since 1998? You might need to see a lawyer, depending on  
721 what Mr. Cobb says.  
722  
723 Mr. Preddy - Isn't it a statute that if a drive or right-of-way has been  
724 through property for 15 years .....

725  
726 Mr. Nunnally - That's why we asked you how long you've been there.  
727  
728 Mr. Blankinship - That's why you may need to see a lawyer.  
729  
730 Mr. Preddy - Yes, it's been there since 1942.  
731  
732 Mr. Blankinship - You may have a legal interest in that. You need to speak to  
733 a lawyer to secure that, unless Mr. Cobb's willing to grant you something.  
734  
735 Mr. Nunnally - Let's hear from the next person please.  
736  
737 Mr. Karger - My name is Walter Karger. I live at 2727 Hungary Road. My  
738 wife and I bought this property in 1998, and we researched it, and we liked the fact that  
739 nobody could build on top of us because to the west of Mayfair, there is a lot too small  
740 to build on, owned by Billy Kelley, and to the east there is this lot in question right now.  
741 I noticed Mayfair, which is a graveled road, privately maintained, no two cars can pass,  
742 and if two cars meet each other, they usually go into my front yard to evade each other.  
743 I can't imagine what it would be like if another house squeezed in there. I'm really  
744 opposed to it.  
745  
746 Mr. McKinney - There's houses all the way in back of that lot. According to  
747 this plat, the foundation for this house, I that's what they're going to use, is all the way in  
748 the rear of 2725. It's not going to be right beside your house or not beside Mr. Preddy's  
749 house; it's going to be back in the rear of this property.  
750  
751 Mr. Karger - That's swampland.  
752  
753 Mr. McKinney - He's got to meet the 100-foot setback to build his house on,  
754 according to the Code.  
755  
756 Mr. Nunnally - I think what he's concerned about though, is when a car  
757 comes out and they meet, they've got to cross his yard to bypass each other.  
758  
759 Mr. McKinney - Looks like this Mayfair Drive is on Mr. Karger's property. I  
760 see a little driveway coming off of it, going over to Preddy's. I guess that's the one he  
761 was talking about.  
762  
763 Mr. Karger - Yes, that's the existing drive.  
764  
765 Mr. McKinney - I don't know if that was a license, a permit to use that, or a  
766 scripted easement, or what it is. You can probably see an attorney on that.  
767  
768 Mr. Nunnally - Any other questions of Mr. Karger?  
769  
770 Mr. Karger - Let me ask you again – he intends to use the foundation

771 that's already down there?  
772  
773 Mr. Nunnally - We don't know that. We'll find that out.  
774  
775 Mr. Karger - Because that was abandoned due to the swamp. They built  
776 the foundation and abandoned it because it filled up with water. And I'm sure that  
777 property won't perk either.  
778  
779 Mr. McKinney - Do you have water and sewer?  
780  
781 Mr. Karger - No, I have septic tank and public water?  
782  
783 Mr. McKinney - Sir, if it won't perk, you can't build a house on it.  
784  
785 Mr. Blankinship - That's one of the conditions.  
786  
787 Mr. Karger - I have public water, but I don't have public sewer.  
788  
789 Mr. Preddy - I do too. I have septic tank and public water.  
790  
791 Mr. Nunnally - Thank you both. Mr. Cobb, would you like to rebut?  
792  
793 Mr. Cobb - It sounds like we may not need this seller, because we may  
794 have two buyers for this piece of property. We checked on that drive. There is no  
795 easement. We checked on it when we bought the property and did the title search and  
796 all that stuff. We specifically granted the right to drive across it until such time as it  
797 didn't work for us any more. They're right; that foundation is in a swamp. Somebody  
798 started something years ago, and we would not be building back there. Where we  
799 would build, I don't know. We would have to see where it would perk, if it would. The  
800 further back the better. As far as the traffic on Mayfair, it sounds like there's that traffic  
801 there already from all the houses back there. I don't know if one more car or two more  
802 cars would be a burden of not.  
803  
804 Mr. Nunnally - How wide is that gravel drive called Mayfair? What did you  
805 say a minute ago about you gave him what?  
806  
807 Mr. Cobb - There was something that my closing attorney wrote up that  
808 said 'you can use this thing until we say you can't use it,' or something like that.  
809  
810 Mr. Nunnally - They have a permit to use it.  
811  
812 Mr. Cobb - Something like that. But there's no easement. That was all  
813 one parcel, I think is why it goes back to 1940, and then they sold off Mr. Preddy's lot, I  
814 believe. Is that right, Mr. Preddy? And we certainly wouldn't want to be doing anything  
815 to disrupt the neighborhood; that's not our intent.  
816

817 Mr. McKinney - That was done in 1998, is that correct, or 1997?  
818  
819 Mr. Cobb - When it was sold, when it was carved off. There was a  
820 house on my lot, and then they built the house on Mr. Preddy's lot, and she moved over  
821 there, and they bulldozed the old house, and then when they sold it to Mr. Preddy, for  
822 some reason, they did what they did there and divided it up. I'm absolutely happy to sell  
823 it to either one of you at a very fair price. I'd just like to get rid of it or build on it,  
824 because right now I've got a nice little park.  
825  
826 Mr. McKinney - Mayfair is on whose property?  
827  
828 Mr. Cobb - I don't know.  
829  
830 Mr. McKinney - It's not on yours? Do you plan on using Mayfair to come on  
831 in and out of your property?  
832  
833 Mr. Cobb - I hadn't gotten that far to know. I think we could use either  
834 Mayfair or Hungary Road. I don't know why we couldn't use either one. I don't know  
835 whose property Mayfair is on; it doesn't look like it's on mine, based on this survey.  
836  
837 Mr. Blankinship - It shows as a separate parcel.  
838  
839 Mr. Cobb - So who knows whose the heck Mayfair is? I think most of  
840 the people who use it are those folks back there behind our properties, is where you get  
841 most of the use from, driving back and forth down there.  
842  
843 Mr. Blankinship - 9119, 9117, 9113, 9109.  
844  
845 Mr. Cobb - Yes, there are quite a few houses back there that use is.  
846  
847 Mr. Nunnally - Thank you Mr. Cobb. Are there any other questions?  
848  
849 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
850 Kirkland, the Board **granted** application **A-130-2003** for a variance to build a one-family  
851 dwelling at 2725 Hungary Road (Parcel 770-758-9784). The Board granted the  
852 variance subject to the following conditions:  
853  
854 1. This variance applies only to the public street frontage requirement. All other  
855 applicable regulations of the County Code shall remain in force.  
856  
857 2. At the time of building permit application, the applicant shall submit the  
858 necessary information to the Department of Public Works to ensure compliance with the  
859 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
860 water quality standards.  
861

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

866  
867 Affirmative: Balfour, Kirkland, McKinney, Nunnally 4  
868 Negative: 0  
869 Abstain: Wright 1  
870

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

876  
877 **A -131-2003** **JAMES E. CAMPANA** requests a variance from Section 24-95(i)(2)  
878 of Chapter 24 of the County Code to build a utility building at 4125  
879 Mountain Road (Parcel 762-769-6780), zoned A-1, Agricultural  
880 District (Brookland). The accessory structure location requirement  
881 is not met. The applicant proposes an accessory building in the  
882 side yard, where the Code allows accessory structures in the rear  
883 yard.

884  
885 Mr. Wright - Please state your name. Does anyone else desire to speak?  
886 Would you raise your right hand and be sworn please?  
887

888 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
889 truth, the whole truth, and nothing but the truth, so help you God?  
890

891 Mr. Campana - I do. My name is James E. Campana. I have an unusual  
892 lot; it's a flag lot, and because of that, there are just some areas where we cannot build  
893 on the property. I'm about a thousand feet or more off Mountain Road. The house is in  
894 dense woods. We can't see our neighbors; they can't see us. We purposely positioned  
895 the house like that so that we could have privacy back there. I'm limited in the number  
896 of places where I can put an accessory building because of dense woods, creeks, those  
897 kinds of things. That's why I've asked for a variance to put it in the side yard. Though it  
898 will be to the side of the house, it won't be visible by any neighbors and in no way will  
899 have any impact on them, I don't believe.

900  
901 Mr. Kirkland - Mr. Campana, will any trees be removed to build this  
902 building?  
903

904 Mr. Campana - We have a cleared area where we'll put the building.  
905

906 Mr. Kirkland - It's already cleared?  
907

908 Mr. Campana - Yes.  
 909  
 910 Mr. Wright - Did you lose many trees during Isabel?  
 911  
 912 Mr. Campana - Probably 30 or 35.  
 913  
 914 Mr. Wright - Any further questions of members of the Board? Anyone  
 915 here in opposition to this request?  
 916

917 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
 918 Nunnally, the Board **granted** application **A-131-2003** for a variance to build a utility  
 919 building at 4125 Mountain Road (Parcel 762-769-6780). The Board granted the  
 920 variance subject to the following condition:  
 921

922 1. Only the improvements shown on the plan filed with the application may be  
 923 constructed pursuant to this approval. Any additional improvements shall comply with  
 924 the applicable regulations of the County Code.  
 925

926 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
927 Negative:		0
928 Absent:		0

929  
 930 The Board granted this request, as it found from the evidence presented that, due to the  
 931 unique circumstances of the subject property, strict application of the County Code  
 932 would produce undue hardship not generally shared by other properties in the area, and  
 933 authorizing this variance will neither cause a substantial detriment to adjacent property  
 934 nor materially impair the purpose of the zoning regulations.  
 935

936 **A -132-2003**      **MICHAEL W. AND ANN S. PETERSEN** request a variance from  
 937 Section 24-94 of Chapter 24 of the County Code to build a two-  
 938 story addition at 13633 Horselydown Lane (Foxhall) (Parcel 730-  
 939 762-4256), zoned R-2AC, One-family Residence District  
 940 (Conditional) (Three Chopt). The rear yard setback is not met. The  
 941 applicants propose 38 feet rear yard setback, where the Code  
 942 requires 45 feet rear yard setback. The applicants request a  
 943 variance of 7 feet rear yard setback.  
 944

945 Mr. Wright - Does anyone else desire to speak? Would you raise your  
 946 right hand and be sworn please?  
 947

948 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
 949 truth, the whole truth, and nothing but the truth, so help you God?  
 950

951 Mr. Petersen - I do. I'm Michael W. Petersen. My wife and I are the  
 952 property owners of this property, and we would like to build a two-story addition on the  
 953 rear of the house. The space required for the screened-in porch, which would be part of

954 this property, will need to have a variance on the rear setback. It's a 45-foot setback;  
955 today we're asking for a 38-foot setback.

956  
957 Mr. Wright - What's located to the rear of your property?

958  
959 Mr. Petersen - Another property, belonging to my neighbor, the Gallaghers,  
960 and between us we have screening with large cypress trees that completely block the  
961 view of this property and also the other neighbors. As you can see in this picture here,  
962 the entire back yard is surrounded by cypress trees that block the view of this addition.

963  
964 Mr. Wright - What type of construction would this be?

965  
966 Mr. Petersen - It's going to be similar construction to what we have today.  
967 The construction is going to go over the current setback is actually a screened-in porch,  
968 but the two-story addition is going to be exactly the architecture we have today. In fact,  
969 this is part of a larger project that we're doing to upgrade the exterior of the house from  
970 hardboard siding to hardy plank siding, so we're actually improving the entire property.  
971 The addition will have the same building materials.

972  
973 Mr. Wright - Any questions from members of the Board? Anyone here in  
974 opposition to this request?

975  
976 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
977 Balfour, the Board **granted** application **A-132-2003** for a variance to build a two-story  
978 addition at 13633 Horselydown Lane (Foxhall) (Parcel 730-762-4256). The Board  
979 granted the variance subject to the following conditions:

980  
981 1. Only the improvements shown on the plan filed with the application may be  
982 constructed pursuant to this approval. No substantial changes or additions to the layout  
983 may be made without the approval of the Board of Zoning Appeals. Any additional  
984 improvements shall comply with the applicable regulations of the County Code.

985  
986 2. The new construction shall match the existing dwelling as nearly as practical.

987  
988 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
989 Negative: 0  
990 Absent: 0

991  
992 The Board granted this request, as it found from the evidence presented that, due to the  
993 unique circumstances of the subject property, strict application of the County Code  
994 would produce undue hardship not generally shared by other properties in the area, and  
995 authorizing this variance will neither cause a substantial detriment to adjacent property  
996 nor materially impair the purpose of the zoning regulations.

997  
998 **A -133-2003** **MORGAN DAY** requests a variance from Section 24-94 of Chapter  
999 24 of the County Code to build a two-story addition at 9310 Newhall

1000 Road (Pinedale Farms) (Parcel 751-749-9502), zoned R-2A, One-  
1001 family Residence District (Tuckahoe). The front yard setback,  
1002 minimum side yard setback, rear yard setback, and total side yard  
1003 setback are not met. The applicant has 43 feet front yard setback,  
1004 11 feet minimum side yard setback, 25 feet total side yard setback  
1005 and 42 feet rear yard setback, where the Code requires 45 feet  
1006 front yard setback, 12 feet minimum side yard setback, 30 feet total  
1007 side yard setback and 45 feet rear yard setback. The applicant  
1008 requests a variance of 2 feet front yard setback, 1-foot minimum  
1009 side yard setback, 5 feet total side yard setback and 3 feet rear  
1010 yard setback.

1011  
1012 Mr. Wright - Does anyone else desire to speak with respect to this case?  
1013 Please stand so you can all be sworn at the same time. Would you raise your right  
1014 hand and be sworn please?

1015  
1016 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1017 truth, the whole truth, and nothing but the truth, so help you God?

1018  
1019 Mr. Day - I do. My name is Lawrence Day. We want to build a two-  
1020 story addition conforming with the house, taking out the rear at 28 feet back, 24 feet  
1021 wide. The width is matching the structure now. It will be a large game room, computer  
1022 room, with two baths, one down, one up, two bedrooms above. It'll be brick  
1023 construction, and above Code. I'm an electrical contractor; I'll be doing the general  
1024 contracting myself, and the house will be for my sons at the moment. We're building an  
1025 in-law suite, more or less on the back of the house, but we're giving the boys two more  
1026 bedrooms and a large room downstairs, going back 28 feet because by the time we put  
1027 the staircase and the hallway and closets in, we're losing nine feet out of the addition  
1028 towards the rear. The wedge lot prevents me from getting the length I need from the  
1029 side setback.

1030  
1031 Mr. Wright - It seems that your lot narrows as it goes to the rear.

1032  
1033 Mr. Day - And it does the same on the back. Across the back on one  
1034 side, we're getting the 45 feet; on the other side we're getting 44.

1035  
1036 Mr. Wright - It sort of angles in.

1037  
1038 Mr. Day - Yes sir, it's the way the lot was laid out. We're trying to keep  
1039 the addition square and match the existing structure straight back, without doing a side  
1040 over, sliding it to the right.

1041  
1042 Mr. Wright - How many square feet do you have in your present house?

1043  
1044 Mr. Day - 2,000, I believe.

1045

1046 Mr. Wright - I thought this was an error in the report. It said 1300; this is  
1047 a tri-level house, and I couldn't see how it could be 1300 feet. It says the house totals  
1048 1352 square feet.  
1049  
1050 Mr. Day - I think the 1352 comes from the size of the addition sir.  
1051  
1052 Mr. Wright - Our report says that your present house has 1352. The size  
1053 of the addition will be 1300?  
1054  
1055 Mr. Day - It will be 24 by 28 and two story.  
1056  
1057 Mr. Wright - So right now you have what we call a tri-level.  
1058  
1059 Mr. Day - Yes sir.  
1060  
1061 Mr. Wright - The addition will, of course, be on the rear, and how will you  
1062 access the addition?  
1063  
1064 Mr. Day - Through a small side door. I have a set of plans here, if  
1065 you'd like to take a look.  
1066  
1067 Mr. Wright - If you submit them to us, we have to keep them for thirty  
1068 days in the record.  
1069  
1070 Mr. Day - I got these from upstairs; I'd rather hang on to them.  
1071  
1072 Mr. Blankinship - The real estate record does show the 1300 figure as the  
1073 finished area; it may be that at the time that was done, the lowest of the three levels  
1074 was not finished.  
1075  
1076 Mr. Day - It looks to be original pine paneling down there.  
1077  
1078 Mr. Wright - A tri-level's a tri-level. You come in, then you go up, and  
1079 then you go up again, and in some of them you go up again. I can't imagine a tri-level  
1080 being 1300 square feet.  
1081  
1082 Mr. Blankinship - If the lowest of the three levels was not finished when that  
1083 figure was calculated, that would explain it, I think.  
1084  
1085 Mr. Wright - So this would be constructed on the rear, and you would  
1086 access it on the second level of the tri-level.  
1087  
1088 Mr. Day - It would be a utility door on the side. When you come to the  
1089 back of the house now, there's a stoop where you come in. We'd set the stoop to the  
1090 side of the addition, so when you come down the driveway, you walk up the stoop and  
1091 go into the house.

1092  
1093 Mr. Wright - So there would be no access from the interior of the house  
1094 to the addition?  
1095  
1096 Mr. Day - Well, through the back door that's there now where the utility  
1097 room is.  
1098  
1099 Mr. Wright - Any further questions of members of the Board? Is anyone  
1100 here in opposition to this request? We'll hear from the opposition, and then you'll have  
1101 an opportunity to rebut.  
1102  
1103 Mr. Marlles - Good morning, Mr. Chairman, members of the Board. My  
1104 name is John Marlles, and I'm Director of Planning. I'm here today to express several  
1105 concerns regarding the granting of this variance. As pointed out in the staff report, the  
1106 applicant only purchased the property a little over a month ago and was well aware of  
1107 any limitations on the size of the structure. We also have concerns regarding the use of  
1108 the structure. The applicant is proposing to significantly increase the size of the home.  
1109 We have asked for, prior to this meeting, copies of the floor plan. I now understand the  
1110 applicant has brought those. We have not had an opportunity to review copies of the  
1111 floor plan to clarify the use of the structure, and I would add that we have gotten calls  
1112 and concerns from the neighbors. I would request that the matter be deferred in order  
1113 to provide staff with an opportunity to review copies of the floor plan and to clarify the  
1114 use of the structure.  
1115  
1116 Mr. Balfour - What kind of complaints have you gotten from neighbors,  
1117 because none of them are here today?  
1118  
1119 Mr. Marlles - The calls that we have received, Mr. Balfour, relate to the  
1120 fact that there might be the renting of rooms to boarders, and of that nature.  
1121  
1122 Mr. Balfour - We can ask him that.  
1123  
1124 Mr. Wright - Mr. Day, evidently we need some more investigation here.  
1125 Do you have any objection to deferring this to the next Board meeting?  
1126  
1127 Mr. Day - It's going to put me into bad weather, but I don't see that I  
1128 have any choice in the matter.  
1129  
1130 Mr. Balfour - Are you going to use any of this to rent?  
1131  
1132 Mr. Day - No sir, my sons have friends with them. They both go to  
1133 college, and there are four boys in the house. They all go to school, and they split the  
1134 cost of the house only on utilities.  
1135  
1136 Mr. Balfour - This is not your residence?  
1137

1138 Mr. Day - Not mine. It's my sons'.  
1139  
1140 Mr. Balfour - There are four people living there, and some of them paying  
1141 rent?  
1142  
1143 Mr. Day - Paying utilities, yes sir. It's four college boys.  
1144  
1145 Upon a motion by Mr. Balfour, seconded by Mr. McKinney, the Board **deferred**  
1146 application **A-133-2003** for a variance to build a two-story addition at 9310 Newhall  
1147 Road (Pinedale Farms) (Parcel 751-749-9502). The case was deferred until the  
1148 December 18, 2003, meeting, to provide time to determine the purpose for an addition  
1149 of this size and to study the floor plan.  
1150  
1151 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1152 Negative: 0  
1153 Absent: 0  
1154  
1155 **A -134-2003** **BRYAN LIEBERT** requests a variance from Section 24-94 of  
1156 Chapter 24 of the County Code to allow a new home to remain at  
1157 8009 Edith Hill Court (Osborne Heights) (Parcel 803-687-5391),  
1158 zoned A-1, Agricultural District (Varina). The front yard setback is  
1159 not met. The applicant has 39 feet front yard setback, where the  
1160 Code requires 50 feet front yard setback. The applicant requests a  
1161 variance of 11 feet front yard setback.  
1162  
1163 M. Blankinship - Mr. Chairman, let me call your attention to a letter and a little  
1164 booklet that were left at your place.  
1165  
1166 Mr. Wright - Is there anyone else here who has a desire to speak on this  
1167 case? Would you all please stand so you can be sworn at the same time, and raise  
1168 your right hand.  
1169  
1170 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1171 truth, the whole truth, and nothing but the truth, so help you God?  
1172  
1173 Mr. Liebert - Yes sir, I do Mr. Liebert. I bought the lot and build a new  
1174 home there, and when I went for my final approvals and such, it was discovered that the  
1175 home was eleven feet too close to the road. As you look at the picture there on the  
1176 screen, if you're standing in the street, it's the left corner. It is not too close to the road  
1177 toward the front; it is too close to the road at an angle to the turn-around portion of the  
1178 cul-de-sac. I do own 64 feet, approximately, of land between myself and the closest lot;  
1179 The person who owns that lot to the side of me at this time is Mr. Bailey, who has  
1180 submitted a letter for your review, stating that he has no opposition to this variance. I  
1181 can think of no way that the fact that I am eleven feet too close on that particular corner  
1182 impacts the neighborhood. I'm more than willing to do any type of landscaping or  
1183 anything at all within my power to do to make it beautiful and acceptable to the

1184 neighbors in the neighborhood.

1185

1186 Mr. Wright - Mr. Liebert, who laid out your house?

1187

1188 Mr. Liebert - I did sir, but my builder told me, he's 400 miles away; he  
1189 requested that I come to the County and get the building permit. I came here; I went  
1190 through the steps, and I followed every instruction that was given to me. It's simply a  
1191 mistake that this didn't get caught. Had it been caught at any time early in the process,  
1192 where I could have corrected it, I would have absolutely done so. The surveyor didn't  
1193 catch; I didn't catch it; the builder didn't catch it; the mortgage company didn't catch it,  
1194 and it wasn't discovered through the County processes until the home was already  
1195 completed.

1196

1197 Mr. Wright - So you had the surveyor set the stakes for the house? You  
1198 did it yourself?

1199

1200 Mr. Liebert - Yes sir. When I approached the County to get my building  
1201 permit, they said the first thing I had to do was go to the Health Department to get a  
1202 septic permit. When I went to the Health Department, they said "this is how the process  
1203 works. Place 4 stakes in the ground where you think you want the home, and we'll  
1204 accommodate that if we can. I called three different departments at the County and  
1205 asked what the setbacks were and was told that it was 50 feet. At that time I realized I  
1206 didn't know where to measure the 50 feet from, so I called back and I was told 25 feet  
1207 from the center of the road. My father met me there, and we found the center of the  
1208 road, put a spray paint mark there, we measured 25 feet and then took a large step  
1209 beyond 25 feet, and then measured back and placed the stakes. Being a layman, I did  
1210 not know about the angle situation, so I simply measured from the stake out to the  
1211 immediate road. I didn't measure at this corner angle. Also, I submitted a drawing with  
1212 my building permit that I had done, showing the stakes and such, and yet what actually  
1213 ended up being used was the drawing that the Health Department had drawn up, and  
1214 I'm not sure how or why that happened. If you follow that drawing that the Health  
1215 Department did to the letter, it shows measuring from the left front corner of the house.  
1216 Again, if you're standing in the street, looking at the house, to the right side of the  
1217 driveway, it shows fifty feet. Again, being a layman and not knowing better, if you  
1218 measure from the left front corner of the house, to the right side of the driveway, it is  
1219 indeed fifty feet and a few inches. That's how the situation arose.

1220

1221 Mr. Kirkland - Mr. Liebert, did you have a mortgage on this?

1222

1223 Mr. Liebert - Yes sir.

1224

1225 Mr. Kirkland - They did a mortgage survey?

1226

1227 Mr. Liebert - Yes sir.

1228

1229 Mr. Liebert - They didn't catch it either.

1230  
1231 Mr. Nunnally - Mr. Liebert, this Mr. Bailey from King William, Virginia, does  
1232 he own the land next to you?  
1233  
1234 Mr. Liebert - Yes sir.  
1235  
1236 Mr. Nunnally - Is he a developer or anything?  
1237  
1238 Mr. Liebert - Yes sir. He's also the person who sold me my lot, and I  
1239 guess he probably sold most of the people their lots. There was another problem with  
1240 the home that I'm not sure that it's relevant, except to say that when I went to get my  
1241 building permit, the home was also being built on an old sediment pond. That was  
1242 somehow missed as well, with no harmful intentions on anyone's part, so I've really  
1243 struggled to get through this process. At every corner I've done everything I've been  
1244 asked to do. At this point, the reason I'm requesting the variance is because, if the  
1245 bottom line is that the home has to be moved, I don't have the funds to do it. It will  
1246 simply be a default matter, and I guess the mortgage company will have to move the  
1247 home and sell it to someone else.  
1248  
1249 Mr. McKinney - Mr. Liebert, when are you going to finish your home?  
1250  
1251 Mr. Liebert - The home is finished as it stands, except for a separate  
1252 permit, which is the front porch, which when I originally went to bring this home into the  
1253 neighborhood, there was quite a bit of concern due to the style of the home, and in  
1254 order to help with those concerns, I approached my neighbors and asked them if it  
1255 would be acceptable to them if I put a pretty covered porch on there. You have a  
1256 picture of that in one of your handouts, and most of my neighbors, to the best of my  
1257 recollection, said that indeed that would make them feel more comfortable about the  
1258 home, so I took that on at my own expense, and the only reason it has not been  
1259 completed is because of this situation. I didn't want to go to the expense in the event  
1260 that something would happen and the home would have to be moved.  
1261  
1262 Mr. McKinney - How about the rear deck?  
1263  
1264 Mr. Liebert - The rear deck is complete; it has not had the final inspection,  
1265 because .....

1266  
1267 Mr. McKinney - Mr. Liebert, the rear deck wasn't complete yesterday.  
1268  
1269 Mr. Liebert - I don't know what you're referring to sir.  
1270  
1271 Mr. McKinney - You've got sliding doors coming out of the house .....

1272  
1273 Mr. Liebert - Oh, I'm sorry sir, the rear deck for the back door is complete.  
1274  
1275 Mr. McKinney - The stoop is complete.

1276  
1277 Mr. Liebert - I misunderstood you. I apologize. There is no rear deck  
1278 planned at this time, due to the extra expense of putting on the front porch. I asked the  
1279 County what my obligations were; they told me to put a cattle guard across it, and I've  
1280 built that to Code and put it across, and it will remain until I can build a deck in the very  
1281 near future.  
1282  
1283 Mr. McKinney - My question was, if this should be granted, when do you  
1284 expect to complete this house, according to what you have given us here in this picture?  
1285  
1286 Mr. Liebert - The porch, you mean, sir?  
1287  
1288 Mr. McKinney - And is this what it will look like?  
1289  
1290 Mr. Liebert - It is a very close approximation, my home is longer than that  
1291 home, and .....  
1292  
1293 Mr. McKinney - I'm not talking about the length of it; I understand that. But is  
1294 this what your porch is going to look like?  
1295  
1296 Mr. Liebert - Not exactly. That porch is brick. Save the brick, excluding  
1297 the brick .....  
1298  
1299 Mr. McKinney - Your foundation's brick.  
1300  
1301 Mr. Liebert - Yes sir, but my porch does not have a brick foundation; I  
1302 wanted to be clear on that. The other porches nearby me are similar in style, so it will  
1303 have a lattice underneath it, and other than that, yes, it will look like that porch.  
1304  
1305 Mr. McKinney - So you're talking about salt-treated?  
1306  
1307 Mr. Liebert - Yes, it will be salt-treated. And it will have a white lattice to  
1308 cover the under-the-deck area.  
1309  
1310 Mr. McKinney - I'm looking at some of these other houses here, and they  
1311 have the front porches that are brick.  
1312  
1313 Mr. Liebert - Yes sir, there are some that are brick, and there are some  
1314 houses that are not pictured that are on the same street as me, Edith Lane, that have  
1315 the open under porch. They do some have brick pedestals, but the porch is open.  
1316  
1317 Mr. McKinney - I'm talking about the ones that were submitted today. All of  
1318 those have brick foundations on the front porches.  
1319  
1320 Mr. Liebert - Yes sir.  
1321

1322 Mr. Wright - Can this porch be built without violating the front yard  
1323 setback?  
1324  
1325 Mr. Blankinship - I was just wondering the same thing.  
1326  
1327 Mr. Wright - What's the size of the porch?  
1328  
1329 Mr. Liebert - It extends out from the house six feet, and so it's only six  
1330 feet closer to the setback. It does not impact this particular corner problem at all.  
1331  
1332 Mr. Blankinship - It would be within the variance that's being requested? I  
1333 don't think it could be done without the variance.  
1334  
1335 Mr. McKinney - The cover's already there, temporary. It's the frame part of  
1336 it.  
1337  
1338 Mr. Liebert - The front porch itself meets the fifty feet back from the front  
1339 property line, and I think it does not impact the cul-de-sac. If you measure from the  
1340 closest corner of the porch to the cul-de-sac, there's well over fifty feet, and if you  
1341 measure from the front edge of the porch, out to the road, it's six feet less. You see the  
1342 49.7 where the gentleman's got the mouse there, there's slightly more distance in the  
1343 very middle. I don't know exactly how much.  
1344  
1345 Mr. McKinney - Mr. Liebert, where is your mortgage survey?  
1346  
1347 Mr. Liebert - It is included in your documentation, and I have extra copies  
1348 if you need them. That is it.  
1349  
1350 Mr. McKinney - That's not a mortgage survey.  
1351  
1352 Mr. Liebert - I don't understand sir.  
1353  
1354 Mr. McKinney - A mortgage survey shows the improvements on a property.  
1355 Okay, okay, I've got you. I'm trying to find that front porch.  
1356  
1357 Mr. Blankinship - The survey shows it on there.  
1358  
1359 Mr. McKinney - I see it, okay.  
1360  
1361 Mr. Liebert - It was a separate permit done at a separate time.  
1362  
1363 Mr. McKinney - Mr. Blankinship, on the right corner it shows 49.7 feet –  
1364 what's the setback?  
1365  
1366 Mr. Blankinship - Fifty.  
1367

1368 Mr. McKinney - So the whole house is off?  
1369  
1370 Mr. Wright - By about .3 of a foot on that end.  
1371  
1372 Mr. McKinney - But again, like you brought up, the front porch, that needs to  
1373 be included in this.  
1374  
1375 Mr. Wright - What is the size square footage in this house?  
1376  
1377 Mr. Liebert - 2,077 square feet, five bedrooms.  
1378  
1379 Mr. Wright - Obviously an appraisal was done for your mortgage.  
1380  
1381 Mr. Liebert - Yes sir, I brought copies of that.  
1382  
1383 Mr. Wright - No sir, I called Mr. Blankinship and asked him, and he said  
1384 to bring those with me, in case you wanted to see them. I have enough copies for all of  
1385 you if you wanted to look at it.  
1386  
1387 Mr. Wright - I would.  
1388  
1389 Mr. Liebert - Also, gentlemen, that report that you have that's in the  
1390 binder there is from a real estate agent who has 32 years of experience in the Varina  
1391 area. There's been a lot of concern over the style of the home, and I asked him to put  
1392 that together, based on values of property and style of the home, and you can see his  
1393 opinion there. He is the agent who sold me that land. I have five copies of the  
1394 appraisal, and I have more if anybody else would like to see them. There are a couple  
1395 of pages missing out of the appraisal. They are not the relevant pages that show value  
1396 and such, and the only reason they are not included is because I didn't get them.  
1397  
1398 Mr. Kirkland - Is it three pages or two that we're getting?  
1399  
1400 Mr. Liebert - It's actually fifteen pages. Only the first two pages are the  
1401 real critical pages regarding value. In addition, gentlemen, the appraisal was mistakenly  
1402 done as a three-bedroom home. It was also done as a two-bath home, and even  
1403 though it really doesn't have three bedrooms because of the closets, there are five  
1404 rooms that could be called bedrooms. There's a living room, a family room, etc., so the  
1405 appraisal is actually low, because it leaves out a bedroom and a bathroom, and the  
1406 appraisal also doesn't include the covered front porch, so substantial value has been  
1407 added in addition to the appraisal in an effort to be appealing to the neighbors and to  
1408 meet the standards to try and make it as nice as possible for the neighborhood.  
1409  
1410 Mr. Nunnally - Do you have any idea what the value of the other homes in  
1411 the vicinity of your house are?  
1412  
1413 Mr. Liebert - That was why I asked the real estate agent, because I'm not

1414 really qualified to speak on that. He said there are eleven ranchers in the  
1415 neighborhood. There's only one rancher in the neighborhood larger than mine, and it  
1416 was his opinion that my rancher would actually bring up the value of the smaller  
1417 ranchers in the neighborhood, due to its size and style. He's included that in a letter  
1418 format to you.

1419

1420 Mr. Wright - Any further questions of members of the Board? Anyone  
1421 here in opposition to this request?

1422

1423 Mr. Earley - I'm Ashton Earley. First of all, I wanted to say that it's not  
1424 necessarily that I'm in opposition to the Lieberts. I don't want to see them leave, but I've  
1425 got some problems and some concerns that came up. There was a meeting  
1426 approximately four months ago with the County about this situation, and I'd petitioned  
1427 the County about this house, because it is what they consider a modular home. I  
1428 noticed that where they had put the stakes, it wasn't even fifty feet to begin with. I told  
1429 the County this, right from the beginning, and it was overlooked, over and over again.  
1430 Another problem right now is that the house doesn't even meet Code. I don't  
1431 understand how they were given a certificate of occupancy.

1432

1433 Mr. Blankinship - They haven't been, but why do you say it doesn't meet  
1434 Code?

1435

1436 Mr. Earley - The front trap door on the rear, there's no trap door. I  
1437 remember when I was going for my CO, I got turned down because it wasn't painted.  
1438 They don't even have a trap door.

1439

1440 Mr. Blankinship - The door on the crawl space?

1441

1442 Mr. Earley - Correct.

1443

1444 Mr. Blankinship - I'm sure that will be corrected before a CO is issued. A CO  
1445 has not been issued.

1446

1447 Mr. Earley - How long is a temporary CO actually good for?

1448

1449 Mr. Blankinship - That depends on the individual circumstances, but I don't  
1450 believe a temporary has been issued either.

1451

1452 Mr. Earley - Okay, well, they're living in the house; they've been living in  
1453 the house for approximately a month.

1454

1455 Mr. Blankinship - Was a temporary issued – okay, oh, no.

1456

1457 Mr. McKinney - Temporary is good for thirty days, renewable every thirty  
1458 days.

1459

1460 Mr. Earley - One has not been issued?  
1461  
1462 Mr. Kirkland - Mr. Liebert, you stated that you do not have a temporary  
1463 occupancy?  
1464  
1465 Mr. Liebert - That is correct.  
1466  
1467 Mr. Wright - What other violations of the Code do you know about?  
1468  
1469 Mr. Earley - I was under the impression that the front porch was being  
1470 constructed when the house was set in place. I don't know how it works with modular  
1471 homes if there is a building permit. I would imagine so. The front porch has not been  
1472 completed, and I was under the impression that they had a Certificate of Occupancy, so  
1473 that's why I was questioning that, the fact that it was not complete.  
1474  
1475 Mr. Wright - They won't get the CO until it's completed, I'm sure.  
1476  
1477 Mr. Earley - Right, but how do you occupy a home without an occupancy  
1478 certificate?  
1479  
1480 Mr. Blankinship - I don't have an answer to that.  
1481  
1482 Mr. Wright - All right sir, anything further?  
1483  
1484 Mr. Emerson - I'm Scott Emerson. I reside at 1242 Archie Lane. It's not  
1485 that we oppose the Lieberts. Personally, we have nothing against them, except for the  
1486 design and the fabrication of the house and being placed, certainly incorrectly on the lot.  
1487 It's hard for me to try to understand that they had a mortgage survey, the County was  
1488 supposed to come out and do their survey, check the proper layout of the foundations,  
1489 etc., that this problem has even come up. I don't see how this has come about and  
1490 gotten by three or four different agencies – mortgage, County, etc. I'm surprised  
1491 personally that Mr. Bailey is not here, because he owns the adjacent lot. If you want  
1492 that piece of property, the Lieberts' house basically, the way the property, and I would  
1493 say it's 8005 there, where the Lieberts' house is now standing, that is a drop-off to the  
1494 very back of their property, and it goes down to a rolling hill and backs up to the lake  
1495 and Osborne Pike. I'm surprised Mr. Bailey is not here, even though he was the seller  
1496 of the property at 8009, which the Lieberts bought.  
1497  
1498 Mr. Wright - We have a letter from Mr. Bailey, which says, "I am in full  
1499 agreement that you grant the 11-foot variance for the yard setback."  
1500  
1501 Mr. Emerson - Because he wants to have his hands clean of this whole  
1502 situation.  
1503  
1504 Mr. Wright - I don't know whether you want to see a copy of this letter  
1505 that we got submitted to us this morning, but it looks like it's signed by Jack H. Bailey. I

1506 can't say that he signed it, but there's a signature on it.

1507

1508 Mr. Emerson - I don't think we're going to dispute that, because he was the  
1509 seller, and therefore he has profited from the lot. But all in turn, before the house was  
1510 even brought to the property, I may add on wheels, being prefab, there was an erosion.  
1511 That whole corner and across, adjacent at 1255, both were erosion lots, where they  
1512 collected water. The meeting that we had four months ago with this gentleman here in  
1513 Planning, we requested that the ground had a survey and an impaction, because we  
1514 knew that this pit was built, we knew that it was filled in, we also requested an impaction  
1515 ratio, and we feel that we never received, I may add. Secondly, we never received any  
1516 of that, and we feel that the trailer was put closer to that property line because of the  
1517 impaction ratio, and maybe the long-term fact that there may be some settling, etc.  
1518 Other than that, this has been a stickler from day one.

1519

1520 Mr. Wright - I understand that, Mr. Emerson, let me ask you this question.  
1521 If this house, or whatever you want to call it, had been built back so that it was fifty feet  
1522 from the front yard line, we wouldn't be here today, would we?

1523

1524 Mr. Emerson - Like I say, three or four different agencies definitely missed.

1525

1526 Mr. Wright - If it had been built pushed back, there's plenty of room; it  
1527 looks like the lot's deep enough. If it had been correctly positioned on the lot, we  
1528 wouldn't be here. This house could be there, and it would be valid, and he could get a  
1529 CO assuming he completed it in a proper manner. Is that correct?

1530

1531 Mr. Emerson - Yes sir, I think so.

1532

1533 Mr. Wright - So we're talking about the fact that a mistake was made; it  
1534 looks like it was compounded. You wonder how these things happen. Sometimes I  
1535 wonder how accidents happen, when you say "how did it happen," but it happened. The  
1536 fact is that the house is sitting there, and evidently there were errors made in the  
1537 process, without a doubt.

1538

1539 Mr. Emerson - The only thing that I'm here to say is. 1), that it was zoned A-  
1540 1, and that a prefab could come in there. The thing about it was that he has every right  
1541 to put the house in there. He got basically the square footage for the buck. There's  
1542 been opposition, although we really couldn't do anything about it, we did speak our  
1543 piece.

1544

1545 Mr. Wright - That was my point. If it had been properly placed on the lot,  
1546 we wouldn't be here.

1547

1548 Mr. Emerson - Secondly, I would just like to see a driveway put in, the front  
1549 porch completed, and with every other house being in there, being fifty feet off the  
1550 property line, I think it should be conformed. I'm sure that's all going to be left up to you,  
1551 but that's all I have to say.

1552  
1553 Mr. McKinney - You addressed it one time as a trailer. Do you consider it a  
1554 trailer?  
1555  
1556 Mr. Emerson - I consider it to be, it's about the closest thing I can see to a  
1557 doublewide trailer. Secondly, it hasn't, at this point, it doesn't conform to what we have  
1558 in the rest of the subdivision.  
1559  
1560 Mr. McKinney - Why do you say that?  
1561  
1562 Mr. Emerson - Because you can look at the structure  
1563  
1564 Mr. McKinney - I looked at it yesterday. I liked it. Just for your information,  
1565 when the large hurricane came through Florida, took out all the houses, all the stick-built  
1566 houses like yours and mine were blown away. All the manufactured homes, like this  
1567 home, stood. These homes are made in jigs. I've been a builder since 1975, and they  
1568 build better than I do. Once you put a brick foundation in, and you finish it, it has no  
1569 appearance of being a pre-manufactured home. Code-wise there's nothing wrong with  
1570 pre-manufactured homes, and you can get them in different styles, etc. The public's got  
1571 a bad taste on them, like they used to have pool halls had a bad taste. Now they call  
1572 them billiard parlors.  
1573  
1574 Mr. Emerson - Since the brick foundation has been put in, it is looking  
1575 closer to being what represents what we have in the subdivision.  
1576  
1577 Mr. McKinney - I don't know if you got a chance to look at the picture,  
1578 completed, of the front porch, etc., or the one that's proposed, but it looks good, and  
1579 that's just over and done with. There's a lot of these homes in the West End, and  
1580 there's like 19 million Americans living in them today, and 25% of new housing starts  
1581 are pre-manufactured homes.  
1582  
1583 Mr. Emerson - Sir, it sounds like you've already made up your mind, but .....  
1584  
1585 Mr. McKinney - No, I haven't made up my mind, but I'm just bringing this up  
1586 for information, and I don't appreciate your saying that.  
1587  
1588 Mr. Emerson - No, the problem I have with this, you know, we've got a  
1589 couple of major issues.  
1590  
1591 Mr. Wright - But as I said, if he'd built the house back another fifteen feet,  
1592 we wouldn't be here. The County is going to see, before they give him a CO, that it's  
1593 properly constructed and it's completed in a proper manner.  
1594  
1595 Mr. Emerson - Okay, should you be living in a house without a CO?  
1596  
1597 Mr. Wright - That's a question I can't answer.

1598  
1599 Mr. Nunnally - The only thing we're talking about is whether it has its  
1600 location. That's the only thing that's before our Board. The other matters you're  
1601 bringing up is something that the two gentlemen here will look into.

1602  
1603 Mr. Emerson - I appreciate your hearing us out. Like I say, personally,  
1604 nothing against the Lieberts. If they can conform it, make it look good, make it fall so  
1605 that it fits into the subdivision, we would appreciate it.

1606  
1607 Mr. Wright - Any further questions? Any further opposition. Then you  
1608 have the opportunity to rebut, Mr. Liebert.

1609  
1610 Mr. Liebert - Thank you gentlemen. I want to say first off that had I had  
1611 any idea that this was going to raise this type of problem, I would have never located my  
1612 home here, and I would have never put my neighbors through this. The meeting that he  
1613 mentioned, I was not invited to that meeting. I would have been happy to come to that  
1614 meeting, provide this appraisal, provide these pictures, talk with my neighbors. I intend  
1615 to do everything I can to landscape this home and make it nice. The issue of the CO  
1616 that has come up, I don't have a good answer for that, gentlemen, except that the other  
1617 problem with the sediment pond that they mentioned, did require engineering tests.  
1618 Engineering tests have been done; compaction tests have been done, required by the  
1619 County, even though that was totally overlooked by all parties involved until they  
1620 brought it up. That would have not even been on the plate, because somehow it got  
1621 missed, except that they brought it up. When they brought it up, we spent \$2700, and  
1622 we did everything that was asked. Throughout this whole process, I've done everything  
1623 that's been asked of me. Had I known about the setback problem, I absolutely would  
1624 have done everything in my power to correct it. At this point, I can't. I don't have  
1625 \$20,000. I've asked for an estimate from my builder to move the home, and at this  
1626 point, I apologize, I cannot do that. I would if I could. The problem he's brought up  
1627 about the Code, there is an extra hatch behind the home that was put there for storage.  
1628 The main hatch that's there, that every home has that has a well system, is covered.  
1629 The other hatch has been covered at times with plywood, but for now it is uncovered. I  
1630 have ceased expenditures on the home, due to the fact that I don't know what's going to  
1631 happen. The last thing that I would like to reiterate is what I think the Chairman said, is  
1632 that I share my neighbors' concerns, because I'm going to live here, and I will work to  
1633 meet them in any regard, but this isn't about the modular situation, and it's not about the  
1634 style of the home. It's about the eleven feet, and I agree with him as to how could it  
1635 have been missed. Believe me, I'm stunned and in total shock to be in this situation,  
1636 and I'll do everything I can to landscape and beautify the home to make it acceptable to  
1637 the neighbors.

1638  
1639 Mr. Wright - Thank you very much for appearing. The Board will take a  
1640 seven-minute recess.

1641  
1642 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
1643 McKinney, the Board **granted** application **A-134-2003** for a variance to allow a new

1644 home to remain at 8009 Edith Hill Court (Osborne Heights) (Parcel 803-687-5391). The  
1645 Board granted the variance subject to the following condition:

1646  
1647 1. This variance applies only to the front yard setback to the existing dwelling. All  
1648 other applicable regulations of the County Code shall remain in force.

1649  
1650 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1651 Negative: 0  
1652 Absent: 0

1653  
1654 The Board granted this request, as it found from the evidence presented that, due to the  
1655 unique circumstances of the subject property, strict application of the County Code  
1656 would produce undue hardship not generally shared by other properties in the area, and  
1657 authorizing this variance will neither cause a substantial detriment to adjacent property  
1658 nor materially impair the purpose of the zoning regulations.

1659  
1660 **Beginning at 10:00**

1661  
1662 Mr. Blankinship - The rules for this meeting are as follows. As Secretary, I will  
1663 call each case. At that time, the applicant should come down to the podium. I will ask  
1664 everyone who intends to speak on that case, in favor or in opposition, to stand and be  
1665 sworn in. The applicants will then present their testimony. After the applicant has  
1666 finished, the Board will ask them questions, and then anyone else who wishes to speak  
1667 will be given the opportunity. After everyone has spoken, the applicant, and only the  
1668 applicant, will be given the opportunity for rebuttal. After hearing the case, and asking  
1669 questions, the Board will take the matter under advisement. They will render all of their  
1670 decisions at the end of the meeting. If you wish to know their decision on a specific  
1671 case, you can either stay until the end of the meeting, or you can call the Planning  
1672 Office later this afternoon, or you can check the website. The vote on each case will be  
1673 posted to our website within an hour of the end of the meeting. This meeting is being  
1674 tape recorded, so we will ask everyone who speaks, to speak directly into the  
1675 microphone on the podium, to state your name, and to spell your last name please.  
1676 And finally, out in the foyer, there are two binders, containing the staff report for each  
1677 case, including the conditions that have been recommended by the staff.

1678  
1679 Mr. Wright - Ladies and gentlemen, we apologize. We ran a little over. A  
1680 couple of the cases on the 9:00 o'clock agenda ran a little longer than we expected, but  
1681 we will move this agenda along as quickly as we can. Are there any deferrals or  
1682 withdrawals?

1683  
1684 Mr. Blankinship - No sir.

1685  
1686 Mr. Wright - All right. Call the first case please.

1687  
1688 **New Applications**

1689

1690 **A -135-2003** **HERB RUEGER** requests a variance from Section 24-95(c)(4) of  
1691 Chapter 24 of the County Code to build a front porch at 1010  
1692 Orchard Road (Pine Ridge) (Parcel 766-738-8084), zoned R-3,  
1693 One-family Residence District (Three Chopt). The front yard  
1694 setback is not met. The applicant proposes 30 feet front yard  
1695 setback, where the Code requires 35 feet front yard setback. The  
1696 applicant requests a variance of 5 feet front yard setback.  
1697

1698 Mr. Wright - Does anyone else desire to speak? Would you raise your  
1699 right hand and be sworn please?  
1700

1701 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1702 truth, the whole truth, and nothing but the truth, so help you God?  
1703

1704 Mr. Mitchell - I do. I'm Roy Mitchell; I'm the architect for Herb Rueger. I  
1705 didn't bring drawings. I assume you already have them of the porch. Herb asked for a  
1706 porch which covers his entrance, which is a little off to the left. All the other houses in  
1707 the neighborhood, more of the porches are centered, so when we did a little entrance  
1708 cover for the porch, it looked a little funny, so we continued the porch all the way along  
1709 the front, which balanced the house. There are certain other porches along this street  
1710 that are 8 by 12 into the setback, so the main thing is to make this look right in the  
1711 neighborhood, and that's what we tried to do.  
1712

1713 Mr. Wright - You say the other porches are within the setback?  
1714

1715 Mr. Mitchell - Yes, there are two or three, 914 Orchard, and a couple of  
1716 other 8 by 12 porches into the setback.  
1717

1718 Mr. Wright - They don't violate the setback?  
1719

1720 Mr. Mitchell - Yes, they do. The zoning for this property says 30 feet in  
1721 one case, but the subdivision says 35 feet, so we were basing it on a 30-foot setback.  
1722 The porch is only five feet out from the house. I looked at the original zoning manual,  
1723 and it said 30 feet in general, but the subdivision said 35.  
1724

1725 Mr. Wright - Will this be a screened porch or open?  
1726

1727 Mr. Mitchell - Open porch.  
1728

1729 Mr. Wright - What kind of construction will it be?  
1730

1731 Mr. Mitchell - Wood construction. The shingle roof and wood siding. I  
1732 guess you have the drawing. It's not very clear.  
1733

1734 Mr. Blankinship - It looks better in the package. If you look at the paper copy  
1735 in your package, it's a little easier to read.

1736  
1737 Mr. Mitchell - The entrance is off to the left, where we did the original  
1738 porch, but it looked really off-centered unless we continued the porch all the way  
1739 across.

1740  
1741 Mr. Wright - And that's where you access the house?

1742  
1743 Mr. Mitchell - Correct. And that's the only house in the neighborhood that  
1744 does that from the side.

1745  
1746 Mr. Wright - Any questions from members of the Board? Anyone here in  
1747 opposition to this request?

1748  
1749 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.  
1750 McKinney, the Board **granted** application **A-135-2003** for a variance to build a front  
1751 porch at 1010 Orchard Road (Pine Ridge) (Parcel 766-738-8084). The Board granted  
1752 the variance subject to the following conditions:

1753  
1754 1. Only the improvements shown on the plan filed with the application may be  
1755 constructed pursuant to this approval. No substantial changes or additions to the layout  
1756 may be made without the approval of the Board of Zoning Appeals. Any additional  
1757 improvements shall comply with the applicable regulations of the County Code.

1758  
1759 2. The new construction shall match the existing dwelling as nearly as practical.

1760  
1761 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1762 Negative: 0  
1763 Absent: 0

1764  
1765 The Board granted this request, as it found from the evidence presented that, due to the  
1766 unique circumstances of the subject property, strict application of the County Code  
1767 would produce undue hardship not generally shared by other properties in the area, and  
1768 authorizing this variance will neither cause a substantial detriment to adjacent property  
1769 nor materially impair the purpose of the zoning regulations.

1770  
1771 **A -136-2003** **COLUMBIA PROPERTIES RICHMOND, LTD.** requests a variance  
1772 from Section 24-96(b) of Chapter 24 of the County Code to build  
1773 meeting rooms in addition to the hotel at 4240 Dominion Boulevard  
1774 (Innsbrook) (Parcel 747-761-2490), zoned B-2C, Business District  
1775 (Conditional) (Three Chopt). The off-street parking requirement is  
1776 not met. The applicant proposes 341 parking spaces, where the  
1777 Code requires 394 parking spaces. The applicant requests a  
1778 variance of 53 parking spaces.

1779  
1780 Mr. Wright - Does anyone else desire to speak? Would you please stand  
1781 and raise your right hand to be sworn?

1782  
1783 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1784 truth, the whole truth, and nothing but the truth, so help you God?  
1785  
1786 Mr. Alwine - I do. My name is Douglas Alwine. I am the General  
1787 Manager of the hotel, and we would like to add an additional ballroom onto the rear of  
1788 our property. The problem then becomes the number of parking spaces that we need to  
1789 meet. Prior to when this request was originally filed, I believe they were asking for a  
1790 variance of 53 spaces, because the Code would require 394, and we would only have  
1791 341. However, our architect conferred with somebody in the Planning Department, and  
1792 what they were able to do was identify 22 more spaces that we could add to our parking  
1793 lot. Thus the variance that we really need is 31 spaces. We're basing this on two  
1794 things: 1) our research from our corporate office with Marriott.  
1795  
1796 Mr. Wright - May I interrupt you. The staff had requested you to submit a  
1797 revised plan, showing 363 spaces, reducing the variance from 53 to 31 - is that what  
1798 you're saying you've done? You're willing to do that?  
1799  
1800 Mr. Blankinship - If you look at the plan on the screen, it didn't reduce very  
1801 well, and I apologize for that, but you can see that a lot of the spaces appear almost to  
1802 have been blacked out. Those are the ones that were added after the staff review.  
1803  
1804 Mr. Wright - Okay, so we're talking about 31 spaces not 53.  
1805  
1806 Mr. Alwine - What I was saying was that we based our request on two  
1807 things. The first was Marriott International has done extensive research on the number  
1808 of parking spaces that a typical suburban hotel like ours would require. They have  
1809 found that we would need 1.2 spaces per sleeping room. This plan would actually give  
1810 us 1.5 spaces per sleeping room. In addition, our architect did a study over four  
1811 different times, when our hotel occupancy was ranging between 94% and 100%. The  
1812 number of spaces that we used was only 74 to 187, which is less than half of what we  
1813 have. In fact, in the two and a half years that I've been there, I've never seen the  
1814 parking lot maxxed out at full capacity.  
1815  
1816 Mr. Wright - What additional parking will be required by this addition? Do  
1817 you think you will need additional parking?  
1818  
1819 Mr. Blankinship - That's figured into the request. It should show on the plan,  
1820 the reduction. I'm afraid it's very difficult to read.  
1821  
1822 Mr. Wright - You're saying that since you've been there, you have never  
1823 seen it maxxed out, but of course this new addition hasn't been built yet. That could  
1824 add to it. You say you had a survey done at max - how many spaces were vacant, do  
1825 you know?  
1826  
1827 Mr. Alwine - I have 187 that were used, and we currently have 388, so

1828 that would be 161.  
1829  
1830 Mr. Wright - One hundred sixty-one vacant spaces? At the max  
1831 occupancy?  
1832  
1833 Mr. Blankinship - I see now the additional requirement is 41.  
1834  
1835 Mr. Kirkland - Mr. Alwine, how many, what is the occupancy on this  
1836 conference room that you want to build? How many people would they hold?  
1837  
1838 Mr. Alwine - They'll hold up to 500.  
1839  
1840 Mr. Kirkland - You have one, two, three, how many rooms?  
1841  
1842 Mr. Alwine - It's actually one ballroom that would divide into three  
1843 different rooms.  
1844  
1845 Mr. Kirkland - So the max for the whole thing without the partitions then  
1846 would be 500?  
1847  
1848 Mr. Alwine - Correct.  
1849  
1850 Mr. Wright – Any further questions of members of the Board? Anyone in  
1851 opposition to this request?  
1852  
1853 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
1854 Kirkland, the Board **granted** application **A-136-2003** for a variance to build meeting  
1855 rooms in addition to the hotel at 4240 Dominion Boulevard (Innsbrook) (Parcel 747-761-  
1856 2490). The Board granted the variance subject to the following conditions:  
1857  
1858 1. This variance applies only to the parking requirement. All other applicable  
1859 regulations of the County Code shall remain in force.  
1860  
1861 2. This approval is subject to all conditions that may be placed on the proposed  
1862 Plan of Development by the Planning Commission.  
1863  
1864 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1865 Negative: 0  
1866 Absent: 0  
1867  
1868 The Board granted this request, as it found from the evidence presented that, due to the  
1869 unique circumstances of the subject property, strict application of the County Code  
1870 would produce undue hardship not generally shared by other properties in the area, and  
1871 authorizing this variance will neither cause a substantial detriment to adjacent property  
1872 nor materially impair the purpose of the zoning regulations.  
1873

1874  
1875 **UP- 26-2003** **VERIZON VIRGINIA, INC.** requests a conditional use permit  
1876 pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code  
1877 to locate a temporary storage trailer at 2600 Brittons Hill Drive  
1878 (Parcel 776-742-1905), zoned M-1, Light Industrial District  
1879 (Brookland).

1880  
1881 Mr. Wright - Does anyone else desire to speak? Would you raise your  
1882 right hand and be sworn please?

1883  
1884 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1885 truth, the whole truth, and nothing but the truth, so help you God?

1886  
1887 Mr. Parrish - I do. My name is Dudley Parrish. I am the architect for the  
1888 project. Verizon requests a temporary trailer be provided at the back end of the  
1889 property so they could store some of their components for pick-up, delivery, and during  
1890 the normal work process. It's a temporary situation that they feel will be taken care of  
1891 within the two-year limit of the provisions that are being requested.

1892  
1893 Mr. Wright - Will you be able to know that this trailer's there?

1894  
1895 Mr. Parrish - No. I walked the site yesterday, and from the road you  
1896 cannot see this back portion of the property, due to the maintenance building that that  
1897 particular vehicle is located adjacent to, and the wooded lot that's behind it.

1898  
1899 Mr. Wright - And you realize that if granted, this would expire on  
1900 November 20, 2005?

1901  
1902 Mr. Parrish - Yes sir.

1903  
1904 Mr. Wright - Any further questions from members of the Board? Anyone  
1905 here in opposition to the case?

1906  
1907 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.  
1908 Nunnally, the Board **granted** application **UP-26-2003** for a conditional use permit to  
1909 locate a temporary storage trailer at 2600 Brittons Hill Drive (Parcel 776-742-1905).  
1910 The Board granted the use permit subject to the following condition:

1911  
1912 1. The trailer shall be removed from the property on or before November 20, 2005,  
1913 at which time this approval shall expire. This permit shall not be renewed.

1914  
1915 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1916 Negative: 0  
1917 Absent: 0

1918



1965  
1966 Mr. Taylor - Same as the house. It will be consistent with the house,  
1967 which is very common with the other houses, brick front, and then siding.  
1968  
1969 Mr. Wright - That's one of the conditions that we would impose if we  
1970 grant this. Any further questions of members of the Board? Anyone here in opposition  
1971 to this request?  
1972  
1973 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
1974 Nunnally, the Board **granted** application **A-137-2003** for a variance to build a sunroom  
1975 at 5817 Hardwick Drive (Hardwick at Wyndham) (Parcel 735-777-5736). The Board  
1976 granted the variance subject to the following conditions:  
1977  
1978 1. Only the improvements shown on the plan filed with the application may be  
1979 constructed pursuant to this approval. No substantial changes or additions to the layout  
1980 may be made without the approval of the Board of Zoning Appeals. Any additional  
1981 improvements shall comply with the applicable regulations of the County Code.  
1982  
1983 2. The new construction shall match the existing dwelling as nearly as practical.  
1984  
1985 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1986 Negative: 0  
1987 Absent: 0  
1988  
1989 The Board granted this request, as it found from the evidence presented that, due to the  
1990 unique circumstances of the subject property, strict application of the County Code  
1991 would produce undue hardship not generally shared by other properties in the area, and  
1992 authorizing this variance will neither cause a substantial detriment to adjacent property  
1993 nor materially impair the purpose of the zoning regulations.  
1994  
1995 **A -138-2003** **YVONNE D. FRANCIS** requests a variance from Section 24-9 of  
1996 Chapter 24 of the County Code to build a one-family dwelling at  
1997 9718 North Run Road (Parcel 781-761-5908), zoned R-4, One-  
1998 family Residence District (Fairfield). The public street frontage  
1999 requirement is not met. The applicant has 0 feet public street  
2000 frontage, where the Code requires 50 feet public street frontage.  
2001 The applicant requests a variance of 50 feet public street frontage.  
2002  
2003 Mr. Wright - Does anyone else desire to speak? Would you raise your  
2004 right hand and be sworn please?  
2005  
2006 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2007 truth, the whole truth, and nothing but the truth, so help you God?  
2008  
2009 Ms. Francis - I do. My name is Yvonne Francis. They are saying here,  
2010 the only reason we need a variance, my sister and I, well technically right now, the

2011 property belongs to my husband and I, and it's on North Run Road, and it's about an  
2012 acre lot. My sister and I would like to subdivide the property, so she can build a home  
2013 there, but in order to build a home you need a variance because there is no front public  
2014 roadway. As far as building a house, there's everything to Code; we don't want the  
2015 Code to change as far as the offsets or anything like that. For her to build a house on  
2016 the back of the property, there's no public roadway in front of it, and I was told that I  
2017 need to apply for a variance for this, and that's the only reason I'm here.  
2018

2019 Mr. Wright - How would you access the property to the rear?  
2020

2021 Ms. Francis - I grew up on this property, and there's a gravel road that's  
2022 been there for as long as I can remember when my grandparents bought this land in  
2023 1930 or so. So there's a gravel road that's on the side that we've always used.  
2024

2025 Mr. Wright - Is that within the property line?  
2026

2027 Ms. Francis - Part of it is.  
2028

2029 Mr. Wright - If this were approved, one of the conditions is that you prove  
2030 that you have legal access to the property. You'd have to prove that at the time you got  
2031 your building permit if this is approved. What is the size of the property that's being  
2032 divided off?  
2033

2034 Ms. Francis - It's about an acre.  
2035

2036 Mr. Blankinship - The total is an acre. And how much will be cut off of that?  
2037

2038 Ms. Francis - The total is an acre. We'd divide it right in half; each one  
2039 would have a half an acre. Our plan is to buy some of the property in the back, but I  
2040 can't talk about that now, because we haven't done that. Right now we just want to  
2041 subdivide the property that's there.  
2042

2043 Mr. Wright - And you have public water and public sewer? What type of  
2044 house would you build? How many square feet?  
2045

2046 Ms. Francis - I don't know. I just know it would be all on one story, but I  
2047 don't know the square footage.  
2048

2049 Mr. Blankinship - It would be similar to the house that was recently built at  
2050 9718?  
2051

2052 Ms. Francis - Yes. Like I said, we're not asking for a variance for the  
2053 offsets, for the sides or the back. The only thing we need the variance for is for her to  
2054 build the house back there. There's no public roadway.  
2055

2056 Mr. Blankinship - There's a building shown on the aerial photograph that's

2057 been demolished.  
2058  
2059 Ms. Francis - Yes, my sister and I took that down.  
2060  
2061 Mr. Wright - Any questions by members of the Board? Anyone in  
2062 opposition to this request? Come on down, and if you'll have a seat, you'll have a  
2063 chance to rebut after the opposition.  
2064  
2065 Ms. Harris - My name is Lucy Harris. My question is, the public road is  
2066 leading from the back of our home. Will we have access to this public road to get back  
2067 to the back of our house? We live at 1510 Woodacres Court, which is the very last  
2068 house in the cul-de-sac. So would we have public access to this road to get to the back  
2069 of our house? My second question is, what is a variance, and would there be a lot of in  
2070 and out traffic that's going back there?  
2071  
2072 Mr. Wright - I think that the answer to your first question is that you would  
2073 not be able to have access to the rear of your house unless the people who own that  
2074 land granted it to you.  
2075  
2076 Ms. Harris - From my understanding, sir, some of our land goes in that  
2077 roadway.  
2078  
2079 Mr. Wright - I don't know about that. I don't have anything here to show  
2080 that. Are you saying that the access road that was referred to is along the rear of your  
2081 property line?  
2082  
2083 Ms. Harris - Yes sir. I live at 1510.  
2084  
2085 Mr. Wright - I see that. So they would come in along that road along the  
2086 rear is .....  
2087  
2088 Ms. Harris - The rear of my home, yes.  
2089  
2090 Mr. Wright - Is any of that road on your property?  
2091  
2092 Ms. Harris - Yes.  
2093  
2094 Mr. Wright - That's a legal question that would take a title examination to  
2095 understand the legal derivation of that access. That's not before us. If we approve this,  
2096 if the Board approves this, one of the requirements before a building permit would be  
2097 approved, would be that they prove that they have legal access, by deed or by some  
2098 agreement or whatever. If they can't prove that, then they can't get the building permit,  
2099 even though we approve it. That's something beyond us. All we're saying is they must  
2100 have legal access to the property. What was your other question?  
2101  
2102 Ms. Harris - I think you answered it. So actually she needs to get legal

2103 access? Which is a whole different situation?  
2104  
2105 Mr. Wright - And I would just say that if that road, that access lane is on  
2106 other people's property, that an agreement would have to be worked out, looks like to  
2107 me.  
2108  
2109 Mr. Thompson - Good morning, Board. My name's Raymond Thompson.  
2110 The Chairman has hit on a good point there, as far as legal access. This road we're  
2111 talking about, is on other people's property. The subdivision boundaries run right to the  
2112 rear of that white line on top of 1510; that's where the property lines end, and I don't  
2113 know where this road is going to be put. Where is it going?  
2114  
2115 Mr. Wright - They say there is already a lane in there, some sort of  
2116 access.  
2117  
2118 Mr. Thompson - Go to plat A-138, the plat there. Where is the road going?  
2119  
2120 Mr. Wright - We'll get clarification on that, if you'll go ahead and state ...  
2121  
2122 Mr. Thompson - My property is 1500, right here. Right now, where that  
2123 gravel road is, I own half that road.  
2124  
2125 Mr. Blankinship - The word "gravel" is on his property; the word "drive" is on  
2126 hers.  
2127  
2128 Mr. Wright - That's what I believe the testimony was to begin with, that  
2129 the road was not entirely within this property line. I say again, in order to get a building  
2130 permit, even if this case is approved, one of the requirements is that they satisfy the  
2131 Planning Office that they have legal access. Usually that's by deed, by agreement, and  
2132 if they can't prove legal access, they can't get the building permit, because that's a  
2133 requirement here. We have a condition to the case if it's approved, "The applicant shall  
2134 present proof with the building permit application that a legal access to the property has  
2135 been obtained." That's one of the requirements, even if we were to approve it, it would  
2136 be subject to that condition, and if the applicant could not satisfy that condition, they  
2137 would not be able to get a building permit. So that would put the burden upon the  
2138 applicant, to work out an agreement, or whatever, to have legal access. You're  
2139 involved, because if it's on your property, you would have to be involved in any  
2140 agreement, I would think, unless it was something legal. A title examination going back  
2141 over the years could establish what legal rights may be to that road, and I don't know  
2142 the answer to that, but they would have to prove that before they could get a building  
2143 permit.  
2144  
2145 Ms. Thompson - Good morning. My name is Jackie Thompson. Explain to  
2146 me again, 1500 Woodacres Court.  
2147  
2148 Mr. Wright - You're Mr. Thompson's wife.

2149  
2150 Ms. Thompson - Yes. Explain to me again exactly what public street frontage  
2151 is.  
2152  
2153 Mr. Wright - The Ordinance requires any person who builds to have at  
2154 least a 50-foot frontage on a public road. Obviously, if this property, and we grant a lot  
2155 of these variances, especially out in the country where people can't get access to a  
2156 legal road, they can show they have access to their property so they can use the  
2157 property, we grant a variance. There is not a 50-foot public access to this property, so  
2158 they have to prove to the Planning Office that they have access that is legal, not on a  
2159 public road.  
2160  
2161 Mr. Blankinship - If the variance is approved, they're still not going to have  
2162 access on a public street.  
2163  
2164 Mr. Wright - We don't grant them that. They have to prove that they have  
2165 a way to get to the property before a building permit can be issued.  
2166  
2167 Mr. Blankinship - The Board will just be waiving that requirement of the Code.  
2168 We will allow them to build on the lot even though it doesn't have public street frontage.  
2169  
2170 Mr. Wright - Provided they can prove they have legal access.  
2171  
2172 Ms. Thompson - Even though part of the property is ours, and the other part  
2173 is theirs.  
2174  
2175 Mr. Wright - If you don't agree to it, and they can't get legal access, they  
2176 couldn't build on it, even though we approve it.  
2177  
2178 Mr. McKinney - They'll probably be coming to you if they need that road, to  
2179 try to work out some kind of agreement, if part of the road is on your property, that they  
2180 may use it, and you still have use of it, or if that's not worked out, they would have to  
2181 find a way within their property to get to the other lot, without impacting the part that's on  
2182 your property.  
2183  
2184 Mr. Harris - Good morning. My name is Roger Harris, 1510 Woodacres  
2185 Court, and my concern is mostly what the other neighbors and my wife have gotten up  
2186 and said, but all I want is just, I don't want, like for instance, if we have our back of our  
2187 house, and say for instance I want a utility shop or something put in the back, I don't  
2188 want to have to go and find somebody and have permission to go back there. As long  
2189 as they have permission, and we have permission, we won't have to ask for permission  
2190 to do something. I want to do everything that is right.  
2191  
2192 Mr. Wright - I think that you would have complete control. I think you'll  
2193 control the situation. If this access road is partly on your property, nothing can be done  
2194 without your consent. All right, any others?

2195  
2196 Ms. Francis - I think they've totally misunderstood the variance and the  
2197 reason why we're here, as you said, because I think they didn't understand what public  
2198 roadway meant. North Run Road is the public road, and to build a home behind that,  
2199 there's no public roadway, and evidently they didn't understand what that meant and  
2200 why I'm here. But since they came, and I think you hit that nail on the head when you  
2201 said as far as the roadway, as long as we don't do anything with the roadway that's on  
2202 their property, correct?

2203  
2204 Mr. Wright - What I'm saying is, if that roadway is on their property, you'll  
2205 have to work out some sort of agreement with them to use it, unless through the years,  
2206 there are a lot of legal issues here that we can't address. That's what you have to prove  
2207 to the Planning Office when you get your building permit.

2208  
2209 Ms. Francis - Okay, that's already been done. Thank you. I don't need  
2210 any more.

2211  
2212 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
2213 Nunnally, the Board **granted** application **A-138-2003** for a variance to build a one-family  
2214 dwelling at 9718 North Run Road (Parcel 781-761-5908). The Board granted the  
2215 variance subject to the following conditions:

2216  
2217 1. This variance applies only to the public street frontage requirement. All other  
2218 applicable regulations of the County Code shall remain in force.

2219  
2220 2. At the time of building permit application the owner shall demonstrate that the  
2221 parcel created by this division has been conveyed to members of the immediate family,  
2222 and the subdivision ordinance has not been circumvented.

2223  
2224 3. The applicant shall present proof with the building permit application that a legal  
2225 access to the property has been obtained.

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

2230  
2231 The Board granted this request, as it found from the evidence presented that, due to the  
2232 unique circumstances of the subject property, strict application of the County Code  
2233 would produce undue hardship not generally shared by other properties in the area, and  
2234 authorizing this variance will neither cause a substantial detriment to adjacent property  
2235 nor materially impair the purpose of the zoning regulations.

2236  
2237 **A -139-2003** **SCOTT AND KIM BOWES** request a variance from Section 24-  
2238 95(c)(4) of Chapter 24 of the County Code to build a sunroom at  
2239 115 N. Daisy Avenue (Highland Springs) (Parcel 823-725-0996),  
2240 zoned R-4, One-family Residence District (Varina). The front yard

2241 setback is not met. The applicants propose 8 feet front yard  
2242 setback, where the Code requires 35 feet front yard setback. The  
2243 applicant requests a variance of 27 feet front yard setback.  
2244

2245 Mr. Wright - Does anyone else desire to speak? Would you raise your  
2246 right hand and be sworn please?  
2247

2248 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
2249 truth, the whole truth, and nothing but the truth, so help you God?  
2250

2251 Mr. Britt - I do. George Britt. I'm with Melani Bros, and we represent,  
2252 we're the contractor representing the homeowner. Very simply here, the applicant has  
2253 an existing screened room, which you can see from pictures here, has been there for  
2254 quite some time, a very old structure actually. What they're requesting to do is modify  
2255 this, turn it into a sunroom, and very simply, if this request is granted, it's going to do  
2256 nothing but actually make a significant improvement to this previously existing structure.  
2257

2258 Mr. Wright - It appears, just from this picture here, that the screened  
2259 room is pretty well in line with the one next to it, on the left.  
2260

2261 Mr. Britt - Yes.  
2262

2263 Mr. Nunnally - Is the sunroom going to be the same size as the screened  
2264 porch?  
2265

2266 Mr. Britt - No size modification, only modification to the existing  
2267 structure.  
2268

2269 Mr. Wright - Built on the same foundation?  
2270

2271 Mr. Britt - Yes sir.  
2272

2273 Mr. Nunnally - I noticed this screened porch here looks like it's a storage  
2274 room instead of a screened porch. Is that what the sunroom is going to be too?  
2275

2276 Mr. Britt - No, that's not the idea, but that's what screened rooms turn  
2277 into because you can't use them. Once it's done, it would be used for people actually.  
2278

2279 Mr. Wright - Any further questions of members of the Board?  
2280

2281 Mr. Blankinship - Jim, would you put up the aerial. Mr. Chairman, one thing  
2282 that didn't make it into the report, that I think is significant, the plats and everything show  
2283 North Daisy Avenue as if it goes all the way through to West Willow, but if you can pick  
2284 up on the aerial, it actually ends right in front of the houses at 118 and 119 there, so  
2285 there's significantly less traffic there than there might otherwise be.  
2286

2287 Mr. Wright - Anyone here in opposition to this request?  
2288

2289 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.  
2290 McKinney, the Board **granted** application **A-139-2003** for a variance to build a sunroom  
2291 at 115 N. Daisy Avenue (Highland Springs) (Parcel 823-725-0996). The Board granted  
2292 the variance subject to the following conditions:  
2293

2294 1. The new construction shall match the existing dwelling as nearly as practical.  
2295

2296 2. The property shall be developed in substantial conformance with the plan filed  
2297 with the application. No substantial changes or additions to the layout may be made  
2298 without the approval of the Board of Zoning Appeals.  
2299

2300 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5

2301 Negative: 0

2302 Absent: 0  
2303

2304 The Board granted this request, as it found from the evidence presented that, due to the  
2305 unique circumstances of the subject property, strict application of the County Code  
2306 would produce undue hardship not generally shared by other properties in the area, and  
2307 authorizing this variance will neither cause a substantial detriment to adjacent property  
2308 nor materially impair the purpose of the zoning regulations.  
2309

2310 On a motion by Mr. Nunnally, seconded by Mr. Balfour, the Board **approved** the  
2311 Minutes of the **July 24, 2003**, Henrico County Board of Zoning Appeals meeting.  
2312

2313 There being no further business, and on a motion by Mr. Balfour, seconded by  
2314 Mr. Kirkland, the Board adjourned until **December 18, 2003**, at 9:00 am.  
2315  
2316

2317

2318

2319 Russell A. Wright ,

2320 Chairman

2321

2322 Benjamin Blankinship, AICP

2323 Secretary

2324