

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF**
2 **HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE**
3 **HENRICO COUNTY GOVERNMENT COMPLEX, ON THURSDAY, SEPTEMBER 23,**
4 **2004, AT 9:00 A.M., NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND**
5 **TIMES-DISPATCH ON SEPTEMBER 2 AND 9, 2004.**
6

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

Also Present: David D. O'Kelly, Assistant Director of Planning
Benjamin Blankinship, Secretary
Lee J. Tyson, County Planner
Priscilla M. Parker, Recording Secretary

7
8 Mr. Wright - Good morning, ladies and gentlemen, and welcome to the
9 September meeting of the County of Henrico Board of Zoning Appeals. Would you
10 stand for the **Pledge of Allegiance**. Mr. Secretary, would you read the rules, please.
11

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

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

34 Mr. Blankinship - We have one withdrawal, and I'm not certain, it just came in
35 this morning, but I believe it's the last one on the 10:00 o'clock agenda, A-120-2004.

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Beginning at 9:00

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A-97-2004 **DAVID R. AND MARY B. WINSLOW** request a variance from Sections 24-95(i)(2)b and 24- 9 to build a one-family dwelling and a detached garage at 2700 Lacywood Lane (Parcel 841-721-5234 (part)), zoned A-1, Agricultural District (Varina). The accessory structure height requirement and public street frontage requirement are not met. The applicants have 0 feet public street frontage and propose an accessory structure 22 feet in height, where the Code requires 50 feet public street frontage and allows an accessory structure height of 15 feet. The applicants request a variance of 50 feet public street frontage and 7 feet accessory structure height.

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

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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?

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Ms. Winslow - I do. Mary Winslow. As you may recall, we were here last month, requesting the variance for our garage that was over the accessory structure height, and it was granted at that time. While we were here, it was brought to our attention, the question was raised about the road frontage requirement. As you may recall, our land was deeded to us by a family division; his parents gave us five and a half acres. It's wooded lots, and we have access through Lacywood Lane. We were granted a building permit, and we started building, we secured a builder, a loan, the house is under roof, and we were in the process of getting our garage. We got a call right after the last Board meeting, stating that we needed to reapply for another variance for the 50 feet of the road frontage, so that's why we're here today. Also, a few hardships I'd like to mention: the building permit was issued, we'd begun construction; if the variance is not granted, then we would have a piece of useless land, and also we would be liable for all of the work that's already been performed on the house, and basically and financially, we would be ruined. I submitted a letter also, with a road maintenance agreement, that should be in your packets. I gave some background information in that letter as to everything that has occurred. We just ask that you take all that into consideration, and we thank you for your time.

73
74

Mr. Wright - How do you plan to access your property?

75
76
77
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80

Ms. Winslow - There's already a dirt road there, Lacywood Lane, which the road maintenance agreement has set up. The easement to and from – all of the people who live on that road have already signed it, by notary, and it's been recorded with the County. That's to protect all people who live on that land so nobody can take away the right to use the road, and it also sets up

81

82 Mr. Wright - You're not actually on Lacywood Lane, are you? I'm
83 confused as to these surveys.

84
85 Ms. Winslow - They have Lacywood Lane shown, actually that's a private
86 driveway, where you see Lacywood Lane on that GIS map. It goes off actually to the
87 bottom of the map down there by those buildings, and there's a house. Everybody who
88 actually lives down in there has the address of Lacywood Lane.

89
90 Mr. Wright - I know your address is Lacywood Lane, but I was just
91 curious to know how you would get from your property to Lacywood Lane.

92
93 Ms. Winslow - From the bottom of that yellow triangle where that hand is
94 right there, and then go that way and then take a left, and that will take you right to
95 Grapevine Road. The other thing I forgot to mention too, is that all of the other
96 landowners down there had also been granted a variance, which we did not know. If we
97 had known, we would have applied for it at the proper time.

98
99 Ms. Dwyer - On the map that's showing now, where it says "dirt road"
100 under where the notation is "Deed Book," that's not Lacywood?

101
102 Ms. Winslow - No, that's their private driveway. Those roads used to be
103 logging roads. The driveway that says "gravel road" is where his parents live. That's
104 their driveway, and our driveway goes up the survey underneath the "Deed Book."

105
106 Ms. Dwyer - Is that road in use, that dirt road?

107
108 Ms. Winslow - It's gravel, and we use it to access the property.

109
110 Ms. Dwyer - Does anyone else use it to access other property?

111
112 Ms. Winslow - No ma'am.

113
114 Mr. Wright - Anything further? Any questions of members of the Board?
115 Is anyone here in opposition to this request?

116
117 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Ms.
118 Harris, the Board **granted** application **A-97-2004** for a variance to build a one-family
119 dwelling and a detached garage at 2700 Lacywood Lane (Parcel 841-721-5234 (part)).
120 The Board granted the variance subject to the following conditions:

121
122 1. This variance applies only to the public street frontage requirement. All other
123 applicable regulations of the County Code shall remain in force.

124
125 2. Approval of this request does not imply that a building permit will be issued.
126 Building permit approval is contingent on Health Department requirements, including,

127 but not limited to, soil evaluation for a septic drain field and reserve area, and approval
128 of a well location.

129
130 3. At the time of building permit application, the applicant shall submit the
131 necessary information to the Department of Public Works to ensure compliance with the
132 requirements of the Chesapeake Bay Preservation Act and the code requirements for
133 water quality standards.

134
135 4. At the time of building permit application the owner shall demonstrate that the
136 parcel created by this division has been conveyed to members of the immediate family,
137 and the subdivision ordinance has not been circumvented.

138
139 5. The applicant shall present proof with the building permit application that a legal
140 access to the property has been obtained.

141
142 6. The owners of the property, and their heirs or assigns, shall accept responsibility
143 for maintaining access to the property until such a time as the access is improved to
144 County standards and accepted into the County road system for maintenance.

145
146 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
147 Negative: 0
148 Absent: 0

149
150 The Board granted this request, as it found from the evidence presented that, due to the
151 unique circumstances of the subject property, strict application of the County Code
152 would produce undue hardship not generally shared by other properties in the area, and
153 authorizing this variance will neither cause a substantial detriment to adjacent property
154 nor materially impair the purpose of the zoning regulations.

155
156 **UP-22-2004 WEST END ASSEMBLY OF GOD** requests a temporary
157 conditional use permit pursuant to Section 24-116(c)(1) to provide a
158 mobile box office for holiday production at 401 Parham Road
159 (Parcel 753-736-0655), zoned R-1, One-family Residence District
160 (Tuckahoe).

161
162 Mr. Wright - Does anyone else desire to speak with reference to this
163 case? Would you raise your right hand and be sworn please?

164
165 Mr. Blankinship - Do you swear that the testimony you are about to give is the
166 truth, the whole truth, and nothing but the truth, so help you God?

167
168 Mr. Ruhlen - I do. I'm Terry Ruhlen; I represent West End Assembly of
169 God Church. I'm the technical coordinator for our annual church production, which
170 shows to over 25,000 people in the community. We're requesting a temporary
171 conditional use permit for a box office. In the past we've had box office activity inside
172 the church, and we've outgrown that. We have a Phase II building program that's not

173 started yet, but we hope to incorporate in the future our box office into the new building
174 activity. In over the past years, the box office area, as I mentioned, has gotten crowded
175 out. We've got a location that seems suitable. It's inconspicuous to neighbors; it
176 doesn't take any required handicapped spaces. We've got electricity and phone lines to
177 that, which are a big requirement for our box office. Any sanitary and water will be
178 accessed from the building. We plan to put this right next to our building. I guess there
179 may be some questions.

180

181 Mr. Wright - What period of time will this be on the property?

182

183 Mr. Ruhlen - Our Christmas program runs from December 1 till December
184 12, so we were hoping that late November until December 14, about two days after the
185 program was over, we would move it.

186

187 Mr. Wright - Have you seen these suggested conditions?

188

189 Mr. Ruhlen - Yes sir, I have.

190

191 Mr. Wright - The 14th, you have to have it removed by the 14th.

192

193 Mr. Ruhlen - Yes sir.

194

195 Mr. Kirkland - Mr. Blankinship, since he said he's going to use the facilities
196 inside the building, do we need to strike # 3 as a condition?

197

198 Mr. Blankinship - Either way, I think the way it's worded, if there are no
199 sanitary facilities in the trailer, then the point is moot, but it certainly wouldn't hurt
200 anything to strike it.

201

202 Ms. Dwyer - How will the electrical and phone lines be connected to the
203 trailer. Will you just run wires from inside the building, or do you have a separate utility
204 post outside?

205

206 Mr. Ruhlen - Yes ma'am, we have on the side of the building, our new
207 gym, we have a box, one of our electrical contractors has installed a box, just a simple
208 plug-in, that we use sometimes for other outside activities, and phone lines will access
209 primarily the same way. There's a second box there, and we just run the phone lines
210 right through there.

211

212 Ms. Dwyer - And it's on the part of the building where the trailer will be?
213 You're not going to have wires running

214

215 Mr. Ruhlen - No, that's correct, the wires probably from the building to the
216 trailer would be ten to fifteen feet, maximum.

217

218 Ms. Dwyer - And there won't be any public traffic crossing those wires?

219
220 Mr. Ruhlen - No ma'am, there would not be.
221
222 Mr. Wright - Anything further?
223
224 Mr. Nunnally - For the hours, in the daytime, nighttime, would you have two
225 times of the day?
226
227 Mr. Ruhlen - The plan is basically when the church is open during the day
228 for regular activity, that's when the hours would be, and then as we get closer to the
229 production time, as we have rehearsals going on, we would have, probably an evening
230 hours when we could access it too.
231
232 Mr. Wright - Is this run every day in the week, or what days will you have
233 the production?
234
235 Mr. Ruhlen - The production runs from, it's two weeks, Wednesday
236 through Sunday, back to back.
237
238 Mr. Wright - You have a matinee and an evening

239
240 Mr. Ruhlen - We have a Wednesday, Thursday, Friday evening show,
241 and Saturdays we have four shows, starting at 10:30 in the morning, and then Sunday
242 we have three shows, and we have a total of nineteen shows altogether.
243
244 Ms. Harris - Do you see this recurring next year?
245
246 Mr. Ruhlen - It may, and I think simply because our building activity is not
247 under way yet, and it could happen next year.
248
249 Mr. Wright - Anything further?
250
251 Mr. Blankinship - Let me just point out, Mr. Chairman, that we distributed a
252 new map this morning with a revised location for the box office.
253
254 Mr. Wright - So it's in the back of the church.
255
256 Ms. Dwyer - The earlier location that you had suggested interfered with
257 the handicapped spaces.
258
259 Mr. Ruhlen - That's correct.
260
261 Mr. Wright - Any further questions of Mr. Ruhlen? Anyone here in
262 opposition to this request?
263

264 After an advertised public hearing and on a motion by Ms. Harris, seconded by Ms.
265 Dwyer, the Board **granted** application **UP-22-2004** for a temporary conditional use
266 permit to provide a mobile box office for holiday production at 401 Parham Road (Parcel
267 753-736-0655). The Board granted the use permit subject to the following conditions:

268
269 1. The trailer shall be removed from the site on or before December 14, 2004, at
270 which time this permit shall expire.

271
272 2. The trailer shall not occupy any required handicapped-accessible parking spaces
273 or block any walkways required for handicapped accessibility.

274
275 3. Any sanitary facilities in the trailer shall be connected to a disposal system
276 approved by the health department.

277
278 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
279 Negative: 0
280 Absent: 0

281
282 The Board granted the request because it found the proposed use will be in substantial
283 accordance with the general purpose and objectives of Chapter 24 of the County Code.

284
285 **UP-23-2004 SANDSTON MOOSE LODGE** requests a temporary conditional
286 use permit pursuant to Section 24-116(c)(1) to hold a turkey shoot
287 at 4505 Oakleys Lane (Parcel 818-719-0377), zoned A-1,
288 Agricultural District and M-1, Light Industrial District (Varina).

289
290 Mr. Wright - Does anyone else desire to speak with reference to this
291 case? Would you raise your right hand and be sworn please?

292
293 Mr. Blankinship - Do you swear that the testimony you are about to give is the
294 truth, the whole truth, and nothing but the truth, so help you God?

295
296 Mr. Cave - I do. Joe Cave, representing the Sandston Moose Lodge #
297 1937, requesting a temporary use permit for a turkey shoot, to raise money for the
298 various charities that we support.

299
300 Mr. Nunnally - Is this the same operation that you've had over the years?

301
302 Mr. Cave - Yes sir, we've been doing it since 1982.

303
304 Mr. Nunnally - Let me ask you one thing. I was driving by the other day,
305 and I saw "turkey shoot Thurs. and Fri. night," or "Fri. and Sat. night," and then right
306 underneath it said "no gun check." What did that mean?

307
308 Mr. Cave - Well you have a stock gun, and then you have guns that the
309 people work on the barrels and try to get the gun to hold a closer pattern. We've found

310 that a lot of people are using those type of guns, and our participation was dwindling by
311 restricting it to just stock guns, so we opened it up to any type gun, but they have to
312 shoot our shell.'

313
314 Mr. Nunnally - So they have to shoot the 12 gauge or lower

315
316 Mr. Cave - No, it's just 12-gauge; there's nothing lower or higher. It's all
317 12-gauge or higher, it's all 12-gauge, eight-shot.

318
319 Mr. Nunnally - I noticed that in the suggested conditions this permit expires
320 on December 31, 2005. Mr. Blankinship, is that so that they can get two seasons in
321 without having to come back? Usually it's one year but this goes through December, so
322 they would be able to do it through December, so they would be able to do it through
323 next year without having to come back.

324
325 Mr. Blankinship - Yes sir, right.

326
327 Mr. Cave - Yes sir, the last permit we got was for two years also.

328
329 Ms. Dwyer - So the turkey shoots go all year around?

330
331 Mr. Cave - No, they run from September till the end of December.

332
333 Mr. Blankinship - But we approve two seasons at once.

334
335 Ms. Dwyer - But the way that it's worded is the permit's good from
336 September through the end of December 2005. Is there anything that limits it to being
337 September to December, 2004, and September to December, 2005, because the way
338 that it reads, it could be any time during that period, September 2004 to December
339 2005.

340
341 Mr. Blankinship - We could do that.

342
343 Ms. Harris - Have you had any complaints, Mr. Cave, about the shooting
344 over there?

345
346 Mr. Cave - To the best of my knowledge, we have not had any
347 complaints since we've been conducting the turkey shoots there.

348
349 Ms. Harris - Mr. Blankinship, have you had any complaints?

350
351 Mr. Blankinship - No ma'am.

352
353 Ms. Dwyer - Just for my information, where do you stand to shoot, and
354 then where are the targets.

355

356 Mr. Cave - At the bottom right corner of that building, the big building,
357 over to the right, that's where they stand, and there's a building about thirty yards
358 straight forward from that, and the targets are inside the building. There's an opening at
359 the face of the building where you shoot into the opening. The targets are on a wheel;
360 we have a man operating who pushes a button, and the next target comes up, the next
361 person comes up, you hand him a shell, the gun goes over the rail before they load to
362 limit the possibility of anybody being accidentally shot. Then they shoot into the
363 building. The building is big enough that it collects most of the stray shot that doesn't go
364 through the target hole.

365
366 Ms. Harris - You said most of the stray shot?

367
368 Mr. Cave - I said most because you can't predict what might happen
369 coming out of the end of a gun. The building is about 24-feet wide; I would say there is
370 a possibility that maybe one pellet could maybe go off somewhere, depends on the aim
371 of the shooter I suppose.

372
373 Ms. Dwyer - Could the shot go over into Oakley's Lane or into I-64?

374
375 Mr. Cave - No, you're shooting away from Oakley's Lane towards I-64;
376 it's all wooded there.

377
378 Ms. Harris - Has it always been this populated, this area, since 1982?

379
380 Mr. Cave - In the area where the turkey shoot's going to take place, it's
381 not populated; it's just woods. I haven't been associated with it since '82; I've been
382 associated with this organization since '93, and it's been about like it is now.

383
384 Mr. Wright - Any further questions of members of the Board? Anyone in
385 opposition to this request? Hearing none, that concludes the case.

386
387 Mr. Cave - I'd like to ask one question. You stated that we could wait to
388 the end of the meeting to find out or check the website. If it is approved, will they just
389 mail the permit?

390
391 Mr. Blankinship - You'll get your letter probably on Monday.

392
393 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
394 Kirkland, the Board **granted** application **UP-23-2004** for a temporary conditional use
395 permit to to hold a turkey shoot at 4505 Oakleys Lane (Parcel 818-719-0377). The
396 Board granted the variance subject to the following conditions:

397
398 1. Hours of firing shall be from 7:00 p.m. to 11:00 p.m. on Friday and Saturday
399 nights.

400
401 2. The property shall be clearly posted to show the area in which shooting occurs.

- 402
 403 3. No alcoholic beverages may be consumed outside of the main building during
 404 the turkey shoot. A sign to this effect must be conspicuously posted in the immediate
 405 vicinity of the shooting area. No person under the influence of alcohol, as defined in
 406 Section 18.2-266 of the Code of Virginia, may be permitted in the shooting area.
 407
 408 4. Restrooms shall be provided.
 409
 410 5. The turkey shoot shall involve only the use of shotguns no larger than 12 gauge
 411 and low powered shells containing No. 8 shot.
 412
 413 6. [Amended] This permit is good from September 17, 2004 to December 31, 2004
 414 and September 16, 2005 to December 31, 2005.

415
 416 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
 417 Negative: 0
 418 Absent: 0

419
 420 The Board granted the request because it found the proposed use will be in substantial
 421 accordance with the general purpose and objectives of Chapter 24 of the County Code.
 422

423 **UP-24-2004** **DAN SIMOND** requests a temporary conditional use permit
 424 pursuant to Section 24-116(c)(1) to operate a temporary sales
 425 stand and amusements at 12496 Gayton Road (Parcel 732-751-
 426 4078), zoned B-3, Business District (Tuckahoe).
 427

428 Mr. Wright - Does anyone else desire to speak with reference to this
 429 case? Would you raise your right hand and be sworn please?
 430

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

434 Mr. Simond - I do. My name is Daniel Simond, and we are requesting a
 435 conditional use permit to set up a temporary business of sales of pumpkins for the
 436 pumpkin season for this coming year. This will be our fifth year at the same location.
 437 We have the identical set-up as we have in the past, so nothing as far as structure or
 438 set-up will be different. I think it's a great family business, and we did have one year,
 439 the year before last we weren't able to come back because there was some
 440 construction on that corner, and when we did come back last year, it was well received
 441 from the public, from our patrons; they were happy to see us back. We've been in the
 442 seasonal sales business for twelve years, and we run a very efficient and family-
 443 operated business, so hopefully you will take that into consideration in your decision.
 444

445 Ms. Dwyer - Mr. Simond, I was looking at your hand-drawn map, which
 446 shows roughly where the pumpkins will be in relation to Gayton, and in the staff report it
 447 said that the amusements would be 100 feet from Gayton and Ridgefield. I'm not sure,

448 but you have an arrow drawn from, I'm not sure what that line represents, toward the
449 road that says 100 feet, so I'm not clear on what you mean to be depicting here.

450
451 Mr. Simond - Let me explain. There is a border of grass. I enclose the
452 entire area with temporary fencing, orange construction fencing to enclose the whole
453 area. From the fencing to the street, there is a grass area that is at least 100 feet,
454 probably a little more. We're well inside the zone of that corner lot at that shopping
455 center.

456
457 Ms. Dwyer - So from the orange fencing to the curb at Gayton will be 100
458 feet. That's all I was concerned about. Who regulates the safety of the different
459 activities there, Mr. Simond?

460
461 Mr. Simond - Either Mimi or myself or my father. We do it together, and
462 one person keeps an eye on the activities, and one person maintains the sales area, the
463 actual register and such.

464
465 Mr. Blankinship - They are required to have a building permit for the
466 amusements, and the building inspector goes out and check that they are assembled
467 correctly and tied down.

468
469 Ms. Harris - Have you had any complaints about the amusement park?

470
471 Mr. Simond - No ma'am.

472
473 Ms. Harris - Just the opposite, you've had just the opposite comments?

474
475 Mr. Simond - Absolutely, kids love it, and moms love it, and they come
476 out, and it's just a safe environment for children and families to meet.

477
478 Ms. Harris - Were you required to have insurance?

479
480 Mr. Simond - Yes ma'am, we do have insurance; it's a \$1,000,000 liability
481 insurance.

482
483 Mr. Wright - Any further questions from members of the Board? Anyone
484 here in opposition to this request?

485
486 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.
487 Kirkland, the Board **granted** application **UP-24-2004** for a temporary conditional use
488 permit to operate a temporary sales stand and amusements at 12496 Gayton Road
489 (Parcel 732-751-4078). The Board granted the use permit subject to the following
490 conditions:
491

492 1. The property shall be used in substantial conformance with the plan filed with the
493 application. No changes or additions to the layout may be made without the approval of
494 the Board of Zoning Appeals.

495
496 2. Hours of operation shall be limited to 10:00 AM - 8:00 PM, October 1 - 31, 2004.

497
498 3. Temporary outdoor sales lots and stands shall be located at least 200 feet from
499 any R district.

500
501 4. This use shall not interfere with the parking lot or vehicular circulation of the
502 shopping center.

503
504 5. All amusement devices and displays shall be removed from the site on or before
505 November 1, 2004, at which time this permit shall expire.

506
507 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
508 Negative: 0
509 Absent: 0

510
511 The Board granted the request because it found the proposed use will be in substantial
512 accordance with the general purpose and objectives of Chapter 24 of the County Code.

513
514 **A-108-2004** **DAVID BOTH** requests a variance from Section 24-94 to build an
515 addition at 413 Westham Parkway (Westham) (Parcel 758-737-
516 5724), zoned R-1, One-family Residence District (Tuckahoe). The
517 rear yard setback is not met. The applicant proposes 14 feet rear
518 yard setback, where the Code requires 50 feet rear yard setback.
519 The applicant requests a variance of 36 feet rear yard setback.

520
521 Mr. Wright - Does anyone else desire to speak with reference to this
522 case? Would you raise your right hand and be sworn please?

523
524 Mr. Blankinship - Do you swear that the testimony you are about to give is the
525 truth, the whole truth, and nothing but the truth, so help you God?

526
527 Mr. Payne - Yes I do. Robert Payne, architect.

528
529 Mr. Both - David Both, owner of the property.

530
531 Mr. Payne - We have a very difficult lot; it's a holdover from way back
532 when they had very narrow setbacks. This is on Westham Parkway, and all of the
533 houses on Westham Parkway are seventy feet or more from the road, which limits what
534 we can do. So that's why we are requesting a variance. What we have done, I've
535 designed something very similar around the corner that really worked well.

536
537 Ms. Dwyer - Where was that design?

538
539 Mr. Payne - I've forgotten the name of the road; it's the next road up, I
540 think.
541
542 Mr. Blankinship - Hillsdale, I think.
543
544 Mr. Payne - Yes, it's Hillsdale. And also I've supplied you with drawings
545 of what I did there, and which we intend to do here.
546
547 Ms. Dwyer - Is that other house 7106 Hillsdale?
548
549 Mr. Blankinship - Lee, if you'll scroll down, I think we'll be about to see it a little
550 better.
551
552 Mr. Payne - Is this a recent picture?
553
554 Mr. Blankinship - Yes, 2003. Is that it, right there?
555
556 Mr. Payne - Yes, I think it is. No, it is not, I'm sorry. It's under the A-108,
557 covered by the label.
558
559 Ms. Dwyer - I just was curious about how that lot compared with this lot.
560
561 Mr. Payne - The original lot of the first project that I did was very large,
562 had a huge back yard. We don't have a huge back yard.
563
564 Mr. Wright - You weren't required to get a variance or anything for that
565 construction?
566
567 Mr. Payne - No, we had plenty of room, no problems.
568
569 Ms. Dwyer - Go ahead with your presentation.
570
571 Mr. Payne - The evaluation that came to us, I think, points out most of
572 the things that the hardship problems that we have with the size of the lot, the age,
573 when it was really tight back there. Things have changed as far as setbacks. What we
574 would really like to do is to provide that twenty-foot partition that would be the proposed
575 addition that would really be within the confines of the original main house and not the
576 sides, as you can see in that drawing there.
577
578 Ms. Dwyer - It looks like the original house did not meet the fifty-foot
579 setback, or was there a fifty-foot setback required at the time the house was built?
580
581 Mr. Blankinship - The rear yard setback was twenty-five feet at the time it was
582 built, so it does conform to that, but it is nonconforming with today's setback.
583

584 Mr. Payne - The evaluation seems to be pretty accurate. I think that it
585 would be a hardship with this particular lot, with the shape of it, and I think that these
586 are drawings of the house, and this is the rear addition.

587
588 Mr. Blankinship - And these drawings are actually of the house at 7104, and
589 these are an approximation of what would be done here.

590
591 Mr. Payne - That's right, exactly.

592
593 Mr. Wright - What's located to the rear of this lot?

594
595 Mr. Payne - The subject lot? Apparently heavily treed; there's a lot of
596 tropical growth in there; it's really kind of private there between the two houses.

597
598 Mr. Wright - There doesn't appear to be another house behind this
599 house. The other house, 409, faces on Beechwood, so that's an area in there where
600 there's not another dwelling back there.

601
602 Ms. Dwyer - Not only is this an odd-shaped lot, but 409 is an odd-shaped
603 lot, and both houses, the rear corners of those houses, visually, when you are looking at
604 them from Beechwood, appear to be very close, so I'd say I'm concerned about
605 extending the rear of 413 because of it's proximity to 409.

606
607 Mr. Payne - That's a function of the shape of the lot; there's hardly
608 anything we can do about that. That's why we're asking for the variance.

609
610 Ms. Dwyer - I guess some sides might be less detrimental than others,
611 and you do have a little more space on the other side of your house. The rear lot line
612 does give you a little more space to work with on the other side of your house.

613
614 Mr. Payne - That would be a very large architectural challenge.

615
616 Mr. Wright - Anything further, Mr. Payne?

617
618 Mr. Payne - No, I think it pretty well shows up what we want to do and
619 what we think is the right way to do it.

620
621 Mr. Wright - All right. Any further questions of the Board? Anyone here
622 is opposition to this case?

623
624 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Ms.
625 Harris, the Board **denied** application **A-108-2004** for a variance to build an addition at
626 413 Westham Parkway (Westham) (Parcel 758-737-5724).

627
628 Affirmative: Dwyer, Harris, Wright 3
629 Negative: Kirkland, Nunnally, 2

630 Absent:

0

631

632 The Board denied the request as it found from the evidence presented that authorizing
633 this variance would be of substantial detriment to adjacent property and would
634 materially impair the purpose of the zoning regulations.

635

636 **A-109-2004** **DOUG BAXTER** requests a variance from Section 24-94 to build
637 an attached garage at 2821 Dalkeith Drive (Glen Gary) (Parcel 735-
638 757-9405), zoned R-4C, One-family Residence District
639 (Conditional) (Three Chopt). The rear yard setback is not met. The
640 applicant proposes 10 feet rear yard setback, where the Code
641 requires 35 feet rear yard setback. The applicant requests a
642 variance of 25 feet rear yard setback.

643

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

646

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

649

650 Mr. Baxter - I do. Hi. My name is Doug Baxter. My wife and I wish to
651 build a two-car, two-story garage on our existing house right there. We have talked with
652 the neighbors and have verbal approval from all them. I even have written approval
653 from our immediate neighbor, which I have included in the packet. We have an
654 assessment from the real estate appraiser who says there would not be any adverse
655 impact to the neighborhood. I've included that. I also have approval from the Glen
656 Gary Homeowners Association, architectural review committee, and that's in the packet
657 as well.

658

659 Mr. Wright - Please tell us what you want to build.

660

661 Mr. Baxter - We've moved from a house that had a two-car garage and a
662 storage shed, and we moved into a house that only has a one-car garage, so we've lost
663 some storage, so what we want to do is recreate what we had at the last house, which
664 is a two-car garage. These drawings that you have are not accurate, and I apologize for
665 that. There was a drawing that my wife hand-drew that was included in there that is
666 most accurate but was not to scale. It shows that it conforms to the existing structure,
667 has dormer, cedar roof, and so we wish to have a garage downstairs and a playroom
668 upstairs for the kids. Anybody who has 11- and 13-year-old children knows we'd like to
669 have an area that they can destroy, for lack of a better term, and leave the rest of the
670 house intact, so that's the purpose here. The drawings that were submitted; that's what
671 we want it to look like. The area between the garage with the little octagonal window,
672 that would be a covered breezeway. So any hardship I have is when we have
673 inclement weather, to hear my wife complain about having to walk in the rain or the
674 snow.

675

676 Mr. Blankinship - So that is a breezeway; there are not walls there; that's
677 depicted wrong.
678
679 Mr. Baxter- No, it would be an enclosed hallway; it's not actually a
680 breezeway.
681
682 Mr. Kirkland - In other words, the sides are closed in on it.
683
684 Mr. Baxter - Yes sir, with a covered roof so that she can walk from the
685 existing house into the proposed garage without having to get affected by rain, bugs ,
686 anything.
687
688 Mr. Blankinship - It's different rules whether it's a breezeway or a connection,
689 but it looks like this was done correctly.
690
691 Mr. Wright - Does it change anything?
692
693 Mr. Baxter - There was a typo in your report that said we had an existing
694 three-car garage, and that is clearly in error. We needed to point that out because we
695 thought that would be pretty greedy to ask for another two-car garage. We don't have a
696 car collection or anything like that.
697
698 Mr. Blankinship - We double-checked that and apparently the real estate
699 assessment people think you have a three-car garage.
700
701 Mr. Kirkland - You'd better get a reduction in your real estate taxes. Mr.
702 Baxter, how tall is this two-story garage? Is it taller than your home?
703
704 Mr. Baxter - We expect it would be comparable to the room in the garage
705 that we already have in the garage in height, perhaps a little bit shorter.
706
707 Mr. Wright - Looks like that lot line, which would be between your
708 property and 2819 comes in on an angle somewhat.
709
710 Mr. Baxter - Is that lot 2? Yes sir, that's why we had to ask for the
711 setback. We have anywhere, you can see from the back corner there, we have about
712 85 or 90 feet of available setback, and yet on the other side you can see it's just at 35 or
713 40 feet. You can see in the picture there that we do have a buffer of Leyland
714 Cypresses, which our neighbor said, as long as those aren't disturbed, which we
715 assured them they would not be, but they didn't have a problem with the project.
716
717 Mr. Wright Is that pretty well screened?
718
719 Mr. Baxter - Yes sir. I also submitted some color photos with the
720 package.
721

722 Mr. Wright - Yes, I see them. You can hardly see their house.
723
724 Ms. Harris - Is the garage on this side?
725
726 Mr. Baxter - Yes ma'am.
727
728 Ms. Harris - So the neighbors on Rutgers are really not affected too
729 much?
730
731 Mr. Baxter - Not at all. We spoke with all the neighbors that we felt would
732 be immediately affected, the Whites who are at 2820, they didn't have an issue with it;
733 2819, McDowells, they're the ones who wrote the note that said they didn't have a
734 problem; the Harpers at 11831, they didn't have an issue; and across the street, the
735 Shillings at 11832. At 836, those folks are interested in the outcome of this because
736 they'd also like to build a garage, so that might be a case that you are going to hear in
737 the future.
738
739 Mr. Wright - Anything further? Any further questions of members of the
740 Board? Anyone here in opposition to this request? Hearing none, that concludes the
741 case. Thank you very much for appearing.
742
743 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
744 Kirkland, the Board **granted** application **A-109-2004** for a variance to build an attached
745 garage at 2821 Dalkeith Drive (Glen Gary) (Parcel 735-757-9405). The Board granted
746 the variance subject to the following conditions:
747
748 1. Only the improvements shown on the plan filed with the
749 application may be constructed pursuant to this approval. No substantial changes or
750 additions to the layout may be made without the approval of the Board of Zoning
751 Appeals. Any additional improvements shall comply with the applicable regulations of
752 the County Code.
753
754 2. The new construction shall match the existing dwelling as nearly as practical.
755
756 3. The garage shall not be occupied for business or residential use.
757
758 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
759 Negative: 0
760 Absent: 0
761
762 The Board granted this request, as it found from the evidence presented that, due to the
763 unique circumstances of the subject property, strict application of the County Code
764 would produce undue hardship not generally shared by other properties in the area, and
765 authorizing this variance will neither cause a substantial detriment to adjacent property
766 nor materially impair the purpose of the zoning regulations.
767

768 **A-110-2004** **RICHMOND METRO HABITAT FOR HUMANITY** requests a
769 variance from Section 24-95(c)(1) to build a one-family dwelling at
770 3607 Ronnie Avenue (Pemberton Place) (Parcel 802-734-1076),
771 zoned R-4, One-family Residence District (Fairfield). The total side
772 yard setback is not met. The applicant proposes 15 feet total side
773 yard setback, where the Code requires 15.3 feet total side yard
774 setback. The applicant requests a variance of 0.3 foot total side
775 yard setback.
776

777 Mr. Wright - Does anyone else desire to speak with reference to this
778 case? Would you raise your right hand and be sworn please?
779

780 Mr. Blankinship - Do you swear that the testimony you are about to give is the
781 truth, the whole truth, and nothing but the truth, so help you God?
782

783 Ms. Garvin - I do. I'm Kathryn Garvin; I'm Executive Director of Richmond
784 Metropolitan Habitat for Humanity. I'm here today to request a variance on the total
785 side yard setback. I realize it's a very small variance request of .3 feet. The main
786 reason we are asking for the variance, rather than just making the dwelling smaller, is
787 that we have a homeowner who has gone through the initial process for approval for
788 this house, and she's been approved for a three-bedroom house. This is our smallest
789 three-bedroom house plan. We have about thirty house plans in our inventory, and
790 roughly a third of those are three-bedroom houses. This is the smallest one we have,
791 and I do not employ an architect on our staff. In order for us to change the dimensions
792 of the house, it is necessary for me to hire an architect to do that. So that's why we're
793 asking for such a small change in the setback. Do you have any other questions?
794

795 Mr. Wright - Any questions of members of the Board? Anyone here in
796 opposition to this request? Hearing none, that concludes the case. Thank you very
797 much for appearing.
798

799 After an advertised public hearing and on a motion by Ms. Harris, seconded by Mr.
800 Nunnally, the Board **granted** application **A-110-2004** for a variance to build one-family
801 dwelling at 3607 Ronnie Avenue (Pemberton Place) (Parcel 802-734-1076). The Board
802 granted the variance subject to the following conditions:
803

804 1. Only the improvements shown on the plan filed with the application may be
805 constructed pursuant to this approval. No substantial changes or additions to the layout
806 may be made without the approval of the Board of Zoning Appeals. Any additional
807 improvements shall comply with the applicable regulations of the County Code.
808

809 2. Connections shall be made to public water and sewer.
810

811 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
812 Negative: 0

813 Absent:

0

814

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

820

821 **A-111-2004** **JENNIFER MOSMAN** requests a variance from Section 24-95(k) to
822 build a detached garage at 7608 Cheshire Road (Westham) (Parcel
823 760-738-6314), zoned R-3, One-family Residence District
824 (Tuckahoe). The minimum side yard setback is not met. The
825 applicant has 16 feet rear yard setback on a reverse corner lot,
826 where the Code requires 55 feet rear yard setback. The applicant
827 requests a variance of 39 feet rear yard setback.

828

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

831

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

834

835 Ms. Mosman - I do. Jennifer Mosman. My husband and I would like to
836 build a detached two-story, two-car garage. We live on a reverse corner lot, which has
837 a 55-foot setback. It's an unusually shaped lot in that there's a lot more yard in the front
838 than in the back, and the required setback of 55 feet prohibits building a garage in the
839 back, because by the time you get it over 55 feet you're into the side yard setback on
840 the other side of the house.

841

842 Ms. Dwyer - If it's a detached garage, Mr. Blankinship, I didn't think that
843 the 55-foot rear yard setback would apply.

844

845 Mr. Blankinship - There's a really peculiar setback just for accessory
846 structures on reverse corner lots, and the reason for that is the rear yard of the reverse
847 corner lot matches up with the side yards of the other lots, so unless you push the
848 accessory structure way back from that corner street, it would appear that it's too close
849 to that other street.

850

851 Ms. Dwyer - I'm not clear on that. And there are different rules for the
852 reverse corner.

853

854 Mr. Blankinship - This isn't a very good example of why that happens.

855

856 Ms. Dwyer - So the rule about the accessory structure on a reverse
857 corner is

858

859 Mr. Blankinship - The setback for accessory structures on a reverse corner lot,
860 the setback from that side street, is forty feet plus the

861

862 Ms. Dwyer - And the side street is Waveny Road.

863

864 Mr. Blankinship - Yes, that's the one we're measuring from. It is, "Any building
865 in the rear yard of such corner lot shall be set back to the full front yard depth of the lot
866 in the rear, plus twenty feet." Lee, if you could put up the site map, then scroll up so
867 that we can see Cornwall. It's the only way I know to explain why the rule is the way it
868 is. You see 507 Waveny; now picture an accessory structure right where that cursor is,
869 or actually even a little closer to Cornwall. That would appear way out of place as you
870 drive down Cornwall.

871

872 Ms. Dwyer - It would appear to be in the front yard.

873

874 Mr. Blankinship - You have all those houses, and then you have this
875 accessory structure, so in order to correct for that, you have to be back the full front
876 yard depth plus twenty more feet, roughly the depth of a fairly narrow house, so that the
877 accessory structure still appears to be in the rear yard, even if you're looking at it from
878 Cornwall.

879

880 Mr. Wright - That pretty well negates the ability to build on the center.

881

882 Mr. Blankinship - It runs into a lot of problems. If you have like that one, 507,
883 where you have a rectangular lot, it would usually fit, but if there's anything unusual
884 about the lot, like in the subject case, there's really no place to put an accessory
885 structure.

886

887 Mr. Wright - In the subject case we have before us today, it doesn't
888 appear to cause the problem that 507 would cause.

889

890 Mr. Blankinship - Right, because you only have two houses on that curve of
891 Waveny, and you don't get that sense of this is where the house should be.

892

893 Mr. Wright - They face the other way.

894

895 Ms. Mosman - Because our house is tilted, it's curve is not exactly flush
896 with, perpendicular to Waveny. It already looks like it's the back yard. It doesn't look
897 like a side yard.

898

899 Mr. Wright - The point is though, the reason for the rule doesn't seem to
900 be applicable here.

901

902 Mr. Blankinship - Right.

903

904 Ms. Dwyer - Because of the unusual shape of this lot

905
906 Mr. Wright - Where the other houses are faced and the shape of the lot.
907
908 Ms. Dwyer - Thank you for explaining that. It made a lot more sense with
909 the other house than it does with this lot, because as you say, this lot is very unusual.
910 The house is already angled so that it doesn't appear that your rear yard necessarily is
911 adjacent to the side yard of the neighboring house.
912
913 Mr. Wright - Anything further?
914
915 Ms. Mosman - I'd just like to add a few things. The proposed location is the
916 logical place for the garage, not only because it's the end of the existing driveway, but
917 because it's also the least visible location due to the tree line; where the playground set
918 is, that's where the garage would go. But the tree line that goes along the corner of
919 Waveny, and then there's a six-foot fence behind us, and there's a tree line there, those
920 trees will not be disturbed. They are a good fifteen feet of very old oaks, azaleas, so
921 that if we keep the garage where it's proposed, we've got that natural tree line that
922 covers it. If we had to move it farther into the yard, it would be more visible to the
923 neighbors because the yard opens up, and there's less tree line to cover it. I have
924 spoken with my neighbors; they have no objection, including the neighbor behind me,
925 whose side yard, by the rules, touches my back yard, but it doesn't look like it. Even her
926 house is tilted; it looks like it's two back yards touching one another, but she has no
927 problem with it as well. The last thing I would like to add is that the detached two-car
928 garage is becoming a very popular item around my neighborhood. In the last two years
929 alone, within a two-block radius, there have been three detached garages built, and
930 there's a fourth one currently under construction. So this is not something that's
931 unusual, or that neighbors have a problem with.
932
933 Mr. Wright - All right. Any further questions of members of the Board?
934
935 Ms. Harris - Had you considered an attached garage?
936
937 Ms. Mosman - We have considered an attached garage, and the reason
938 that we shied away from that is that we have four children, and they use every bit of the
939 yard that they can, and if we attach the garage to the house, it would block the sun from
940 the back yard and make the back yard very dark and enclosed, and they would not be
941 able to play the way they do right now.
942
943 Ms. Dwyer - You also have some constraints as far as your existing
944 house and its setbacks, because part of this case is a request for a variance for the
945 existing home, is that correct Mr. Blankinship?
946
947 Mr. Blankinship - No, I think that's another case.
948
949 Ms. Mosman - To make it an attached garage, we would have to either
950 build a long extension, or basically put it right in our back yard, where the kids would

951 have nowhere to play in the back yard.

952

953 Ms. Dwyer - I was looking at the sixteen feet from the house to the lot.

954

955 Ms. Mosman - Also, there's only that one corner that's that close. The rest
956 of the garage swings away from the road.

957

958 Ms. Dwyer - As proposed, your garage is also at an angle to match the
959 angle of your house, and to continue that visual impression that this is not your back
960 yard. Mr. Blankinship, on the staff report on page 2, it says "the construction of the
961 detached garage should be of substantial detriment to adjacent properties."

962

963 Mr. Blankinship - A little typo there – I apologize for that.

964

965 Mr. Wright - Anything further? Any further questions of members of the
966 Board? Anyone here in opposition to this request? Hearing none, that concludes the
967 case. Thank you very much for appearing.

968

969 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.
970 Kirkland, the Board **granted** application **A-111-2004** for a variance to build a detached
971 garage at 7608 Cheshire Road (Westham) (Parcel 760-738-6314). The Board granted
972 the variance subject to the following conditions:

973

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

978

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

980

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

984

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

990

991 **A-112-2004** **JEFFREY AND CARLA CALHOUN** request a variance from
992 Section 24-94 to allow the dwelling to remain and build a sunroom
993 at 8090 Turner Road (Parcel 829-687-7318), zoned A-1,
994 Agricultural District (Varina). The front yard setback is not met.
995 The applicant has 39 feet front yard setback, where the Code
996 requires 50 feet front yard setback. The applicant requests a

997 variance of 11 feet front yard setback.
998
999 Mr. Wright - Does anyone else desire to speak with reference to this
1000 case? Would you raise your right hand and be sworn please?
1001
1002 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1003 truth, the whole truth, and nothing but the truth, so help you God?
1004
1005 Mr. Farrar - I do. Terry Farrar. As you know, for the last seven years,
1006 I'm in here every month. But this is one that I'm a little confused on. From the
1007 background, the existing dwelling was built in 1940, and at the time, it was Agricultural,
1008 and it had a 35-foot setback, and now it's at 39 feet, but the current setback now is
1009 making it 50 feet. The part that I don't understand, is that the sunroom is going on the,
1010 if you're looking at the house on the right side, is going to be recessed two feet in from
1011 the home. So the way I understand this, the whole house, when it was built on that
1012 particular lot, was out of Code at the time.
1013
1014 Mr. Blankinship - When it was built, it complied to the Code. We changed the
1015 Code so that the house became nonconforming.
1016
1017 Mr. Farrar - So the way I understand it, the house is out of Code, not the
1018 sunroom, because we're meeting the side yard setbacks.
1019
1020 Mr. Blankinship - The sunroom is being proposed closer than fifty feet to the
1021 street, so it's taking a nonconforming situation and making it worse. You're building a
1022 new room that is also too close to the front, so that's why the variance is required, and
1023 as long as you're up here anyway, we go ahead and do the variance for the house, so
1024 that when they convey it, they won't have to worry about that nonconformity. This
1025 sunroom will not be any closer to the street, Turner Road, than the house.
1026
1027 Mr. Farrar - It's going to be approximately two and a half feet further
1028 away.
1029
1030 Mr. Wright - So in effect you're adding to a nonconforming building, that's
1031 why.
1032
1033 Mr. Farrar - That's exactly right. And if you go to the pictures, the
1034 hardship that we have on this, that we're doing a total makeover on this home, one of
1035 the big hoops that we had to jump through was a financial issue with these people, and
1036 if you notice we're doing the windows, the siding, and the hardship is that none of this
1037 gets done, and she has windows falling out of the house, and none of it can be done
1038 unless it's a whole package deal with the finance people that she's working with.
1039
1040 Mr. Nunnally - How far are you from the closest house?
1041
1042 Mr. Farrar - You can't see one.

1043
1044 Mr. Blankinship - It looks like a little more than a hundred feet, maybe 150 feet
1045 or so, to that 8060.

1046
1047 Mr. Nunnally - That sits way back further than this one.

1048
1049 Mr. Farrar - It's pretty isolated there where you come around that corner.

1050
1051 Mr. Wright - Anything further? Any further questions of members of the
1052 Board? Anyone here in opposition to this request? Hearing none, that concludes the
1053 case. Thank you very much for appearing.

1054
1055 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1056 Kirkland, the Board **granted** application **A-112-2004** for a variance to allow the dwelling
1057 to remain and build a sunroom at 8090 Turner Road (Parcel 829-687-7318). The Board
1058 granted the variance subject to the following conditions:

1059
1060 1. Only the improvements shown on the plan filed with the application may be
1061 constructed pursuant to this approval. No substantial changes or additions to the layout
1062 may be made without the approval of the Board of Zoning Appeals. Any additional
1063 improvements shall comply with the applicable regulations of the County Code.

1064
1065 2. The new construction shall match the existing dwelling as nearly as practical.

1066
1067 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

1068 Negative: 0

1069 Absent: 0

1070
1071 The Board granted this request, as it found from the evidence presented that, due to the
1072 unique circumstances of the subject property, strict application of the County Code
1073 would produce undue hardship not generally shared by other properties in the area, and
1074 authorizing this variance will neither cause a substantial detriment to adjacent property
1075 nor materially impair the purpose of the zoning regulations.

1076
1077 **UP-25-2004 COKESBURY BOOKSTORE** requests a temporary
1078 conditional use permit pursuant to Section 24-116(c)(1) to hold a
1079 tent sale at 3700 West End Drive (Parcel 759-757-0604), zoned B-
1080 2, Business District (Brookland).

1081
1082 Mr. Wright - Does anyone else desire to speak with reference to this
1083 case? Would you raise your right hand and be sworn please?

1084
1085 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1086 truth, the whole truth, and nothing but the truth, so help you God?

1087

1088 Ms. Thompson - I do. Ellen Thompson. Cokesbury Bookstore is requesting
1089 permission to hold a tent sale the 21st through the 23rd of October. This will require a
1090 tent to be installed on the front parking lot of the property from October 14, with its
1091 removal no later than October 26. The tent will be under 900 square feet and installed
1092 by a properly licensed and approved vendor. The fact that it is under 900 square feet
1093 means it doesn't require a building permit to put the tent up. It will cover the four
1094 parking spaces in the upper lot and reduce access to the remaining four spaces, which
1095 we will reserve for our handicap access parking. During the previous tent sales, we
1096 have used the adjacent parking at the Tuckernuck Square parking lot, to the side of
1097 Babies R Us, the baby superstore, with no objections. Verbal agreement is held with
1098 Tuckernuck, the property managers at Tuckernuck to use those upper parking spaces.
1099 The history is we've had the tent sale since 1995. When we found out we were in
1100 noncompliance as far as conditional use permit in 1998, we have always come back
1101 and requested the conditional use permit with no problems, no objections. We always
1102 leave the property in excellent condition before and after, and we try to be good
1103 corporate citizens. There have been no complaints since 1995. There are only
1104 customers who start asking on January 1 when the tent sale will be every year, so we
1105 would like to request that again this year.

1106
1107 Mr. Wright - I noticed in the conditions, Mr. Blankinship, that you said a
1108 copy of the agreement to use these parking spaces at adjacent Tuckernuck Square,
1109 would be submitted, and you said you have a verbal agreement.

1110
1111 Ms. Thompson - We have a verbal. They have never sent us a written
1112 agreement.

1113
1114 Mr. Wright - This condition says you have to have a written agreement to
1115 be submitted with the building permit application, but you don't need a building permit,
1116 so should we strike # 2?

1117
1118 Ms. Thompson - According to the contact I've had with the County, if it's
1119 under 900 square feet, we don't have to have a building permit.

1120
1121 Mr. Blankinship - Are there no walls on the tent?

1122
1123 Ms. Thompson - We do request that the walls are put up on the tent. Does
1124 that make a difference? It's canvas; it's a canvas tent.

1125
1126 Mr. Kirkland - Like plastic walls, see-through plastic walls?

1127
1128 Mr. Blankinship - I thought you needed a permit for that, but I'll double check.

1129
1130 Mr. Wright - Have you had a building permit in the past?

1131
1132 Ms. Thompson - No.

1133

1134 Ms. Dwyer - Are all four sides covered with walls? It seems to me that ...
1135
1136 Ms. Thompson - All four sides are covered with walls; we take the walls down
1137 during the day and put them back up at night. We open them all during the day. So it's
1138 canvas with a regular piece that you put on the sides, that you hook onto the tent.
1139
1140 Ms. Dwyer - You do that at night for safety and rain? So during the sale
1141 it's free and open for access during the actual time when there are people in the tent.
1142
1143 Mr. Blankinship - That probably has something to do with it.
1144
1145 Ms. Dwyer - Like a cabana kind of thing.
1146
1147 Mr. Kirkland - Do we need # 2? Do we need to scratch # 2, Mr.
1148 Blankinship?
1149
1150 Mr. Blankinship - It's certainly at the Board's discretion.
1151
1152 Mr. Wright - Well, if they don't need a building permit, I don't see why
1153 they need # 2.
1154
1155 Mr. Blankinship - We have not had any complaints about parking in the other
1156 parking lot. I don't know if the Board wants to require a written agreement; it's certainly
1157 at your discretion.
1158
1159 Mr. Wright - Well, we've been operating how many years with a verbal
1160 agreement? Eight years?
1161
1162 Ms. Thompson - 1995.
1163
1164 Mr. Wright - As long as there are no complaints, then I don't see any
1165 problem with it.
1166
1167 Ms. Dwyer - It occurs to me that we just heard the turkey shoot, and they
1168 had their permit for two years, so they wouldn't have to come back every year, and I'm
1169 wondering, can this be expanded for two-year period to cover the period of the sales,
1170 both years of administration?
1171
1172 Mr. Blankinship - It could be, yes. We don't address that in the advertisement
1173 of in the notice letter.
1174
1175 Ms. Dwyer - So that can't be done?
1176
1177 Mr. Wright - Maybe next time you can do it for two years.
1178

1179 Mr. Blankinship - No, the notice letter doesn't say whether it's for one or two
1180 years, so you wouldn't be doing anything more than what was notified by making it two
1181 years.
1182

1183 Mr. Kirkland - We would need the exact dates, though, to put them in the
1184 record for next year, wouldn't we, Mr. Blankinship?
1185

1186 Mr. Blankinship - It would certainly be helpful.
1187

1188 Ms. Dwyer - Would you say during the month of October?
1189

1190 Mr. Wright - Do you always have this during the month of October?
1191

1192 Ms. Thompson - I would say that 99% of the time it works out to be in
1193 October. It has been in late September and October. We've also had spring sales in
1194 the past, but October seems to be the best time.
1195

1196 Ms. Dwyer - How many days is the sale?
1197

1198 Ms. Thompson - It's Thursday, Friday, and Saturday.
1199

1200 Ms. Dwyer - Three days.
1201

1202 Mr. Kirkland - We have to allow them an extra day to get it up.
1203

1204 Ms. Thompson - Yes, we put it up, because we get a tractor-trailer load of
1205 stuff we have to put in there, and then pack it down, so that's why we asked for the
1206 additional ten days on either side.
1207

1208 Ms. Harris - Are any of these parking spaces the handicap spaces?
1209

1210 Ms. Thompson - They are the handicap – where the cars are now, that you're
1211 seeing in the picture – those first two spaces are the handicap access spaces, so we
1212 put it on the upper lot where the dark car is, so it does block access to the handicap
1213 spaces. We then temporarily mark the last four on that other side as our handicap
1214 access, and we monitor that.
1215

1216 Mr. Kirkland - Did you have a sale in 2003?
1217

1218 Ms. Thompson - Yes we did.
1219

1220 Mr. Kirkland - No complaints then? I noticed our staff report skipped 2003;
1221 I was just trying to make sure.
1222

1223 Ms. Thompson - Yes, I was here last year in 2003; it was September 28 I
1224 think, the request last year, into the first.

1225
1226 Mr. Wright - Anything further? Any further questions of members of the
1227 Board? Anyone here in opposition to this request? Hearing none, that concludes the
1228 case. Thank you very much for appearing.

1229
1230 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Ms.
1231 Dwyer, the Board **granted** application **UP 25-2004** for a temporary conditional use
1232 permit to hold a tent sale at 3700 West End Drive (Parcel 759-757-0604). The Board
1233 granted the use permit subject to the following conditions:

1234
1235 1. {Amended} The tent will be removed by the close of business on October 26,
1236 2004. A tent may be erected again on October 13, 2005 and removed on October 25,
1237 2005. The dates for the 2005 tent sale may be adjusted with written approval from the
1238 Director of Planning.

1239
1240 2. [Deleted]

1241
1242 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1243 Negative: 0
1244 Absent: 0

1245
1246 The Board granted the request because it found the proposed use will be in substantial
1247 accordance with the general purpose and objectives of Chapter 24 of the County Code.

1248
1249 **A-113-2004 RICHARD H. DILWORTH** requests a variance from
1250 Sections 24-95(i)(2) and 24-94 to allow the dwelling to remain and
1251 build a garage at 8000 Cameron Road (Westham Ridge) (Parcel
1252 757-733-6822), zoned R-1, One-family Residence District
1253 (Tuckahoe). The accessory structure location requirement and
1254 front yard setback are not met. The applicant has 40 feet front yard
1255 setback and proposes a detached garage in the side yard, where
1256 the Code requires 50 feet front yard setback and allows accessory
1257 structures in the rear yard. The applicant requests a variance of 10
1258 feet front yard setback and an accessory structure in the side yard.

1259
1260 Mr. Wright - Does anyone else desire to speak with reference to this
1261 case? Would you raise your right hand and be sworn please?

1262
1263 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1264 truth, the whole truth, and nothing but the truth, so help you God?

1265
1266 Mr. Dilworth - I do. Richard Dilworth. One clarification, if your package
1267 reads like the one I got, it shows the owner of the property as Mr. and Mrs. Claiborne
1268 Terry. My wife and I closed the purchase of that property last month.

1269
1270 Mr. Wright - So you are now the

1271
1272 Mr. Dilworth - We are the owners. The only other thing that I guess is not
1273 covered by the presentation is that while technically, this garage looks like it is being
1274 built in the side yard, in fact, given the way the house faces on Cameron Road, it is
1275 actually in the back yard.
1276
1277 Ms. Dwyer - So what you're saying is your house faces, but the County
1278 legally considers South Ridge to be your front yard

1279
1280 Mr. Dilworth - Because it's closer to South Ridge than it is to Cameron.
1281
1282 Ms. Dwyer - So that's the genesis of this problem.
1283
1284 Mr. Dilworth - Exactly.
1285
1286 Ms. Dwyer - And the garage is going to be – as you're looking at the
1287 structure from South Ridge Road, the garage will be essentially behind your existing
1288 house. A normal person looking at the house would think it's in your back yard.
1289
1290 Mr. Dilworth - Exactly. Correct. And it backs up to a parking lot of River
1291 Road Baptist Church on the other side.
1292
1293 Ms. Dwyer - So the property line adjacent to this garage is the paved
1294 parking lot for River Road Baptist Church.
1295
1296 Mr. Dilworth - Yes.
1297
1298 Mr. Wright - Is this a two-car garage? And does it have a loft in it or not?
1299 No second story?
1300
1301 Mr. Dilworth - Yes it is. No, there is no second story. The garage won't be
1302 higher than the house.
1303
1304 Ms. Harris - This picture here – what is this structure?
1305
1306 Mr. Dilworth - Oh that's the corner of the house. The garage would be to
1307 the right of that.
1308
1309 Ms. Dwyer - And then on the other side of that fence, you can see that
1310 whitish area – that's the parking lot of the church.
1311
1312 Mr. Wright - Anything further? Any further questions of members of the
1313 Board? Anyone here in opposition to this request? Hearing none, that concludes the
1314 case. Thank you very much for appearing
1315

1316 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.
1317 Nunnally, the Board **granted** application **A-113-2004** for a variance to allow the dwelling
1318 to remain and build a garage at 8000 Cameron Road (Westham Ridge) (Parcel 757-
1319 733-6822). The Board granted the variance subject to the following conditions:

1320
1321 1. Only the improvements shown on the plan filed with the application may be
1322 constructed pursuant to this approval. No substantial changes or additions to the layout
1323 may be made without the approval of the Board of Zoning Appeals. Any additional
1324 improvements shall comply with the applicable regulations of the County Code.

1325
1326 2. The new construction shall match the existing dwelling as nearly as
1327 practical.

1328
1329 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

1330 Negative: 0

1331 Absent: 0

1332

1333 The Board granted this request, as it found from the evidence presented that, due to the
1334 unique circumstances of the subject property, strict application of the County Code
1335 would produce undue hardship not generally shared by other properties in the area, and
1336 authorizing this variance will neither cause a substantial detriment to adjacent property
1337 nor materially impair the purpose of the zoning regulations.

1338

1339 **A-114-2004** **JACQUE A. BOWMASTER** requests a variance from Section 24-
1340 94 to subdivide and build a one-family dwelling at 2218 Oakwood
1341 Lane (Park View) (Parcel 780-746-4984), zoned R-4, One-family
1342 Residence District (Brookland). The front yard setback, lot width
1343 requirement, minimum side yard setback, total lot area requirement,
1344 and total side yard setback are not met. The applicant proposes
1345 6,690 square feet total area, 41 feet lot width, 20 feet front yard
1346 setback, 5 feet minimum side yard setback, and 17 feet total side
1347 yard setback, where the Code requires 8,000 square feet total area,
1348 65 feet lot width, 35 feet front yard setback, 10 feet minimum side
1349 yard setback, and 25 feet total side yard setback. The applicant
1350 requests a variance of 1,310 square feet total area, 24 feet lot
1351 width, 15 feet front yard setback, 5 feet minimum side yard setback
1352 and 8 feet total side yard setback.

1353

1354 Mr. Wright - Does anyone else desire to speak with reference to this
1355 case? Everyone please stand and be sworn at the same time.

1356

1357 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1358 truth, the whole truth, and nothing but the truth, so help you God?

1359

1360 Ms. Bowmaster - I do. My name is Jacque Bowmaster. The problem
1361 we seem to be having with this is when my house was built in 1946, the people who

1362 bought the land, they evidently bought a wider lot, which turned out to be two lots.
1363 When the house was built, it was built over the line by about four to six feet. When my
1364 husband and I bought the land and house, we had no idea the house was sitting over
1365 the line. He and I had all kinds of plans to use for that enormous yard. He passed
1366 away two and a half years ago, and now that extra yard is becoming a major burden on
1367 me. It requires a lot of time that I don't have and money that I don't have, to take care
1368 of the land. My sister and brother-in-law are interested in buying the land to build a
1369 house. The home they live in now, they own. There is a company that's buying up the
1370 land over where they are, so they want to find another place to live. I'm getting older;
1371 I've got illnesses and aches and pains, and I keep coming up with new things every
1372 year. My sister has gotten older. Her health has deteriorated. She has a bad knee;
1373 she's had one replaced; she has arthritis and bursitis. My brother-in-law has heart
1374 disease and diabetes, and we've always been kind of there for each other, so we
1375 figured the best thing we could do would be to sell the land to them, because I have no
1376 use for all that excess land, and let them build their house next door. That way, if
1377 anything should ever happen, my sister and I will still be there for each other, to take
1378 care of each other, instead of being burdens on our children. We've talked to
1379 everybody in the neighborhood, and the package you have, we have signed statements
1380 from everybody in the neighborhood. The neighbors directly beside me that the house
1381 would affect, are here today to speak. It's an odd-sized lot, which my sister and brother-
1382 in-law don't mind. My children think it's a wonderful idea. I own my home, so I own all
1383 of this. It's not a problem for my children, and it's not a problem for their children.
1384 Everybody thinks it seems to be great. Where the flagpole is, that's where they want to
1385 build their home. Big fat, powder box home, it will fit right into the neighborhood, in with
1386 the rest of the houses in the neighborhood. It doesn't detract from the value of anybody
1387 else's home in the neighborhood. It would be built, would probably run about the same
1388 price as everybody else's homes there, and all the neighbors in the area seem to think
1389 it's a great idea. Like I said, the major problem is the size of the lot; the back part of that
1390 lot is fifty feet, but the front part of the lot, from the back edge of my house up, their lot's
1391 only 41 feet. We're trying to give the extra variance between their house and my
1392 neighbor's, Ann and Harvey Campbell, to that side, giving them more of the footage
1393 there, because I don't mind having my sister and brother-in-law's house closer to my
1394 house. It would be a ten-foot variance, five feet on my side, five feet on theirs.

1395
1396 Mr. Wright - So in effect you'd have a 41-foot frontage on the proposed
1397 lot.

1398
1399 Mr. Bowmaster - Right.

1400
1401 Mr. Wright - And the ordinance requires 65-foot frontage.

1402
1403 Mr. Kirkland - Mr. Bowmaster, have you considered adding a mother-in-
1404 law's suite to the existing home, to let them live in?

1405
1406 Mr. Bowmaster - We have, but we've each had our own places for so long
1407 that they would rather have their own place, and I would still rather have my own home,

1408 not attached to theirs. That way we don't each feel responsible for the other ones'
1409 home.
1410
1411 Mr. Kirkland - What's the square footage of the proposed dwelling?
1412
1413 Mr. Bowmaster - The square footage is
1414
1415 Mr. Blankinship - What's sketched here would be about 1560.
1416
1417 Mr. Kirkland - Single story, Mr. Blankinship?
1418
1419 Mr. Blankinship - Yes.
1420
1421 Mr. Wright - 74 feet wide.
1422
1423 Mr. Kirkland - Mr. Blankinship, what is the width of 2214 and 2220?
1424
1425 Mr. Blankinship - Probably 50 feet. Those first five lots, from Wilson Avenue
1426 going east – they were originally five 50-foot lots, and these two were combined, and
1427 the others were built on individually.
1428
1429 Mr. Kirkland - I saw some other situations further down on Nelson that are
1430 just like this, with little lots squeezed between two houses.
1431
1432 Mr. Blankinship - That would be in a different subdivision.
1433
1434 Mr. Bowmaster - There's three or four down there on Nelson Street.
1435
1436 Mr. Wright - But they would be on 50-foot lots, wouldn't they?
1437
1438 Mr. Kirkland - No, there's three or four of them down there that look just
1439 like this. They have a little piece of lot left between the houses; they're 40-footers, in
1440 other words.
1441
1442 Mr. Wright - Mr. Bowmaster is there anything else you would like to state
1443 with reference to your case? These folks want to speak on your behalf, we'll hear from
1444 them. If they're in favor?
1445
1446 Ms. Bowmaster - These are my neighbors.
1447
1448 Mr. Wright - You don't all have to say the same thing. If you want to say
1449 something different or somebody speak for the group, that's fine.
1450
1451 Mr. Campbell - I'm Harvey Campbell. I live at 2214. The primary house
1452 would be closest to mine. I see no problem with, like you were saying if you drive
1453 around Lakeside, there are a lot of smaller houses with smaller strips in between the

1454 houses, and everybody in the neighborhood, showed no problem with anybody building
1455 on that lot.

1456

1457 Mr. Kirkland - Mr. Campbell, what's the square footage of your home?

1458

1459 Mr. Campbell - 850 – it's just a small three-bedroom, but the lot is 50 by
1460 150.

1461

1462 Ms. Harris - What is your address?

1463

1464 Mr. Campbell - 2214.

1465

1466 Mr. Wright - Anything further?

1467

1468 Mr. Campbell - No sir.

1469

1470 Mr. Wright - Anyone else desire to speak?

1471

1472 Mr. Godsey - Mr. and Mrs. Gerald Godsey. That's her sister, and it looks
1473 like to me that every time I turn around, something's happening to me, and they're real
1474 close, and I want to make sure she's got somewhere to live and where we're living at
1475 now, Guminick Properties want to buy everything behind us. To be honest with you, my
1476 neighborhood seems to be going down on account of what they're doing.

1477

1478 Mr. Wright - Do you live in this neighborhood?

1479

1480 Mr. Godsey - I live on Bethlehem Road.

1481

1482 Ms. Godsey - We've lived there thirty years.

1483

1484 Mr. Godsey - My lot's kind of big, and I don't want to cut too much grass,
1485 and this would really suit us, and I could kind of look after both of them.

1486

1487 Mr. Wright - Anything further?

1488

1489 Mr. Godsey - No sir.

1490

1491 Ms. Godsey - In the past, before my brother-in-law passed away, they'd
1492 always kidded each other, you know, "if you go, we'll take care of her, and if I go, we'll
1493 take care of each other." We are a close family; there are five girls and one boy, and I
1494 do have a picture of the house that Mitchell Homes did for us. It's only 24 feet across;
1495 it's not a big house. It's just a small one, but it would suit us.

1496

1497 Mr. Wright - How many square feet is it? Does it tell you?

1498

1499 Mr. Godsey - It's probably about 1500, 1800, something like that.

1500
1501 Ms. Godsey - Yes, because there's a utility room and a storage area built
1502 onto the very back of the house, because we have an up and a downstairs now, so we'd
1503 be compacting that into all one level.

1504
1505 Mr. Wright - And Ms. Bowmaster's your sister?

1506
1507 Ms. Godsey - Yes sir.

1508
1509 Ms. Dwyer - Could we get a copy of that.

1510
1511 Ms. Godsey - I thought he had taken it the day that we went up there,
1512 because I had all this with me that day, but

1513
1514 Ms. Dwyer - You said the square footage would be about 1500?

1515
1516 Mr. Wright - Yes, if you multiply 65 by 24, that's what it would be. It
1517 seems to be larger than the house that's there.

1518
1519 Mr. Blankinship - It's quite a bit longer.

1520
1521 Ms. Godsey - Because it's longer, we're stretching it out. The laundry
1522 room and the storage are all on the back of it, so it makes the house look longer too.

1523
1524 Mr. Wright - Anything further you wish to state?

1525
1526 Ms. Godsey - No, but we'd love to do it.

1527
1528 Mr. Wright - Anyone else desire to speak? Anyone here in opposition to
1529 this request? That concludes the case. Thank you for appearing.

1530
1531 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Mr.
1532 Nunnally, the Board **denied** application **A-114-2004** for a variance to subdivide and
1533 build a one-family dwelling at 2218 Oakwood Lane (Park View) (Parcel 780-746-4984).

1534
1535 Affirmative: Dwyer, Kirkland, Nunnally, Wright 4
1536 Negative: Harris 1
1537 Absent: 0

1538
1539 The Board denied the request as it found from the evidence presented that authorizing
1540 this variance would materially impair the purpose of the zoning regulations.

1541
1542 **Beginning at 10:00**

1543
1544 Mr. Wright - Are there any deferrals or withdrawals on the 10:00 o'clock
1545 agenda?

1546

1547 Mr. Blankinship - Just the one that was stated earlier.
1548
1549 **A-115-2004** **LAURIE D. MORAN** requests a variance from Section 24-94 to
1550 build an attached garage at 12905 Church Road (Colonies at Wilde
1551 Lake) (Parcel 729-757-6451), zoned R-2A, One-family Residence
1552 District (Three Chopt). The rear yard setback is not met. The
1553 applicant proposes 40 feet rear yard setback, where the Code
1554 requires 45 feet rear yard setback. The applicant requests a
1555 variance of 5 feet rear yard setback.
1556
1557 Mr. Wright - Does anyone else desire to speak with reference to this
1558 case? Would you raise your right hand and be sworn please?
1559
1560 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1561 truth, the whole truth, and nothing but the truth, so help you God?
1562
1563 Mr. Parr - I do. My name is Darin Parr, with R. C Matze Construction,
1564 and I'm here to represent the homeowners, the Morans. We're here to request a five-
1565 foot variance on the rear setback of the house in order to construct a 24 by 24 two-story
1566 garage attached to the existing dwelling.
1567
1568 Mr. Wright - This will be a single story garage?
1569
1570 Mr. Parr - This will be a two-story garage.
1571
1572 Mr. Wright - What's the upstairs to be used for?
1573
1574 Mr. Parr - The upstairs will be a new bedroom.
1575
1576 Mr. Wright - Sort of like a family room type of thing?
1577
1578 Mr. Parr - It'll be a bedroom.
1579
1580 Mr. Wright - Is there any restriction on that, Mr. Blankinship?
1581
1582 Mr. Blankinship - Because it's attached, it's just a part of the house.
1583
1584 Ms. Dwyer - How will the roof line match the existing roof line of the
1585 house, because you have it slightly at an angle?
1586
1587 Mr. Parr - I don't know if you have a drawing of it, but I have a drawing
1588 right here, of the elevation, and how the roof line matches up.
1589
1590 Ms. Dwyer - We don't have that. So there are dormers on the garage?
1591
1592 Mr. Parr - There would be dormers on the side elevation, two dormers,

1593 and that set of plans also has that elevation. This will be in the set of plans that we'll be
1594 submitting for approval.

1595
1596 Mr. Wright - Any screening to the rear of your property, or on the rear of
1597 this property?

1598
1599 Mr. Parr - Based on the evaluation given there, there are deciduous
1600 trees in the back that do provide adequate screening.

1601
1602 Mr. Wright - Anything further? Any further questions of members of the
1603 Board? Anyone here in opposition to this request? Hearing none, that concludes the
1604 case. Thank you very much for appearing.

1605
1606 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
1607 Kirkland, the Board **granted** application **A-115-2004** for a variance to build an attached
1608 garage at 12905 Church Road (Colonies at Wilde Lake) (Parcel 729-757-6451). The
1609 Board granted the variance subject to the following conditions:

1610
1611 1. Only the improvements shown on the plan filed with the application may be
1612 constructed pursuant to this approval. No substantial changes or additions to the layout
1613 may be made without the approval of the Board of Zoning Appeals. Any additional
1614 improvements shall comply with the applicable regulations of the County Code.

1615
1616 2. The new construction shall match the existing dwelling as nearly as practical.

1617 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1618 Negative: 0
1619 Absent: 0
1620

1621
1622 The Board granted this request, as it found from the evidence presented that, due to the
1623 unique circumstances of the subject property, strict application of the County Code
1624 would produce undue hardship not generally shared by other properties in the area, and
1625 authorizing this variance will neither cause a substantial detriment to adjacent property
1626 nor materially impair the purpose of the zoning regulations.

1627
1628 **A-116-2004** **THOMAS H. TROW** requests a variance from Section 24-94 to
1629 build a one-family dwelling at 107 Running Cedar Lane
1630 (Countryside) (Parcel 751-733-6826), zoned R-1, One-family
1631 Residence District (Tuckahoe). The front yard setback is not met.
1632 The applicant proposes 30 feet front yard setback, where the Code
1633 requires 50 feet front yard setback. The applicant requests a
1634 variance of 20 feet front yard setback.

1635
1636 Mr. Wright - Does anyone else desire to speak with reference to this
1637 case? Would you raise your right hand and be sworn please?
1638

1639 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1640 truth, the whole truth, and nothing but the truth, so help you God?

1641
1642 Mr. Broaddus - Yes, I do. My name is Scott Broaddus; I'm with SPB Studio,
1643 and I'm the architect representing Thomas and Charlotte Trow. By way of introduction,
1644 the Trows have lived in this neighborhood for twenty years. They built the house on the
1645 adjacent property at 105 Running Cedar Lane twenty years ago. The Trows have
1646 grandchildren, which have recently done school and moved out of the house, so their
1647 lifestyle has adjusted accordingly over the last twenty years, so their needs for a new
1648 house are different from the house they have lived in, so that's driving them. They
1649 desire to build on this adjacent lot, which they also have owned for quite some time.

1650
1651 The issue regarding the front yard setback is such that we are requesting twenty feet,
1652 but you can see that only less than a quarter of the house would actually encroach on
1653 the twenty feet variance we are requesting. A number of issues drove us to request this
1654 variance, but perhaps the most important or dominant ones are the irregular shape of
1655 the lot. It's kind of pie-shaped; the rear lot line is further back than you can even see on
1656 this image, if we can zoom out a little bit. The rear lot line is a little over thirty feet,
1657 which is considerably smaller than any other lot in the area.

1658
1659 Then back on the site plan, there is also a drainage/utility easement, which is twenty
1660 feet wide and travels the west property line on the left side lot line. As it goes back, you
1661 can see how it comes across the rear of the lot some forty feet from the rear lot line. So
1662 in essence, it kind of shifts the center of gravity, so to speak, of the lot and the desired
1663 buildable area. There are a number of other issues that also support the desire to
1664 request a variance. One is the drop-off, and you can tell by the contour lines that it's a
1665 significant drop-off from the street at the front of the lot, especially on the right side, but
1666 there certainly is a desire for access from the street to the front of the house, and the
1667 front door, without a variance, would be some sixty-five feet back. That would be a
1668 tougher issue to negotiate.

1669
1670 We also have a rear-loaded garage set-up in the back, which further supports the desire
1671 for more distance and a comfortable rear yard. Along with the rear garage issue, is the
1672 driveway issue. There's already been a cut made in the existing access to the driveway
1673 from the street, which also makes much more sense coming in from the left side, as
1674 we've shown it, and actually a little bit of it is on top of the easement, but certainly not
1675 anything other than a driveway. Nothing in terms of building would be on that
1676 easement. That also needs to get by the house on the left and just supports the desire
1677 to have the house a little bit closer to the street. I noticed in the staff evaluation that
1678 what we're asking for does move the house closer to the street than most of the others
1679 in the neighborhood. Due to the fact that the lot itself drops so quickly, it wouldn't be as
1680 imposing, perhaps, as a flat line, where the house is more in your face, so to speak.

1681
1682 There's also a creek, some twenty or thirty feet behind the rear lot line, which
1683 occasionally will flood and in terms of experience of this three years, with water coming

1684 up towards the back of the house. Of course, any availability of building on higher
1685 ground will be helped by that.

1686
1687 Ms. Dwyer - Is it in a flood plain?

1688
1689 Mr. Broaddus - No, I'm not exactly sure where the flood plain is, but I know
1690 it's in that area, towards the back, and I would think that if it's coming across the middle
1691 of the lot, it would be a bigger issue than this. Nevertheless, at the very back of the lot,
1692 there has been some trouble in the past when the creek swells.

1693
1694 Mr. Wright - It said something in the staff report about trees that would
1695 have to be cut if you moved the house back further, is that a concern?

1696
1697 Mr. Broaddus - That is a concern as well, and judging from this photograph,
1698 it's a little bit hard to tell exactly which tree line you're referring to, but I've noted a few of
1699 the trees on the site plan from a recent survey, that we are proposing to keep,
1700 especially one red oak, which would be able to be kept if we had the variance.

1701
1702 Mr. Wright - Anything further you wish to present? Any further questions
1703 of members of the Board?

1704
1705 Ms. Dwyer - Just for the record, I'm looking at the siting of this house, and
1706 it appears that almost the entire house would be in front of the adjacent house. I'm just
1707 looking at it visually, comparing the location of this house to the next-door neighbors.

1708
1709 Mr. Broaddus - Perhaps, and some of the houses in the curvature of the
1710 street, coming into the cul-de-sac, and perhaps that would even be a more desired
1711 location for both of the neighbors. I know that the neighbors to the left at 103 have a
1712 pool in the back yard, and they would be looking across to a nice open rear yard, as
1713 opposed to the side of a house. Same issue for the house the Trows currently live in at
1714 105.

1715
1716 Mr. Blankinship - The neighbors to the west actually came into the office and
1717 reviewed the file with me, and they were initially concerned that they would be looking
1718 into a side-loaded garage, but when they saw that the rear-loaded garage was out of
1719 their view, they were no longer concerned.

1720
1721 Ms. Harris - You're saying that you could not have minimized the setback
1722 deficiency as far as the setback is concerned?

1723
1724 Mr. Broaddus - We tried, and there are a number of circumstances that
1725 supported our desire to request the variance, and we didn't see any negative effects of
1726 having the variance awarded, so that's why we're asking for it.

1727
1728 Ms. Harris - In other words, you could not have moved it back a little bit?

1729

1730 Mr. Blankinship - They could have moved it back twenty feet.
1731
1732 Mr. Broaddus - But moving it back twenty feet really does put us in solutions
1733 that we'd prefer not to deal with, and that's why we've gone through the application
1734 process.
1735
1736 Ms. Dwyer - Isn't there a side-loading garage?
1737
1738 Mr. Broaddus - There is one at the front of the house, to the basement, just
1739 at the lower left corner of the house the way you're looking at it now, so there a one-car
1740 garage there.
1741
1742 Ms. Dwyer - Where the driveway enters the house?
1743
1744 Mr. Broaddus - Exactly.
1745
1746 Ms. Dwyer - Explain to me the problem with having the driveway farther
1747 back, pushing the house back would cause what kind of a problem on the side with the
1748 driveway. I'm not clear on that. You said something about utilities?
1749
1750 Mr. Broaddus - I mentioned the utility easement. As the house moves
1751 further back and indeed, further west, to the left lot line, it simply pinches the driveway
1752 more and causes the house to want to be closer to the house at 103, the adjacent
1753 property to the west. As well, there's a swale on the east side of the house, which, as
1754 we move further back, we're almost getting into some drainage issues. It's not a
1755 primary reason, but yet again, it's another one of the secondary reasons that support
1756 the desire to have the house on higher ground and closer to the front of the lot. The
1757 driveway issue on the west of the lot does get pinched more, and the house becomes a
1758 little more difficult to situate, with both of those issues pinching on both sides.
1759
1760 Ms. Dwyer - The spacing of the driveway and the swale on the east, so
1761 what would you say is the primary reason for this relocation is? Is it the swale?
1762
1763 Mr. Broaddus - I would say it's the irregular pie shape of the lot itself, which
1764 it has a very small rear lot line, and therefore a very small rear yard, combined with the
1765 utility easement in the back. Those seem to be the primary reasons that kind of pinch
1766 the lot in and force the center of gravity towards the front of the property.
1767
1768 Mr. Wright - If the house were moved back twenty feet, what would be
1769 the elevation difference from the front line? That would be
1770
1771 Ms. Dwyer - On that corner it looks like maybe
1772
1773 Mr. Broaddus - Three feet maybe, lower.
1774
1775 Ms. Dwyer - In its proposed location, it's ten feet below street level?

1776
 1777 Mr. Broaddus - That's right, roughly.
 1778
 1779 Ms. Dwyer - Is this a two-story?
 1780
 1781 Mr. Broaddus - Three stories, basement, living level, second floor.
 1782
 1783 Ms. Dwyer - No finished attic?
 1784
 1785 Mr. Broaddus - No.
 1786
 1787 Mr. Wright - Any further questions of members of the Board? Anyone
 1788 here in opposition to this request? Hearing none, that concludes the case. Thank you
 1789 very much for appearing.
 1790

1791 After an advertised public hearing and on a motion by Ms. Dwyer, seconded by Mr.
 1792 Kirkland, the Board **granted** application **A-116-2004** for a variance to build a one-family
 1793 dwelling at 107 Running Cedar Lane (Countryside) (Parcel 751-733-6826). The Board
 1794 granted the variance subject to the following condition:
 1795

1796 1. The property shall be developed in substantial conformance with the plan
 1797 filed with the application. No substantial changes or additions to the layout may be
 1798 made without the approval of the Board of Zoning Appeals.
 1799

1800 Affirmative:	Dwyer, Harris, Kirkland, Nunnally, Wright	5
1801 Negative:		0
1802 Absent:		0

1803
 1804 The Board granted this request, as it found from the evidence presented that, due to the
 1805 unique circumstances of the subject property, strict application of the County Code
 1806 would produce undue hardship not generally shared by other properties in the area, and
 1807 authorizing this variance will neither cause a substantial detriment to adjacent property
 1808 nor materially impair the purpose of the zoning regulations.
 1809

1810 **A-117-2004** **HUGH W. OWENS** requests a variance from Section 24-96(c) to
 1811 build an office building and parking lot at 6500 Old Bethlehem Road
 1812 (Parcel 770-745-1768), zoned O-2C, Office District (Conditional)
 1813 (Brookland). The parking lot setback is not met. The applicant
 1814 proposes 5 feet parking lot landscape strip, where the Code
 1815 requires 15 feet parking lot landscape strip. The applicant requests
 1816 a variance of 10 feet parking lot parking lot landscape strip.
 1817

1818 Mr. Wright - Does anyone else desire to speak with reference to this
 1819 case? Would you raise your right hand and be sworn please?
 1820

1821 Mr. Blankinship - Do you swear that the testimony you are about to give is the

1822 truth, the whole truth, and nothing but the truth, so help you God?
1823

1824 Mr. Borden - I do. My name is Todd Borden. I am with Engineering
1825 Design Associates, the engineer for H. W. Owens. Mr. Owens purchased the property
1826 in July of 1997, roughly seven years ago. Much of the time spent since then was during
1827 the rezoning phase. It was rezoned in December of 2002. During this process, VDOT
1828 vacated a piece of right-of-way. It's where Old Bethlehem Road used to run over to its
1829 current location. Bethlehem Road used to go somewhat to the east of where it is now,
1830 but when they built Interstate 64, just off the page to the bottom, then the overpass over
1831 the interstate, we were able to acquire a little bit more room, and it allowed us to build
1832 into the property without getting into the RPA buffer. The right-of-way was vacated in
1833 November of 2002, and then the rezoning was approved in December of 2002. VDOT
1834 kept fifty feet of right-of-way from the center line of Old Bethlehem Road as part of that
1835 process, and it was recommended by the County that it be the width at that time.
1836

1837 We submitted the Plan of Development in February of 2003, and we had a number of
1838 significant issues that were raised. Notably, from our perspective, was an arcade
1839 buffer, which you'll see borders the site to the north and east. fire equipment access,
1840 and the fifty-foot landscaping strip, which we're requesting the variance from. We've
1841 spent roughly eighteen months trying to resolve this; we've gone through a number of
1842 different scenarios between the County Planning staff, the Fire Department, and
1843 Environmental, and we finally got to the point where we need to request this variance in
1844 order to develop the property at all. The main thing from the Fire Department's
1845 perspective is, of course, safety, and that's something that they really can't compromise
1846 on. Fire trucks will be entering from the existing entrance, which we're improving on
1847 Bethlehem Road, driving down through the site, and we've left enough room in the
1848 southeast corner of it that a fire truck can pull in and back up and get back out. We
1849 looked at a number of different options as far as getting fire equipment into and out of
1850 the site. We floated the idea of VDOT not having an exit off I-64, and they kind of
1851 laughed at us. We entertained ideas about getting access across adjacent properties or
1852 driving around the building. In both cases, you have environmental problems with that.
1853 We had requested a waiver from the environmental division of Public Works to
1854 encroach on the arcade buffer, and they refused to grant us that. We worked with the
1855 Fire Department for probably six months to come up with the designed parking lot as
1856 you see it. We're sandwiched in between the arcade buffer on one side and the right-
1857 of-way on the other. Last year we requested from VDOT, to vacate an additional fifteen
1858 feet of Bethlehem Road, to give us the room to accommodate that fifteen-foot
1859 landscaping strip, and the Sandston office approved the request; the County Engineer
1860 approved the request, but the Colonial Heights office of VDOT did not, and they're
1861 ultimately the ones who are responsible for taking care of vacations.
1862

1863 So we're left with our request. We have to get the fifteen-foot landscape buffer reduced
1864 in order to build on the site at all. It's not even a question of the size of the building. It's
1865 a question of getting access between the RDA buffer and the landscape buffer. I've
1866 been doing civil engineering for sixteen years; I must say this is the hardest site I've
1867 ever had to develop. We've never had this kind of problem and never had to wait

1868 eighteen months to get a set of plans approved. You will note in your staff report that
1869 the County staff has worked with us on all of our requests and has been more than
1870 patient with all the ideas that we've tried, and while they can't actually support it, the
1871 findings that they had were generally favorable in terms of the request. Going through
1872 just briefly the items as outlined as a case for a variance, exceptionally narrow property,
1873 I think we clearly meet that. The distance between the RPA buffer and the landscape
1874 strip and the right-of-way is just too narrow for access, much less any type of building.
1875 You can change the size of the building; that doesn't really change the equation.
1876 Hardship approaching confiscation again, if we are not granted this variance, we can't
1877 have access to the site, effectively denying us the ability to develop it. Detriment of
1878 adjacent property -- the adjacent property to the south is Interstate 64, to the west is
1879 Bethlehem Road; it doesn't really show it from the aerial photograph, but there's also a
1880 twenty to thirty-foot vertical embankment.

1881
1882 Bethlehem Road goes over Interstate 64, and property on the other side, aside from
1883 being undeveloped, is sufficiently buffered by the twenty-foot topography difference, so
1884 that any impact on that is negligible. To the north is Upham Brook, we have a two
1885 hundred to three hundred-foot wide flood plain between us and the undeveloped land to
1886 the north. In general, you can see from the photograph that along that twenty-foot
1887 embankment of Bethlehem Road, there are pine trees that have grown up on it, roughly
1888 six to eight-inch diameter, twenty to thirty-foot high, exceptional job of screening our
1889 development against anything that you can see from Bethlehem Road. The last
1890 condition was that this not be the general or recurring sort of request that you're going
1891 to see, and unique conditions of the site are just extraordinary, unusual, and there's no
1892 change in the zoning ordinance that would allow us to develop the site. Do you have
1893 any questions?

1894
1895 Mr. Kirkland - How long has your client owned this property?
1896
1897 Mr. Borden - He purchased it in July of 1997, so that's seven years.
1898
1899 Mr. Kirkland - This piece was rezoned, right?
1900
1901 Mr. Borden - Yes sir. It was originally part of the Still Meadows
1902 Subdivision in the early '90's, maybe late '80's.
1903
1904 Mr. Kirkland - What kind of building is going to be put down in there?
1905
1906 Mr. Borden - Office building. Two story, 6,000 square feet, more or less.
1907
1908 Mr. Wright - Mr. Blankinship, I take it that there's some sort of
1909 embankment along Bethlehem Road?
1910
1911 Mr. Blankinship - Oh yes.
1912

1913 Mr. Wright - I haven't looked at that. You state in your report that VDOT
1914 is concerned that the vacation of the right-of-way and the subsequent construction of
1915 the parking lot might narrow the embankment enough to compromise the integrity of
1916 Bethlehem Road.

1917
1918 Mr. Blankinship - If they were to vacate the right-of-way.
1919

1920 Mr. Borden - Remember we asked VDOT for an additional fifteen feet of
1921 right-of-way, and they denied us that.
1922

1923 Mr. Wright - But the purpose of the right-of-way was to have some sort of
1924 greenery there, wasn't it? In other words, the idea was not to construct the parking lot
1925 in that fifteen-foot area.
1926

1927 Mr. Blankinship - I think VDOT's concern is if they were to vacate the right-of-
1928 way, they would lose control over that.
1929

1930 Mr. Wright - If there were a condition that they couldn't construct
1931 something in that fifteen-foot area, that would remove their concern, wouldn't it?
1932

1933 Mr. Blankinship - Right.
1934

1935 Mr. Wright - Just didn't want to do something that would violate what their
1936 intent was. So the landscape strip would be maintained, and their concerns would be
1937 negated? Anything further? Any questions of members of the Board? Anyone here in
1938 opposition to this request? Hearing none, that concludes the case. Thank you very
1939 much for appearing.
1940

1941 After an advertised public hearing and on a motion by Mr. Kirkland, seconded by Ms.
1942 Dwyer, the Board **granted** application **A-117-2004** for a variance to build an office
1943 building and parking lot at 6500 Old Bethlehem Road (Parcel 770-745-1768). The
1944 Board granted the variance subject to the following conditions:
1945

1946 1. Only the improvements shown on the plan filed with the application may be
1947 constructed pursuant to this approval. No substantial changes or additions to the layout
1948 may be made without the approval of the Board of Zoning Appeals. Any additional
1949 improvements shall comply with the applicable regulations of the County Code.
1950

1951 2. At the time of building permit application, the applicant shall submit the
1952 necessary information to the Department of Public Works to ensure compliance with the
1953 requirements of the Chesapeake Bay Preservation Act and the code requirements for
1954 water quality standards.
1955

1956 3. The applicant shall present proof with the building permit application that a legal
1957 access to the property has been obtained.
1958

1959 4. The parking lot, driveways, and loading areas shall be subject to the
1960 requirements of Section 24-98 of Chapter 24 of the County Code.

1961
1962 5. The applicant shall present a complete grading, drainage, and erosion control
1963 plan prepared by a Professional Engineer certified in the state of Virginia to the
1964 Department of Public Works for approval. This plan must include the necessary
1965 floodplain information if applicable.

1966
1967 6. All landscaping shall be maintained in a healthy condition at all times. Dead
1968 plant materials shall be removed within a reasonable time and replaced during the
1969 normal planting season.

1970
1971 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
1972 Negative: 0
1973 Absent: 0

1974
1975 The Board granted this request, as it found from the evidence presented that, due to the
1976 unique circumstances of the subject property, strict application of the County Code
1977 would produce undue hardship not generally shared by other properties in the area, and
1978 authorizing this variance will neither cause a substantial detriment to adjacent property
1979 nor materially impair the purpose of the zoning regulations.

1980
1981 **A-118-2004** **JON SLAUNWHITE** requests a variance from Section 24-94 to
1982 build a roof over the existing deck at 11725 Cobblestone Landing
1983 Court (Cobblestone Landing at Twin Hickory) (Parcel 742-765-
1984 0293), zoned R-3C, One-family Residence District (Conditional)
1985 (Three Chopt). The rear yard setback is not met. The applicant
1986 has 36 feet rear yard setback, where the Code requires 40 feet rear
1987 yard setback. The applicant requests a variance of 4 feet rear yard
1988 setback.

1989
1990 Mr. Wright - Does anyone else desire to speak with reference to this
1991 case? Would you raise your right hand and be sworn please?

1992
1993 Mr. Blankinship - Do you swear that the testimony you are about to give is the
1994 truth, the whole truth, and nothing but the truth, so help you God?

1995
1996 Mr. Slaunwhite - I do. Jon Slaunwhite. My wife and I are requesting a four-
1997 foot variance in order to build a roof over our deck. The main reason we want to do that
1998 is, the exposure of the back of the house is south-southwest in the afternoon, but the
1999 majority of the day, but mainly in the afternoon and early in the evening, the sun is so
2000 bright and so hot that we're not in a position to be able to take advantage of the deck.
2001 In the evaluation, it stated that it is a new subdivision. Unfortunately, in new
2002 subdivisions there's not a lot of tall trees because the builders take them down. We
2003 have planted in the neighborhood nine to ten trees or large shrubs to aesthetically
2004 please and then also eventually provide substantial screening to adjacent lots and

2005 properties.

2006

2007 Mr. Wright - Would this be enclosed?

2008

2009 Mr. Slaunwhite - Just open. We have no intentions of enclosing it. It would
2010 be eight-inch round columns; it would keep in the architectural style of the house. We
2011 have eight-inch columns across the front, which unfortunately I don't have the ability to
2012 show you, but it would be built in the same style as the rest of the house in the
2013 neighborhood, with no intentions of ever enclosing it.

2014

2015 Mr. Wright - Just have a roof over the deck?

2016

2017 Mr. Slaunwhite - Yes sir, just a shed roof over the deck.

2018

2019 Mr. Wright - Anything further? Any further questions of members of the
2020 Board? Anyone here in opposition to this request? Hearing none, that concludes the
2021 case. Thank you very much for appearing.

2022

2023 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr.
2024 Kirkland, the Board **granted** application **A-118-2004** for a variance to build a roof over
2025 the existing deck at 11725 Cobblestone Landing Court (Cobblestone Landing at Twin
2026 Hickory) (Parcel 742-765-0293). The Board granted the variance subject to the
2027 following conditions:

2028

2029 1. Only the improvements shown on the plan filed with the application may be
2030 constructed pursuant to this approval. No substantial changes or additions to the layout
2031 may be made without the approval of the Board of Zoning Appeals. Any additional
2032 improvements shall comply with the applicable regulations of the County Code.

2033

2034 2. The new construction shall match the existing dwelling as nearly as
2035 practical.

2036

2037 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5

2038 Negative: 0

2039 Absent: 0

2040

2041 The Board granted this request, as it found from the evidence presented that, due to the
2042 unique circumstances of the subject property, strict application of the County Code
2043 would produce undue hardship not generally shared by other properties in the area, and
2044 authorizing this variance will neither cause a substantial detriment to adjacent property
2045 nor materially impair the purpose of the zoning regulations.

2046

2047 **A-119-2004** **KEISHA ROGERS** requests a variance from Sections 24-95(d)(2)
2048 and 24- 9 to build a one-family dwelling at 6261 Osborne Turnpike
2049 (Parcels 800-705-9611 (part) and 9028), zoned R-3, One-family
2050 Residence District (Varina). The lot width requirement and public

2051 street frontage requirement are not met. The applicant has 39 feet
2052 lot width and 39 feet public street frontage, where the Code
2053 requires 100 feet lot width and 50 feet public street frontage. The
2054 applicant requests a variance of 61 feet lot width and 11 feet public
2055 street frontage.

2056
2057 Mr. Wright - Does anyone else desire to speak with reference to this
2058 case? Would you raise your right hand and be sworn please?

2059
2060 Mr. Blankinship - Do you swear that the testimony you are about to give is the
2061 truth, the whole truth, and nothing but the truth, so help you God?

2062
2063 Mr. Aiken - Yes I do. My name is Terence C. Aiken.

2064
2065 Ms. Rogers - Good morning; my name is Keisha Rogers.

2066
2067 Mr. Aiken - I am the spouse of Keisha Rogers. Our representative,
2068 Steven D. Bullock, was not able to make it here today, because he was not well. I'll be
2069 speaking on behalf of my wife today. We are requesting a variance today for a flag-
2070 shaped lot located at 6261 Osborne Turnpike. This lot is the by-product of two adjoining
2071 lots, that is parcel 800-705-9028, which is the long, narrow strip of land that you see,
2072 and 800-705-9611, which is the rear portion of the lot that you see on screen. My wife
2073 and I would like to build a one-family residence to the rear of this parcel. The variance
2074 is needed because the lot width at the front of the parcel, which meets with Osborne
2075 Turnpike, is 39 feet. The Code requires fifty feet public street frontage. An eleven-foot
2076 variance is requested for the public street frontage. In addition to that, the variance is
2077 also being requested for the lot width. It is 39 feet wide, yet the Code requires that the
2078 lot be 100 feet wide, I believe it's at a certain depth into the lot. I believe that may be
2079 about 40 feet into the lot; however that can be verified through the County Planning
2080 Director.

2081
2082 Mr. Wright - That's at the building line; that's what that requirement is, so
2083 many feet back.

2084
2085 Mr. Blankinship - Yes, so it's actually slightly more than 39, but we couldn't
2086 come up with exactly what it was, but it's not going to be any less than 39, so we
2087 advertised it that way.

2088
2089 Mr. Aiken - A variance of 61 feet lot width is being requested here. This
2090 property has a very long, narrow strip of land that has only been used, and will only
2091 continue to be used, as an access roadway. The land area at the rear of the parcel is
2092 very attractive to persons who desire homes with some degree of privacy, like my wife
2093 and myself. My wife and I would like to beautify this strip of desolate land by adding
2094 shrubs and trees, in addition to building a one-family home for ourselves. We feel that it
2095 would add value to the area; it would certainly increase the tax revenue, and eliminate
2096 the unsightly appearance of a barren lot in the midst of beautiful Varina. Our home

2097 would have more than adequate space from any other surrounding properties. We feel
2098 the neighbors would welcome the trim, green grass, new trees and new shrubs on our
2099 bordered perimeters.

2100
2101 If the variance were to be rejected, then it would be extremely difficult, if not an
2102 impossibility, to find any economically valuable, viable use for the property. My wife and
2103 I would have land that we could look at, but not much else. In addition, we also would
2104 suffer financial hardship from the purchase of this lot. The total lot area is over .75 of an
2105 acre, which is well over the mandatory lot size limits. Also, in addition, this roadway has
2106 been, and continues to be used by our neighbors at 6269 Osborne Turnpike. It is not
2107 our intentions, nor our desire, to disrupt the normal ebb and flow of the neighborhood.
2108 We will continue to share access with our neighbors at 6269 Osborne Turnpike. Thank
2109 you.

2110
2111 Mr. Wright - Anything further? Any further questions of members of the
2112 Board?

2113
2114 Mr. Nunnally - How far off of Osborne Turnpike would your house be?

2115
2116 Mr. Aiken - It would be roughly 300 feet away from Osborne Turnpike to
2117 the center of the house, roughly.

2118
2119 Mr. Nunnally - And what size house is it?

2120
2121 Mr. Aiken - We're looking at an approximately 2500 square foot house.

2122
2123 Mr. Nunnally - One story or two story?

2124
2125 Mr. Aiken - Rancher.

2126
2127 Ms. Dwyer - How would the house be oriented? In other words, where
2128 would the front of the house face?

2129
2130 Mr. Aiken - The front of the house would be oriented to the north. On
2131 the screen here, you can see the front fascia of the house, facing the north, or facing
2132 the driveway.

2133
2134 Ms. Harris - Is that a subdivision behind you?

2135
2136 Mr. Aiken - Yes it is.

2137
2138 Ms. Harris - What subdivision?

2139
2140 Mr. Aiken - Rivendell.

2141
2142 Mr. Wright - Any further questions of members of the Board? Anyone

2143 here in opposition to this request? Hearing none, that concludes the case. Thank you
2144 very much for appearing.

2145
2146 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Ms.
2147 Harris, the Board **granted** application **A-119-2004** for a variance to build a one-family
2148 dwelling at 6261 Osborne Turnpike (Parcels 800-705-9611 (part) and 9028). The Board
2149 granted the variance subject to the following conditions:

2150
2151 1. This variance applies only to the lot width and public street frontage
2152 requirements. All other applicable regulations of the County Code shall remain in force.

2153
2154 2. Approval of this request does not imply that a building permit will be issued.
2155 Building permit approval is contingent on Health Department requirements, including,
2156 but not limited to, soil evaluation for a septic drainfield and reserve area, and approval
2157 of a well location.

2158
2159 3. There shall be one highway entrance serving the subject lot and the property at
2160 6269 Osborne Turnpike. The applicant shall present proof with the building permit
2161 application that shared access has been provided.

2162
2163 4. Connections shall be made to public water.

2164
2165 Affirmative: Dwyer, Harris, Kirkland, Nunnally, Wright 5
2166 Negative: 0
2167 Absent: 0

2168
2169 The Board granted this request, as it found from the evidence presented that, due to the
2170 unique circumstances of the subject property, strict application of the County Code
2171 would produce undue hardship not generally shared by other properties in the area, and
2172 authorizing this variance will neither cause a substantial detriment to adjacent property
2173 nor materially impair the purpose of the zoning regulations.

2174
2175 **A-120-2004 MMG ENTERPRISES, LLC** requests a variance from
2176 Section 24-96(b) to remodel an existing office building at 1600
2177 Forest Avenue (Forest Office Park) (Parcel 759-743-6198), zoned
2178 O-2, Office District (Three Chopt). The parking space number
2179 requirement is not met. The applicant has 46 parking spaces,
2180 where the Code requires 51 parking spaces. The applicant
2181 requests a variance of 5 parking spaces.

2182
2183
2184 The Board allowed withdrawal of the application **A-120-2004** for the above-referenced
2185 variance at the request of the applicant.

2186
2187 Minutes of the June 24 and July 22, 2004, meetings of the Board of Zoning Appeals
2188 were distributed.

2189

2190 Mr. Wright - Mr. Blankinship, since we've changed the next meeting from
2191 the fourth Thursday to the third Thursday, I have a conflict. I can't be here on the 21st,
2192 so Mr. Nunnally will take over.

2193
2194 Mr. O'Kelly - Mr. Chairman, before we adjourn, I'd like to make an
2195 announcement if I may. In the Planning Department, we've been going through some
2196 re-organization since last May, and that re-organization has resulted in opportunities for
2197 the staff, and Lee Tyson has recently been promoted to a Senior Planning position in
2198 the Comprehensive Planning Division, so he will be leading the team, preparing zoning
2199 cases for both the Planning Commission and the Board of Supervisors. We're very
2200 pleased that Lee has accepted that opportunity. He is a very professional, well
2201 organized employee, and we certainly appreciate the job that he's done in supporting
2202 the Board as a staff member for the last couple of years.

2203
2204 There being no further business, and on a motion by Ms. Dwyer, seconded by Mr.
2205 Kirkland, the Board adjourned until **October 21, 2004**, at 9:00 am.

2206
2207

2208 Russell A. Wright, Esq.

2209 Chairman

2210

2211

2212 Benjamin Blankinship, AICP

2213 Secretary

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2215