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Beginning at 9:00

Deferred from Previous Meeting

A -112-2003 **FIRST MENNONITE CHURCH** requests a variance from Sections 24-94 and 24-96(b) of Chapter 24 of the County Code to build a church building at 601 East Parham Road (Parcel 788-758-9933), zoned R-2C, One-family Residence District (Conditional) (Fairfield). The lot width requirement and parking lot location requirement are not met. The applicant has 385 feet lot width and parking in the front yard, where the Code requires 400 feet lot width and allows parking in the rear yard. The applicant requests a variance of 15 feet lot width and the parking lot location.

Mr. Blankinship - Mr. Chairman, there was a sheet, a printout of an e-mail, actually, left at your place this morning, having to do with this. I apologize. It was a misunderstanding of a phone conversation on my part. I spoke to Mr. McKinney after he met with the applicants, and then included what I thought were his comments into the staff report. Apparently I misunderstood the conditions. So we'll have to pay particular attention this morning to condition # 2 and make sure we get it worded correctly.

Mr. Wright - We took all the evidence at the last meeting, did we not, Mr. McKinney?

Mr. McKinney - Yes.

Mr. Wright - Would you address your concerns and where we are.

Mr. McKinney - I'm probably going to ask him a question.

Mr. Blankinship - Does anyone else intend to speak on this matter? Raise your right hands please. Do you swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Wermuth - I do, yes. My name is Ken Wermuth.

Mr. Wright - I think the last time Mr. McKinney had some concerns about some of the conditions. Were they worked out?

Mr. Wermuth - Yes sir. I met with Mr. McKinney, we talked on the phone, and I met with him in person to show him our plans. Mr. McKinney assured me, after meeting and reviewing our plans, he was concerned about the setback along Parham Road and the distance we had. We worked out a misunderstanding. He thought we had 50 feet, and I assured him we had 100 and probably closer to 120 feet. That 120

82 feet is the number that has been recommended that we agree on, and we can do that
83 with our parking lot. I think that would satisfy Mr. McKinney's desires.
84
85 Mr. McKinney Mr. Wermuth, it said something about the driveway for the
86 Fire Department.
87
88 Mr. Wermuth - Yes sir. The Fire Department has asked us to have a drive
89 lane, both at the end of the parking lot, and around the building.
90
91 Mr. McKinney - That's way beyond 120 feet.
92
93 Mr. Wermuth - That would put us closer than 120 feet, to the road, yes sir.
94
95 Mr. McKinney - This layout you've got here, from this drive here to Parham
96 Road, do you know how far that is?
97
98 Mr. Wermuth - It's approximately 95 feet.
99
100 Mr. McKinney - Oh, I was thinking it was 120 feet.
101
102 Mr. Wermuth - No sir, to move that drive lane back 120 feet would reduce
103 our useable property to about 55 percent of the lot.
104
105 Mr. McKinney - Does anyone here know how far it is exactly?
106
107 Mr. Duncan - My name is Carl Duncan; I'm the engineer on the project.
108 I'm pretty sure it's 95, plus or minus. I didn't do the decimals on it. When we had the
109 meeting at the church to discuss the variance issue after the last meeting, I had just
110 dimensioned it in the computer, and I remember it was around 95, 96 feet, somewhere
111 between the two, but as far as exact, I don't know.
112
113 Mr. Blankinship - Is that from the right-of-way or the edge of pavement?
114
115 Mr. Duncan - That's from the edge of pavement.
116
117 Mr. McKinney - And you're saying this parking lot cannot be moved down,
118 twenty feet?
119
120 Mr. Wermuth - We feel like it would unnecessarily constrict our use of the
121 property.
122
123 Mr. McKinney - Why would that be? I'm looking at it. I don't see where
124 twenty feet would make any difference.
125
126 Mr. Wermuth - There's a fifty-foot buffer between us and the residential, that
127 we have to stay out of, and then trying to maintain the radiuses that the Fire Department

128 has asked us for. Right now, the layout that you see, the parking lot closest to the
129 building needs to be shifted over about 20-25 feet closer to the opposite end of the
130 building, away from Parham, to accommodate the radius that they've asked for, for the
131 fire engine. Once we make that adjustment, that's going to put us, probably within ten
132 feet of that 50-foot undisturbed buffer.

133
134 Mr. McKinney - You don't have any problem with, it says undisturbed buffer,
135

136
137 Mr. Blankinship - That's my mistake.

138
139 Mr. McKinney -right, but you don't have any problem with doing some
140 infield planting of trees if necessary, requested by the Planning Commission.

141
142 Mr. Wermuth - You're talking about within that 120 feet dimension, some
143 supplemental landscaping to help screen it if needed?

144
145 Mr. McKinney - Yes, from Parham Road.

146
147 Mr. Wermuth - I believe that could be done, yes sir.

148
149 Mr. McKinney - All right, fine.

150
151 Mr. Wright - If that's the case, then you would want to amend

152
153 Mr. McKinney - We can do that when we vote.

154
155 Mr. Wright - Yes, but I want to insure that they're satisfied.

156
157 Mr. McKinney - They just agreed to it.

158
159 Mr. Wright - Is there anything further you wish to present.

160
161 Mr. Wermuth - I did have a question, actually, why we were asked to
162 provide a 120-foot buffer, when the properties around us were not doing so. The library
163 next door is 73 feet from the curb of Parham Road, not from the right-of-way, to their
164 pavement.

165
166 Mr. McKinney - Mr. Wermuth, that's an entirely different case; it has nothing
167 to do with this case.

168
169 Mr. Wermuth - It's our neighbor next door, and we've been asked to be
170 consistent with our neighbor. And across the street there's no undisturbed buffer either;
171 there's a BMP right out front, and there's zero footage that's undisturbed from Parham
172 Road, and I just would like to ask the Board why we would be asked to provide 120-foot
173 buffer when our neighbors are not.

174
175 Mr. Wright - Do you have any comments on it?
176
177 Mr. McKinney - I don't have any comment on it.
178
179 Mr. Wright - Where did the 120-foot buffer come from?
180
181 Mr. McKinney - Across the street.
182
183 Mr. Wermuth - Mr. McKinney asked us to provide 120 feet; we did not
184 voluntarily offer that. He asked us to do that, and we decided that, rather than argue
185 with it, we would try to accommodate him.
186
187 Mr. Duncan - I just want to get it right in my own head, since we probably
188 won't be here at the very end when you actually vote on it, what we're agreeing to is
189 that the actual limits of the parking area itself will be 120 feet or greater from the edge of
190 Parham Road's curb, but we will be willing to work with the Planning Department with
191 supplemental landscaping around the drive-all areas that would encroach into that if
192 needed, once we get to that phase of development. That's what we're discussing, right.
193
194 Mr. Wright - Is that your understanding?
195
196 Mr. Wermuth - Yes sir.
197
198 Mr. Wright - Any further questions? Does anyone here have anything to
199 offer in connection with this case?
200
201 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
202 Kirkland, the Board **granted** application **A-112-2003** for a variance to build a church
203 building at 601 East Parham Road (Parcel 788-758-9933). The Board granted the
204 variance subject to the following conditions:
205
206 1. This variance applies only to the minimum lot width and parking lot location
207 requirement. All other applicable regulations of the County Code shall remain in force.
208
209 2. [Amended] There shall be no buildings or parking within 95 feet of the edge of
210 pavement of Parham Road. The existing trees in that area shall not be disturbed.
211 Supplemental landscaping shall be provided in that area as required by the Planning
212 Commission at the review of the Plan of Development.
213
214 3. The final site design shall conform to the conditions imposed on the plan of
215 development by the Planning Commission.
216
217 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
218 Negative: 0

265
266 Mr. Wright - All right sir. Any questions from members of the Board?
267 Anyone here desire to speak? Thank you very much.
268

269 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
270 Nunnally, the Board **granted** application **A-115-2003** for a variance to build a screened
271 porch on the existing deck at 2560 Dunham Road (Keswick) (Parcel 738-753-5687).
272 The Board granted the variance subject to the following conditions:
273

274 1. Only the screened porch shown on the plan filed with the application may be
275 constructed pursuant to this approval. No substantial changes or additions to the layout
276 may be made without the approval of the Board of Zoning Appeals. Any additional
277 improvements shall comply with the applicable regulations of the County Code.
278

279 2. The new construction shall match the existing dwelling as nearly as practical.
280

281 Affirmative:	Balfour, Kirkland, McKinney, Nunnally, Wright	5
282 Negative:		0
283 Absent:		0

284
285 The Board granted this request, as it found from the evidence presented that, due to the
286 unique circumstances of the subject property, strict application of the County Code
287 would produce undue hardship not generally shared by other properties in the area, and
288 authorizing this variance will neither cause a substantial detriment to adjacent property
289 nor materially impair the purpose of the zoning regulations.
290

291 **A -116-2003** **MELISSA LIMM** requests a variance from Section 24-95(c)(1) of
292 Chapter 24 of the County Code to enclose the existing porch at
293 3116 Comet Road (Tuckahoe Park) (Parcel 759-753-3843), zoned
294 R-3, One-family Residence District (Three Chopt). The minimum
295 side yard setback is not met. The applicant has 4 feet minimum
296 side yard setback, where the Code requires 8 feet minimum side
297 yard setback. The applicant requests a variance of 4 feet minimum
298 side yard setback.
299

300 Mr. Wright - Please state your name. Does anyone else desire to speak?
301 Would you raise your right hand and be sworn please?
302

303 Mr. Blankinship - Do you swear that the testimony you are about to give is the
304 truth, the whole truth, and nothing but the truth, so help you God?
305

306 Ms. Limn - Melissa Limm. Yes I do. I'm representing my parents to
307 (explain) what happened is the shed was already there. We need a variance of four
308 feet. The setback was eight feet. What happened is, the old shed, the roof is plastic,
309 and due to the weather, the plastic roof broke, so we just have to put on another one
310 and make it better than before. On the siding, we'll just add vinyl to it to cover it up for

311 storage. Also, we can sit out in the little porch; we can sit out there in the summertime,
312 and in the wintertime, so it won't be too cold for my son to go in there and play around.

313
314 Mr. Balfour - This condition was there prior to your purchase of the house,
315 I gather, too?

316
317 Ms. Limn - Yes, it's already been there, and the old shed has already
318 been there, and we just wanted to improve that, since the old roof is broken.

319
320 Mr. Blankinship - Mr. Chairman, we received a letter from one of the
321 neighbors, expressing no opposition to the variance.

322
323 Ms. Limn - I also spoke to my next-door neighbor, and she had no
324 objection to it, and my left and right and front, and all my neighborhood.

325
326 Mr. Wright - Any questions from members of the Board? Is anyone here
327 in opposition to this request? That concludes the case.

328
329 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
330 Kirkland, the Board **granted** application **A-116-2003** for a variance to enclose the
331 existing porch at 3116 Comet Road (Tuckahoe Park) (Parcel 759-753-3843). The
332 Board granted the variance subject to the following condition:

333
334 1. This variance applies only to the side yard setback requirement for the
335 existing porch. All other applicable regulations of the County Code shall remain in
336 force.

337
338 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
339 Negative: 0
340 Absent: 0

341
342 The Board granted this request, as it found from the evidence presented that, due to the
343 unique circumstances of the subject property, strict application of the County Code
344 would produce undue hardship not generally shared by other properties in the area, and
345 authorizing this variance will neither cause a substantial detriment to adjacent property
346 nor materially impair the purpose of the zoning regulations.

347
348 **A -117-2003** **MELVIN C. CHING** requests a variance from Section 24-94 of
349 Chapter 24 of the County Code to build an addition at 12301
350 Roaringbrook Court (Tuckahoe Village West) (Parcel 730-752-
351 4223), zoned R-2A, One-family Residence District (Tuckahoe).
352 The rear yard setback is not met. The applicant has 35 feet rear
353 yard setback, where the Code requires 45 feet rear yard setback.
354 The applicant requests a variance of 10 feet rear yard setback.

355

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

358
359 Mr. Blankinship - Do you swear that the testimony you are about to give is the
360 truth, the whole truth, and nothing but the truth, so help you God?

361
362 Mr. Ching - I do. Melvin C. Ching. I talked to all my adjacent neighbors,
363 and I have not seen or heard any objections to the fact that I want to build a rear room
364 on my upper master bedroom. I want to bring it back; my setback, I have 45 feet, and
365 I've not met that setback. I have 35 feet, whereas the Code requires 45 feet, and I want
366 ten more feet of setback. The reason I want this room is because with the lack of
367 space, I have a new grandson who comes over to visit, and we're looking for an extra
368 room to put him in, and the parents of course, and sometimes I have visitors like my
369 daughter, who comes over and visits from the state of Washington. I'm in a depression
370 with heavy wooded back, and I can hardly see my neighbors during the summer
371 anyway, and I'm allowed four feet to build this addition if I choose to do so legally, but
372 the setback is 45 feet; therefore I need another ten feet to fulfill this variance.
373 Therefore, I respectfully request this, since my addition, I feel, will not reduce the value
374 of my other neighbors, because they can hardly see me; I'm in a depressed area. My
375 yard is lower than theirs, and I get this big run-off from their yards during the heavy
376 storms.

377
378 Mr. Wright - Did you lose any of those trees during the storm?

379
380 Mr. Ching - Oh yes, I lost a huge tree; it fell into my neighbor's. He and I
381 sawed the tree down, and he was the guy right behind me, so he said he had no
382 objection to my building this addition.

383
384 Mr. Wright - Any questions from any members of the Board? Anyone
385 here in opposition to this request?

386
387 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr.
388 Nunnally, the Board **granted** application **A-117-2003** for a variance to build an addition
389 at 12301 Roaringbrook Court (Tuckahoe Village West) (Parcel 730-752-4223). The
390 Board granted the variance subject to the following conditions:

391
392 1. Only the improvements shown on the plan filed with the application may be
393 constructed pursuant to this approval. No substantial changes or additions to the layout
394 may be made without the approval of the Board of Zoning Appeals. Any additional
395 improvements shall comply with the applicable regulations of the County Code.

396
397 2. The new construction shall match the existing dwelling as nearly as practical.

398
399 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
400 Negative: 0

401 Absent:

0

402

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

408

409 **A -118-2003**

MATTHEW LOVING requests a variance from Section 24-9 of
Chapter 24 of the County Code to build a one-family dwelling at
6222 Hines Road (Parcel 852-693-4221), zoned A-1, Agricultural
District (Varina). The public street frontage requirement is not met.
The applicant has 0 feet public road frontage, where the Code
requires 50 feet public road frontage. The applicant requests a
variance of 50 feet public road frontage.

416

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

419

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

422

423 Mr. Loving - I do. Matthew Loving. I'd like to build a dwelling on 6222
424 Hines Road, and it does not meet the public road frontage. The public road frontage
425 was also in my plot, was deeded to me from my stepfather, who owns the land that I'll
426 be traveling down to get to my property.

427

428 Mr. Wright - How wide is that access?

429

430 Mr. Loving - It is a 50-foot right-of-way for ingress and egress and
431 utilities.

432

433 Mr. Wright - Have you read the conditions that have been proposed for
434 this case? Are you in accord with those conditions?

435

436 Mr. Loving - Yes sir. Yes sir.

437

438 Mr. Nunnally - Is this house going to be for your own use?

439

440 Mr. Loving - For my own use, yes sir.

441

442 Mr. Wright - Any further questions from members of the Board? Anyone
443 here in opposition to this case?

444

445 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
446 Balfour, the Board **granted** application **A-118-2003** for a variance to build a one-family

447 dwelling at 6222 Hines Road (Parcel 852-693-4221). The Board granted the variance
448 subject to the following conditions:

449
450 1. This variance applies only to the public street frontage requirement. All other
451 applicable regulations of the County Code shall remain in force.

452
453 2. At the time of building permit application, the applicant shall submit the
454 necessary information to the Department of Public Works to ensure compliance with the
455 requirements of the Chesapeake Bay Preservation Act and the code requirements for
456 water quality standards.

457
458 3. At the time of building permit application, the owner shall demonstrate that the
459 parcel created by this division has been conveyed to members of the immediate family,
460 and the subdivision ordinance has not been circumvented.

461
462 4. Approval of this request does not imply that a building permit will be issued.
463 Building permit approval is contingent on Health Department requirements, including,
464 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
465 of a well location.

466
467 5. The applicant shall present proof with the building permit application that a legal
468 access to the property has been obtained.

469
470 6. The owners of the property, and their heirs or assigns, shall accept responsibility
471 for maintaining access to the property until such a time as the access is improved to
472 County standards and accepted into the County road system for maintenance.

473
474 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
475 Negative: 0
476 Absent: 0

477
478 The Board granted this request, as it found from the evidence presented that, due to the
479 unique circumstances of the subject property, strict application of the County Code
480 would produce undue hardship not generally shared by other properties in the area, and
481 authorizing this variance will neither cause a substantial detriment to adjacent property
482 nor materially impair the purpose of the zoning regulations.

483
484 **A -119-2003** **LINDA S. CAMPOPIANO** requests a variance from Section 24-
485 95(i)(2)(e) of Chapter 24 of the County Code to build an accessory
486 structure at 7105 Horsepen Road (Duntreath) (Parcel 764-742-
487 6000), zoned R-3, One-family Residence District (Three Chopt).
488 The accessory structure setback is not met. The applicant
489 proposes 14 feet accessory structure setback, where the Code
490 requires 40 feet accessory structure setback. The applicant
491 requests a variance of 26 feet accessory structure setback.

492

493 Mr. Wright - Please state your name. Does anyone else desire to speak?
494 Would you raise your right hand and be sworn please?
495
496 Mr. Blankinship - Do you swear that the testimony you are about to give is the
497 truth, the whole truth, and nothing but the truth, so help you God?
498
499 Ms. Campopiano - I do. It's Linda S. Campopiano. I bought the house three
500 and a half years ago, and there was a shed back there. It was pretty ugly. It was eaten
501 by some kind of beetle and rotten at the bottom, so this year I decided to take it down. I
502 wanted to build a new one, and I have a wooded lot next to me. My problem is that my
503 house is on Horsepen Road; I've got two road frontages, essentially. When I went to
504 apply for the permit, they said I had to get this variance because my setback wasn't
505 enough. That shed has been there for probably over 45 years, and probably before that
506 section of West Grace Street was even built, because those houses weren't built till
507 about twelve years ago. It is a cul-de-sac; there is a wooded lot next to me. My
508 neighbors don't seem to object, at least not to my knowledge. It wouldn't affect anybody
509 if I did this; in fact it would just improve the rear of the property and enable me to have a
510 little more storage that looks better for the neighborhood, so that's basically what I want
511 to do. I haven't moved it; it's in the same location where it's always been.
512
513 Mr. Wright - Could you move it further away from Grace Street?
514
515 Ms. Campopiano - It would cost me probably about \$1500 that I don't have, to
516 move that. It's on a slab on grade.
517
518 Mr. Wright - And you want to build a new shed right on the slab?
519
520 Ms. Campopiano - Right where it is.
521
522 Mr. Wright - Is there any screening between the shed and Grace Street?
523
524 Ms. Campopiano - Yes there are bushes and trees, in the summer
525 predominantly, and I even asked the County if I needed to put some screening. I would
526 put some extra trees, but I have plenty of trees. Recently, the County did this, which
527 was really nice. I needed some rear access, and they came and put a culvert and
528 gravel for me, so that was nice.
529
530 Mr. Nunnally - What is the size of this proposed shed?
531
532 Ms. Campopiano - It's 14 by 16, I think it is, or 14 by 14, something like that.
533
534 Mr. Wright - And that other shed was there when you purchased the
535 property?
536
537 Ms. Campopiano - Yes it was, along with that nice brick bar-b-que.
538

539 Mr. Wright - What will the shed consist of? What type of construction
540 would it be?

541
542 Ms. Campopiano - It's going to be a frame building with T-111 siding, the four
543 by eight siding material, and I'm going to have just a regular shingle roof to match the
544 house. I'm going to re-shingle the house. That's at the point where it needs it, and it of
545 course has the concrete slab. The interior will be just your regular shelving. I need a
546 work shelf to do my furniture re-do's that I do, and just hold tools, basically. And I've
547 designed it so that I can have some loft storage.

548
549 Mr. Wright - Mr. Blankinship, is there any provision for houses to be built
550 along that side of West Grace Street, or could houses be built along there?

551
552 Mr. Blankinship - No sir, the lots are not deep enough; they couldn't meet the
553 required lot area if they were divided.

554
555 Ms. Campopiano - All of the lots seem to be these triple drive-thru lots, and
556 several of my neighbors have sheds. The one on the end actually has a garage that he
557 added onto at some point, recently, as a matter of fact, and that's right up on the road.
558 Just one side of Grace Street has homes; the other side is all back yards, essentially.

559
560 Mr. Wright - I see. Are there any further questions by members of the
561 Board? Is anyone here in opposition to this request?

562
563 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.
564 Kirkland, the Board **granted** application **A-119-2003** for a variance to build an
565 accessory structure at 7105 Horsepen Road (Duntreath) (Parcel 764-742-6000). The
566 Board granted the variance subject to the following condition:

567
568 1. Only a storage building, similar in size to the original one, may be constructed
569 pursuant to this approval. No substantial changes or additions to the layout may be
570 made without the approval of the Board of Zoning Appeals. Any additional
571 improvements shall comply with the applicable regulations of the County Code.

572
573 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
574 Negative: 0
575 Absent: 0

576
577 The Board granted this request, as it found from the evidence presented that, due to the
578 unique circumstances of the subject property, strict application of the County Code
579 would produce undue hardship not generally shared by other properties in the area, and
580 authorizing this variance will neither cause a substantial detriment to adjacent property
581 nor materially impair the purpose of the zoning regulations.

582
583 **A -120-2003** **GARY THABET** requests a variance from Section 24-95(q)(5) of
584 Chapter 24 of the County Code to build an attached carport at 9206

585 Crystal Brook Terrace (Crystal Creek) (Parcel 757-765-4466),
586 zoned R-3C, One-family Residence District (Conditional)
587 (Brookland). The minimum side yard setback and total side yard
588 setback are not met. The applicant has 3 feet minimum side yard
589 setback and 13 feet total side yard setback, where the Code
590 requires 8 feet minimum side yard setback and 20 feet total side
591 yard setback. The applicant requests a variance of 5 feet minimum
592 side yard setback and 7 feet total side yard setback.
593

594 Mr. Wright - Please state your name. Does anyone else desire to speak?
595 Would you raise your right hand and be sworn please?
596

597 Mr. Blankinship - Do you swear that the testimony you are about to give is the
598 truth, the whole truth, and nothing but the truth, so help you God?
599

600 Mr. Thabet - I do. Gary Thabet. I currently have a one-car garage, and I
601 recently purchased a second car, and I would like to build a carport to protect that car.
602 The only place to reasonably park it, other than in front of my garage, is on the side, and
603 I would like to build a carport to protect it from trees and the wooded area between
604 myself and my neighbor's property. It would put it to within three feet of the property
605 line, in the front corner. The property line does angle back, so I would be able to start
606 the roof where it's attached to the side of the house, to cover my personal door, so
607 when I walked out, I would be protected from weather myself, and then angle it back,
608 and be able to protect my car and have a place to park to protect it from trees.
609

610 Mr. Wright - It appears that the problem would be with the front corner.
611

612 Mr. Thabet - That front corner, yes.
613

614 Mr. Balfour - Is the width of what you've already got, is that driveway
615 about the width of the carport?
616

617 Mr. Thabet - The driveway doesn't go all the way back, but it does go

618
619 Mr. Balfour - I meant the width from the side of the house.
620

621 Mr. Thabet - Yes, it would give me adequate space. It's not paved all the
622 way back.
623

624 Mr. Balfour - I'm looking at the pictures up there now; that's what I'm
625 talking about.
626

627 Mr. Wright - This would be an open carport?
628

629 Mr. Thabet - Yes, it would be, and it would be a wooden structure with
630 shingled roof, just like the house. That drawing, the depiction of it there, is a little

631 different from what it would actually be. It would be a hip roof, so it would look a little
632 different from that, but it would still be the same basic three-foot variance requirement in
633 the front corner there.

634
635 Mr. Wright - Any other questions from members of the Board? Is anyone
636 here in opposition to this request?

637
638 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
639 Nunnally, the Board **granted** application **A-120-2003** for a variance to build an attached
640 carport at 9206 Crystal Brook Terrace (Crystal Creek) (Parcel 757-765-4466). The
641 Board granted the variance subject to the following conditions:

642
643 1. Only the improvements shown on the plan filed with the application may be
644 constructed pursuant to this approval. No substantial changes or additions to the layout
645 may be made without the approval of the Board of Zoning Appeals. Any additional
646 improvements shall comply with the applicable regulations of the County Code.

647
648 2. The new construction shall match the existing dwelling as nearly as practical.

649
650 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
651 Negative: 0
652 Absent: 0

653
654 The Board granted this request, as it found from the evidence presented that, due to the
655 unique circumstances of the subject property, strict application of the County Code
656 would produce undue hardship not generally shared by other properties in the area, and
657 authorizing this variance will neither cause a substantial detriment to adjacent property
658 nor materially impair the purpose of the zoning regulations.

659
660 **A -121-2003** **DAVID AND SANDRA WOOLARD** request a variance from
661 Section 24-9 of Chapter 24 of the County Code to build a one-
662 family dwelling at 8480 Green Peace Lane (Parcel 854-677-9894),
663 zoned A-1, Agricultural District (Varina). The public street frontage
664 requirement is not met. The applicants have 0 feet public road
665 frontage, where the Code requires 50 feet public road frontage.
666 The applicants request a variance of 50 feet public road frontage.

667
668 Mr. Blankinship - Mr. Chairman, this is the second of the letters that were left
669 on the table this morning.

670
671 Mr. Wright - Please state your name. Does anyone else desire to speak?
672 Would you raise your right hand and be sworn please?

673
674 Mr. Blankinship - Do you swear that the testimony you are about to give is the
675 truth, the whole truth, and nothing but the truth, so help you God?

676

677 Ms. Woolard - I do. Sherri Woolard; I'm now the owner of that piece of
678 land. My parents gave it to me. I'm requesting from the County fifty feet of road
679 frontage to access my lot. Right there Green Peace goes off onto Monguy and Far Side
680 Lane (Trail), and I'm requesting access to that road so I can get to Green Peace Lane,
681 which is my road.

682
683 Mr. Nunnally - You say your mother is going to deed this over to you if you
684 receive this variance, or right-of-way?

685
686 Ms. Woolard - Yes sir. She's already deeded it to me. This is Sandra
687 Woolard with me now.

688
689 Mr. Wright - Is Green Peace not a public road?

690
691 Mr. Blankinship - It is not; it's a private road.

692
693 Mr. Wright - But that is a paved road, is it?

694
695 Ms. Woolard - No sir, it's a graveled road, and the neighbors pitch in and
696 maintain it.

697
698 Mr. Wright - They share it? Have you read the proposed conditions for
699 the case?

700
701 Ms. Sandra Woolard - Yes sir, I have.

702
703 Mr. Wright - You realize it's your responsibility to keep up the road if it
704 needs to be done?

705
706 Ms. Sherri Woolard - Yes sir.

707
708 Mr. Wright - Any further questions from members of the Board? Anyone
709 here in opposition to this request?

710
711 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
712 Balfour, the Board **granted** application **A-121-2003** for a variance to build a one-family
713 dwelling at 8480 Green Peace Lane (Parcel 854-677-9894). The Board granted the
714 variance subject to the following conditions:

715
716 1. This variance applies only to the public street frontage requirement. All other
717 applicable regulations of the County Code shall remain in force.

718
719 2. At the time of building permit application, the applicant shall submit the
720 necessary information to the Department of Public Works to ensure compliance with the
721 requirements of the Chesapeake Bay Preservation Act and the code requirements for
722 water quality standards.

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

4. 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.

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

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

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

UP- 25-2003 RYAN HOMES requests a temporary conditional use permit pursuant to Section 24-116(c)(1) of Chapter 24 of the County Code to keep the existing sales trailer until March, 2004 at 6280 Midview Road (Oakland Chase) (Parcel 807-705-5501), zoned R-3C, One-family Residence District (Conditional) (Varina).

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

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

Mr. Melchor - I do. My name is Rick Melchor, with Ryan Homes. Mr. Chairman, members of the Board, Mr. Secretary, I'm Manager for Ryan Homes, and I'm here to speak on their behalf today. This is basically a request to extend an existing trailer conditional use permit. This particular community is about five months behind schedule, due to the rain that we received earlier this year, as well as Hurricane Isabel, and we have begun our model home on one of the corner lots, through an acreage permit process; however it will be another month before there will be gravel on the roads, and then it should take another two months before, hopefully, we'll have electricity in the community and acceptance of the public utilities. So we're requesting

769 that we extend our permit until March, to assure that we have our model home in place
770 and up and running with utilities and electricity. The one part of the staff report that I
771 would like to discuss is the elimination of the port-a-potty and connection to sanitary
772 sewer approved by public health. Primarily, there is nothing to connect into out there
773 yet. As soon as there is, of course, that's what we'll connect the model home into, and
774 there are several other port-a-potties in the community, used by the contractors, that are
775 not screened, that are required when a contractor is on a construction site. Once we go
776 into building houses, we are also required, as builders, to have port-a-potties available
777 along the streets for the use by the workmen. The port-a-potty at this juncture is for the
778 healthy usage by both our employees and our customers who come into our model. As
779 soon as we are able to get out of this temporary trailer, which hopefully will be sooner
780 than March, we will be removing everything and moving right into our model home, and
781 using that as our sales center.

782
783 Mr. Nunnally - The permit we issued you before, was that for six months?
784

785 Mr. Melchor - Yes sir, it was issued for six months, and that was March of
786 2002, last year, during which we had six or seven months of rain that was unexpected,
787 and with Hurricane Isabel, the contractors couldn't get back into the site. Our biggest
788 concern is that Virginia Power is so far behind at energizing communities because of all
789 the work that they've had to do, to clean up the hurricane.

790
791 Mr. Nunnally - You haven't hooked any homes up?
792

793 Mr. Melchor - No sir, we are framing right now our model home, but the
794 subdivision plat is also not recorded, so we cannot actually have lots until the
795 subdivision plat is recorded. Our model home is being built on an acreage permit,
796 which is allowable to have one model home in a subdivision or proposed subdivision,
797 with tentative approval until that final plat is recorded.

798
799 Mr. Nunnally - Are you going to use the model home for an office after you
800 get that, and remove the trailer at that time, even though it's not March?
801

802 Mr. Melchor - Yes sir, we hope to be in our model home in January, but it's
803 really going to depend on tentative acceptance of the utility systems and the power
804 being energized in the community.

805
806 Mr. Kirkland - Does your model home right now have electricity? Does
807 your trailer have electricity?
808

809 Mr. Melchor - Our trailer right now has a temporary drop, yes sir.

810
811 Mr. Kirkland - So you have lights on at night, because I see your hours of
812 operation are until 7:00 pm.

813
814 Mr. Melchor - Yes, for security purposes, we have lights on at night,

815 because there is a community behind, so there is a place to get a drop. Even if the
816 community is not energized as a whole, we can probably keep a temporary power drop
817 to the model home, to get inspections, to be able to get a certificate of occupancy, and
818 our pleasure is always to get in our model home as quick as possible, for purposes of
819 customer service, and they'd rather see the model home than the trailer for sales
820 purposes.

821
822 Mr. Wright - Mr. Blankinship, what is the number 3. condition mean?

823
824 Mr. Blankinship - That's the standard condition we use for an office trailer
825 permits, that they be required to connect to a sanitary system.

826
827 Mr. Wright - Can he live with that? Can they comply with that, under the
828 circumstances?

829
830 Mr. Blankinship - In a sense, the portable toilet, I guess. There's not a Health
831 Department permit for those, is there. It's approved by the Health Department in the
832 sense that it's not a violation of anything. It would probably be better to strike that
833 condition.

834
835 Mr. Wright - If he can't comply with it, it would put him in a kind of a bind
836 to have it in there.

837
838 Mr. Blankinship - It would probably be better to strike it.

839
840 Mr. Wright - Anything further?

841
842 Mr. Melchor - Can I ask a question, Mr. Chairman?

843
844 Mr. Blankinship - Lee, would you bring up the plat for a second. See the row
845 of landscaping between the trailer and the parking area there? And then there are two
846 or three other bushes shown. Lee, if you'd go to either of the photos, it doesn't appear
847 to have been installed. Is there a reason the landscaping wasn't installed? Is there a
848 target date for when it will be?

849
850 Mr. Melchor - That's a good question, but I will make sure it is installed, sir.

851
852 Mr. Wright - That landscaping should be installed.

853
854 Mr. Melchor - It should be between the parking lot and the trailer, based on
855 the sketch.

856
857 Mr. Wright - I guess that's what number 2 says, right?

858
859 Mr. Melchor - I can get after my field people for that. I'll make sure that's
860 taken care of.

861
862 Mr. Wright - Anything further, Mr. Melchor?
863
864 Mr. Nunnally - Now you wouldn't have any problem with a condition on this
865 that you remove that trailer as soon as the model home is up?
866
867 Mr. Melchor - No sir, that's perfectly all right, if you could give us maybe
868 fifteen days after the certificate of occupancy.
869
870 Mr. Wright - Two weeks after they get a CO. Is there anyone here in
871 opposition to this request? That concludes the case.
872
873 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
874 McKinney, the Board **granted** application **UP-25-2003** for a temporary conditional use
875 permit to keep the existing sales trailer until March, 2004 at 6280 Midview Road
876 (Oakland Chase) (Parcel 807-705-5501). The Board granted the use permit subject to
877 the following conditions:
878
879 1. Only the trailer, landscaping and parking shown on the plan filed with the
880 application may be constructed pursuant to this approval. No substantial changes or
881 additions to the layout may be made without the approval of the Board of Zoning
882 Appeals. Any additional improvements shall comply with the applicable regulations of
883 the County Code.
884
885 2. The landscaping and off-street parking spaces shown on the plan shall be
886 provided before the trailer is occupied.
887
888 3. [Deleted]
889
890 4. The hours of operation for the sales trailer shall be from 11 am to 7 pm.
891
892 5. [Amended] The trailer shall be removed from the site within two weeks of the
893 issuance of a certificate of occupancy for the model home, or by March 1, 2004,
894 whichever comes first. At that time this permit shall expire and shall not be extended.
895
896 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
897 Negative: 0
898 Absent: 0
899
900 **A -122-2003** **HOME EXTERIOR CONCEPTS** requests a variance from Section
901 24-94 of Chapter 24 of the County Code to build an attached
902 carport at 804 Lakewater Drive (Sleepy Hollow Forest) (Parcel 746-
903 740-1653), zoned R-3, One-family Residence District (Tuckahoe).
904 The minimum side yard setback and total side yard setback are not
905 met. The applicant has 10 feet minimum side yard setback and 25
906 feet total side yard setback, where the Code requires 12 feet

907 minimum side yard setback and 30 feet total side yard setback.
908 The applicant requests a variance of 2 feet minimum side yard
909 setback and 5 feet total side yard setback.
910

911 Mr. Wright - I don't see anybody here. We'll pass it by and go on to the
912 next case.

913
914 ***(Case was called for again at end of 9:00 o'clock docket and passed by on to the***
915 ***end of the agenda.)***

916
917 ***(Case was called again at start of 10:00 o'clock docket and passed by to the end***
918 ***of the agenda.)***

919
920 ***(Case was called again at end of 10:00 o'clock docket.)***

921
922 Upon a motion by Mr. Balfour, seconded by Mr. Kirkland, the Board **deferred**
923 application **A-122-2003** for a variance to build an attached carport at 804 Lakewater
924 Drive (Sleepy Hollow Forest) (Parcel 746-740-1653). The case was deferred from the
925 October 23, 2003, until the November 20, 2003, meeting.

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

930
931 **A -123-2003** **ANGELA M. SMITH** requests a variance from Section 24-94 of
932 Chapter 24 of the County Code to build an addition at 1309
933 Middleberry Drive (Foxboro North) (Parcel 803-705-8511), zoned
934 R-3AC, One-family Residence District (Conditional) (Varina). The
935 rear yard setback is not met. The applicant has 23 feet rear yard
936 setback, where the Code requires 35 feet rear yard setback. The
937 applicant requests a variance of 12 feet rear yard setback.

938
939 Mr. Wright - Please state your name. Does anyone else desire to speak?
940 Would you raise your right hand and be sworn please?

941
942 Mr. Blankinship - Do you swear that the testimony you are about to give is the
943 truth, the whole truth, and nothing but the truth, so help you God?

944
945 Ms. Smith - I do. Angela M. Smith. I want to have an addition built onto
946 the back of my property. Mine doesn't go out; I don't have as much depth in my back
947 yard as some of my existing neighbors do, but I've talked to all of my neighbors, and I
948 haven't heard of anybody having any complaints about it. Everybody seems to think
949 that it would be okay. I've had a little one in the last two years, and you know with them
950 comes a lot of stuff, so we just want to get a little more space inside to be able to put
951 some of her toys and all of those fun things that she has, and it's actually going to take
952 up no more space than what the current patio is, because it's really just about closing

953 that in and forming the patio into a room.

954

955 Mr. Wright - What's located behind your property?

956

957 Ms. Smith - I have a neighbor who lives behind me, but as you can tell
958 from all of the trees that you see, all of that is actually in her yard, so we can hardly
959 even see each other's property from the back.

960

961 Mr. Wright - It doesn't appear either that her house is directly behind your
962 property.

963

964 Ms. Smith - No it's not; she has a pretty big lot over there.

965

966 Mr. Wright - It seems to be kind of open.

967

968 Ms. Smith - Very much so.

969

970 Mr. Wright - All right. Anything further? Any other questions from
971 members of the Board? Is anyone here in opposition to this request. That concludes
972 the case.

973

974 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
975 McKinney, the Board **granted** application **A-123-2003** for a variance to build an addition
976 at 1309 Middleberry Drive (Foxboro North) (Parcel 803-705-8511). The Board granted
977 the variance subject to the following conditions:

978

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

983

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

985

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

987 Negative: 0

988 Absent: 0

989

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

995

996 ***(Chairman Wright called for A-122-2003 again.)***

997

998 Mr. Wright - Do you want to go ahead and decide on these cases. We'll

999 start from the beginning

1000

1001 **Beginning at 10:00**

1002

1003 Mr. Wright - Mr. Secretary, maybe you should read the rules again for the
1004 10:00 o'clock people.

1005

1006 Mr. Blankinship - The rules for this meeting are as follows. As Secretary, I will
1007 call each case. The applicant should come to the podium at that time. We will ask all
1008 those who intend to speak, in favor or in opposition, to stand and be sworn in. The
1009 applicants will then present their testimony. After the applicant has spoken, the Board
1010 will ask them questions, and then anyone else who wishes to speak will be given the
1011 opportunity. After everyone has spoken, the applicant, and only the applicant, will have
1012 the opportunity for rebuttal. After hearing the case, and asking questions, the Board will
1013 take the matter under advisement. They will render all of their decisions at the end of
1014 the meeting. There are only three cases left, so if you wish to know their decision on a
1015 specific case, you can either stay until the end of the meeting, or you can call the
1016 Planning Office later this afternoon. This meeting is being tape recorded, so we will ask
1017 everyone who speaks, to speak directly into the microphone on the podium, to state
1018 your name, and to spell your last name please. And finally, out in the foyer, there are
1019 two binders, containing the staff report for each case, including the conditions that have
1020 been recommended by the staff.

1021

1022 Mr. Wright - Call case A-122-2004, to see if that person is here.

1023

1024 **New Applications**

1025

1026 **A -124-2003** **TOM SQUIRES, JR.** requests a variance from Sections 24-94 and
1027 24-9 of Chapter 24 of the County Code to build a one-family
1028 dwelling at 841 Nash Road (Parcel 833-708-5495), zoned A-1,
1029 Agricultural District (Varina). The lot width requirement and public
1030 street frontage requirement are not met. The applicant has 20 feet
1031 lot width and 20 feet public street frontage, where the Code
1032 requires 150 feet lot width and 50 feet public street frontage. The
1033 applicant requests a variance of 130 feet lot width and 30 feet
1034 public street frontage.

1035

1036 Mr. Blankinship - Mr. Chairman, this is the last of the three attachments that
1037 were left on the table for you this morning. It's a handwritten letter.

1038

1039 Mr. Wright - Please state your name. Does anyone else desire to speak?
1040 Would you raise your right hand and be sworn please?

1041

1042 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1043 truth, the whole truth, and nothing but the truth, so help you God?

1044

1045 Mr. Squires - I do. I'm Tom Squires, Jr. After a bit of hunting for some
1046 land to build on under the conditions I was looking for, I found this piece of property
1047 through Pioneer Realty, who right off told me that 1. There was a lot of land that won't
1048 be usable because of the flood plain, and 2. I would need to apply for a variance
1049 because when the land was surveyed in 1941, they apparently didn't have the 50-foot
1050 rule then. There's one neighbor up there who has a house; he's on the lot that has the
1051 two little parcels where the hand is, John Robinson. I met him; I like Mr. Robinson.
1052 He's a very good guy. I have no intentions of anything radical; I'm just wanting to build
1053 a standard residential home and cut the least amount of trees down that I can get away
1054 with. I don't know much else that I could add to that.
1055
1056 Mr. Wright - How wide is your access to this property? You own the
1057 access?
1058
1059 Mr. Squires - That's part of the eighteen acres, yes.
1060
1061 Mr. Wright - How wide is that?
1062
1063 Mr. Squires - The twenty-foot wide section touches Nash Road. That
1064 whole piece of property is on the west side of Nash Road.
1065
1066 Mr. Wright - What size is your lot?
1067
1068 Mr. Squires - The one side there is 412 feet, and the other side is 486,
1069 closest to Nash Road. The length of it is 774, but that will be cut in half by the flood
1070 plain.
1071
1072 Mr. Wright - Our report says you have eighteen acres – is that about the
1073 size of this lot?
1074
1075 Mr. Squires - Yes. It appears to be about six or seven, usable.
1076
1077 Mr. Wright - What type of house did you propose to construct?
1078
1079 Mr. Squires - Probably ranch, about 1500, maybe 2000 square feet, and I
1080 would like to have a garage if I could get that in there.
1081
1082 Mr. Wright - Would it be wood siding, or what type of siding would it be?
1083
1084 Mr. Squires - Most likely vinyl, that's what I'm thinking right now.
1085
1086 Mr. Nunnally - And you're going to be about 370 feet off of Nash Road, is
1087 that right?
1088
1089 Mr. Squires - Once you get down that long driveway, it may even be a little
1090 more than 370 feet.

1091
1092 Mr. Nunnally - Could be. It says at least 370 feet.
1093
1094 Mr. Squires - Might even be closer to 500 feet.
1095
1096 Mr. Wright - All right, sir. Anything else that you wish to state, with
1097 respect to your case?
1098
1099 Mr. Squires - Nothing at the moment.
1100
1101 Mr. Wright - Have you read the conditions that were proposed, to make
1102 sure that you're in accord with those if this were to be approved?
1103
1104 Mr. Squires - Yes.
1105
1106 Mr. Wright - All right. Any further questions from members of the Board?
1107 Anyone here in opposition to this request? You've already been sworn in.
1108
1109 Mr. Robinson - John Robinson, Sr. I am a resident of Goochland County,
1110 but I am the father of John Robinson, Jr., who my Squires was referring to.
1111
1112 Mr. Wright - He lives at that place out there on Nash Road.
1113
1114 Mr. Robinson - He lives at 911 Nash Road. His concern is that right-of-way
1115 coming down by his house, and I believe his line extends right to the center of that little
1116 road, and it's only fifty feet, I believe, from the center of that road, to the corner of his
1117 house. The concern is why he'd have to enter that right-of-way, because that's going to
1118 be like driving right into his house, coming by there, and that little road was just a little
1119 private road that was used by the two brothers who owned that property, that whole
1120 piece of property in there, and they just had that little road to drive down to go back in
1121 the back of the property to a hog pen that they had back there. The problem is, that
1122 little road, as I said, his line extends, if I'm correct, right in the center of that little road.
1123
1124 Mr. Wright - It sure looks like to me that that house is a lot further than 50
1125 feet from that road.
1126
1127 Mr. Robinson - It's not, well give or take, maybe a foot or so.
1128
1129 Mr. Blankinship - I think it's almost 200.
1130
1131 Mr. Nunnally - You said 911.
1132
1133 Mr. Robinson - No, no, that road leading down beside, off of 911, I mean off
1134 of Nash Road.
1135
1136 Mr. Nunnally - Then you're talking about lot 901.

1137
1138 Mr. Robinson - You see, to get to his property, you're going to have to turn
1139 left off of Nash Road. That's the little road I'm talking about.
1140
1141 Mr. Nunnally - Is that the lot to the right of it that you're talking about?
1142
1143 Mr. Robinson - Yes, coming on down.
1144
1145 Mr. Wright - Are we talking about the same thing?
1146
1147 Mr. McKinney - What address does your son live at, Mr. Robinson?
1148
1149 Mr. Robinson - He's 911.
1150
1151 Mr. Wright - 911. He's a long ways from this road.
1152
1153 Mr. Balfour - See it looks like, Mr. Robinson, there's a lot
1154
1155 Mr. Robinson - Yes, he's quite a ways off of Nash Road.
1156
1157 Mr. Nunnally - No, no, no, no, we're saying that he's off of the right-of-way,
1158 if you look at that map, he's over on the right, where # 911 is, and I think you're looking
1159 at lot 901, looks like. If he lives at 911, he's a pretty good little ways from that driveway.
1160 901 is next to it.
1161
1162 Mr. Wright - He's a couple of hundred feet from the road.
1163
1164 Mr. McKinney - He's not beside that road.
1165
1166 Mr. Nunnally - See where that arrow is?
1167
1168 Mr. Robinson - Oh yeah, I see where your arrow is, okay, all right.
1169
1170 Mr. Wright - That's a long distance from his house to that road.
1171
1172 Mr. Robinson - What is that 901?
1173
1174 Mr. Nunnally - Looks like it's vacant.
1175
1176 Mr. McKinney - He doesn't own that lot.
1177
1178 Mr. Robinson - That's not the lot that he's referring to?
1179
1180 Mr. Wright - We're coming along beside 901.
1181
1182 Mr. Kirkland - We're talking about the big chunk all the way in the back.

1183
1184 Mr. McKinney - He's got eighteen acres all the way in the back; right beside
1185 901 is the road.
1186
1187 Mr. Robinson - He's going to have to come across somebody to get to that
1188 eighteen acres, isn't he.
1189
1190 Mr. Nunnally - Yes, 901 knows where he's coming by, not 911.
1191
1192 Mr. Blankinship - He doesn't actually have to cross anybody else, because he
1193 owns twenty feet.
1194
1195 Mr. Kirkland - He owns twenty feet, all the way back to his property, if he
1196 buys the property.
1197
1198 Mr. McKinney - That's his property.
1199
1200 Mr. Wright - He owns that 20-foot strip there, that goes back to his
1201 property, which is a good 200 feet from your son's property, it looks like.
1202
1203 Mr. Nunnally - We he doesn't own it yet. I think it's a conditional purchase.
1204 He will own it.
1205
1206 Mr. Wright - Yes, that's what he proposes to buy, the 20-foot access all
1207 the way back to that property. Are we right sir?
1208
1209 Mr. Robinson - I think I understand.
1210
1211 Mr. Nunnally - We can ask him – are we right, it's a few hundred yards
1212 away from his son's home?
1213
1214 Mr. Squires - I can take that little hand and place it about where his home
1215 is.
1216
1217 Mr. Kirkland - There's his house, right there.
1218
1219 Mr. Squires - No, that's the old one; that's no longer there.
1220
1221 Mr. Nunnally - Where's the new one? Where's his house?
1222
1223 M. Blankinship - It's way back there. Can you describe it from here.
1224
1225 Mr. Squires - Pull the hand down, a little further, over, actually that's about
1226 where his house is, right there.
1227
1228 Mr. Kirkland - Oh yes, you can see it. There it is, stuck in here.

1229
1230 Mr. Wright - I see a house there now. That's a good hundred feet or
1231 more from that access. Are we right?
1232
1233 Mr. Nunnally - How far is where you want to buy? Have you got a survey
1234 that shows you how far your right-of-way is from that house?
1235
1236 Mr. Squires - Not yet. There was a map in the place where I went to get
1237 my application, and they were able to stretch a line and get the measurement, but I
1238 can't remember what it is.
1239
1240 Mr. Wright - It's on the tax map. You can see his house back there now.
1241
1242 Mr. Kirkland - It looks like it's sitting right there.
1243
1244 Mr. Wight - That's a pretty good ways from his house.
1245
1246 Mr. Robinson - I didn't think that right-of-way coming down beside there was
1247 near any 200 feet away.
1248
1249 Mr. Wright - But he's not coming down beside your son's property; he's
1250 going over a lot further.
1251
1252 Mr. Robinson - Is this a copy of the map.
1253
1254 Mr. Squires - That's the actual plan. This is John's property right here.
1255 His house would be

1256
1257 Mr. Robinson - Where is Nash Road?
1258
1259 Mr. Squires - Here's Nash Road.
1260
1261 Mr. Robinson - His house would be right along in here somewhere.
1262
1263 Mr. Squires - It's away from this
1264
1265 Mr. Robinson - Away from that, yes. See here. What I'm talking about,
1266 they've gone from this line here, this road; it's not 100 feet across there.
1267
1268 Mr. Wright - That's not the way I see it. Mr. Robinson, your son's house
1269 is not close to this access road. It's a good 100 and some feet there.
1270
1271 Mr. McKinney - It's more than that, because lot 901, the width of it is 103.75
1272 feet.
1273
1274 Mr. Wright - It looks like it's a couple of hundred feet.

1275
1276 Mr. Nunnally - By the scale, it looks like 200 feet.
1277
1278 Mr. Wright – Also, this would be used as a residence, and the only traffic
1279 in and out of there would be what would be used for accessing the home. It's not like
1280 it's on a highway.
1281
1282 Mr. McKinney - It's a single-family dwelling.
1283
1284 Mr. Wright - It's a single-family dwelling, so it doesn't look like to me to be
1285 any conflict.
1286
1287 Mr. Robinson - I'm just concerned about it; it seemed like, I didn't measure
1288 or anything, but it seems like it was much closer than that to me.
1289
1290 Mr. McKinney - He owns that right-of-way going into his property. That's his
1291 property.
1292
1293 Mr. Nunnally - Well, he will own it. He's under contract. It looks like about
1294 70 yards, if this map is to scale.
1295
1296 Mr. Robinson - I thought that line came up to that access road; his line came
1297 up to the center of that road.
1298
1299 Mr. Wright - No, evidently not.
1300
1301 Mr. Nunnally - It's about 70 yards away, it looks like. Didn't I hear you say
1302 you'd put a buffer along the driveway anyway?
1303
1304 Mr. Squires - I can plant some trees in there that will grow up and pretty
1305 well hide that.
1306
1307 Mr. Nunnally - Does that suit you, Mr. Robinson, to put something on there
1308 to hide the driveway?
1309
1310 Mr. Robinson - If that's the case, yes, that's fine.
1311
1312 Mr. Squires - There's actually quite a few there already.
1313
1314 Mr. Wright - All right, thank you very much Mr. Robinson. We just want
1315 to make sure you understand what the situation is. Mr. Squires, is there anything else
1316 that you want to offer for the case?
1317
1318 Mr. Squires - It just kind of slips my mind if there was.
1319
1320 Mr. Nunnally - You say you wouldn't mind if we added a condition that you

1321 would plant some more trees along there, like Mr. Robinson asked you to?
1322
1323 Mr. Wright - That's kind of a long ways to plant.
1324
1325 Mr. Blankinship - How many trees are we talking about?
1326
1327 Mr. Nunnally - He said he's agree to it.
1328
1329 Mr. Squires - There's quite a few there.
1330
1331 Mr. Wright - It's kind of hard to set a condition on somebody else's land.
1332 Couldn't do it on his land; it's got to be on somebody else's land. I think that would be
1333 kind of difficult to do. It's up to him if he can work out something with the neighbors.
1334
1335 Mr. Kirkland - Mr. Squires, this road is already in existence, and you can
1336 drive back into the property you're proposing to buy, right?
1337
1338 Mr. Squires - Once I bush hog it, I'll be able to drive back there.
1339
1340 Mr. Kirkland - It's grass, but you can tell where a roadbed is, right?
1341
1342 Mr. Squires - Yes I can.
1343
1344 Mr. Wright - Any further questions from members of the Board? Any
1345 other opposition? That concludes the case.
1346
1347 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1348 McKinney, the Board **granted** application **A-124-2003** for a variance to build a one-
1349 family dwelling at 841 Nash Road (Parcel 833-708-5495). The Board granted the
1350 variance subject to the following conditions:
1351
1352 1. This variance applies only to the public street frontage requirement. All other
1353 applicable regulations of the County Code shall remain in force.
1354
1355 2. At the time of building permit application, the applicant shall submit the
1356 necessary information to the Department of Public Works to ensure compliance with the
1357 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1358 water quality standards.
1359
1360 3. Approval of this request does not imply that a building permit will be issued.
1361 Building permit approval is contingent on Health Department requirements, including,
1362 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
1363 of a well location.
1364

1365 4. The owners of the property, and their heirs or assigns, shall accept responsibility
1366 for maintaining access to the property until such a time as the access is improved to
1367 County standards and accepted into the County road system for maintenance.
1368

1369 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1370 Negative: 0
1371 Absent: 0
1372

1373 The Board granted this request, as it found from the evidence presented that, due to the
1374 unique circumstances of the subject property, strict application of the County Code
1375 would produce undue hardship not generally shared by other properties in the area, and
1376 authorizing this variance will neither cause a substantial detriment to adjacent property
1377 nor materially impair the purpose of the zoning regulations.
1378

1379 **A -125-2003** **SOBHAN MIRSHAHI** requests a variance from Section 24-94 of
1380 Chapter 24 of the County Code to build a sunroom on the existing
1381 deck at 5209 Woodchuck Court (The Timbers) (Parcel 759-765-
1382 3994), zoned R-3A, One-family Residence District (Brookland).
1383 The rear yard setback is not met. The applicant has 28 feet rear
1384 yard setback, where the Code requires 35 feet rear yard setback.
1385 The applicant requests a variance of 7 feet rear yard setback.
1386

1387 Mr. Wright - Please state your name. Does anyone else desire to speak?
1388 Would you raise your right hand and be sworn please?
1389

1390 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1391 truth, the whole truth, and nothing but the truth, so help you God?
1392

1393 Ms. Mirshahi - Giti Mirshahi. I do. We are building a sunroom, as simple as
1394 that, and it's in our back yard, and it seems that we need seven feet of rear yard
1395 setback. We don't have enough back there, and that's what we're asking for.
1396

1397 Mr. Wright - So you face on Woodchuck Court, and you're on a cul-de-
1398 sac, which causes your house to have to be back a little further, because of the cul-de-
1399 sac coming around. And what do you propose to build?
1400

1401 Ms. Mirshahi - We are building a sunroom on an existing deck, and we
1402 have only 28 feet in the rear yard setback. We need, I believe, 35 feet.
1403

1404 Mr. Wright - Would this be of single-story construction? What type of
1405 construction would it be? Would it match your house?
1406

1407 Ms. Mirshahi - Yes, it's a sunroom.
1408

1409 Mr. Wright - A lot of glass, I take it?
1410

1411 Ms. Mirshahi - Yes, a lot of glass, and it's going to be the same color.
1412
1413 Mr. Wright - What's located to the rear of your property?
1414
1415 Ms. Mirshahi - It's our neighbor, Jerry Cross, I believe.
1416
1417 Mr. Wright - He faces Woodchuck Place. The rear of your property is to
1418 the side of his house, it looks like.
1419
1420 Ms. Mirshahi - Yes, 9105.
1421
1422 Mr. Wright - Is there anything further you wish to state with respect to
1423 your case? Any questions of members of the Board? Anyone here in opposition to this
1424 request?
1425
1426 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1427 Nunnally, the Board **granted** application **A-125-2003** for a variance to build a sunroom
1428 on the existing deck at 5209 Woodchuck Court (The Timbers) (Parcel 759-765-3994).
1429 The Board granted the variance subject to the following conditions:
1430
1431 1. The property shall be developed in substantial conformance with the plan filed
1432 with the application. No substantial changes or additions to the layout may be made
1433 without the approval of the Board of Zoning Appeals.
1434
1435 2. The new construction shall match the existing dwelling as nearly as practical.
1436
1437 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5
1438 Negative: 0
1439 Absent: 0
1440
1441 The Board granted this request, as it found from the evidence presented that, due to the
1442 unique circumstances of the subject property, strict application of the County Code
1443 would produce undue hardship not generally shared by other properties in the area, and
1444 authorizing this variance will neither cause a substantial detriment to adjacent property
1445 nor materially impair the purpose of the zoning regulations.
1446
1447 **A -126-2003** **JASON A. WILLIAMS** requests a variance from Sections 24-
1448 95(i)(2) and (2)a of Chapter 24 of the County Code to build a
1449 garage and a pool at 2129 Francis Road (Parcel 778-765-7722),
1450 zoned R-4, One-family Residence District (Fairfield). The
1451 accessory structure location requirement and accessory structure
1452 size are not met. The applicant proposes a pool and an accessory
1453 structure of 1,296 square feet in the front yard, where the Code
1454 allows accessory structures of 682 square feet and accessory
1455 structures in the rear yard. The applicant requests a variance of
1456 614 square feet accessory structure size and location of two

1457 accessory structures in the front yard.

1458

1459 Mr. McKinney - Mr. Chairman, I wish to abstain from this case.

1460

1461 Mr. Wright - Please state your name. Does anyone else desire to speak?

1462 Would you raise your right hand and be sworn please?

1463

1464 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1465 truth, the whole truth, and nothing but the truth, so help you God?

1466

1467 Mr. Williams - I do. My name is Jason Alexander Williams. I want to pass
1468 out to you a handout; the people who are reviewing it said that I needed to change the
1469 size of the dormer across the back, and so I've got that updated. The first plan of the
1470 dormer was more than half the roofline, so I had that changed, which you can see is
1471 noted in the review. The problem is, when I built this house, I didn't realize that my
1472 house faces a driveway that my neighbor and I share. We bought two acres. He built
1473 his house above mine, basically, from the plat that you see. My house faces the
1474 driveway that we share to get out of the property. We didn't realize at the time that my
1475 front yard is actually obviously along Francis Road, and when I set my house up, when I
1476 wanted to put the pool in, we realized that it was actually my front yard I'm trying to put it
1477 in. I guess the good thing is that my house sits way back off the road over 250 feet, and
1478 there's a big buffer area between my house and Francis Road; at this time it's full of
1479 trees. It's about where that garage and pool will go, so all the problem stem from is me
1480 having to place it in my front yard. I own a landscaping company, and I propose to
1481 buffer along the property line at the rear of my property, going all the way down to
1482 Francis Road, basically to where I would be covering the neighbor that's beside me.
1483 He's here today. Then I'd buffer across the front part of my property, all the way over,
1484 so that when you look from Francis Road back, eventually all you will see is evergreen
1485 trees.

1486

1487 Mr. Nunnally - What happens to that pretty old tree we've got pictures of?

1488

1489 Mr. Williams - Oh, no, that tree stays. That's probably one of the older
1490 trees in Henrico; I don't want to lose it. I had an arborist come out, and he estimated
1491 that tree to be over 200 years old, so that tree's not moving. If you look at the picture to
1492 the left of that tree, you'll see that big area of brush and trees. Inside that line, it's where
1493 the garage will be, back in there a little bit, and then in between the garage and the
1494 house will be a pool. If you will look at that area, if you'll go back to that last picture
1495 again, where that line of existing trees is, I propose to come in and plant evergreen
1496 trees, double spaced, two lines across that whole property line, so that it will buffer it off
1497 from Francis Road, and no one will see it. I also propose to go up the property line,
1498 from where the garage is, to my existing house, so that my neighbor, who is to the left in
1499 that picture, will not have to view that as well.

1500

1501 Mr. Wright - Have you read the conditions?

1502

1503 Mr. Williams - Yes sir.
1504
1505 Mr. Wright - That number 3, is that what you're talking about, or is that
1506 consistent with what you want to do?
1507
1508 Mr. Williams - Yes, yes.
1509
1510 Mr. Wright - You may be proposing to do more than that.
1511
1512 Mr. Williams - I'm actually proposing to do more than that. When it's all
1513 said and done, this is going to cost me well over \$100,000, just for the structure and the
1514 pools, so I propose to spend about 20% of that in landscaping, so \$20,000 would be
1515 well more than what they're asking for here. I own a landscape company. I have 32
1516 employees. So I'm a big company; I plan to do the landscaping and make sure it's done
1517 right.
1518
1519 Mr. Wright - Do you have any problem with us, including what's said in #
1520 3, if this is approved? How far would this garage be from Francis Road?
1521
1522 Mr. Williams - I approximate it's going to be somewhere in the
1523 neighborhood of at least 120 feet back from Francis Road, well over 100 feet for sure.
1524
1525 Mr. Wright - And the pool would be between the garage and the house,
1526 so that would not be visible? Is that building shown on the adjacent property a storage
1527 building or a garage or something?
1528
1529 Mr. Williams - On the adjacent property to the right, where it says Robert
1530 Bracey? That's a garage of my neighbor. Mr. and Mrs. Woodson, is it a two-car or a
1531 three-car garage? It's a three-car garage, which is what I'm proposing.
1532
1533 Mr. Wright - So that's their garage. Your pool would be well behind even
1534 the garage.
1535
1536 Mr. Williams - It would probably be about adjacent to it, yes. On the
1537 drawing that I turned in, I had put on there, just for the purposes of not having it staked
1538 out yet, that the garage would be 87 feet, but after going in there and measuring, it's not
1539 going to be inside of 100 feet, and most likely it is going to be around 100 feet from
1540 Francis Road. I'd like to have it as close to my house as possible, but I want to have
1541 room to do the landscaping and to have a nice pool deck around the pool, so I don't
1542 want it to be on top of my house. In this picture right here, right to the left of my
1543 property line, there's another about 15-20 feet of grass, and then there's a driveway that
1544 runs all the way up the property line, and then there's a house right there. At 2121
1545 there's a house about 110-120 feet from mine.
1546
1547 Mr. Wright - That house is way back off the road. That house is behind
1548 your house. And then it's open all the way from there to Francistown Road.

1549
1550 Mr. Williams - We have a wooded section down the right side of that
1551 property at 2121, which buffers that. We have a privacy fence that we constructed for
1552 all of those neighbors. There's a twenty-foot landscape zone, then there's a driveway,
1553 and then there's about another fifteen feet of land that 2121 owns, and then there's my
1554 property. I cut his grass in essence. I just have a very narrow lot; that's the problem I
1555 have. I have a very long lot, but it's very narrow.
1556
1557 Mr. Wright - How wide is your lot?
1558
1559 Mr. Williams - About 78-79 feet, 78 at the back, 80 at the front. But it's 340
1560 feet on one side, 321 on the other, and my house sits back a pretty good ways. You
1561 can't really see it in the summer time from Francis Road because of the trees that are
1562 there now.
1563
1564 Mr. Wright - You don't have any flooding problems there, or anything, do
1565 you?
1566
1567 Mr. Williams - We have an area between Mr. Woodson's yard and mine
1568 that stays wet in the back. That's an area that I had actually dug a trench down through
1569 and have pipes sitting there waiting to go in, to make sure there's not going to be a
1570 problem. When I build this, obviously I can't have a lot of water sitting around near the
1571 foundation of a garage or around a pool area, and I certainly don't want to create a
1572 problem for my neighbors, so I've already started the process of doing the drainage.
1573
1574 Mr. Wright - Anything further you have to say, Mr. Williams? Any other
1575 questions from members of the Board? Anyone here in opposition to this request?
1576 Were you sworn to begin with? We need to get you sworn in.
1577
1578 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1579 truth, the whole truth, and nothing but the truth, so help you God?
1580
1581 Mr. Woodson - I do. Charles Woodson. I think Jason pretty much cleared
1582 up what I wanted to know. All that I got mentioned the front and the back, and I couldn't
1583 determine just what the front and the back were, and he's just pretty much cleared that
1584 up. Now where your big tree is, that's what you're calling the front, right? I always
1585 thought it was the side.
1586
1587 Mr. Blankinship - The front of the lot, the side of the house.
1588
1589 Mr. Wright - So you're satisfied with what he wants to do?
1590
1591 Mr. Woodson - I don't have any objections to whatever he's trying to do.
1592
1593 Mr. Wright - That's fine. We certainly appreciate your coming down.
1594 Anything further you wish to say.

1595
1596 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1597 Nunnally, the Board **granted** application **A-126-2003** for a variance to build a garage
1598 and a pool at 2129 Francis Road (Parcel 778-765-7722). The Board granted the
1599 variance subject to the following conditions:

1600
1601 1. Only the garage and pool shown on the plan filed with the application may be
1602 constructed pursuant to this approval. No substantial changes or additions to the layout
1603 may be made without the approval of the Board of Zoning Appeals. Any additional
1604 improvements shall comply with the applicable regulations of the County Code.

1605
1606 2. The garage shall not exceed 15 feet in height. It shall not be converted to a
1607 dwelling or used for business purposes.

1608
1609 3. [Amended] The applicant shall submit a landscaping plan with the building permit
1610 that provides screening equal to a double-staggered row of Leland cypress planted 20
1611 feet apart, along the north side of the garage and along the west property line.

1612
1613 Affirmative: Balfour, Kirkland, Nunnally, Wright 4
1614 Negative: 0
1615 Abstain: McKinney 1

1616
1617 The Board granted this request, as it found from the evidence presented that, due to the
1618 unique circumstances of the subject property, strict application of the County Code
1619 would produce undue hardship not generally shared by other properties in the area, and
1620 authorizing this variance will neither cause a substantial detriment to adjacent property
1621 nor materially impair the purpose of the zoning regulations.

1622
1623 ***(The Chairman called case A-122-2003 again.)***

1624
1625 On a motion by Mr. Nunnally, seconded by Mr. Kirkland, the Board **approved, as**
1626 **corrected**, the Minutes of the **June 26, 2003**, Henrico County Board of Zoning
1627 Appeals meeting.

1628
1629 There being no further business, and on a motion by Mr. McKinney, seconded by
1630 Mr. Kirkland, the Board adjourned until **November 20, 2003**, at 9:00 am.

1631
1632
1633
1634 Russell A. Wright,
1635 Chairman

1636
1637 Benjamin Blankinship, AICP
1638 Secretary