

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY**
3 **ADMINISTRATION BUILDING IN THE HENRICO COUNTY GOVERNMENT**
4 **COMPLEX, ON THURSDAY, NOVEMBER 15, 2007, AT 9:00 A.M., NOTICE**
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH**
6 **OCTOBER 25, 2007 AND NOVEMBER 1, 2007.**

7
Members Present: Richard Kirkland CBZA, Chairman
Elizabeth G. Dwyer, Vice-Chairman
Helen E. Harris
James W. Nunnally
R. A. Wright

Also Present: David D. O'Kelly, Assistant Director of Planning
Benjamin Blankinship, Secretary
Paul Gidley, County Planner
Carla Brothers, Recording Secretary

8
9 Mr. Kirkland - Good morning, ladies and gentlemen. Welcome to the
10 November Zoning Appeals meeting. Before we get started, would you please rise
11 and we'll say the **Pledge of Allegiance to the Flag of Our Country**. Mr.
12 Secretary, would you like to read the rules for this morning?

13
14 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board.
15 Gentlemen. It's unusual to have the Board outnumber the people in the
16 audience. The rules for this meeting are as follows. Acting as Secretary, I will
17 announce each case and while I'm speaking, the applicant should come down to
18 the podium. We will then ask everyone who intends to speak, in favor or in
19 opposition, to stand and be sworn in. And it doesn't look like we're going to have
20 much opposition today. The applicant will then present their testimony. If
21 anyone else intends to speak, they'll be given the opportunity. If anyone else
22 does speak, then the applicant will have an opportunity for rebuttal. After the
23 Board members have heard all the testimony and asked any questions, they will
24 take the matter under advisement and they will render all of their decisions at the
25 end of the meeting. If you wish to know their decision on a specific case, you can
26 either stay until the end of the meeting or you can check the Planning
27 Department website this afternoon—we usually get it updated within about a half
28 an hour of the end of the meeting—or you can call the Planning Department this
29 afternoon. This meeting is being tape recorded, so we'll ask everyone who
30 speaks to speak directly into the microphone on the podium and state your
31 name. Well, if you're all applicants, you don't need to spell your last names
32 because they're already in the record. Finally, out in the foyer there is a binder
33 containing the staff report for each case. Particularly on use permit cases, those
34 staff reports include the suggested conditions and you need to be familiar with all
35 those conditions.

82 Mr. Blankinship - Do you swear the testimony you're about to give is
83 the truth and nothing but the truth so help you God?
84
85 Mr. Kerney - I do.
86
87 Mr. Kirkland - Would you state your name for the record, sir?
88
89 Mr. Kerney - Robert E. Kerney.
90
91 Mr. Kirkland - Okay. What would you like us to do?
92
93 Mr. Kerney - Basically, you have in the package one letter from the
94 homeowner to the west of me. They had completed their house two years ago
95 and their drain field is approximately two feet from the property line, so I cannot
96 go west. At the time, I couldn't locate this letter from Mr. and Mrs. Armistead.
97 Can I present the letter from them?
98
99 Ms. Dwyer - Are these the residents at 3801 Darbytown Place?
100
101 Mr. Kerney - Correct. To the east of the property. They, last year,
102 just completed a three-car garage, which is 10 feet from the property line. So,
103 there is really no place for me to go, left or right. So, I need permission to go
104 ahead and build with 135 feet.
105
106 Mr. Nunnally - Are you building this for yourself personally sir?
107
108 Mr. Kerney - Yes sir.
109
110 Mr. Nunnally - You're going to live in it.
111
112 Mr. Kerney - Yes sir.
113
114 Mr. Nunnally - What type of house?
115
116 Mr. Kerney - It's a ranch with a two-car garage. As you can see,
117 it's L-shaped. The porch and proceeding south is going to be the garage area.
118 The house, basically, is going to be 30 by 50. With the garage attached, it would
119 be 45 feet in overall width.
120
121 Mr. Blankinship - What is the existing structure on the property?
122
123 Mr. Kerney - It's a temporary shed.
124
125 Mr. Blankinship - When you "temporary" shed, is that to be removed
126 or?
127

128 Mr. Kerney - After the house is put up, if it's not a problem with the
129 County, continue using it as a shed.
130
131 Mr. Wright - What is the size of it, sir?
132
133 Mr. Kerney - The size of it? Ten by fifteen.
134
135 Mr. Blankinship - The information you submitted was not to an
136 engineering scale of detail. That shed cannot be in the side yard; it would have to
137 be in the rear yard of the dwelling when it's built. I just want to make sure you're
138 aware of that.
139
140 Mr. Kerney - There will be sufficient space for that, yes.
141
142 Ms. Dwyer - Where would you place the home on the property?
143
144 Mr. Kerney - Approximately 100 feet from Darbytown Place, and
145 then approximately 43 feet and a half from the western property line, and
146 approximately 43-1/2 feet from the eastern property line.
147
148 Ms. Dwyer - This drawing that we have is not to scale.
149
150 Mr. Kerney - No.
151
152 Ms. Dwyer - So, what you're saying, Mr. Blankinship, is as it's
153 shown, the shed is improperly located?
154
155 Mr. Blankinship - Right. That accessory structure has to be behind the
156 house, it can't be beside.
157
158 Mr. Kerney - As you can see, there's plenty of property behind the
159 proposed dwelling.
160
161 Mr. Blankinship - Oh, can the shed be moved?
162
163 Mr. Kerney - Yes.
164
165 Mr. Blankinship - Oh, okay.
166
167 Mr. Kerney - No, it's not permanent. It's setting up on blocks and
168 held down similar to what you would use for a mobile home.
169
170 Mr. Blankinship - Okay.
171
172 Ms. Harris - I notice that your application had 137.41 feet, and
173 then it was corrected to 135. Who corrected it and why?

174
175 Mr. Blankinship - We corrected it, Mrs. Harris. The frontage is 137 feet
176 wide, but we measure the lot width, as you know, at the setback, at the 50-foot
177 setback line. The property lines do converge somewhat as they go back. So,
178 that's an estimate just to make sure that we're on the safe side.
179
180 Mr. Kerney - For my clarification, I still have 137.41.
181
182 Mr. Blankinship - At the road frontage, yes.
183
184 Mr. Kerney - Right.
185
186 Mr. Blankinship - But we measure the lot width at the 50-foot setback.
187
188 Mr. Kerney - Okay.
189
190 Ms. Dwyer - So, when you purchased this parcel, it had already
191 been separated from the parcel that fronts on Darbytown, the new Darbytown
192 Road?
193
194 Mr. Kerney - Correct.
195
196 Ms. Dwyer - That division was made in '95?
197
198 Mr. Kerney - Yes ma'am.
199
200 Ms. Dwyer - As I understand it—
201
202 Mr. Kerney - I purchased the property in February of '97.
203
204 Ms. Dwyer - All right. Before 295 was built, what is now Darbytown
205 Place was Darbytown Road.
206
207 Mr. Blankinship - Yes ma'am.
208
209 Ms. Dwyer - What is now Darbytown Road did not exist, I assume.
210
211 Mr. Blankinship - That's correct.
212
213 Ms. Dwyer - Okay. So, the only frontage this property had, even
214 before '95, was the frontage it now has—
215
216 Mr. Blankinship - Yes ma'am.
217

218 Ms. Dwyer - —on Darbytown Place. So, there's been no division of
219 the property that has caused the property to be out of compliance with the zoning
220 ordinance. That's what I'm getting at,

221
222 Mr. Kerney - Not since '97, ma'am.

223
224 Ms. Dwyer - Well, even before that, because—

225
226 Mr. Kerney - Even before that the whole section there from 295
227 down even across existing Darbytown Road was farmland, and was gradually
228 subdivided by the children of the previous owners. As the lots were sold off, my
229 particular lot was sold to a Mrs. Sweeny. At the time, it was 3.1 acres. I'm not
230 very clear on some of the reasons for some of these subdivisions dividing up the
231 property to the existing part. 3830 was, at one time, part of the lot and it was
232 subdivided. And then prior to that, approximately 12 feet of that lot was portioned
233 off to 3801 to a Mrs. Morris. And then the lot at one time was part of 3773. So,
234 over a number of years, that property has been divided and divided again. Mr.
235 Sweeny assured me at the time that I could put a house on the lot. He had
236 planned to put a house there, which measured 50 by 25, with the Health
237 Department's okay to put in a well and a septic system. At the time, I didn't have
238 any question as to being able to build my own home on that property. At that
239 time, I felt fairly assured that I could build.

240
241 Ms. Dwyer - Mr. Blankinship, would staff say that the exception
242 under the statute being applied here is exceptional topography or unusual size
243 and shape, or both?

244
245 Mr. Blankinship - It is narrower than the other lots in that stretch. The
246 other lots are all over 150 feet wide and this one is less. "Exceptional" is kind of
247 a strong word.

248
249 Ms. Dwyer - Right. I wouldn't say that applies here. It's not
250 exceptionally narrow; it just doesn't have enough road frontage.

251
252 Mr. Blankinship - Too narrow.

253
254 Ms. Dwyer - But it does have a steep grade. As I look, maybe 24
255 feet from the front to the rear of the property.

256
257 Mr. Kerney - The actual drop-off is a gradual downhill slope, but it
258 doesn't really drop off until about almost 200 feet from Darbytown Place. The
259 incline is much steeper going down to the stream.

260
261 Ms. Dwyer - My concern is as we're asked to approve these lots
262 that don't comply with the subdivision ordinance, what other problems are we

263 creating for the future. I see the potential for someone to come in the future and
264 try to build on this back sort of rectangular portion.

265

266 Mr. Kerney - My intention is to leave it natural. The front acreage
267 is already cleared. It was at one time a field. The rest of it is wooded and I would
268 like to have it remain that way. One of the things is because of this stream
269 running through the property.

270

271 Mr. Nunnally - One of the conditions on here says, "Any future
272 division of property will require the owner to apply for and receive subdivision
273 approval from the County."

274

275 Mr. Blankinship - Which would require a public street.

276

277 Mr. Wright - Also, the staff report says that the topography of the
278 property prevents much use of the rest of it. "Slopes steeply at the rear."

279

280 Mr. Kerney - As I said, I have no intentions to further develop the
281 wooded section of the property. I would very much like to keep it that way.

282

283 Ms. Dwyer - What kind of house are you going to build on the
284 property?

285

286 Mr. Kerney - A rancher.

287

288 Ms. Dwyer - What square footage?

289

290 Mr. Kerney - As I stated, the house itself is 30 by 50, and then the
291 garage area will be 45 feet on the east end. So, you're talking about 2,000
292 square feet.

293

294 Mr. Wright - Is it going to be brick or frame or what?

295

296 Mr. Kerney - It will be frame. And then what I plan to do in stages is
297 put a brick frontage on the house.

298

299 Ms. Dwyer - There's nothing in here about where the house will be
300 located. There's nothing in the conditions about where the house will be located
301 or what minimum development standards or building standards will apply to the
302 house. So, one thing we might want to consider, if the Board decides to vote
303 favorably on this, is whether we would want to put that as part of the conditions.

304

305 Mr. Kerney - In my package I submitted, there was a plan, if I can
306 show Mr. Blankinship.

307

308 Mr. Wright - How far past the building line, Mr. Blankinship?

309
310 Mr. Kirkland - Is that 110 feet back?
311
312 Mr. Blankinship - Yes. What's required is 50 feet, and the house at
313 3801 is just a little bit over 50 feet.
314
315 Mr. Wright - It could not be approved if it were any closer to that.
316 That's the building line required by the ordinance.
317
318 Ms. Dwyer - Right. He has represented on the drawing that it will
319 be farther back. I don't have a preference, but I just know in the past when it's not
320 been specific, if it matters to anybody on the Board, we might want to be specific
321 about that.
322
323 Mr. Kerney - Basically, I need approval from the Board here to
324 build and then I can have a surveyor do an actual plot survey showing exactly
325 where the building is going to be located.
326
327 Mr. Kirkland - You drew on this sketch. You've got 110 feet. Would
328 you have any problem with your house being 110 feet back from the road? If we
329 approve this, we might include this plan as part of the approval. Therefore, your
330 house would have to be 110 feet back from the road, if we approve this plan
331 along with the case.
332
333 Mr. Kerney - I have no problem. That is my intention—
334
335 Mr. Kirkland - Okay.
336
337 Mr. Kerney - —where the house will be located. That number is
338 what I submitted.
339
340 Mr. Kirkland - Okay.
341
342 Mr. Blankinship - Based on the information we have, then, you are
343 going to have to move that accessory structure.
344
345 Mr. Kerney - Right.
346
347 Mr. Blankinship - So, that's in the record.
348
349 Mr. Kerney - Okay.
350
351 Mr. Kirkland - Any other questions?
352
353 Ms. Harris - One quick question. I see reference that you must
354 determine if there is RPA on the site.

355
356 Mr. Kerney - I don't understand the question.
357
358 Ms. Harris - Condition #4. Are there reasons that we suspect—
359
360 Mr. Blankinship - Yes. The comment we received from the
361 Environmental Division of the Department of Public Works was that they believed
362 there may be RPA on the site. That's Resource Protection Area. It's part of the
363 Chesapeake Bay—
364
365 Mr. Kerney - Right.
366
367 Mr. Blankinship - It's just the standard requirement that he would have
368 to delineate that anyway.
369
370 Mr. Kirkland - Any other questions, Ms. Harris?
371
372 Ms. Harris - No sir.
373
374 Mr. Kirkland - Anyone else wish to speak on this case? All right, that
375 concludes the case, sir. Thank you.
376
377 **DECISION**
378
379 Mr. Nunnally - I move we approve it because he has no reasonable
380 use for it for anything but a dwelling now. I think we said 110 feet back, right,
381 and the shed to be removed.
382
383 Mr. Kirkland - That's correct.
384
385 Ms. Dwyer - Just moved, right?
386
387 Mr. Nunnally - Oh, moved.
388
389 Ms. Dwyer - Not removed, but moved.
390
391 Mr. Kirkland - Moved to the rear yard.
392
393 Ms. Dwyer - I wasn't clear what you said. So, are those
394 conditions?
395
396 Mr. Kirkland - Yes, we need to add that.
397
398 Ms. Harris - I second the motion.
399

400 Mr. Kirkland - Hang on just a second. Okay. We're going to have to
401 do something about this. Here's another one of these homemade plot plans
402 again. Can we put a condition in the case on these things that they have a survey
403 that's a certified survey so that it will be on record with the County in case he
404 doesn't fit that 110-foot mark?
405
406 Mr. Wright - He said he's going get a survey.
407
408 Mr. Kirkland - Okay.
409
410 Mr. Blankinship - You're saying you want that done now?
411
412 Mr. Kirkland - Well, we put a condition in the other case for a
413 survey.
414
415 Mr. Blankinship - You're not saying you want to change the application
416 requirement.
417
418 Mr. Kirkland - No, no, no. I just want something a little more official.
419 If you're going to make this the official drawing, then we need to include this in
420 the exhibits—call this Exhibit A—as the official drawing.
421
422 Ms. Dwyer - What is it we want to see? Is it the distance from the
423 road or is it—
424
425 Mr. Kirkland - I want the 110 feet, and the shed put in the backyard.
426 The only way to guarantee this 110 feet is if we consider this the official drawing
427 and as part of the case.
428
429 Ms. Dwyer - We could make a condition that it has to be 110 feet.
430
431 Mr. Blankinship - If you state that in a condition—
432
433 Mr. Wright - That's all we need to do.
434
435 Mr. Blankinship - —staff will see in the condition—
436
437 Mr. Kirkland - Okay. I just want to give you some reference in case
438 it comes back.
439
440 Ms. Dwyer - So, we're going to add the condition that says it has to
441 be 110 feet and that the existing shed needs to be moved to the rear of the
442 home?
443
444 Mr. Kirkland - That's correct.
445

446 Ms. Dwyer - This is not to scale, because apparently the house
447 next door is not that far from the road.
448
449 Mr. Blankinship - The house next door is about 56, according the GIS.
450
451 Ms. Dwyer - So, as long as it's compatible. I don't know how
452 important the 110 feet is in this case.
453
454 Mr. Kirkland - He asked for it and I'm going to give it to him.
455
456 Ms. Dwyer - Okay. Well, I mean, if it's important to members of the
457 Board, we should do it.
458
459 Mr. Wright - Well, [unintelligible] would not be approved.
460
461 Mr. Kirkland - All he would have to do is meet the minimums under
462 the building code.
463
464 Mr. Wright - Yes, he's has to meet, what is it—
465
466 Ms. Dwyer - Fifty.
467
468 Mr. Wright - —fifty feet? What difference does it make whether he
469 builds it 50 feet from the road or 110 feet from the road?
470
471 Ms. Dwyer - I think we had a case before where it was important,
472 and I don't know if it is in this case or not. It's just what he's represented.
473
474 Mr. Kirkland - In other words, this house could go back further on
475 the lot and be in the middle of that piece of property.
476
477 Mr. Wright - I'm not sure it wouldn't look better if it were closer to
478 the road.
479
480 Ms. Dwyer - Although in a rural area—And I guess if it's farther off
481 the road, it's less visible from the roadway. It doesn't matter to me.
482
483 Mr. Kirkland - Let's go with the condition. Do I have a motion to
484 approve with the conditions?
485
486 Mr. Nunnally - I already moved.
487
488 Mr. Kirkland - You seconded, Mrs. Harris, didn't you? Motion by Mr.
489 Nunnally, seconded by Ms. Harris. All those in favor say aye. All those opposed
490 say no. The ayes have it, the motion carries.
491

492 Mr. Wright - Are we clear on the conditions?

493

494 Mr. Blankinship - Yes sir. It's going to read, "The dwelling shall be set
495 back 110 feet from the right-of-way of Darbytown Place. Before a Certificate of
496 Occupancy is issued, the existing accessory structure shall be relocated to the
497 rear yard."

498

499 Mr. Wright - Sounds good to me.

500

501 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by
502 Ms. Harris, the Board **approved** application **A-037-07**, Robert E. Kerney's
503 request for a variance from Section 24-94 to build a one-family dwelling at 3789
504 Darbytown Place (Parcel 827-692-6694), zoned A-1, Agricultural District (Varina).

505

506 1. This variance applies only to the minimum lot width requirement. All other
507 applicable regulations of the County Code shall remain in force.

508

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

513

514 3. At the time of building permit application, the applicant shall submit the
515 necessary information to the Department of Public Works to ensure compliance
516 with the requirements of the Chesapeake Bay Preservation Act and the code
517 requirements for water quality standards.

518

519 4. At the time of building permit application, the applicant shall delineate the
520 effective floodplain and comply with applicable County Floodplain Ordinances.
521 The applicant shall also determine if there is RPA on the site.

522

523 5. Prior to land disturbance, an Erosion and Sediment Control Plan must be
524 submitted to Public Works for review and approval, if the proposed project
525 involves land disturbance greater than 2500 square feet.

526

527 6. Any future non-family division of the property will require the owner to apply
528 for and receive subdivision approval from the County.

529

530 7. [ADDED] The dwelling shall be set back 110 feet from the right-of-way of
531 Darbytown Place. Before a certificate of occupancy is issued, the existing
532 accessory structure shall be relocated to the rear yard.

533

534 Affirmative: Harris, Kirkland, Nunnally, Dwyer, Wright 5

535 Negative: 0

536 Absent: 0

537

538

539 **UP-022-07** **ROYAL POOLS** requests a conditional use permit
540 pursuant to Section 24-95(i)(4) to install an in-ground pool in the side yard at
541 2891 Chiles Road (Lakeview) (Parcel 775-775-3734), zoned A-1, Agricultural
542 District (Brookland).

543

544 Mr. Kirkland - Anyone else wish to speak on this case? All right,
545 gentlemen, if you'd each raise your right hand and be sworn in.

546

547 Mr. Blankinship - Do you swear the testimony you're about to give is
548 the truth and nothing but the truth so help you God?

549

550 Mr. Sikkar - I do.

551

552 Mr. Kirkland - Would you state your name for the record. Sir?

553

554 Mr. Sikkar - My name's Mark Sikkar. I'm with Royal Pools.

555

556 Mr. Goin- Eric Goin. I'm the homeowner.

557

558 Mr. Kirkland - All right. Tell us what you'd like us to do.

559

560 Mr. Goin - We are requesting a conditional use permit for the
561 property 2891 Chiles Road. The property is zoned A-1 and is located at the
562 Henrico/Hanover County line. It's in the far western edge of the County. The
563 house sits on a double lot consisting of 5.17 acres. It's located at the end of a
564 gravel road. When you enter the property, the side of the house actually faces
565 the road. Relative to the placement of the house, the backyard of the house is
566 actually to the left side of the property when you approach from the drive. We're
567 looking to install a fiberglass pool, which is a pre-constructed fiberglass pool, in
568 the rear of the house, which would be allocated as the left side of the lot. The
569 placement of the pool and the spa will have no impact. It won't be visible from
570 the neighboring properties. I do some photographs of the property. It's wooded.
571 There you go.

572

573 Mr. Blankinship - You need to stay by the microphone. You can move
574 the mouse there.

575

576 Mr. Goin - Oh, I can. Okay.

577

578 Mr. Blankinship - I think both mice will control the—

579

580 Ms. Dwyer - Just to clarify. What we're looking at now is
581 technically the front of the house.

582

583 Mr. Goin - This is actually technically the side of the house.

584
585 Ms. Dwyer - Well, as you use it.
586
587 Mr. Goin - Front of the lot.
588
589 Ms. Dwyer - As you use the house it's the side, but actually this is
590 the front yard we're looking at.
591
592 Mr. Goin - Yes. This would be allocated by the County as the
593 front yard, front of the lot. That's right. This is the rear deck that you see of the
594 actual structure and we're proposing to place the pool in this back area back
595 here. The road, Chiles Road, actually ends here at the driveway and it comes
596 through. Now, on the County's map, it continues through, but this is actually just
597 a steep drop-off to the river.
598
599 Ms. Dwyer - Chickahominy.
600
601 Mr. Goin - Yes. And right beyond these trees here is the river,
602 and Hanover starts just on the other side.
603
604 Ms. Dwyer - Mr. Blankinship, why is this a gravel road? How did
605 that happen? Why is this not a public street built to public street standards?
606
607 Mr. Blankinship - I don't know.
608
609 Mr. Kirkland - Would you have to remove any trees?
610
611 Mr. Goin - Yes. They'll be some trees back here in the back area
612 that will come down for the placement of the pool.
613
614 Mr. Kirkland - Okay.
615
616 Mr. Goin - As you can see, there are a couple of trees right here.
617 It's hard to see my mouse, but right in that area right there they'd have to come
618 out.
619
620 Mr. Wright - Have you read the conditions proposed for this case,
621 sir?
622
623 Mr. Goin - I have.
624
625 Mr. Wright - You're in accordance with those?
626
627 Mr. Goin - Yes.
628

629 Ms. Harris - Find the aerial photo, if I may see that. We're unable
630 to see the home.
631
632 Mr. Blankinship - Right. It had not been built yet when this photo was
633 taken.
634
635 Ms. Harris - Okay. Well, the lot that's adjacent to it and across the
636 street, are there homes there, too?
637
638 Mr. Blankinship - As you see, the one across Chiles Road has the huge
639 power lines, the 115-kilowatt power lines crossing it. So, there is no dwelling
640 there. And if one were to be built, I'm almost positive it would have to be far to
641 the west there to say away from those.
642
643 Mr. Goin - Right in this area. This already has a house in this
644 area and it wouldn't be visible from that house. And I believe this is an easement
645 which you should not be able to build on anyway—
646
647 Mr. Blankinship - Right.
648
649 Mr. Goin - Beyond that point.
650
651 Ms. Harris - And there are no homes at 2895 or 2901.
652
653 Ms. Dwyer - How far will the pool be from the deck?
654
655 Mr. Goin - From the deck. Let me look at my numbers. At an
656 angle it will be between 10 and 13 feet from the angle from the house. And then
657 from the actual deck, I think it is 10 to 12 feet.
658
659 Ms. Dwyer - Mr. Kirkland, I'm wondering if we should specifically
660 attach the drawings and name them attachments A and B.
661
662 Mr. Kirkland - That would be fine with me.
663
664 Ms. Dwyer - Would that be all right with the applicant? What I'm
665 talking about is the pool plan, as well as the Rice Associates' survey on which the
666 pool is, I believe, just drawn on an existing survey. We just want to make sure
667 that the property documents follow this case through the building permit.
668
669 Mr. Goin - I don't have any problem with that.
670
671 Ms. Dwyer - So, the pool design would be Attachment A, and the
672 survey plan with the pool drawn on it would be Attachment B.
673
674 Mr. Goin - Okay.

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Mr. Kirkland - Mr. Blankinship, I know there are some cases coming up to change some floodplain lines. This wouldn't be involved, would it?

Mr. Blankinship - We did, again, receive comments from Public Works that there is a proposed floodplain. If you see Condition #2, it would require the applicant to delineate that at the time of building permit application.

Mr. Kirkland - Okay.

Mr. Blankinship - But you are allowed to build a pool in a floodplain since it's a hole full of water anyway.

Mr. Kirkland - All right. Anyone else have any other questions? Anyone else in the audience wish to speak on this case? Then that concludes the case. Thank you, sir.

DECISION

Ms. Dwyer - I move that we approve the case with the condition that—This can be added to one, or it can be a third condition. As I understand it, he agreed to this, to attach the pool plan to our approval as Attachment A, and to attach the survey, which has the hand-drawn pool location, as Attachment B, to the case, so that those plans follow the case throughout the permitting process.

Mr. Kirkland - No problem with that. I agree, Ms. Dwyer.

Ms. Dwyer - So that's my motion.

Ms. Harris - Second.

Mr. Kirkland - Motion by Ms. Dwyer, seconded by Ms. Harris. All those in favor say aye. All opposed say no. The ayes have it, the motion passes.

After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Ms. Harris, the Board **approved** application **UP-022-07**, Royal Pools' request for a conditional use permit pursuant to Section 24-95(i)(4) to install an in-ground pool in the side yard at 2891 Chiles Road (Lakeview) (Parcel 775-775-3734), zoned A-1, Agricultural District (Brookland).

1. [AMENDED] Only the improvements shown on the pool design ("Attachment A") and plot plan ("Attachment B") filed with the application may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements may require a new use permit.

721 2. There is proposed FEMA Floodplain on the property (Chickahominy River).
722 At the time of building permit application, the applicant shall delineate the
723 effective floodplain and comply with applicable County Floodplain Ordinances.
724 On the application, wetlands and resource protection areas shall be delineated,
725 and appropriate setbacks maintained. If the proposed project involves land
726 disturbance greater than 2,500 square feet, then prior to land disturbance, an
727 erosion and sediment control plan must be submitted to Public Works for review
728 and approval.

729
730 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
731 Negative: 0
732 Absent: 0
733

734
735 Ms. Dwyer - I am curious as to why we have new houses built on
736 gravel roads here, and then there's another one in Fairfield.

737
738 Mr. O'Kelly - The last case was also unimproved.

739
740 Ms. Dwyer - I noticed that.

741
742 Mr. O'Kelly - We have that situation all over the County. There are
743 taper streets, old subdivisions that were platted years and years ago before we
744 had subdivision requirements.

745
746 Ms. Dwyer - I thought that builders had to build the roads to code
747 in front of the houses.

748
749 Mr. O'Kelly - On these [unintelligible], all they have to do is get a
750 maintenance agreement and access agreement approved by the Director of
751 Public Works.

752
753 Ms. Dwyer - I'm surprised.

754
755 Mr. O'Kelly - The Code does not require that homes front on a
756 publicly-maintained road, only that they front on a public road.

757
758 Ms. Dwyer - So, what's the basis for our requiring new
759 developments to have—

760
761 Mr. O'Kelly - I think with the newer—

762
763 Ms. Dwyer - The proffers require it?

764
765 Mr. O'Kelly - I think when we adopted a subdivision ordinance in
766 the late 30's that brought into play the necessary improvements to go along with

767 the subdivisions.
768
769 Ms. Dwyer - So, any subdivision approved after the 30's would
770 have to have a public—
771
772 Mr. O'Kelly - But don't tie me to that date.
773
774 Ms. Dwyer - Okay, I'm not. I'm just trying to get a handle on this.
775
776 Mr. O'Kelly - There were many, many subdivisions that were
777 platted before we had subdivision regulations.
778
779 Ms. Dwyer - I'm just surprised that when they're built today,
780 though, we don't—In my neighborhood, there are, for example, areas that have
781 ditches and then you might have three houses built more recently that have curb
782 and gutter kind of in the middle of the street. So, obviously, different counties
783 apply different road standards for the builders who built at different times.
784
785 Mr. O'Kelly - It's an issue, there's no question about it, and it's
786 becoming more and more of one since the Board decided to eliminate the R-4
787 zoning. A lot of these older subdivisions have existing R-4 and are very
788 attractive to developers these days.
789
790 Ms. Dwyer - Right.
791
792 Mr. Blankinship - In this specific case, they're about half a mile back on
793 Chiles Road. To say you have to construct half a mile of street to reach that
794 house would be pretty [unintelligible].
795
796 **A-038-07 EMERALD LAND DEVELOPMENT** requests a
797 variance from Section 24-95(b)(7) to build a one-family dwelling at 334 Grayson
798 Street (Providence Park Annex) (Parcel 792-737-9129), zoned R-5, General
799 Residence District (Fairfield). The lot width requirement and total lot area
800 requirement are not met. The applicant has 3,444 square feet total lot area and
801 35 feet lot width, where the Code requires 6,000 square feet total lot area and 50
802 feet lot width. The applicant requests a variance of 2,556 square feet total lot
803 area and 15 feet lot width.
804
805 Mr. Kirkland - Anyone here to speak on this case? Did you hear
806 anything from anybody about it?
807
808 Mr. Blankinship - We did, yes. We exchanged some e-mail just the
809 other day, getting the dates straight. He had thought it was—
810
811 Mr. Kirkland - All right. We'll pass it to the end of the agenda.
812

813 Mr. Blankinship - The next two cases are companions. I'll call them
814 together, if you don't mind.

815

816 **A-039-07** **THEODORE D. TYLER, SR.** requests a variance
817 from Section 24-94 to build a one-family dwelling at 8444 Strath Road (Parcel
818 816-683-4651), zoned A-1, Agricultural District (Varina). The lot width
819 requirement and total lot area requirement are not met. The applicant has 0.93
820 acre lot area and 145 feet lot width where the Code requires 1 acre lot area and
821 150 feet lot width. The applicant requests a variance of 0.07 acre lot area and 5
822 feet lot width.

823

824 **A-040-07** **THEODORE D. TYLER, SR.** requests a variance
825 from Sections 24-94 and 24-9 to build a one-family dwelling at 8448 Strath Road
826 (Parcel 816-683-1846), zoned A-1, Agricultural District (Varina). The lot width
827 requirement and public street frontage requirement are not met. The applicant
828 has 0 feet public street frontage and 147 feet lot width where the Code requires
829 50 feet public street frontage and 150 feet lot width. The applicant requests a
830 variance of 50 feet public street frontage and 3 feet lot width.

831

832 Mr. Kirkland - I guess no one else is here to speak on this case, so
833 if you would, raise your right hand.

834

835 Mr. Blankinship - Do you swear the testimony you're about to give is
836 the truth and nothing but the truth so help you God?

837

838 Mr. Tyler - Yes I do.

839

840 Mr. Kirkland - State your name for the record, sir.

841

842 Mr. Tyler - Theodore D. Tyler, Sr.

843

844 Mr. Kirkland - Okay. What would you like us to do?

845

846 Mr. Tyler - I would like for you to grant me permission to build
847 two three-bedroom homes, one on each parcel of land described.

848

849 Mr. Nunnally - Are these homes for you, sir?

850

851 Mr. Tyler - Well, no they're not, sir. I have a builder who is
852 interested in building the homes on the property.

853

854 Mr. Nunnally - Are you going to sell him the land so he can build
855 houses on it?

856

857 Mr. Tyler - Yes sir.

858

859 Ms. Dwyer - What kind of home is planned? What kind of homes is
860 planned for these two lots?
861
862 Mr. Tyler - Three-bedroom ranchers.
863
864 Mr. Kirkland - Brick, siding? What are they made out of?
865
866 Mr. Tyler - I'm thinking siding, sir. As I know the area and the
867 value of the homes that are already there, I'm thinking siding. Homes may be
868 \$200,000.
869
870 Ms. Dwyer - Of course, there is a lot of variation in the kind of
871 home that's on Strath Road. There have been very large homes, some—
872
873 Mr. Tyler - Yes.
874
875 Ms. Dwyer - I'm not sure how one would characterize the area in
876 terms of house size.
877
878 Mr. Tyler - Well, I'm from that area and that immediate area—As
879 you kind of understand how appraisals and things are done, I think they look at
880 an area rather close to where the homes are going to be built. There's a
881 subdivision further up the road; another one further down the road. But I don't
882 think that they would be considered in terms of—Well, I don't think that one
883 would build a house in that particular stretch of land comparable to those other
884 homes, which are more valuable. That's why I said what I said. And it's a three-
885 bedroom home, so.
886
887 Ms. Harris - The structure that we see on the aerial photo on 844,
888 what is that structure that we're seeing there?
889
890 Mr. Tyler - You mean to the left there?
891
892 Ms. Harris - Within the—
893
894 Mr. Tyler - Right there? It was a house. I was advised by my
895 real estate person to make the property more attractive for a buyer, tear that
896 down because it could not be renovated. So, that house is no longer there.
897
898 Ms. Harris - Okay. The other structure just above that. What is
899 that?
900
901 Mr. Tyler - That's a bus.
902
903 Ms. Harris - Oh, okay. Thank you.
904

905 Ms. Dwyer - So, this was a—Oh, excuse me, Ms. Harris. Are you
906 finished?
907
908 Ms. Harris - On the companion case, you would need to gain
909 access using this 16-foot road?
910
911 Mr. Tyler - Yes ma'am.
912
913 Ms. Harris - Okay. Is it possible to come from Tyler Lane to that?
914
915 Mr. Tyler - No.
916
917 Ms. Harris - I see the street. I don't know if it's a [unintelligible]
918 from 8410 or a private driveway.
919
920 Mr. Kirkland - Is it split already?
921
922 Ms. Harris - That's what it looks like on the aerial photo. I'm not
923 sure what it is.
924
925 Mr. Tyler - No, it's not. There are homes that wrap around
926 behind the property. There is just no access.
927
928 Ms. Harris - That's a private driveway across on Tyler Lane?
929 Right, that's a private driveway.
930
931 Mr. Tyler - Yeah. Yes it is.
932
933 Ms. Dwyer - Sir, this property was combined before 1983. Is that
934 correct? And it wasn't until 1983 that it was divided into two separate lots.
935
936 Mr. Tyler - That's correct.
937
938 Ms. Dwyer - And it's because the lot is narrow that you're asking
939 for the variance.
940
941 Mr. Tyler - That's correct.
942
943 Ms. Dwyer - Okay. So, because of that, it becomes relevant, I
944 think, when the property was divided. So, at the time it was divided, the
945 ordinance was already in place that required road frontage. Is that correct, Mr.
946 Blankinship? I'm thinking about the second case more than the first.
947
948 Mr. Blankinship - Yes, okay. That was what I was going to ask you to
949 clarify. The width is really the issue for 8444, the lot that does have frontage.
950

951 Ms. Dwyer - Right.
952
953 Mr. Blankinship - 8448, Case A-040, the one that does not have
954 frontage, I'm not sure that the width is the issue there. But yes, in 1983, it was
955 one two-acre parcel that had public street frontage and had the adequate lot
956 area, but did not have adequate width.
957
958 Ms. Dwyer - Right.
959
960 Mr. Nunnally - Have you and the builder talked about putting one
961 house on that piece of property? That way, you'd only need a five-foot variance.
962
963 Mr. Tyler - No, we have not. The initial attraction of the land to
964 the builder is that he could put two homes there.
965
966 Mr. Nunnally - Yes, but he could put a bigger home there and
967 probably make as much money as he'd make by putting two smaller ones there.
968
969 Mr. Tyler - Well, he may well could, sir. That would probably be
970 financially feasible for him, but it would hurt my gain in terms of what I can sell
971 the property for.
972
973 Mr. Wright - Where do you access a public road from the rear lot?
974 I don't see any indication on here of any easement or anything.
975
976 Mr. Tyler - Facing the property, it would be on the left side of the
977 property. Yes.
978
979 Mr. Wright - How wide is that?
980
981 Mr. Tyler - It's 16 feet.
982
983 Mr. Wright - How many?
984
985 Mr. Tyler - Sixteen feet is what was granted at the time. That full
986 acre that you're looking at was an acre that I received from my father many years
987 ago. I actually received a variance to build on that property. Finances did not
988 allow me to continue, so we tabled it. I actually had to do the surveying and cut
989 out the acre and this kind of thing, and that's when that 16-foot road frontage was
990 put in for access to that home. Then years later, my dad sold me the rest of the
991 property, the other acre. So, it was subdivided.
992
993 Ms. Harris - Mr. Tyler, who owns that property at 8470, the
994 adjacent property?
995
996 Mr. Tyler - Where the house is or where you have the pointer?

997
998 Ms. Harris - I don't see the map, I think it's—If we move the cursor
999 down.
1000
1001 Mr. Tyler - 8470. That's West Sand and Gravel on that property.
1002
1003 Ms. Harris - I was just wondering could you get the additional
1004 footage from them.
1005
1006 Mr. Tyler - I called them and they advised me to get a variance.
1007 The legal things that would be involved in them selling me three feet just isn't
1008 worth it to them and it's just too involved to even enter into. The persons on the
1009 other side aren't able to provide any additional footage as well.
1010
1011 Ms. Harris - You say you live in this area?
1012
1013 Mr. Tyler - Well, I was born and raised there.
1014
1015 Ms. Harris - But you don't live in this area now.
1016
1017 Mr. Tyler - No I don't. I still live in Henrico, but I don't live there.
1018
1019 Mr. Kirkland - Any other questions? Does anyone else wish to
1020 speak? That concludes the cases, sir.
1021
1022 Mr. Tyler - Thank you.
1023
1024 **DECISION**
1025
1026 Mr. Wright - This is kind of unique. Can we discuss this and get
1027 some idea how Cherrystone applies to this thing?
1028
1029 Ms. Dwyer - I guess we could make a motion, second, and then
1030 we'll—
1031
1032 Mr. Kirkland - Yes, let's have a motion. Let's do a motion on A-039
1033 first.
1034
1035 Mr. Wright - I move.
1036
1037 Mr. Blankinship - A-039 is the lot that fronts on the public street but
1038 does not have the width.
1039
1040 Mr. Kirkland - Do you mean to approve that one?
1041
1042 Mr. Wright - Do you want me to make a motion?

1043
1044 Mr. Kirkland - Yes, please.
1045
1046 Mr. Wright - I move that we approve it.
1047
1048 Ms. Dwyer - I'll second.
1049
1050 Mr. Kirkland - All right. Now it's time for discussion.
1051
1052 Ms. Dwyer - Shoot.
1053
1054 Mr. Wright - What bothers me is how these lots were developed.
1055 They were not separate back in 1983? And then it was split into two lots. Of
1056 course at that time when that was done, the two lots satisfied the acreage, but
1057 didn't satisfy the width. Is that correct?
1058
1059 Mr. Blankinship - They're off on the acreage by, what, 0.07 acres. So, I
1060 don't know if there was a widening of Darbytown that took a few hundred square
1061 feet or if there was a survey error or what. But this lot may have fallen just short
1062 of the area requirement at that time.
1063
1064 Mr. Wright - But close.
1065
1066 Mr. Blankinship - I think it's shown on their deed as being a one-acre
1067 lot. So, it may just be within the error [unintelligible].
1068
1069 Mr. Wright - At that time, it still was not wide enough.
1070
1071 Mr. Blankinship - Right.
1072
1073 Mr. Wright - It still had a five-foot deficiency in width.
1074
1075 Mr. Blankinship - Right.
1076
1077 Mr. Wright - So, they couldn't build on it without a variance at that
1078 time.
1079
1080 Ms. Dwyer - '83 you mean?
1081
1082 Mr. Blankinship - But there was an existing house on it as well.
1083
1084 Mr. Wright - Yeah. But they tore it down.
1085
1086 Mr. Blankinship - Right.
1087

1088 Mr. Wright - So, they're back to square one on that. I don't have a
1089 whole lot of problem with the first case on that basis. They certainly can't use it.
1090 But the question is whether it's taken as a whole. Are we going to take it as two
1091 lots or one lot? In Cherrystone, they were split at the same time, and at the time
1092 they were split, they were owned by the same owner. They applied the "taken as
1093 a whole" as of that time. Here, it was one lot in 1952, and in '82 it was split. But
1094 then '93, they came back and were owned by the same owner. But at that time,
1095 they were two separate lots.
1096
1097 Ms. Dwyer - I think the division is what bothers me. I don't have so
1098 much an issue with the lot width. Cherrystone says rather than subdividing into
1099 lots which were un-buildable under the ordinance, they could have treated the
1100 property as a single parcel. I think that's the part that hangs us up.
1101
1102 Mr. Wright - On the division, yes.
1103
1104 Ms. Dwyer - The lots together meet all the other zoning
1105 requirements—
1106
1107 Mr. Wright - Except width.
1108
1109 Ms. Dwyer - Except width. So, we're making it worse by dividing it.
1110 We're taking it and sort of creating—The owner's creating his own hardship.
1111
1112 Mr. Wright - But the present owner didn't split the property; his
1113 father did.
1114
1115 Ms. Dwyer - Right. But it was split after the effective date of the
1116 ordinance, I guess is one issue. I'm inclined to approve 39 but not 40.
1117
1118 Mr. Wright - That's the way it looks to me. Anyhow, we made the
1119 motion to approve this and it's been seconded. There's no reasonable use of that
1120 acre without the variance.
1121
1122 Ms. Dwyer - Right.
1123
1124 Mr. Wright - That lot taken as a whole. I guess we can apply that
1125 to that one lot.
1126
1127 Mr. Kirkland - All right. We've had a motion—
1128
1129 Ms. Dwyer - That's what's before us.
1130
1131 Mr. Kirkland - —to approve and a motion to second. Motion by Mr.
1132 Wright, seconded by Ms. Dwyer. All those in favor say aye. All those opposed
1133 say no. The ayes have it, the motion carries.

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After an advertised public hearing and on a motion by Mr Wright, seconded by Ms. Dwyer, the Board **approved** application **A-039-07**, Theodore D. Tyler, Sr.'s request for a variance from Section 24-94 to build a one-family dwelling at 8444 Strath Road (Parcel 816-683-4651), zoned A-1, Agricultural District (Varina). The lot width requirement and total lot area requirement are not met.

1. This variance applies only to the lot width and area requirements for one dwelling only. All other applicable regulations of the County Code shall remain in force.
2. Approval of this request does not imply that a building permit will be issued. Building permit approval is contingent on Health Department requirements, including, but not limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well location.
3. At the time of building permit application, the applicant shall submit the necessary information to the Department of Public Works to ensure compliance with the requirements of the Chesapeake Bay Preservation Act and the code requirements for water quality standards.
4. Prior to land disturbance, an Erosion and Sediment Control Plan must be submitted to Public Works for review and approval if the proposed project involves land disturbance greater than 2500 square feet.

Affirmative:	Dwyer, Harris, Kirkland, Nunnally, Wright	5
Negative:		0
Absent:		0

Mr. Kirkland - All right, now let's do A-040. Can I have a motion, please?

DECISION

Mr. Wright - I move that we deny A-040.

Mr. Nunnally - Second.

Ms. Dwyer - Second.

Mr. Kirkland - Mr. Nunnally, you got second.

Mr. Wright - I think it's the same basis for that one. When the property was two acres taken as a whole, it had a reasonable, beneficial use for one residence. We've already got a residence approved. Can't have two residences.

1180
1181 Ms. Harris - I have a question. When we talk about taken as a
1182 whole, what dates are we talking about? It seems as though the lots were split
1183 into two roughly one-acre parcels in '83.

1184
1185 Mr. Wright - The present owner owns both lots right now.

1186
1187 Mr. Blankinship - In '83, public street frontage was required.

1188
1189 Ms. Harris - Right. I have no issue about the public street frontage,
1190 but I was wondering at what point do we draw the line as to when we are
1191 speaking about "taken as a whole"? Is it when the property was acquired in '83?
1192 All property has history. We could go back to the very date that it was acquired
1193 and say taken as a whole, or we could back it up to when it was sold later and
1194 say taken as a whole. At what point do we divide—

1195
1196 Ms. Dwyer - As I understand it, it's when it was divided. When was
1197 the last division? That was in 1983. And in 1983, the ordinance already existed
1198 that required road frontage. If it had been divided in '83 and then the road
1199 frontage was required in '85, then it wouldn't be an issue. But because it was
1200 divided and required road frontage at that time, I think that's the important date.

1201
1202 Mr. Kirkland - Motion by Mr. Wright, seconded by Mr Nunnally. All in
1203 favor say aye. All opposed say no. The ayes have it, the motion carries.

1204
1205 After an advertised public hearing and on a motion by Mr. Wright, seconded by
1206 Mr. Nunnally, the Board **denied** application **A-040-07**, Theodore D. Tyler, Sr.'s
1207 request for a variance from Sections 24-94 and 24-9 to build a one-family
1208 dwelling at 8448 Strath Road (Parcel 816-683-1846), zoned A-1, Agricultural
1209 District (Varina). The lot width requirement and public street frontage requirement
1210 are not met.

1211
1212 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1213 Negative: 0
1214 Absent: 0

1215
1216 **UP-023-07** **SCOTT M. AKENS** requests a conditional use permit
1217 pursuant to Section 24-95(i)(4) to build a garage in the side yard at 10216
1218 Richmond Road (Greenwood Park) (Parcel 780-764-6044), zoned R-4, One-
1219 family Residence District (Fairfield).

1220
1221 Mr. Kirkland - All right, sir, if you would, raise your right hand and be
1222 sworn in.

1223
1224 Mr. Blankinship - Do swear the testimony you're about to give is the
1225 truth and nothing but the truth so help you God?

1226
1227 Mr. Akens - I do.
1228
1229 Mr. Kirkland - Would you state your name for the record, please?
1230
1231 Mr. Akens - Scott M. Akens
1232
1233 Mr. Kirkland - Okay. What do you want us to do for you this
1234 morning, sir?
1235
1236 Mr. Akens - I'd like to apply for a conditional use permit to
1237 construct a 16' by 24' garage on the side of my residence at Richmond Road.
1238
1239 Mr. Kirkland - Could you get a little closer to the mike?
1240
1241 Mr. Akens - Sure.
1242
1243 Mr. Kirkland - Could restate what you want again?
1244
1245 Mr. Akens - Sure. I'd like to apply for a conditional use permit to
1246 build a 16' by 24' garage on the side of my residence on Richmond Road.
1247
1248 Ms. Dwyer - Is there any reason why you don't want to put the
1249 garage in the rear?
1250
1251 Mr. Akens - Due to the size of the lot, I'd like to keep as much
1252 green space in the back of my yard—I have a family and have kids—to have
1253 more use of my backyard instead of having a garage sitting in the back corner of
1254 my lot.
1255
1256 Ms. Harris - Do you plan to let the structure, the accessory
1257 building remain?
1258
1259 Mr. Akens - The shed that's in the back?
1260
1261 Ms. Harris - Yes.
1262
1263 Mr. Akens - Yes ma'am.
1264
1265 Ms. Harris - Have you had the reaction of your neighbors, the
1266 neighbor at 1620?
1267
1268 Mr. Akens - Actually, before I went through this and even applied
1269 for the variance, a couple months ago I did contact my neighbor—which we all
1270 get along on the street—and I talked to him to let him know what my wishes
1271 were. I gave him some time, about a month and a half, to think about it before I

1272 even I applied for the variance, if he had a problem with it before. It would be
1273 showing through his back windows. And when I talked to him right before I
1274 applied for a variance, he didn't have any problem with it. And even last night we
1275 were talking and he asked how things were going with it.
1276
1277 Ms. Harris - He didn't give you a letter or anything to bring before
1278 the Board?
1279
1280 Mr. Akens - No ma'am.
1281
1282 Ms. Dwyer - What are the exact dimensions of the garage and the
1283 exact distance of the garage from the property line and from the home?
1284
1285 Mr. Akens - The exact dimensions of the garage would be 16' by
1286 24'. How I have it drawn it would be 10 feet from the house and 5 feet from the
1287 side property line. On the conditions, it would only give me one inch of play.
1288
1289 Ms. Dwyer - I assume you're going to have a survey before you
1290 have the garage built.
1291
1292 Mr. Akens - Oh yes ma'am.
1293
1294 Ms. Dwyer - If we added that as a condition, would you agree to
1295 that, that a survey would be done before you attempt to build a garage?
1296
1297 Mr. Akens - Yes.
1298
1299 Mr. Blankinship - That's Condition #3, Mrs. Dwyer.
1300
1301 Ms. Dwyer - Is it? Oh, I see. Thank you. Could see that one
1302 coming, with a one-inch leeway.
1303
1304 Mr. Kirkland - What is the structure going to be made out of? Is it
1305 brick or siding?
1306
1307 Mr. Akens - It's going to be a stick-built, wood-frame structure.
1308 Then the exterior is going to be the same siding that I have on my house now,
1309 from the same company, and also the roof shingles will be the same that are on
1310 my house so it'll match exactly to my primary residence.
1311
1312 Ms. Dwyer - What would the exact distance be between the front
1313 lot line and the front of the garage?
1314
1315 Mr. Akens - Thirty-seven feet.
1316

1317 Ms. Dwyer - So, this is not accurate as drawn, because as it's
1318 drawn, your house is 37 feet from the front and you have the garage farther back
1319 on the plan.
1320
1321 Mr. Akens - Actually, it would be almost 43 feet.
1322
1323 Mr. Wright - 43.7 feet.
1324
1325 Mr. Blankinship - It's on here marked 49, because it has the 6-foot
1326 porch and the 6-foot—
1327
1328 Ms. Dwyer - So, 49 feet from the front property line?
1329
1330 Mr. Blankinship - Yes ma'am. The line with the 7.0 feet just above it.
1331
1332 Mr. Wright - It says—
1333
1334 Mr. Blankinship - You have a 6.7-foot notch-out, and a 6.1-foot porch.
1335
1336 Mr. Wright - And add 37 feet to that, wouldn't you?
1337
1338 Mr. Blankinship - The 6.1 and the 6.7. You see the 6.1, the porch?
1339
1340 Mr. Kirkland - Right above it is 12.9 and there's a 6.1.
1341
1342 Mr. Wright - Yes. Okay, I see. The 37 runs to the—
1343
1344 Mr. Blankinship - To the front of porch.
1345
1346 Mr. Wright - Yeah, not to that—
1347
1348 Ms. Dwyer - Shall we say 50 feet? Would you be willing to put all
1349 of that as a condition, those dimensions?
1350
1351 Mr. Akens - Yes.
1352
1353 Ms. Harris - Would you submit these plans with it, the plans that
1354 are in our report?
1355
1356 Mr. Blankinship - Yes, that's Condition #1.
1357
1358 Mr. Wright - It's an awful shallow lot.
1359
1360 Ms. Dwyer - There's nothing that requires you to put it in the side
1361 yard in terms of the topography of the lot, for example, and there is enough
1362 space in the rear yard for you to put the garage.

1363
1364 Mr. Akens - Yes ma'am. But the second reason is to keep the
1365 green space and also if I were to put the garage in the back, it would be a longer
1366 drive, more stone leading up the garage and to the backyard.
1367
1368 Ms. Harris - Did you indicate whether or not you would have to
1369 take down any of these trees?
1370
1371 Mr. Akens - There are no trees that would need to be taken down.
1372
1373 Mr. Kirkland - Anyone else have any other questions?
1374
1375 Mr. O'Kelly - Mr. Akens, would the existing tool shed remain?
1376
1377 Mr. Akens - Yes sir. That would be behind the garage, if it were
1378 approved.
1379
1380 Mr. Kirkland - How long have you lived in this house?
1381
1382 Mr. Akens - We just moved in in August.
1383
1384 Mr. Kirkland - Any other questions? Anyone else wish to speak? All
1385 right, that concludes the case.
1386
1387 **DECISION**
1388
1389 Ms. Harris - This is for a use permit and I move that we allow Mr.
1390 Akens to build this garage.
1391
1392 Mr. Nunnally - Second.
1393
1394 Mr. Kirkland - Motion by Ms. Harris, seconded by Mr. Nunnally.
1395
1396 Ms. Harris - Can we have some discussion?
1397
1398 Mr. Kirkland - Sure.
1399
1400 Ms. Harris - Because we don't have the threshold question here
1401 that we have to deal with it's refreshing. We do have a garage that's going in the
1402 side yard, and that is the issue here when you deal with corner lots. However,
1403 the neighbor was notified, and according to the verbal account of the owner, we
1404 have no opposition. I feel because of the location of the lot that this will be
1405 permissible.
1406
1407 Ms. Dwyer - I'm not happy with this. There doesn't seem to be a
1408 compelling reason not to comply with the normal requirement that accessory

1409 buildings be in the rear yard. I'm thinking, why do we normally require accessory
1410 structures in the rear yard; because they're not in keeping with the architecture in
1411 terms of size; they're not attached to the dwelling. This one is smaller. It looks
1412 like an accessory dwelling. It doesn't look like it really meets the same
1413 architectural standards that the rest of the houses have in the area and I think it
1414 would detract from the appearance of the neighborhood from the street. I think
1415 this is an accessory building that really should be in the backyard. There are no
1416 exceptional topography elements to deal with. There is nothing other than the
1417 owner's desire to have more grass in the backyard. I just don't see a compelling
1418 reason to step outside the normal requirements of the ordinance in this case. I
1419 think it would impair the character of the district and I think it would impair the
1420 value of the homes in the neighborhood to have this kind of a garage so much
1421 closer to the front, so much closer to the street than is normally required.

1422

1423 Ms. Harris - May I respond to that? I did drive by there yesterday
1424 just to see the closeness in this community, and believe me, it is very close.
1425 Could very well be a distraction. However, the building shed could be moved to
1426 the other side; I think that would help. But even if this garage were moved to the
1427 area where the building shed is, the owners at 1620 will still see this right behind
1428 their house. So, I can't see that having the garage in the rear would solve the
1429 problem in this particular case.

1430

1431 Ms. Dwyer - It probably wouldn't solve it as far as 1620 is
1432 concerned, but it would move it away from the road so as you're driving down the
1433 road, you're not seeing a garage, detached garage so close to the roadway. It
1434 would be farther off the street. So, I guess that's my meaning.

1435

1436 Ms. Harris - To me, it's the lesser of two evils. When I did drive by,
1437 I turned on that side street. I can't remember the name of the side street right
1438 now. What is the name?

1439

1440 Mr. Blankinship - Lee Avenue.

1441

1442 Ms. Harris - Yes. I saw the blue building shed and actually
1443 thought that that building shed was connected to the other house on the corner.
1444 It's just that close. I think a garage would just compound the problem. I think the
1445 side would be a better place, if he has to have a garage.

1446

1447 Mr. Wright - One thing he did say is that it would be compatible
1448 with the house, with the same siding. So, it would make it look like an extension
1449 of the house.

1450

1451 Ms. Dwyer - Well, look at the shed. When we look at the
1452 photograph of the shed and compare it to the house, I know the garage will be
1453 bigger than the shed, but it's going to be similar. It's going to be much smaller
1454 than the two-story house. It's going to look like an accessory building. I just

1455 think an accessory building should be farther off the road, farther away from the
1456 front yard, and farther away from the front of the house to maintain the
1457 appearance of the front door and the front yard. That's the one I'm looking at.
1458

1459 Ms. Harris - If you have an acre of land, it would help. If we could
1460 look at the photo before this one. Okay. See that house, which is 1620?
1461

1462 Mr. Wright - That one that's white?
1463

1464 Ms. Harris - Yes. That's on the corner also. I was driving down
1465 that street in front of that house. So, when I saw the blue shed, I thought that it
1466 was a part of the other house on the corner. It appears that the best place would
1467 be to the side, since this is corner lot.
1468

1469 Ms. Dwyer - The white house is a corner lot, you mean.
1470

1471 Mr. Blankinship - Yes. 10216 is not a corner.
1472

1473 Ms. Dwyer - This is not a corner lot.
1474

1475 Ms. Harris - Yes.
1476

1477 Ms. Dwyer - But if the garage is to the side of this house, it looks
1478 like it's right behind the white house, as opposed to being off center and a little bit
1479 farther away from the backyard of this house. I just think that would be visually
1480 more intrusive to the white house as well.
1481

1482 Mr. Kirkland - Mr. Blankinship, if he moved it to the rear yard, he
1483 could shove it all the way over in the corner, couldn't he?
1484

1485 Mr. Blankinship - Yes. He almost has to. It's a small enough lot that—
1486

1487 Mr. Kirkland - Basically, the side of the garage would almost be on
1488 the property line.
1489

1490 Mr. Blankinship - It would have to be five feet.
1491

1492 Ms. Dwyer - Well it is now.
1493

1494 Mr. Blankinship - It would have to be five feet. And with those five feet,
1495 it would still be just slightly more than the 10 feet required behind the dwelling.
1496

1497 Ms. Dwyer - It's five feet now.
1498

1499 Mr. Blankinship - Right.
1500

1501 Ms. Dwyer - From the side. It's very tight between the side yard
1502 and the house.
1503
1504 Mr. Kirkland - All right. We've had a motion and a second.
1505
1506 Mr. Blankinship - Actually, I don't have a second.
1507
1508 Mr. Nunnally - I seconded it.
1509
1510 Mr. Blankinship - Oh, okay.
1511
1512 Mr. Gidley - Mr. Chairman, if you all could be so kind as to clarify
1513 specifically where you want it located? The plot plan shows it behind the front of
1514 the house.
1515
1516 Mr. Wright - That's where it's going to be.
1517
1518 Mr. Blankinship - We had discussed that.
1519
1520 Mr. Wright - We had discussed 50 feet.
1521
1522 Mr. Gidley - That would be 37 feet back, which would bring it even
1523 with the front of the house.
1524
1525 Mr. Wright - No, no, no.
1526
1527 Mr. Blankinship - Fifty feet is what the Board—
1528
1529 Mr. Wright - We said we want it 50 feet.
1530
1531 Mr. Gidley - Okay, good, fine.
1532
1533 Mr. Wright - If we approve it, I would say it would have to be at
1534 least 50 feet.
1535
1536 Ms. Harris - Do we need to add in the condition about moving the
1537 building shed?
1538
1539 Mr. Blankinship - He said that he did not intend to move it.
1540
1541 Ms. Harris - Right, I remember that.
1542
1543 Mr. Blankinship - So if you want to move it, yes.
1544
1545 Ms. Harris - Wonder what the thinking of the Board is.
1546

1547 Mr. Kirkland - All right. We've had a first and a second, noting that
1548 the garage would be 50 feet back. I believe that's a condition, because he has a
1549 survey condition in this. Motion made by Ms Harris, seconded by Mr. Nunnally.
1550 All in favor say aye. All opposed say no. The ayes have it, the motion carries.

1551
1552 After an advertised public hearing and on a motion by Ms. Harris, seconded by
1553 Mr. Nunnally, the Board **approved** application **UP-023-07**, Scott M. Akens'
1554 request for a conditional use permit pursuant to Section 24-95(i)(4) to build a
1555 garage in the side yard at 10216 Richmond Road (Greenwood Park) (Parcel 780-
1556 764-6044), zoned R-4, One-family Residence District (Fairfield).

1557
1558 1. Only the improvements shown on the plot plan and building design filed with
1559 the application may be constructed pursuant to this approval. Any additional
1560 improvements shall comply with the applicable regulations of the County Code.
1561 Any substantial changes or additions to the design or location of the
1562 improvements may require a new variance.

1563
1564 2. Hydric Soils present on the site indicate possible wetlands. The building
1565 permit application shall include determination of whether wetlands are present on
1566 the parcel. If the proposed project will involve land disturbance greater than
1567 2,500 square feet, then prior to construction, an erosion and sediment control
1568 plan must be submitted to the Department of Public Works for review and
1569 approval.

1570
1571 3. [AMENDED] The garage shall not be permanently attached to a foundation
1572 until the owner submits a certified survey showing that it complies with all
1573 required setbacks, including 10 feet from the dwelling and 5 feet from the side lot
1574 line. The garage shall be set back at least 50 feet from the right-of-way of
1575 Richmond Road.

1576
1577 Affirmative: Harris, Kirkland, Nunnally, Wright 4
1578 Negative: Dwyer 1
1579 Absent: 0

1580
1581
1582 Mr. Kirkland - If you would, I guess, call A-038-07 again, Mr.
1583 Blankinship.

1584
1585 **A-038-07 EMERALD LAND DEVELOPMENT** requests a
1586 variance from Section 24-95(b)(7) to build a one-family dwelling at 334 Grayson
1587 Street (Providence Park Annex) (Parcel 792-737-9129), zoned R-5, General
1588 Residence District (Fairfield). The lot width requirement and total lot area
1589 requirement are not met. The applicant has 3,444 square feet total lot area and
1590 35 feet lot width, where the Code requires 6,000 square feet total lot area and 50
1591 feet lot width. The applicant requests a variance of 2,556 square feet total lot
1592 area and 15 feet lot width.

1593
1594 Mr. Blankinship - Going once, going twice.
1595
1596 Mr. Kirkland - Do I have a motion to defer this to the next meeting?
1597
1598 Ms. Harris - I so move.
1599
1600 Ms. Dwyer - Second.
1601
1602 Mr. Kirkland - Motion made by Ms. Harris, seconded by Ms. Dwyer.
1603 All in favor say aye. All opposed say no. The ayes have it, the motion carries.
1604
1605 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1606 Negative: 0
1607 Absent: 0
1608
1609
1610 After an advertised public hearing, **A-038-07, Emerald Land Development**, has
1611 been **deferred until the December 20, 2007 meeting**.
1612
1613 Mr. Kirkland - That concludes all the cases.
1614
1615 Mr. Kirkland - Sir, you're not from Emerald Development, are you?
1616
1617 Mr. Baker - Yes.
1618
1619 Mr. Kirkland - You missed the case. I don't think we can bring it
1620 back up, can we, Mr. Blankinship? We passed it and we moved it to the next
1621 agenda.
1622
1623 Mr. Blankinship - Technically, you probably should not, but since there
1624 was no one here. We did call the case twice and no one was here to speak. I
1625 think if a neighbor had been here and had left, it would be wrong to hear the case
1626 now.
1627
1628 Mr. Kirkland - What is the consensus of the Board? Do you all
1629 want to hear it?
1630
1631 Mr. Blankinship - Do you have a comment?
1632
1633 Mr. Kirkland - Mr. Wright?
1634
1635 Mr. Wright - I don't have any problem hearing it. Let's get it out of
1636 the way.
1637

1638 Mr. Kirkland - All right. We'll have to have a motion to knock off the
1639 deferment to next month.
1640
1641 Mr. Blankinship - Motion to reconsider, I guess.
1642
1643 Mr. Kirkland - We need a motion to reconsider case.
1644
1645 Ms. Harris - I so move.
1646
1647 Mr. Wright - I'll second it.
1648
1649 Mr. Kirkland - Motion made by Ms. Harris, seconded by Mr. Wright.
1650 All those in favor say aye. All those opposed say no. The ayes have it, the motion
1651 carries.
1652
1653 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1654 Negative: 0
1655 Absent: 0
1656
1657
1658 Mr. Kirkland - Okay. Mr. Kerney, we will hear your case.
1659
1660 Mr. Kerney - Thank you.
1661
1662 **A-038-07 EMERALD LAND DEVELOPMENT** requests a
1663 variance from Section 24-95(b)(7) to build a one-family dwelling at 334 Grayson
1664 Street (Providence Park Annex) (Parcel 792-737-9129), zoned R-5, General
1665 Residence District (Fairfield). The lot width requirement and total lot area
1666 requirement are not met. The applicant has 3,444 square feet total lot area and
1667 35 feet lot width, where the Code requires 6,000 square feet total lot area and 50
1668 feet lot width. The applicant requests a variance of 2,556 square feet total lot
1669 area and 15 feet lot width.
1670
1671 Mr. Kirkland - If you would, sir, come forward. We meet at 9:00
1672 normally.
1673
1674 Mr. Baker - I appreciate it, thank you.
1675
1676 Mr. Blankinship - Raise your right hand, please. Do you swear the
1677 testimony you're about to give is the truth and nothing but the truth so help you
1678 God?
1679
1680 Mr. Baker - I do.
1681
1682 Mr. Kirkland - Would you state your name for the record, sir?
1683

1684 Mr. Baker - My name is Mark Baker and I'm with Baker
1685 Development Resources. I apologize for that inconvenience. I did actually have
1686 a question, which might—

1687
1688 Mr. Kirkland - If you would state your case, then we can go to the
1689 questions.

1690
1691 Mr. Baker - Certainly. This is 334 Grayson Street. I guess my
1692 real question is—Clearly, I want to go into a presentation real quickly. It's case
1693 A-038-07. In looking through the staff's report on this case, I'm seeing that there
1694 was not a variance put forth in the request for side yard requirements. Were we
1695 incorrect in asking for that or is that not required?

1696
1697 Mr. Blankinship - Was it you or the other gentleman? I had a
1698 conversation on the phone about whether the application cited the correct section
1699 of the Code, whether it should be 30.1 or 95(b). We went with 95(b), and under
1700 that, you did not need a side yard variance for what was submitted.

1701
1702 Mr. Baker - Okay.

1703
1704 Mr. Blankinship - The applicable side yard setbacks are 10% and 30%
1705 of the lot width, 10% least and 30% sum, with a minimum of 7. Since the lot is
1706 only 35 feet wide, that gives you a sum of the side yards of just about 10 feet.
1707 The minimum of 7 on each side would give you 14.

1708
1709 Mr. Baker - Well, that's fantastic. I was concerned that we were
1710 absent a couple of variances that were needed. Of course, those were part of
1711 the original request. This is an [unintelligible] lot. It's an existing subdivision,
1712 Providence Park Annex. The subdivision was platted in 1916 and it was platted
1713 for the purpose of construction of single-family dwellings. The majority of the lots
1714 are configured the same as this property and were actually constructed with
1715 single-family dwellings. The lot's consistent in size with the others in the
1716 subdivision. There was no zoning ordinance at the time of the subdivision and
1717 there was no requirement for lot area or lot width. The abutting lots on either
1718 side were developed with single-family dwellings, 332 and 336, so there's not an
1719 opportunity to consolidate lots to achieve a large building lot. So, the applicant
1720 proposes a construction of a family dwelling on the existing vacant lot.

1721
1722 There was a June BZA case, and at that time we were asking for lot area and lot
1723 width, side yard, total side yard, front yard, and rear yard requests. I think it was
1724 commented that, "You're asking for just about everything you could possibly ask
1725 for in this request." I think the consensus was we were just asking for a little bit
1726 too much. So, we've gone back and looked at it. We've found a different building
1727 footprint, a different single-family, and we've been able to reformat so that we're
1728 just talking about—which is even better than I thought—lot area and lot width.

1729 Those are really the two features of the site that we can't negotiate any further
1730 than what they currently are.

1731

1732 In our evaluation, we looked at the threshold question, we looked at the three
1733 tests, and this is clearly what Cochran versus Fairfax was all about. It's very
1734 straightforward. It's a vacant lot. It was platted for single-family use. The
1735 adjacent properties are developed, precluding consolidation. The variance is
1736 needed really to allow any beneficial, any use of the property. In our opinion, that
1737 gets us over the hurdle on the lot area and lot width issues. And then, of course,
1738 the three tests. The property is exceptionally shallow and it's exceptionally
1739 narrow as well. It's just a small lot. It is a situation that is not generally recurring,
1740 although you could argue that this is fairly common within the adjacent
1741 jurisdiction in the City, and the idea of building on smaller lots is not uncommon
1742 there. In this situation, it is a unique vacant infill lot. As far as being detrimental
1743 to the adjacent property and the character of the district, it's consistent in design
1744 to the extent that it can be with the idea of trying to construct a home that's
1745 suitable for today's standards and being sold. We're talking about a
1746 homeownership opportunity here.

1747

1748 As far as detrimental to adjacent properties, staff did bring up some suggested
1749 conditions. They're concerned about the drip line on the adjacent property, the
1750 existing tree line. We've agreed to staff's suggestion there and we're willing to
1751 agree to the bond to ensure the replacement of any tree that dies within three
1752 years of CO.

1753

1754 The only modification, we did mail over a brief letter that just adds some flexibility
1755 within the concept of limiting the construction to that which was shown in the
1756 application, because we didn't give a lot of detail. In other words, it doesn't say
1757 what the siding materials are; it doesn't say what the foundation materials are—
1758 those sorts of things. So, I created a list just talking about roofing material; siding
1759 material; the type of railings and some options there; porch roof; foundation,
1760 which would be a crawl space block with brick veneer front; porch columns,
1761 porch flooring; and interior flooring. Did you receive this list?

1762

1763 Mr. Blankinship - I did receive it and I did not have an opportunity to
1764 review it.

1765

1766 Mr. Baker - Well, just quickly, it was, from a roofing standpoint,
1767 fiberglass shingles or 20-year asphalt shingles. From a siding standpoint, it was
1768 hardiplank or vinyl. From a porch railing standpoint, its iron, fiberglass, vinyl,
1769 PVC, or wood. From a porch roof standpoint, again, fiberglass shingles or 20-
1770 years asphalt shingles. Foundation is crawl space with block, and brick veneer
1771 front. Porch columns—fiberglass, vinyl, PVC, or wood. Porch flooring—
1772 fiberglass or wood. And interior flooring—carpet, ceramic tile, or vinyl. The idea
1773 is that when you come in and call into question following the building permit, is it
1774 substantially the same that those would be the kind of [unintelligible] that we

1775 would be using and, in a sense, proffering. I know you don't call it proffering with
1776 a BZA condition, but.

1777

1778 So, that's essentially it. We feel that we met the threshold question and the three
1779 tests, and we thank you for your consideration. Absent this approval, there really
1780 is no meaningful use of the property. I guess I can answer questions that you
1781 have at this time.

1782

1783 Ms. Harris - I do have a question. The homes that are on the
1784 adjacent sides to this property, do you know the setback that was used for those
1785 homes?

1786

1787 Mr. Baker - I don't know if I have the setbacks. It seems as
1788 though it was five feet or less.

1789

1790 Ms. Harris - Wow.

1791

1792 Mr. Baker - And we are in the 7-1/2 foot range. We do exceed
1793 those.

1794

1795 Mr. Blankinship - Side yard setbacks or front yard setbacks?

1796

1797 Ms. Harris - Front. I'm sorry, front yard setbacks.

1798

1799 Mr. Blankinship - They're roughly 10 feet, according to the GIS. It's not
1800 meant to be accurate to the foot, but it puts you in the ballpark.

1801

1802 Ms. Harris - Have you constructed a home like this in similar
1803 neighborhoods?

1804

1805 Mr. Baker - Of course, I'm a representative for the applicant. My
1806 understanding is that they have built a number of homes in this price range in
1807 similar neighborhoods.

1808

1809 Ms. Harris - Two-story homes in a, basically, one-story
1810 neighborhood.

1811

1812 Mr. Baker - I'd have to go and ask. I don't know that they've done
1813 a two-story in a one-story. I would say that in our initial request back in June, we
1814 tried to bring in a bungalow style house, which was as consistent in character—
1815 One of the things that you were concerned about is keeping the character
1816 consistent with the existing district, so we tried to bring in a bungalow look, front
1817 porch across the front. But what happens with a bungalow is that in order to get a
1818 meaningful amount of square footage for a new homeownership opportunity in
1819 today's market, it led to a footprint that on a lot of this size was apparently not

1820 desirable based on the number of variances that we had to ask for to get it on
1821 there.
1822
1823 Ms. Dwyer - You were asking for side yard variances as well,
1824 weren't you?
1825
1826 Mr. Baker - Yes.
1827
1828 Ms. Dwyer - For the sake of discussion, if the Commission were
1829 willing to grant a variance to the front yard setback so that whatever you put on
1830 this lot would be consistent with what's already there, that is, closer to the street
1831 than we would allow in a new subdivision, that would give you potentially more
1832 square footage for a single-story home. Would that be something you could work
1833 with?
1834
1835 Mr. Baker - Well, we could certainly look. It would be an exercise
1836 of going back and looking for that product that would meet that resulting building
1837 envelope.
1838
1839 Ms. Dwyer - So, not encroaching on the side yard, but allowing an
1840 encroachment in the front yard. Is that what you're kind of thinking, Ms. Harris?
1841
1842 Ms. Harris - No, I was just curious as to why pursue the two-story.
1843 I did drive by there yesterday, too, and I think it would be a tremendous
1844 improvement—on this side of the street anyway—to have a home like this.
1845 Whether or not we are going to deviate from the guidelines that much, I don't
1846 know, but I think that it would upgrade the neighborhood tremendously.
1847
1848 Ms. Dwyer - Do you think it would be better to have a single-story
1849 closer to the road that's in line with the existing houses versus a two-story that's
1850 much farther back?
1851
1852 Ms. Harris - No. I have to answer that quite frankly no, because I
1853 think that most of those homes need to be torn down or refurbished in some way.
1854
1855 Mr. Blankinship - At that time, they might be rebuilt—
1856
1857 Ms. Harris - Exactly.
1858
1859 Mr. Blankinship - It would also require us to defer and re-advertise,
1860 because we did not advertise a front-yard setback.
1861
1862 Ms. Dwyer - Yes, I know.
1863
1864 Mr. Kirkland - Any other questions? All right. Are we ready to vote
1865 here? Can I have a motion to approve or deny or whatever?

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DECISION

Ms. Harris - I move that we approve this. When we look at the threshold question as to whether or not this property can be utilized without this variance, it cannot be. And as I've stated earlier, approving this variance would greatly upgrade the neighborhood.

Mr. Nunnally - Second.

Mr. Kirkland - Motion made by Ms. Harris, seconded by Mr. Nunnally. All in favor say aye. All opposed say no. The ayes have it, the motion carries.

After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr. Nunnally, the Board **approved** application **A-038-07**, Emerald Land Development's request for a variance from Section 24-95(b)(7) to build a one-family dwelling at 334 Grayson Street (Providence Park Annex) (Parcel 792-737-9129), zoned R-5, General Residence District (Fairfield). The lot width requirement and total lot area requirement are not met.

1. This variance applies only to the lot area and lot width requirements for one dwelling only. All other applicable regulations of the County Code shall remain in force.

2. [AMENDED] Only the improvements shown on the plan filed with the application may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or additions may require a new variance. The following construction options would not be considered substantial changes:

- a. Roof: fiberglass shingles or 20-year asphalt shingles
- b. Siding: hardiplank or vinyl
- c. Porch railing: iron, fiberglass, PVC, iron or wood
- d. Porch roof: fiberglass shingles or 20-year asphalt shingles
- e. Foundation: crawl space (block with brick veneer front)
- f. Porch column: fiberglass, PVC, iron or wood
- g. Porch column: fiberglass or wood
- h. Interior flooring: carpet, ceramic tile or vinyl

3. If construction of the proposed dwelling results in damage or death of any of the trees along the southern property line (adjoining 332 Grayson Street) within three years of the issuance of a certificate of occupancy, the developer shall remove the dead trees and replace them with trees of a species approved by the Planning Department, at least 2.5 inches in caliper. Prior to the issuance of a certificate of occupancy, the applicant shall submit a bond in the amount of

1911 \$4,000, in a form acceptable to the County Attorney, to ensure compliance with
1912 this condition.

1913

1914 4. If construction will disturb more than 2,500 square feet of land, prior to land
1915 disturbance, an erosion and sediment control plan must be submitted to the
1916 Department of Public Works for review and approval

1917

1918 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

1919 Negative: 0

1920 Absent: 0

1921

1922

1923 Mr. Kirkland - All right. I believe we have a set of minutes here we
1924 need to look at.

1925

1926 Mr. Nunnally - Let me get this off right quick, Mr. Wright. Page 1, line
1927 15. I don't know what I was supposed to have said there. I think I said, "Oh no,"
1928 or something like that.

1929

1930 Ms. Dwyer - We can strike that.

1931

1932 Mr. Wright - I thought you were just surprised.

1933

1934 Mr. Nunnally - And then on line 24 I said, "Thank you, you were a
1935 great Vice President." It should have been "Chairman," and I don't know what I
1936 said. But anyway, change that to "Chairman." And that's it.

1937

1938 Mr. Kirkland - All right. Mr. Wright, you had some.

1939

1940 Mr. Wright - Yes, page 9, line 390, the first word. "That's your
1941 responsibility, not the County's." It says, "Any building ought to have a surveyor."
1942 I thought it should have been, "Any builder ought to have a surveyor." I don't
1943 guess it makes a whole lot of difference.

1944

1945 Mr. Kirkland - Any others?

1946

1947 Ms. Dwyer - I have one on 35, line 1583, "Of course, that would
1948 lead us." And I think it's, "to the time of the effective date of the chapter," instead
1949 of "at the time of the effective date of the chapter." So, change "at" to "to."

1950

1951 Mr. Kirkland - Next one?

1952

1953 Ms. Dwyer - That's it.

1954

1955 Ms. Harris - Page 48, line 2147. Just one minute. I have to find
1956 the page myself. Applicants. It's just an "s" there; it's no apostrophe "s."

1957

1958 Mr. Kirkland - We're really getting dramatic on that.

1959

1960 Ms. Harris - We are. It's the teacher in me coming out.

1961

1962 Mr. Kirkland - Any other corrections? Do I have a motion to approve

1963 them as changed?

1964

1965 Mr. Nunnally - So moved.

1966

1967 Ms. Harris - Second.

1968

1969

1970

1971 Mr. Kirkland - Motion made by Mr. Nunnally, seconded by Ms.

1972 Harris. All in favor say aye. All opposed so no. The ayes have it, the motion

1973 carries. The Board **approved the minutes as corrected from the October 25,**

1974 **2007 meeting of the Board of Zoning Appeals.**

1975

1976 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

1977 Negative: 0

1978 Absent: 0

1979

1980

1981 Mr. Kirkland: Any other business to come before this Board? If not, can I have a

1982 motion to say let's go home?

1983

1984 Mr. Nunnally - I move we adjourn.

1985

1986 Mr. Wright - Second.

1987

1988 Mr. Kirkland - Motion made by Mr. Nunnally, seconded by Mr.

1989 Wright. All those in favor say aye. All the opposed say no. The ayes have it, the

1990 motion carries.

1991

1992 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

1993 Negative: 0

1994 Absent: 0

1995

1996

1997 There being no further business, the Board **adjourned until the December 20,**

1998 **2007 meeting.**

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Richard Kirkland, CBZA
Chairman

Benjamin Blankinship, AICP
Secretary