

1 MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF HENRICO  
2 COUNTY HELD IN THE COUNTY ADMINISTRATION BUILDING IN THE HENRICO COUNTY  
3 GOVERNMENT COMPLEX ON THURSDAY, SEPTEMBER 23, 1999 AT 9:00 A.M. NOTICE  
4 HAVING BEEN PUBLISHED IN THE RICHMOND TIMES DISPATCH ON SEPTEMBER 2, 1999,  
5 AND SEPTEMBER 9, 1999.  
6

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

Also Present: Benjamin Blankinship, Secretary  
Susan W. Blackburn, County Planner II  
Florence Ellis, Recording Secretary

7 Mr. Kirkland - Gentlemen, welcome to the September meeting of the Board of  
8 Zoning Appeals. Before we get started, the list of conditions for each is in the back of the  
9 room on the little shelves. So, if you have any concerns, you can read those. And now,  
10 we'll have the Secretary read the rules that we go by during our meeting.

11  
12 Mr. Blankinship - Good morning, Mr. Chairman, members of the Board, ladies and  
13 gentlemen. The rules for this meeting are as follows: The Secretary, myself, will call the  
14 case. Then the applicant will come to the podium to present their case. At that time, I'll ask  
15 all those who intend to speak in favor or opposition to stand and they will be sworn in. The  
16 applicant will then present their testimony. When the applicant is finished, anyone else will  
17 be given an opportunity to speak. After everyone has spoken, the applicant, and only the  
18 applicant, will be given the opportunity for rebuttal. After hearing the case, and asking  
19 questions, the Board will take the matter under advisement. They will render a decision at  
20 the end of the meeting. If you wish to know what their decision is, you may stay until the  
21 end of the meeting, or call the Planning Office at the end of the day. This meeting is being  
22 tape recorded, so we will ask everyone who speaks to speak directly into the microphones on  
23 the podium to state your name for the record. In the back of the room, as the Chairman said,  
24 there is a binder, which has the staff report for each case, including the conditions suggested  
25 by the staff. Mr. Chairman.

26  
27 Mr. Kirkland - Do we have any requests for deferrals or withdrawals for the  
28 9:00 o'clock agenda?  
29

30 UP- 35-1999 Linda M. Caldwell requests a use permit pursuant to Section 2452(g) of  
31 Chapter 24 of the County Code to operate a riding stable at 10915  
32 Opaca Lane (Tax Parcel 19-A-14), zoned A-1, Agricultural District  
33 (Three Chopt).  
34

35 Mr. Blankinship - We know of one, Mr. Chairman, which is UP-35-99 on Page 3 of  
36 the agenda.  
37

38 Mr. Kirkland What is the question? Is it being withdrawn or being deferred?

39  
40 Mr. Blankinship - The applicant is here.  
41  
42 Ms. Caldwell- I'm sorry. I do not have my receipts, and I respectfully request  
43 that we defer this until next month when I can do it all over again and bring the proper  
44 paperwork that I need.  
45  
46 Mr. Wright- OK. I move that we defer it to the next meeting.  
47  
48 Mr. Nunnally- Second.  
49  
50 Mr. Kirkland - All those in favor say aye—all those opposed by saying nay. We  
51 deferred it for 30 days, which will be on October, what is that date?  
52  
53 Mr. Wright- It's October 28<sup>th</sup>.  
54  
55 Mr. Kirkland - All right. We'll see you on the 28<sup>th</sup>.  
56  
57 Ms. Caldwell- Thank you.  
58  
59 Mr. Kirkland - If you would, sir, call the first case.  
60  
61 **A -119-1999** Robert N. Schapiro requests a variance from Section 24-94 of Chapter  
62 24 of the County Code to build an addition at 13413 College Valley  
63 Lane (Foxhall) (Tax Parcel 45-2-B-101), zoned R-2AC, One-family  
64 Residence District (Conditional) (Three Chopt). The rear yard setback is  
65 not met. The applicant has 37.0 feet rear yard setback where the Code  
66 requires 45.0 feet rear yard setback. The applicant requests a variance  
67 of 8.0 feet rear yard setback.  
68  
69 Mr. Kirkland - Any one going to speak on A-119-99?  
70  
71 Mr. McKinney - I move we pass it to the end.  
72  
73 Mr. Kirkland - Okay. We'll pass it to the end. (See end of minutes.)  
74  
75 **A-121-1999** Sheri R. Cox requests a variance from Section 24-96(b) of Chapter 24  
76 of the County Code to construct parking spaces at 1321 East Nine Mile  
77 Road (Tax Parcel 156-A-4), zoned B-3, Business District (Varina). The  
78 parking requirement is not met. The applicant has 5 parking spaces  
79 parking requirement where the Code requires 8 parking spaces parking  
80 requirement. The applicant requests a variance of 3 parking spaces  
81 parking requirement.  
82  
83 Mr. Kirkland - Would you state your name for the record, please?  
84  
85 Ms. Sherry Cox - My name is Sherry Cox.  
86

87 Mr. Kirkland - Would you raise your right hand and let the Secretary swear you  
88 in?  
89  
90 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
91 truth, the whole truth, and nothing but the truth, so help you God?  
92  
93 Mrs. Cox - I do.  
94  
95 Mr. Kirkland - Have all notices been filed according to the County Code?  
96  
97 Mrs. Cox - Yes, sir.  
98  
99 Mr. Kirkland - Have you turned them in? Okay. State your case.  
100  
101 Mrs. Cox - I'm a picture framer. I renovated a small house to do my work  
102 out of and to sell some art. And my wood is kept separate from me. And running back and  
103 forth and sometimes at night, it's sort of uncomfortable. I work alone. I don't have a helper  
104 right now. And we figured out if we put an attached addition, just cut through a window,  
105 that I could be contained and it would be a safe thing to do.  
106  
107 It's a very small business. With this addition, I'm going to be under 1,600 square foot. I'm  
108 keeping my wood and my saws stored where I can get to them without having to go outside,  
109 just to make it safer for me and a little bit easier. It won't increase my traffic any. It just  
110 keeps me from running and putting "I'll be back in 10 minutes or 20 minutes" sign on the  
111 door.  
112  
113 Mr. Nunnally- Ms. Cox, do you do this by orders, or are you open for retail  
114 business, or wholesale?  
115  
116 Mrs. Cox - I'm a small retail shop. So, anybody can stop in and look at art,  
117 or drop off their framing, and then I work when people aren't there. But I am a hand shop, so  
118 I do it all myself.  
119  
120 Mr. Wright- Mr. Chairman, I take it, the reason for the additional requirement  
121 is because she is enlarging her facility. Is that correct?  
122  
123 Mr. Blankinship - That's correct.  
124  
125 Mr. Wright- I understand, Ms. Cox, you're just going to use this for storage?  
126 Is that it, basically?  
127  
128 Mrs. Cox - It's not a retail space. It's not even going to be completely  
129 finished.  
130  
131 Mr. Wright- What you're telling us, you don't believe that this will bring any  
132 additional patrons to the shop?  
133  
134 Mrs. Cox - Not that I can tell.  
135

136 Mr. Wright- It's not designed...  
137  
138 Mrs. Cox - It's not designed to do that. Basically, I'm going to load the walls  
139 with my wood. I'm kind of an artsy packrat, so there's always wood. There's always scraps  
140 of glass, matboard. This keeps them where I can get to them without going back and forth.  
141  
142 Mr. McKinney - Ms. Cox, have you investigated, as far as doing your storage  
143 upstairs?  
144  
145 Mrs. Cox - It's a one-story little building.  
146  
147 Mr. McKinney - I understand that. But, you've got storage space upstairs.  
148  
149 Mrs. Cox - The roof of that, there's a little hole to get to the attic, and it's a  
150 short beamed attic. My wood is between nine and twelve feet tall and it stands up.  
151  
152 Mr. McKinney - Nine and 12 foot for framing?  
153  
154 Mrs. Cox - Well, what I do, I cut it. I buy lengths of wood and cut it to  
155 whatever size the customer needs.  
156  
157 Mr. McKinney - Where do you live, Ms. Cox?  
158  
159 Mrs. Cox - Further out, at Redcoach Terrace.  
160  
161 Mr. McKinney - Do you have a garage?  
162  
163 Mrs. Cox - We have a small garage. It's got all of my husband's work shop  
164 tools and his car.  
165  
166 Mr. McKinney - So, he has saws and things like that?  
167  
168 Mrs. Cox - He has saws, but most of his is automotive stuff.  
169  
170 Mr. McKinney - But, I mean, this wood could be brought to your garage and cut  
171 in your garage?  
172  
173 Mrs. Cox - No, sir, it couldn't.  
174  
175 Mr. McKinney - Why is that?  
176  
177 Mrs. Cox - Because it might cost the marriage. It's his garage.  
178  
179 Mr. McKinney - I didn't hear that. What?  
180  
181 Mrs. Cox - It's his garage.  
182  
183 Mr. McKinney - We have a couple of attorneys here that will tell you that it's  
184 community property. And half of it belongs to you.

185  
186 Mrs. Cox - That's good to know. My husband does not believe in mixing  
187 business and family.

188  
189 Mr. Wright- That may be the law, but...

190  
191 Mr. Kirkland - Anything else you'd like to add?

192  
193 Mrs. Cox - Well, just like the idea of doing that. It's still running up and  
194 down the road to do it. What I'd really like, if at all possible, is to just keep me contained,  
195 because I am small. Coming up on the Christmas season, I'll be there, and I'll be there late.  
196 You know, you ride by, I might be there at 10:00 at night. It's a good little area. And I like  
197 bring art out to the east end. But sometimes it's rough. There are a lot of people walking the  
198 streets. And just being alone. We figured out the best thing, if you all deem it possible, was  
199 to just, I can go in, lock the door. It's everything I need until I leave. The police officers out  
200 there are wonderful. They keep an eye on me. They watch for the car. If I'm there after  
201 hours, and they're cruising, they'll check on me. We're just trying to be safe across the  
202 board.

203  
204 Mr. Kirkland - Okay. Any other questions?

205  
206 Mr. Nunnally- Mrs. Cox, did you read the conditions on your case?

207  
208 Mrs. Cox - Yes, sir.

209  
210 Mr. Kirkland - Any one else to speak to A-121-99? Seeing there's no more  
211 testimony, that concludes the case. You can call the Planning Office this afternoon and get  
212 the verdict.

213  
214 Mrs. Cox - Thank you.

215  
216 Mr. Kirkland - You're welcome.

217  
218 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Wright,  
219 the Board granted the case.

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

224  
225  
226 The Board *granted* this request as it found from the evidence presented that authorizing this  
227 variance will not be of substantial detriment to adjacent property and will not materially impair  
228 the purpose of the zoning regulations.

229  
230 1. Only the improvements shown on the plan filed with the application may be constructed  
231 pursuant to this approval. Any additional improvements shall comply with the applicable  
232 regulations of the County Code.

233

- 234 2. At the time of building permit application, the applicant shall submit the necessary  
235 information to the Department of Public Works to ensure compliance with the  
236 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
237 water quality standards.  
238  
239 3. This approval is subject to all conditions that may be placed on the Plan of Development.  
240

241 **A -122-1999**                    **Parker and Lancaster Corporation** requests a variance from Section 24-  
242 94 of Chapter 24 of the County Code to cover an existing deck at  
243 11917 Meadow Ridge Terrace (Shady Ridge) (Tax Parcel 5-11-B-38),  
244 zoned R-3C, One-family Residence District (Conditional) (Three Chopt).  
245 The rear yard setback is not met. The applicant has 32.21 feet rear yard  
246 setback where the Code requires 40.00 feet rear yard setback. The  
247 applicant requests a variance of 7.79 feet rear yard setback.  
248

249 Mr. Kirkland -                    Would you state your name?

250  
251 Mr. Harley Joseph -            Good morning. I'm Harley Joseph with Joseph Cox &  
252 Associates. I represent Parker Lancaster.

253  
254 Mr. Kirkland -                    Would you raise your right hand and be sworn in by the  
255 Secretary?

256  
257 Mr. Blankinship -                Do you swear that the testimony you are about to give is the  
258 truth, the whole truth, and nothing but the truth, so help you God?

259  
260 Mr. Joseph -                      I do.

261  
262 Mr. Kirkland -                    Have all adjacent landowners been contacted according to the  
263 County Code?

264  
265 Mr. Joseph -                      You have all of the receipts as of last Friday.

266  
267 Mr. Blankinship -                I looked through the file this morning, and I didn't see them. Did  
268 you bring them to our office?

269  
270 Mr. Joseph -                      They were delivered by courier to Mrs. Blackburn last week.

271  
272 Mr. Blankinship -                I'm sure we have them, Mr. Chairman. They just haven't been  
273 filed yet.

274  
275 Mr. Kirkland -                    Okay. Proceed with your case.  
276

277 Mr. Joseph -                      Thank you. The situation is this, the house, and what was a  
278 deck, were properly drawn and given a building permit. And, then at some point, through the  
279 process, the couple purchasing the home spoke directly to the superintendent in the field and  
280 asked him if he could just put a roof on the deck, and turn it into a screened porch. I believe

281 that the extreme heat this summer made them feel like the deck might be a very  
282 uncomfortable situation for them in the summertime. What transpired, the superintendent  
283 then proceeded to put a roof on the deck. The deck met the setbacks. He put a roof on it  
284 and continued on with the construction of the roof and the siding of the house. The house is  
285 now complete. They have not finished the screen porch, obviously, waiting to hear your  
286 ruling on this case.

287  
288 Their closing is tomorrow. Again, they're waiting to see what the results are. The roof,  
289 obviously, would have to be cut back to that second story one-foot overhang if the Board  
290 feels that covering the deck is not reasonable. As I said, the deck did, and does meet  
291 setbacks without the roof. I don't know if they would choose to cut half the roof off. That  
292 would look ridiculous. Half the roof would meet setbacks. We need approximately an eight  
293 foot release. I believe the closest corner is 32.21 feet from the property line, and the  
294 Ordinance requires 40 feet.

295  
296 That's pretty much the situation to date. If there are any questions from the Board, I'd be  
297 glad to help.

298  
299 Mr. McKinney - Mr. Joseph, let me ask you a question.

300  
301 Mr. Joseph - Yes, sir.

302  
303 Mr. McKinney - You stated that the owner asked the superintendent to put this  
304 roof on? The superintendent took it upon himself, without getting authority from the office of  
305 Parker Lancaster? I mean, this is an extra.

306  
307 Mr. Joseph - It is an extra.

308  
309 Mr. McKinney - I guarantee you that Parker Lancaster didn't charge these  
310 owners an extra for this roof.

311  
312 Mr. Joseph - I agree with you. I'm sure it is an extra.

313  
314 Mr. McKinney - They had to go to the office first before it was started.

315  
316 Mr. Joseph - I would have thought so, but my understanding from the  
317 supervisor of the superintendents was that the framers were there, and because production is  
318 so difficult this summer, with a shortage on lumber and a shortage on sheet rock and the  
319 shortage on labor, that while the framers were there, he went ahead and had it started.

320  
321 Mr. McKinney - Let me ask you this, did you have this house with this roof and  
322 screen porch on the back? Have you already built this house with this design, with the back  
323 porch?

324  
325 Mr. Joseph - In other locations?

326  
327 Mr. McKinney - Yes.

328  
329 Mr. Joseph - Yes. It's a very common thing.

330  
331 Mr. McKinney - It's a possibility that the superintendent called the sales agent,  
332 and the sales agent told the owner how much it would cost to do it and it didn't get to the  
333 office.  
334  
335 Mr. Joseph - Without the Parker Lancaster office knowing it. Yes, you're  
336 entirely correct in that assumption. It's a very regular extra.  
337  
338 Mr. Kirkland - Any one else want to speak to A-122-99? That concludes the  
339 case. You can find our your answer this afternoon.  
340  
341 Mr. McKinney - Excuse me. Let me ask Mr. Joseph one other question.  
342  
343 Mr. Joseph - Yes, sir.  
344  
345 Mr. McKinney - Mr. Joseph, I see the zoning here is...  
346  
347 Mr. Kirkland - R-3C.  
348  
349 Mr. McKinney - It's R-3C, what is your lot size? Do you know, offhand, what it  
350 is, Mr. Joseph?  
351  
352 Mr. Joseph - No, sir. I don't.  
353  
354 Mr. McKinney - Is it 82 feet by...  
355  
356 Mr. Joseph - Roughly, 82 feet by 141 feet.  
357  
358 Mr. Wright- 144 feet on one side.  
359  
360 Mr. Joseph - I averaged the two sides.  
361  
362 Mr. Wright- Yes.  
363  
364 Mr. McKinney - And you're open between this house and the house immediately  
365 behind it, is that correct?  
366  
367 Mr. Joseph - Based on the photograph in the case, there is a break in the  
368 trees. And there is a home immediately to the rear. I don't know if they plan on a deck. I  
369 see their garage opens...  
370  
371 Mr. McKinney - Is that house behind it sold?  
372  
373 Mr. Joseph - It is still in the name of the builder. So, it may be a contract. I'm  
374 not aware of that relationship.  
375  
376 Mr. McKinney - Do have a problem with that condition filling in that tree line  
377 between the two houses?  
378



379 Mr. Joseph - No. I think putting some landscaping, or some buffer trees  
380 would be fine.

381  
382 Mr. McKinney - Well, something that would grow fairly rapidly, because we  
383 don't know if the house behind it is sold or not.

384  
385 Mr. Joseph - Yes, sir.

386  
387 Mr. McKinney - They may have bought that house before this went on the back  
388 of this house. I'm just thinking something to buffer the two.

389  
390 Mr. Joseph - Judging by the distance there, possibly four Leland Cypress and  
391 two Sugar Maples would fill in that hole nicely.

392  
393 Mr. McKinney - Did you get that, Ben?

394  
395 Mr. Blankinship - Yes, sir.

396  
397 Mr. McKinney - All right, fine. Thank you, sir.

398  
399 Mr. Joseph - Thank you.

400  
401 Mr. Kirkland - Last call. Any other questions? Okay. This will conclude the  
402 case.

403  
404 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr.  
405 McKinney, the Board granted the case.

406  
407 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
408 Negative: 0  
409 Absent: 0

410  
411 The Board granted this request as it found from the evidence presented that authorizing this  
412 variance will not be of substantial detriment to adjacent property and will not materially impair  
413 the purpose of the zoning regulations.

414  
415 1. The property shall be developed in substantial conformance with the plan filed with the  
416 application. No changes or additions to the layout may be made without the approval of  
417 the Board of Zoning Appeals.

418  
419 2. At the time of building permit application, the applicant shall submit a landscape plan for  
420 review and approval by the Planning Office.

421  
422 **A -123-1999** Potts, Minter & Associates, P.C. requests a variance from Section 24-  
423 94 of Chapter 24 of the County Code to allow a dwelling to remain at  
424 6001 Yates Lane (Wynfield) (Tax Parcel 147-16-A-49), zoned R-4AC,  
425 One-family Residence District (Conditional) (Fairfield). The front yard  
426 setback is not met. The applicant has 29.0 feet front yard setback

427 where the Code requires 35.0 feet front yard setback. The applicant  
428 requests a variance of 6.0 feet front yard setback.

429

430 Mr. Kirkland - Would you state your name, sir?

431

432 Mr. Richard Minter - It's Richard Minter with Potts, Minter & Associates.

433

434 Mr. Kirkland - Would you raise your right hand and be sworn in by the  
435 Secretary?

436

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

439

440 Mr. Minter - I do.

441

442 Mr. Kirkland - Have all adjacent landowners been contacted according to the  
443 County Code?

444

445 Mr. Minter - Yes.

446

447 Mr. Blankinship - We've got them.

448

449 Mr. Kirkland - We've got them. Present your case.

450

451 Mr. Minter - On this house we did a plot plan to lay out the house, as you  
452 can see on that plot plan that I've submitted there. We met all the setback requirements for  
453 the zoning. Corners were not in when we went out there, so my party chief did the  
454 calculations, and made some calculation errors in staking the house. Well, that evening when  
455 he came back, usually, someone else checks all the calculations, but he was doing some  
456 checking on a lot of the calculations. He made the same error in the checking, as he did on  
457 staking the house. And we did not find out until we were doing a final survey that the house  
458 was in violation. If we had known previously before, when the foundation was going in and  
459 everything, we would have stopped construction and corrected it. But the house was  
460 completed when we found out there was a problem.

461

462 Mr. Kirkland - Any questions by Board members?

463

464 Mr. McKinney - So, Mr. Minter, you're saying that if you'd found out when the  
465 house was halfway up, you'd have stopped it and moved the house?

466

467 Mr. Minter - Yes. I would have tried to. Yes. Or gone into some other  
468 situation, maybe a re-subdivision or something to correct this situation. The builder that built  
469 this house is building on all these lots in this subdivision right here. He contracted for all of  
470 them, and he's building all of the houses. The house is at the end of the street. As you can  
471 see on my plat, Yates Lane terminates right there, and there's no provision for Yates Lane to  
472 continue on to the next parcel in the back. It's just a little stub from the corner, actually, up  
473 to get to this house. That's all it is.

474

475 Mr. Wright- What's located across the street from this house?

476

477 Mr. Minter - Another lot. You see Lot 13. This is Lot 49, another section. If  
478 you look on the north side of our lot right on Yates Lane, its Lot 13, in Block B, I believe.  
479

480 Mr. Wright- Is a house built on that lot yet?  
481

482 Mr. Minter - Not yet. But my builder will be building it.  
483

484 Mr. Wright- How wide is Yates Lane?  
485

486 Mr. Minter - Fifty.  
487

488 Mr. Wright Fifty foot front.  
489

490 Mr. Minter - Right of way.  
491

492 Mr. Nunnally- Who is the contractor on this development?  
493

494 Mr. Minter - Who is the contractor?  
495

496 Mr. Nunnally Yes.  
497

498 Mr. Minter - Finer Homes.  
499

500 Mr. Nunnally Are they from Henrico County, familiar with the Henrico County  
501 Codes and all?  
502

503 Mr. Minter - Yes.  
504

505 Mr. Nunnally - He's built some houses in Henrico County?  
506

507 Mr. Minter - Yes.  
508

509 Mr. Wright- It sounds like it was just a staking error.  
510

511 Mr. Minter - It was our staking error. It was not the contractors. It was  
512 ours—our error.  
513

514 Mr. Kirkland - Any other questions?  
515

516 Mr. McKinney - How are you going to alleviate this in the future, Mr. Minter?  
517

518 Mr. Minter - Well, I thought I had the problem alleviated by having someone  
519 check it everyday. Because of the same person check, he just made the same mistake. I  
520 mean, this person, has been doing this for 25 years. It's not like he was somebody we had  
521 just hired. I mean it was just an oversight on his part.  
522

523 Mr. McKinney - Thank you.  
524

525 Mr. Kirkland - Any one else wish to speak to A-123-99? Seeing none, that  
526 concludes the case. You'll get your answer this afternoon.

527  
528 Mr. Minter - Thank you.

529  
530 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
531 Wright, the Board granted the case.

532  
533 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
534 Negative: 0  
535 Absent: 0

536  
537 The Board granted this request as it found from the evidence presented that authorizing this  
538 variance will not be of substantial detriment to adjacent property and will not materially impair  
539 the purpose of the zoning regulations.

540  
541 1. Only the improvements shown on the plat filed with the application are authorized by this  
542 approval. Any additional improvements shall comply with the applicable regulations of the  
543 County Code.

544

545 A -124-1999 Mary L. Taylor requests a variance from Sections 24-95(b)(8) of  
546 Chapter 24 of the County Code to construct a dwelling at 2940 Chiles  
547 Road (Lakeview) (Tax Parcel 14-2-17-1), zoned A-1, Agricultural  
548 District (Brookland). The lot width and total lot area are not met. The  
549 applicant has 100.0 feet lot width and 24,000 square feet total lot area  
550 where the Code requires 150.0 feet lot width and 30,000 square feet  
551 total lot area. The applicant requests a variance of 50.0 feet lot width  
552 and 6,000 square feet total lot area.

553  
554 Mr. Kirkland - Would you state your name, please?

555  
556 Mrs. Mary Taylor - Mary Taylor.

557  
558 Mr. Kirkland - Any one else wishing to speak on this case, please raise your  
559 right hand and be sworn in by the Secretary?

560  
561 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
562 truth, the whole truth, and nothing but the truth, so help you God?

563  
564 Mrs. Taylor - Yes.

565  
566 Mr. Kirkland - If you would, would you state your case? Excuse me. Have  
567 you turned in all your notices?

568  
569 Mr. Minter - Yes sir, the receipts.

570

571 Mr. Kirkland - Will you give them to the Secretary, please? Now, you can state  
572 your case.

573  
574 Mrs. Taylor - Back in 1994 my husband and I bought this little parcel, thinking  
575 that maybe we might be able to some day put a small home on it for ourselves. And, I just  
576 started to investigate it, and found out that we didn't have enough property there, because  
577 we, basically, thought, we knew other people in Henrico County that, you know, built houses  
578 on less than a half acre. So, I thought we would be okay, but, me, not knowing anything.  
579 But, anyway, I wanted to go ahead and get it and just hold on to it, hoping some day I'd be  
580 able to put a small house for my husband and I. We live in Glen Allen now, and we've lived  
581 there 30 years. And we live on 801. And the traffic there from Route 1 going through and  
582 everything is just - It just really bothers me. So, I just picked that little spot out and thought  
583 that would be nice for just a small home.

584  
585 Mr. Kirkland- Hackett Street, is that a graveled, paved, unimproved...

586  
587 Mrs. Taylor - I think it's a gravel road, sir.

588  
589 Mr. Kirkland - That's just one of those ones the County did many years ago. Is  
590 that that little graveled road right there on...

591  
592 Mrs. Taylor - Yes, sir.

593  
594 Mr. Kirkland - Okay.

595  
596 Mr. Wright- Mrs. Taylor, when did you buy this lot? Have you bought the  
597 lot?

598  
599 Mrs. Taylor - Back in 1994.

600  
601 Mr. Wright- So, you've had it since 1994?

602  
603 Mrs. Taylor - But it was tied up in the courts for some reason. We never did  
604 understand what was going on with it.

605  
606 Mr. Wright- You bought it directly from an individual?

607  
608 Mrs. Taylor - From Virginia Landmark Realtor.

609  
610 Mr. Wright- Was anything said at that time about the fact that you couldn't  
611 build on the lot?

612  
613 Mrs. Taylor - No, sir.

614  
615 Mr. Wright- Your lawyer didn't check that out?

616  
617 Mrs. Taylor - We didn't have a lawyer to do that, sir, not until I started  
618 investigating it.

619

620 Mr. Wright- The problem is, you have a septic tank and a well.  
621  
622 Mrs. Taylor - Yes.  
623  
624 Mr. Wright- And the County Code requires you to have an acre, if you have a  
625 septic tank and well. That's the whole purpose of the ordinance.  
626  
627 Mrs. Taylor - Yes.  
628  
629 Mr. Wright- Does the property perk? Do you know?  
630  
631 Mrs. Taylor - We don't know that either.  
632  
633 Mr. Wright- You don't know whether it perks or not.  
634  
635 Mrs. Taylor - No, sir. I had to have it surveyed, and then had to do the  
636 variance before I could see whether or not it would perk. And, basically, you know, all we  
637 were looking for is something around a 1,400 to 1,500 square foot house.  
638  
639 Mr. Wright- Is it possible to acquire some additional land next to it?  
640  
641 Mrs. Taylor - I don't know. I don't know any of the neighbors or anything  
642 back there, other than Mr. Goins.  
643  
644 Mr. Wright- It appears there is vacant land, I guess, which would be on the  
645 east of the property, facing it to the right—Charles Road.  
646  
647 Mr. Kirkland - You're stating you have made no attempts to purchase land  
648 from any other landowner?  
649  
650 Mrs. Taylor - No, sir.  
651  
652 Mr. Kirkland - Okay. Anything else you wish to add?  
653  
654 Mrs. Taylor - No, sir.  
655  
656 Mr. Kirkland - I think we have some other people who would like to speak.  
657  
658 Mr. McKinney - Let me ask the Secretary a question, Mr. Chairman. It states in  
659 this, they're asking for 6,000 square feet. The Code requires 30,000 square foot total lot  
660 area for a well and septic tank?  
661  
662 Mr. Blankinship - This is under the exception standards, because it was platted  
663 prior to 1960.  
664  
665 Mr. McKinney - Okay.  
666  
667 Mr. Kirkland - Anything else?  
668

669 Mr. McKinney - No.

670

671 Mr. Kirkland - All right, any one else wish to speak?

672

673 Mr. George Atwell - Hi. I'm George Atwell. I'm the land behind, next to this lady.

674 I'm opposed to changing the zoning. She bought the land, as is. It wasn't a buildable lot at

675 the time. It's not going to perk. It might have perked a month ago. It ain't going to perk

676 now. It's probably got 4 inches of water on it. The reason the lot was sold, it was tied up in

677 an estate, and I think there were six children that owned it. It was sold by the courts. And, I

678 believe they paid \$5,000 for the lot, which I didn't think was worth it at the time, since it

679 wasn't a buildable lot. I'm not planning on selling any additional land to them, so I don't see

680 any reason they could use this lot for building unless they want to bring water and sewer to

681 the property. That would be fine with me.

682

683 Mr. Wright- Do you have water and sewer to your house?

684

685 Mr. Atwell - No, sir.

686

687 Mr. Wright You're on a well and septic tank?

688

689 Mr. Atwell - Yes, sir.

690

691 Mr. Kirkland - How much land do you have?

692

693 Mr. Atwell - A little over 10 acres.

694

695 Mr. Kirkland - Okay.

696

697 Mr. Wright- Do you own the property adjacent to the east to this land, which

698 would be Lot 5, as shown...

699

700 Mr. Atwell - Yes. I own 5 through 151.

701

702 Mr. Wright- You own all the lots that are adjacent to it.

703

704 Mr. Atwell - Yes, sir. I own the lot behind it, too.

705

706 Mr. Wright- And you're not willing to sell any additional land?

707

708 Mr. Atwell - No, sir.

709

710 Mr. William Brooks - Good morning. I'm William Brooks. I own the property directly

711 west of that lot. I agree with Mr. Atwell, that it will not perk at any time because during a

712 normal weather season, it's going to retain water. From Greenwood Road coming down

713 Chiles, there's probably a 15-foot drop. That piece of property sits at the lowest point on

714 that side of Chiles Road. And, just finding out that 30,000 square feet is the minimum

715 requirement for well and septic, having more homes in that lower portion of the road would

716 concern me, having another well dug, especially, since we are behind for rainfall in the State

717 for the past couple of years.

718  
719 There are also four other large lots on Chiles Road that I fear this would set a precedent, you  
720 know, if we allow a variance on this, that, you know, someone else might try to place more  
721 homes on an acre than what's there now. I think that would take away from ambiance that  
722 we've come to enjoy from the area.  
723  
724 Mr. Kirkland - You're the other side of Hackett Street?  
725  
726 Mr. Brooks - Yes, sir.  
727  
728 Mr. Kirkland - How much land do you own?  
729  
730 Mr. Brooks - I own six lots. It's 37,500 square feet.  
731  
732 Mr. Kirkland - Okay.  
733  
734 Mr. Brooks - Thank you.  
735  
736 Mr. Wright- Let me ask Mr. Brooks. Let me ask you a question. What size  
737 lot is your house built upon?  
738  
739 Mr. Brooks - Excuse me?  
740  
741 Mr. Wright- What size lot do you have that your house is built upon?  
742  
743 Mr. Brooks - I have six of the small lots. My frontage is 150 feet and 250  
744 foot depth.  
745  
746 Mr. Wright- So, you don't set aside the Code requirement, either, do you?  
747  
748 Mr. Brooks - Yes, sir. I have 37,500 square feet.  
749  
750 Mr. Wright- Oh. You have 37,500 square feet.  
751  
752 Mr. Kirkland - You have an acre, right?  
753  
754 Mr. Brooks - Yes.  
755  
756 Mr. McKinney - He doesn't have an acre.  
757  
758 Mr. Blankinship - He's more than the exception.  
759  
760 Mr. Kirkland - Okay. The requirement is 30,000. You have 37,000.  
761  
762 Mr. Brooks - Yes, sir.  
763  
764 Mr. Blankinship - Mr. Chairman, we also received one letter in opposition, which  
765 I'll pass copies to you. You can take one and pass it down.  
766



767 Mr. Bobby Goin - My name is Bobby Goin. I live on Chiles Road, also.  
768  
769 Mr. Blankinship - Excuse me. Were you sworn in?  
770  
771 Mr. Kirkland - Yes. He was.  
772  
773 Mr. Goin - I live on Chiles Road on the opposite side, so I'm not an  
774 adjoining property owner, but I was notified about this hearing by Mrs. Taylor, and I  
775 appreciate that. And I can echo the same comments that have already been made, so I won't  
776 repeat them. But, having lived on that road when it was a dirt road, it was and is a swamp  
777 area. The worse place on old gravel Chiles Road, we worked on was directly in front of that  
778 lot. So, I know it's a low lot. And if it perks, I'd be shocked. In fact, that it is a 30,000  
779 requirement, I think the gentleman at the end asked that question. I called the Board to find  
780 out what in the world was going on, because one acre was what I thought was required, too.  
781 And, you've got a lot of these, what I call, "silly" 25-foot lots in that area. If somebody  
782 opens up the door, and there are a lot more of them in that general area, you're going to  
783 probably get requests from.  
784  
785 And I'm real sorry Mrs. Taylor bought what I call a "Pig in a Poke." But if she didn't know  
786 that it didn't meet the requirements, I'm sorry. But, one acre, and that thing being left in .6  
787 of an acre, surely doesn't enhance anything as far as putting a well or septic tank on there.  
788 And, even if it was an acre, in past perking, with what I know about the lot, I'd question how  
789 good a septic system would be on an acre of land there, being as how it's a low lot. And, its  
790 actually a pipe running underneath Chiles Road, that drains that lot right today, or helps drain  
791 it when it works right. So, I am opposed to giving a variance, not personally against Mrs.  
792 Taylor at all, but just setting a precedent it wouldn't be good for the rest of the community,  
793 and would impact on our wells and septic. Thank you.  
794  
795 Mr. Kirkland - Thank you, sir. Any one else? Mrs. Taylor, would you like to  
796 come down and speak?  
797  
798 Mrs. Taylor - I just wanted to say that I knew that was a low lot. But, we've  
799 checked it out, several times, even after the bad water that we've had, and its still dry area in  
800 there. It's just like my house now, where I live. Of course, there was water in the ditch  
801 where I live. But, you know, that dissipated after awhile. So, I just wanted to say that.  
802 Thank you all.  
803  
804 Mr. Kirkland - Thank you. Any other questions of Mrs. Taylor by Board  
805 members? Okay. That concludes the case and you can find out the answer this afternoon.  
806  
807 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr. Kirkland,  
808 the Board denied the case.  
809  
810 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
811 Negative: 0  
812 Absent: 0  
813

814 The Board denied this request as it found from the evidence presented that authorizing this  
815 variance will be of substantial detriment to adjacent property and will materially impair the  
816 purpose of the zoning regulations.  
817

818 **A -125-1999**                    **K. Allen Woolard** requests a variance from Section 24-94 of Chapter 24  
819 of the County Code to construct an addition at 4020 College Valley  
820 Court (Foxhall) (Tax Parcel 45-2-B-92), zoned R-2AC, One-family  
821 Residence District (Conditional) (Three Chopt). The minimum side yard  
822 setback is not met. The applicant has 10.4 feet minimum side yard  
823 setback where the Code requires 12.0 feet minimum side yard setback.  
824 The applicant requests a variance of 1.6 feet minimum side yard  
825 setback.  
826

827 Mr. Allen Woolard -                    Good morning, I'm Allen Woolard.  
828

829 Mr. Kirkland -                         Would you raise your right hand and be sworn in by the  
830 Secretary, 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 Mr. Woolard -                         I do.  
836

837 Mr. Kirkland -                         Have all your notices been turned in, according to County Code?  
838

839 Mr. Woolard -                         Yes, sir. Even to the developer of undeveloped land.  
840

841 Mr. Blankinship -                    Do we have the receipts for those?  
842

843 Mr. Kirkland -                         I don't have them here in the file.  
844

845 Mr. Woolard -                         They were hand-delivered by my wife to the Planning Office.  
846

847 Mr. Blankinship -                    Do you know when? Last Wednesday?  
848

849 Mr. Woolard -                         I do have the post office receipt in my car.  
850

851 Mr. Blankinship -                    I believe I see them here in the back.  
852

853 Mr. Kirkland -                         Right. We've got them.  
854

855 Mr. Blankinship -                    Tucked in under the file.  
856

857 Mr. Woolard -                         Thanks.  
858

859 Mr. Kirkland -                         If you would state your case.  
860

861 Mr. Woolard - Okay. Good morning. And thank you for your time. When we  
862 purchased this home back five years ago, it was just my wife and I, small, not planning a  
863 family. We, since then, have had two children; beautiful children, and we're looking to  
864 expand the home.

865  
866 Over the last two years, we have considered the options that we had. Looking at the unusual  
867 shape of our lot with a cul-de-sac pushing us back into the lot, and angular line to the north of  
868 the lot. We saw no options to build on the back. So, we started looking at the side. The  
869 buildable area that's denoted with the dashed line, we figured into that area, and also the  
870 chimney around the side of the house. The smallest addition that could go onto the house  
871 would be a 12 by 16 addition. In order to do that, the front corner, barely large enough to  
872 get your shoes into that corner, would be an encroachment of the current code. We are  
873 requesting a 1.6-foot variance to fit that front corner onto the property.

874  
875 We have notified our neighborhoods that are supportive. I think it would be an attractive  
876 addition to the neighborhood. We have other houses in the neighborhood that have a similar  
877 addition onto the side, and request your review of this application.

878  
879 Mr. Wright- Mr. Woolard, it would look kind of funny to cut that corner off,  
880 wouldn't it?

881  
882 Mr. Woolard - It would make an unusual shape room. Yes, sir. We will be  
883 maintaining the total side yard setback of more than 30 feet. We will be maintaining the  
884 front yard setback and rear setback for 45 feet.

885  
886 Mr. Kirkland - I see a letter here in the file. Do you have approval from your  
887 homeowners' association for this?

888  
889 Mr. Woolard - We had submitted the application to them.

890  
891 Mr. Balfour- They stated, as of the 14<sup>th</sup>, they had not received it. Have they  
892 gotten it by now?

893  
894 Mr. Woolard - Yes. Sir. And I have a copy of a letter with me that was sent to  
895 me if you'd like to see it.

896  
897 Mr. Balfour- They haven't approved it at this point?

898  
899 Mr. Woolard - They say its one to two weeks, and I have not...

900  
901 Mr. Balfour- Is that a covenant that goes with your house, or do you know;  
902 they have to approve it first?

903  
904 Mr. Woolard - They have to approve the design; the color selection, the  
905 materials that are used; that type of thing to make sure you're not painting your house pink.

906  
907 Mr. Balfour- If they approved your request, you don't mind us putting it.  
908 "subject to approval of your homeowners' association?"

909

910 Mr. Woolard - No, sir.  
911  
912 Mr. Wright- I don't think that's our concern, but you can put what you want.  
913  
914 Mr. Woolard - I think they would look the other way. They're looking for your  
915 approval, as well.  
916  
917 Mr. Kirkland - Thank you, sir. Any one else want to speak on A-125-99? Any  
918 other questions by Board members? Seeing none, that concludes the case. You'll get your  
919 answer this afternoon.  
920  
921 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr. Nunnally,  
922 the Board granted the case.  
923  
924 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
925 Negative: 0  
926 Absent: 0  
927  
928 The Board granted this request as it found from the evidence presented that authorizing this  
929 variance will not be of substantial detriment to adjacent property and will not materially impair  
930 the purpose of the zoning regulations.  
931  
932 1. The property shall be developed in substantial conformance with the plan filed with the  
933 application. No changes or additions to the layout may be made without the approval of  
934 the Board of Zoning Appeals.  
935  
936 A -126-1999 Cleave E. & Earline A. Bethea requests a variance from Section 24-9 of  
937 Chapter 24 of the County Code to construct a dwelling at 7918  
938 Battlefield Park Road (Tax Parcel 236-A-2), zoned A-1, Agricultural  
939 District (Varina). The public street frontage is not met. The applicant has  
940 0 feet public street frontage where the Code requires 50 feet public  
941 street frontage. The applicant requests a variance of 50 feet public  
942 street frontage.  
943  
944 Mr. Kirkland - Would you state your name, please?  
945  
946 Mr. Cleave Bethea - Good morning, my name is Cleave Bethea.  
947  
948 Mr. Kirkland - Would you raise your right hand? Anyone else wishing to testify  
949 on this case, be sworn in at the same time.  
950  
951 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
952 truth, the whole truth, and nothing but the truth, so help you God?  
953  
954 Mr. Bethea - I do.  
955  
956 Mr. Kirkland - State your case, please. Have you turned in all your notices,  
957 according to County Code?  
958

959 Mr. Bethea - Well, I have the receipts here.  
960  
961 Mr. Kirkland - Okay. That's it. All right. State your case, sir.  
962  
963 Mr. Bethea - Yes. We have the size property, I guess, to accommodate a  
964 house, but we need the 50 feet requirement, I guess. You have to excuse me. This is the  
965 first time I've ever been up before a Board like this before.  
966  
967 Mr. Kirkland - That's fine.  
968  
969 Mr. Bethea - This land has been in my family for a long time. We've lived  
970 over on the Battlefield Park Road before the Civil War. And, we've lived right on the same  
971 land here. If you notice on one of the diagrams there that you have houses and you have  
972 box. They are sort of boxed in. That is all family related. Nephews, and first cousins, and  
973 also my grandmother's house in which we reside, my wife and I of 39 years.  
974  
975 Out of eight siblings that my grandparents had, my mother was the only one that went north.  
976 And she met my dad and they had kids, what have you, and my sister retired from the Board  
977 of Education. I retired from the New York City Police Department, not before I was wounded  
978 apprehending Federal fugitives.  
979  
980 My mother had sent us down here as young kids, to live on the farm with my grandparents.  
981 And I did that from approximately the age of eight to 16. Once I got hurt in the Police  
982 Department, and after a number of operations, my mother told me that I should consider  
983 moving back, coming home, coming back to the land.  
984  
985 I talked it over with my wife, what have you, and the weather conditions and all up north  
986 where we lived, we thought that would be a good idea at which time I was able to contact  
987 some relatives who were interested in selling a piece of the land and we were able to  
988 purchase this 11.5 acres.  
989  
990 Before I could tell my mother what our decision was to move back to the land, she passed  
991 away two years ago. And I would just like to see if we could get this 50 feet in order to build  
992 a home.  
993  
994 Mr. Wright- Mr. Bethea, how would you access your property?  
995  
996 Mr. Bethea - That would be done off the Battlefield Park between my two  
997 nephews' homes; James Lewis and Jerry Lewis. Those are my two nephews.  
998  
999 Mr. Wright- Yes, sir. Is there a road already through there, or would you  
1000 have to put one in?  
1001  
1002 Mr. Bethea - No. The road's there.  
1003  
1004 Mr. Wright- How wide is it, the road back into your property?  
1005  
1006 Mr. Bethea - My sister gave her Uncle Russell Schools 10-feet access to that  
1007 parcel where we would like to build.

1008  
1009 Mr. Wright- Have you read the conditions that have been proposed for this  
1010 case?  
1011  
1012 Mr. Bethea - Yes. I have.  
1013  
1014 Mr. Wright- You'll have to get your septic approval, perks and all that  
1015 business.  
1016  
1017 Mr. Bethea - It's perked already. I have that permit.  
1018  
1019 Mr. Balfour- There's a note in the file that says you need to contact the Park  
1020 Service, as well. Did you talk to them?  
1021  
1022 Mr. Bethea - Yes, sir. We had a meeting with them Saturday morning, and  
1023 we're just awaiting their decision.  
1024  
1025 Mr. Kirkland - Any other questions by Board members?  
1026  
1027 Mr. Nunnally- You don't have a brochure or anything of these manufactured  
1028 homes, do you?  
1029  
1030 Mr. Bethea - Yes. I have a picture attached to the paperwork here of the  
1031 home.  
1032  
1033 Mr. Blankinship - The floor plan is in the file. I don't think we've got an elevation  
1034 floor plain.  
1035  
1036 Mr. Wright- It's a nice home.  
1037  
1038 Mr. Nunnally- Yes. It is.  
1039  
1040 Mr. Blankinship - Do you have a drawing of what it would look like?  
1041  
1042  
1043 Mr. Kirkland - Is this one of those ones you clamp together? No further  
1044 questions? Any one else wishing to speak? That concludes your case. You can get your  
1045 answer this afternoon by calling the Planning Office.  
1046  
1047 Mr. Bethea - Right.  
1048  
1049 Mr. Kirkland - Thank you, sir.  
1050  
1051 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Wright,  
1052 the Board granted the case.  
1053  
1054 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1055 Negative: 0  
1056 Absent: 0

1057  
1058  
1059  
1060  
1061  
1062  
1063  
1064  
1065  
1066  
1067  
1068  
1069  
1070  
1071  
1072  
1073  
1074  
1075  
1076  
1077  
1078

The Board granted this request as it found from the evidence presented that authorizing this variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the zoning regulations.

1. Only a dwelling, as shown on the plan filed with the application, may be constructed pursuant to this approval. Any additional improvements shall comply with the applicable regulations of the County Code.
2. Approval of this request does not imply that a building permit will be issued. Building permit approval is contingent on Health Department requirements, including, but not limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well location.
3. At the time of building permit application, the applicant shall submit the necessary information to the Department of Public Works to ensure compliance with the requirements of the Chesapeake Bay Preservation Act and the code requirements for water quality standards.
4. The applicant must present proof with the building permit application that a legal access to the property has been obtained.

1079  
1080  
1081  
1082  
1083  
1084  
1085  
1086  
1087  
1088  
1089  
1090  
1091  
1092  
1093  
1094  
1095  
1096  
1097  
1098  
1099  
1100  
1101  
1102  
1103

A -127-1999            Henry A. Shield requests a variance from Section 24-94 of Chapter 24 of the County Code to construct a dwelling at 10504 Pump Cove Court (Pump Cove) (Tax Parcels 78-19-A-2 and -3), zoned R-2, One-family Residence District (Tuckahoe). The lot width is not met. The applicant has 50.0 feet lot width where the Code requires 100.0 feet lot width. The applicant requests a variance of 50.0 feet lot width.

- Mr. Kirkland -            Would you state your name, sir, for the record?
- Mr. Henry A. Shield -        Henry A. Shield.
- Mr. Kirkland -            Would you raise your right hand and be sworn in by the Secretary? Anyone else wishing to speak on this case, be sworn in at the same time?
- Mr. Blankinship -            Do you swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?
- Mr. Shield -                I do.
- Mr. Kirkland -            State your case, sir. Have you turned in all your notices?
- Mr. Shield -                Yes sir. They're in the file.
- Mr. Kirkland -            Thank you.

1104 Mr. Shield - This is a piece of property that I acquired, approximately two  
1105 acres, and there's an existing house on it. And, we sought to subdivide this into three lots  
1106 and filed a subdivision plat. The situation was, there is no public sewer in Pump Road there.  
1107 It's up at the corner of Gayton Road and Pump, there's sewer. And, we'd work with the  
1108 County on the possibility of getting sewer by drilling under Pump Road and going down  
1109 passed the Library and accessing the sewer across the street. That led to a number of  
1110 complications. And, in reviewing this, over the last two and one-half years, back and forth,  
1111 there really hasn't been any resolution to get sewer to the property. So, there is really no way  
1112 that is economically feasible to get sewer to the property.

1113  
1114 So, I filed with the County, the Real Property Division, a vacating of the subdivision plat, and  
1115 I've also filed with the County, to have a site located and approved for a septic field on the  
1116 remaining lot. This has been, as I said, approved by the County. We do have public water.  
1117 And, so, the intention would be to build a single lot, back there, as the plat shows.

1118  
1119 We do have 50 feet, which is the road frontage requirement, but not at the 45-foot setback  
1120 line. You'll see the lot back behind there is almost 200-foot wide. Where the house would  
1121 be located would be almost a 200-foot setback situation.

1122  
1123 So, the technicality is, at the 45-foot line, we don't have 100 feet, but we have ample area.  
1124 The lot, itself, is about 1.25 acres, which is considerable. And it would be wooded. There  
1125 would be minimal disturbing of the trees. It is a fully wooded lot. And we would take care of  
1126 the situation with regard to a single driveway onto the road, and going back with that 50-foot  
1127 area to the buildable section of the lot.

1128  
1129 Mr. Kirkland - Any questions?

1130  
1131 Mr. Shield - The conditions that the County set forth are all agreeable to me.  
1132 I think I've addressed them all in this meeting, but we're having the sewer situation, the site  
1133 already approved, and everything else. As soon as we get the vacating of that as soon as we  
1134 get the variance request.

1135  
1136 Mr. Kirkland - No further questions by any Board members, so, that concludes  
1137 the case.

1138  
1139 Mr. Shield - Thank you, sir.

1140  
1141 Mr. Kirkland - Call this afternoon for your answer.

1142  
1143 After an advertised public hearing and on a motion by Mr. Balfour, seconded by Mr. Wright,  
1144 the Board granted the case.

1145  
1146 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1147 Negative: 0  
1148 Absent: 0

1149  
1150 The Board granted this request as it found from the evidence presented that authorizing this  
1151 variance will not be of substantial detriment to adjacent property and will not materially impair  
1152 the purpose of the zoning regulations.



- 1153  
1154 1. The property shall be developed in substantial conformance with the plan filed with the  
1155 application. No changes or additions to the layout may be made without the approval of  
1156 the Board of Zoning Appeals.  
1157  
1158 2. At the time of building permit application, the applicant shall submit the necessary  
1159 information to the Department of Public Works to ensure compliance with the  
1160 requirements of the Chesapeake Bay Preservation Act and the code requirements for  
1161 water quality standards.  
1162  
1163 3. Approval of this request does not imply that a building permit will be issued. Building  
1164 permit approval is contingent on Health Department requirements, including, but not  
1165 limited to, soil evaluation for a septic drainfield and reserve area.

1166 Approval of this variance is subject to vacation of the approved subdivision plat of Pump  
1167 Cove.

1168 A -128-1999 Ronald L. Isaacs requests a variance from Section 24-94 of Chapter 24  
1169 of the County Code to construct an addition at 4610 N. Lakefront Drive  
1170 (Dunncroft) (Tax Parcel 39-2-B-1), zoned R-4, One-family Residence  
1171 District (Brookland). The rear yard setback is not met. The applicant has  
1172 32.0 feet rear yard setback where the Code requires 35.0 feet rear yard  
1173 setback. The applicant requests a variance of 3.0 feet rear yard  
1174 setback.

1175  
1176 Mr. Kirkland - State your name for the record, sir.  
1177

1178 Mr. Ronald L. Isaacs - Ronald Isaacs  
1179

1180 Mr. Kirkland - And would you raise your right hand and be sworn in by the  
1181 Secretary? Anyone else speaking on this case? No?  
1182

1183 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1184 truth, the whole truth, and nothing but the truth, so help you God?  
1185

1186 Mr. Isaacs - I do. In 1995 I had a variance here for, I think it was a 2-foot  
1187 variance. The back line of my property is not quite on a straight angle. I built a 12 x 14  
1188 Florida room. And, what I am requesting now, because my wife keeps her grandchildren, and  
1189 I've got a third one on the way, so I need a little bit more room. And off to one side of that  
1190 family room, I want to go about seven feet, which will blend into the side of the house. It  
1191 does not extend passed the house. It blends in with the side of the house and then out 12  
1192 feet which blends in across the back and just meets. And y'all have, I think, pictures of all  
1193 that where it's being added. And I think I'm probably off by a few inches, because of the  
1194 back line. That's it.

1195  
1196 Mr. Kirkland - So, basically, you're squaring up the house?  
1197

1198 Mr. Isaacs - Yes. I'm squaring up that one corner to the Florida room, 7 x  
1199 12, right there where you can see that little spot right there, (referring to plat).  
1200  
1201 Mr. Wright- What is located to the rear of your property?  
1202  
1203 Mr. Isaacs - One thing to the rear of my property, I have a cul-de-sac behind  
1204 me. When this was built, it was built when they could stick 10 homes on a cul-de-sac. So,  
1205 straight out the back of my property, I've probably got 100 feet, or whatever before I even  
1206 see one house. He's on an angle. My next door neighborhood has the other house. I've got  
1207 this big open area, other than a tool shed that belongs to them. I don't really have what I  
1208 call, "a neighbor" at the back side where you can step off the porch and shake their hands.  
1209 It's a long ways away.  
1210  
1211 Mr. Wright- It's pretty open back there, isn't it?  
1212  
1213 Mr. Isaacs - Yes. Like I said, I'm just squaring off the room.  
1214  
1215 Mr. Kirkland - Any other questions? Seeing none, that concludes the case.  
1216  
1217 Mr. Isaacs - Thank you.  
1218  
1219 Mr. Kirkland - You'll get your answer this afternoon.  
1220  
1221 Mr. Wright- You asked for opposition. Of course, there was nobody here to  
1222 start with.  
1223  
1224 Mr. Kirkland - Yes.  
1225  
1226 After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr. Nunnally,  
1227 the Board granted the case.  
1228  
1229 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1230 Negative: 0  
1231 Absent: 0  
1232  
1233 The Board granted this request as it found from the evidence presented that authorizing this  
1234 variance will not be of substantial detriment to adjacent property and will not materially impair  
1235 the purpose of the zoning regulations.  
1236  
1237 1. Only the improvements shown on the plan filed with the application may be constructed  
1238 pursuant to this approval. Any additional improvements shall comply with the applicable  
1239 regulations of the County Code.  
1240  
1241 2. If land disturbance will exceed 2,500 square feet, the requirements of Chapter 10 of the  
1242 County Code apply. This includes water quality and erosion control requirements. The  
1243 applicant is responsible for contacting the Department of Public Works.  
1244  
1245 A -119-1999 Robert N. Shapiro requests a variance from Section 24-94 of Chapter

1246 24 of the County Code to build an addition at 13413 College Valley  
1247 Lane (Foxhall) (Tax Parcel 45-2-B-101), zoned R-2AC, One-family  
1248 Residence District (Conditional) (Three Chopt). The rear yard setback is  
1249 not met. The applicant has 37.0 feet rear yard setback where the Code  
1250 requires 45.0 feet rear yard setback. The applicant requests a variance  
1251 of 8.0 feet rear yard setback.

1252  
1253 Mr. Kirkland - I'd like to call the first case again, the one we passed. Is there  
1254 anyone here to speak on A-119-99? We'll pass it on.

1255  
1256 The 10:00 o'clock agenda is up. We have to wait until 10:00, so we'll take a short break.  
1257

1258 UP- 37-1999 Triton PCS, Inc. requests a temporary use permit pursuant to Section  
1259 24-16(c)(1) of Chapter 24 of the County Code to construct a  
1260 communication tower at 1311 Gaskins Road (Tax Parcel 89-A-44),  
1261 zoned R-3, One-family Residence District (Tuckahoe).

1262  
1263 Mr. Kirkland - State your name and raise your right hand and be sworn in.

1264  
1265 Ms. Gloria Freye - Good morning. My name is Gloria Freye. I'm an attorney here  
1266 on behalf of the applicant, Triton PCS.

1267  
1268 Mr. Kirkland - Any one else wishing to speak on this case, please stand and be  
1269 sworn in.

1270  
1271 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1272 truth, the whole truth, and nothing but the truth, so help you God?

1273  
1274 Ms. Freye - Yes, sir.

1275  
1276 Mr. Kirkland - Have all your notices been turned in, according to the County  
1277 Code?

1278  
1279 Ms. Freye - Yes, sir. They were delivered last week.

1280  
1281 Mr. Kirkland - Okay. State your case.

1282  
1283 Ms. Freye - Thank you very much. Triton has applied; Well, let me tell you,  
1284 Triton PCS is a digital wireless telephone service company. They are marketing their service  
1285 under SunCom, AT&T Wireless.

1286  
1287 They have applied for a temporary conditional use permit under your Section 24-116 ( c )(1)  
1288 of the Zoning Ordinance, which gives the Board of Zoning Appeals power to grant special  
1289 exceptions for temporary uses, provided the use is of a temporary nature, does not involve  
1290 the construction of buildings, and can be authorized up to two years or a 24 month period.

1291  
1292 We did apply for a two-month special exception temporary use permit. There was some  
1293 concern expressed by the staff whether it would really take us that long to find a permanent

1294 site for this telecommunications facility in this area. And, we've worked very closely with the  
1295 staff and the administration in trying to find a permanent site in this area.

1296  
1297 We've actually been looking for a permanent site since December of 1997. So, it's taken us  
1298 over a year and a half and we still have not landed a permanent site. Despite assistance by  
1299 the County and help from other people, we've looked very seriously at Byrd Middle School as  
1300 a permanent site which appears to be a good candidate, and then also Fire Station No. 9.  
1301 We've also worked with the County about trying to work with a permanent lease there, if the  
1302 Byrd Middle School, which appears to be the preferred site, if we can't work that out.

1303  
1304 Like I said, we have not been able to get a permanent lease on those properties, to date, even  
1305 though we've been working on it steadily. And, that's why we're asking for a temporary  
1306 permit.

1307  
1308 The Company had to launch its service in June without coverage in this area. And I do have  
1309 a propagation map, which we can put on the screen that will show the hole, the gap in the  
1310 service that we have. This propagation map (referring to slide) shows the large green areas,  
1311 shows the areas where we have tower installations and antennas that provide service.

1312  
1313 The hole that we're trying to fill is the white area that you see there on the bottom center of  
1314 the screen. If we can get some coverage in this area, then we will be able to give our  
1315 customers continuous service along the roads and within building coverage as well.

1316  
1317 In looking at this area, we looked for sites that were commercial sites or non-residential sites.  
1318 The next map that you see, we went to the Wembly Swim Club, which is at 1311 Gaskins  
1319 Road.

1320  
1321 The nice thing about that piece of property is that it's a higher elevation than the road. It's  
1322 about ten to twelve feet higher. And they have a nice stand of mature trees on their property  
1323 we could take advantage of, as well.

1324  
1325 We were able to talk with the Wembly Swim Club about an 85-foot temporary wooden pole  
1326 to put our antennas on while we continue to look for a permanent site in that area. And you  
1327 can see from the next propagation map that's up there now, there in the center, that 85-foot  
1328 pole is going to close that gap and provide the service that's needed.

1329  
1330 The conditions that we worked out with the swim club were that it would be no taller than  
1331 85 feet. We have a one-year lease with them that's renewable for one year, which was the  
1332 other reason that we asked for the two-year, trying to give ourselves as much time as  
1333 possible. Because we've already over a year and a half and we still haven't landed a  
1334 permanent site, although we're still trying to do that.

1335  
1336 But, in talking with the staff and the County, we are agreeable having a condition placed on  
1337 this temporary permit that would limit it to six months. The six months, then, would give us  
1338 time to revisit the School Board, when their new Board comes on in January. We can revisit  
1339 that, and, at the same time, we can be revisiting the situation with Fire Station No. 9 as a  
1340 backup, if the School Board doesn't work out, as a permanent lease there.

1341

1342 The conditions that we also worked out with the swim club are that it would be temporary.  
1343 There would be no guide wires. There would be no permanent foundation. The equipment  
1344 cabinets would be placed on a trailer, and all that would be screened by a 10-foot wood  
1345 privacy fence.

1346  
1347 Because we're only asking now for a six-month, and willing to accept that as a condition, we  
1348 would like for you to substitute, instead of Condition No. 5, which asks for landscaping, we'd  
1349 like to substitute that for a 10-foot wooden privacy fence, and then delete Condition No. 7.  
1350 And, aside from that, the other conditions that are recommended by staff are acceptable.

1351  
1352 We did do a balloon test here. We floated a helium balloon to 85 feet. We put fliers in all the  
1353 neighbors' boxes, invited them to come. We did take some pictures of the balloon test,  
1354 which allowed us to do those computer edited photographs which are in your packets.

1355  
1356 The other map that I'd like to refer to, now, is the second one in your staff report that has the  
1357 ring around it. And, on this map, I can show you, basically, where the visibility of the 85-foot  
1358 pole is.

1359  
1360 From this location, the intersection of Stoneridge and Wembley, you cannot see it. From this  
1361 intersection at Gayton and Gaskins, you cannot see it. From this intersection at Quioccasin  
1362 and Gaskins, you cannot see it. Where you can see it is back here beside of the parking lot  
1363 of the Ukrop's. You can look over the top of the shopping center and see the top of it above  
1364 the trees. Probably, the only time that's going to be noticeable to the public is if traffic is  
1365 backed up and someone is just sitting there and gazing at the skyline.

1366  
1367 It is visible from the parking lot at Gayton Shopping Center. And, I think, your picture No. 4  
1368 shows you what that visibility is. We talked with the management company there. They do  
1369 not have any objections.

1370  
1371 The people that live back on Wembly Road, the place where the tower is going to be visible is  
1372 really right from these houses right here (referring to slide). And, when we did the balloon  
1373 test, none of the neighbors came. We did a couple of phone calls when we sent the notices  
1374 around. We sent information and pictures to those people. And, we believe we've satisfied  
1375 their questions and the visibility.

1376  
1377 The nice thing about this property is, as I said before, it is elevated from Gaskins. It is also  
1378 elevated from Stoneridge and half of Wembly, so the perspective is it really does blend with  
1379 the tall trees that are there on the site, which is why we also agreed with the swim club that  
1380 it would be a wood pole. The conduit that houses the cables going up are also going to be  
1381 painted brown. The antennas at the top are going to be flush mounted, close to the pole, so  
1382 that they'll also be painted brown to blend with the trees. The trees there, I think, they're  
1383 about 60 to 65 feet tall.

1384  
1385 So, with that, we feel like we've satisfied any concerns that the neighbors may have had.  
1386 And, they understand, we have said we are looking for a permanent site elsewhere. We'll  
1387 continue to work with the County to do that. It is a temporary site. It is being designed as  
1388 temporary. It's being design to be as unobtrusive as possible.

1389

1390 I do not believe that it will have any adverse effect on the public health, safety, and welfare.  
1391 As, a matter of fact, I think that people who want this service generally want it for safety  
1392 reasons. So, it, in a way, it really protects the well being of the public. It provides a service  
1393 that the public would like to have.  
1394  
1395 I think this, as a temporary facility, it fits well within the parameters, the jurisdictional  
1396 requirements of the BZA to grant a temporary use. There will not be any buildings  
1397 constructed. It exceeds the setback requirements. The site can be returned to its original  
1398 condition when the equipment is removed. And, it fits squarely within the powers that you  
1399 have, under Section 24-116(c)(1).  
1400  
1401 So, in closing, we ask that you condition the permit to a six-month period of time. That you  
1402 approve UP-37-99 for a six-month period, subject to conditions 1 through 6, with Number 5,  
1403 substituting a 10-foot privacy fence instead of landscaping, and deleting Condition No. 7.  
1404  
1405 I would like a few minutes for rebuttal, and would be glad to answer questions.  
1406  
1407 Mr. Balfour- You mentioned several conditions. Can you just summarize, by  
1408 saying, "Change No. 5, and drop No. 7," I guess add the "six months?" because I didn't see  
1409 that in there. I thought you listed earlier, though, several other conditions and I wanted to  
1410 make sure that those are either in here, or are they incorporated already?  
1411  
1412 Ms. Freye - The other conditions that I talked about were the ones that we  
1413 negotiated in our lease. Those conditions are in our lease.  
1414  
1415 Mr. Balfour- Okay. There really would still be 7, though, because we need to  
1416 add the "six months limitation?"  
1417  
1418 Ms. Freye - Yes, sir. Yes sir. I just meant to delete that No. 7,  
1419 "landscaping."  
1420  
1421 Mr. McKinney - Ms. Freye.  
1422  
1423 Ms. Freye - Yes, sir.  
1424  
1425 Mr. McKinney - I'm fairly familiar with SunCom. And, its my understanding that  
1426 SunCom is in a position to use; in other words, when you're travelling, SunCom, when you  
1427 have their equipment, that they use GTE, and the other cell companies. Is that correct?  
1428  
1429 Ms. Freye - Yes, sir. They have, basically, a dual system. They use the  
1430 analog technology and digital.  
1431  
1432 Mr. McKinney - I understand that.  
1433  
1434 Ms. Freye - Yes, sir. And that's why they can have contracts with these  
1435 other service providers to give you that seamless coverage, so that even though they may not  
1436 have a tower in a particular location, they can pick that service up from somewhere else and  
1437 not have a disruption in your service.  
1438

1439 Mr. McKinney - And that's not their tower; its somebody else's tower?  
1440  
1441 Ms. Freye - Correct. Correct.  
1442  
1443 Mr. McKinney - Are you saying that this picture that you showed us in the white  
1444 (referring to slide), that none of the cell companies have coverage in that area?  
1445  
1446 Ms. Freye - I cannot say what their propagation is, but I do know, that in  
1447 this area, there was a lot of controversy about trying to get coverage when Sprint came into  
1448 cover this area, and was focusing on the Westhampton Cemetery. Had that cemetery site  
1449 been approved with the 100 or 150-foot tower that was requested, there could have been  
1450 collocation could have gone on that and that would have solved a permanent site in that area  
1451 all together.  
1452  
1453 Since they could not get anything taller than a 50-foot "by right" tower at the cemetery, it  
1454 left the rest of us out there, being the service providers looking for sites to cover the area.  
1455  
1456 Mr. McKinney - Does GTE or Alltel have coverage in this white area?  
1457  
1458 Ms. Freye - I don't know what their coverage is. It maybe that they may  
1459 have coverage, along the road, but not in the buildings for the officers or the homes. I don't  
1460 really know. These companies treat their propagation maps as proprietary. They don't  
1461 necessarily share those with the other companies. They have shared them with the County  
1462 staff from time to time. But I don't know how their propagation map would overlap this one.  
1463  
1464 Mr. McKinney - Well, SunCom is trying to sell their product that they use  
1465 everyone's towers.  
1466  
1467 Ms. Freye - Sir?  
1468  
1469 Mr. McKinney - I say, SunCom tries to market their product, stating they use  
1470 everyone else's towers, so, you're never without service.  
1471  
1472 Ms. Freye - Right.  
1473  
1474 Mr. McKinney - That's what I've been told.  
1475  
1476 Ms. Freye - And that's a pretty fair statement. If you'll look at the  
1477 propagation map that's up there (referring to slide), all of the towers that are the green blob  
1478 around there, everyone of them is a collocation. Either on a water tank, on a Virginia Power  
1479 tower, or co-located with PrimeCo, or co-located with GTE. I don't think there's a Sprint one  
1480 up there. But all those others are co-locations. Anywhere they can do that, they do.  
1481  
1482 Unfortunately, there's just not a site available to cover this area. And that's why Sprint just  
1483 went ahead and just put up a 50-foot over at Westhampton closer to Patterson, because they  
1484 couldn't get anything either. It's a difficult area.  
1485  
1486 Mr. McKinney - Do you have a picture of the antennas?  
1487

1488 Ms. Freye - I have a picture of a flush mounted antenna on top of a flag  
1489 pole.  
1490  
1491 Mr. McKinney - Well, let me ask you this, you've showed us this monopole—this  
1492 telephone pole 85 feet. I've never seen an 85-foot telephone pole, but that's beside the  
1493 point. I'm sure you can have one made. Is the antenna going to set on top of this, or is it  
1494 going to set beside it?  
1495  
1496 Ms. Freye - It is going to be mounted on top and I have...  
1497  
1498 Mr. McKinney - It's going to be higher than 85 foot?  
1499  
1500 Ms. Freye - No, sir. Eighty-five feet is the maximum height, including the  
1501 antenna height. The pole, itself, is probably going to be about 83 feet. The pole, itself, will  
1502 be 83 feet. We asked for 85, which is the maximum height, which would include the height  
1503 of the antennas.  
1504  
1505 Mr. McKinney - So, you're saying the antennas are only two-foot high?  
1506  
1507 Ms. Freye - Well, it will be situated above the pole that high.  
1508  
1509 Mr. McKinney - Two foot above?  
1510  
1511 Ms. Freye - But it could be lower. It could come down on the side of the  
1512 pole. It probably will for mounting. And that will also be painted brown. I can put this on  
1513 the screen, if you'd like?  
1514  
1515 Mr. McKinney - Yes. Put that on the screen. Let us take a look at that. Are you  
1516 going to mount a flag on it, Ms. Freye?  
1517  
1518 Ms. Freye - No, sir. I just brought that picture to show you how a flush  
1519 mounted antenna would look like on top of a pole.  
1520  
1521 Mr. McKinney - Would you mount a flag on it?  
1522  
1523 Ms. Freye - I suppose we could if people wanted us to. Personally, I think a  
1524 flag would attract more attention to the pole. I also know that Federal regulations about the  
1525 U.S. flag is that it normally should be lighted or taken down every day and every evening.  
1526  
1527 Mr. McKinney - Well, that just takes a couple of...  
1528  
1529 Ms. Freye - Well, it does. And it may be something that the swim club  
1530 might be interested in. We had not negotiated that with them. I don't think there's anything  
1531 that would prevent them from doing that if they wanted to.  
1532  
1533 Mr. McKinney - Then it would look like a flagpole.  
1534  
1535 Ms. Freye - It would look like a flagpole. Yes sir.  
1536



1537 Mr. McKinney - Not an antenna.  
1538  
1539 Ms. Freye - Not an antenna.  
1540  
1541 Mr. McKinney - ...a monopole.  
1542  
1543 Ms. Freye - It was important to the swim club to have it be as unobtrusive  
1544 as possible, not to draw attention to it. To have it blend with the trees. And on a temporary  
1545 basis, they were willing to work with us, with that condition.  
1546  
1547 Mr. McKinney - Why six months?  
1548  
1549 Ms. Freye - Well...  
1550  
1551 Mr. McKinney - That seems like a very short time...  
1552  
1553 Ms. Freye - It is.  
1554  
1555 Mr. McKinney - I mean, to go through this to get an approval, it would appear to  
1556 me that you looked now for a year and a half. You haven't found a site.  
1557  
1558 Ms. Freye - No, sir. Well, we have not been able to get leases either from  
1559 the County or from the School Board. There are a lot of issues. The School Board has a  
1560 policy that we're trying to either get an exception to or a modification from.  
1561  
1562 Unfortunately, the School Board sees telecommunications equipment as a use that's akin to a  
1563 commercial "for profit" retail marketing-type business, which it is not. We liken it to the  
1564 equipment of telephone or Virginia Power. That kind of equipment is on school sites all over.  
1565 But, there is going to be new School Board members that will take their seats in January. We  
1566 want to revisit that; this question with them and see if we can work it out at the Byrd Middle  
1567 School, because we did propose a flagpole with the sports equipment building as a base  
1568 there, which some people think is a good idea.  
1569  
1570 If that doesn't work out, then we're trying to revisit the fire station across the street for a  
1571 permanent site, which would be a 140-foot pole. Yet, that would meet the setbacks there,  
1572 and try to do that as a flagpole there. That's not being supported by the County right now.  
1573 They haven't absolutely closed the door on that. They just cannot go forward with this at  
1574 this time on that.  
1575  
1576 So, the six months - the reason why we asked for the two years in the very beginning, was  
1577 because, gosh, we've been working on it for a year and a half, what makes us think we're  
1578 going to get something tied down in six months. We're just hoping that the six months,  
1579 Number 1, get us online immediately. We can get immediate coverage and start serving the  
1580 customers and fill this hole, and, hopefully, stop some complaints that the customers are  
1581 calling in with.  
1582  
1583 Mr. McKinney - If you should be granted a six month's permit for this, what  
1584 happens at the end of six months?  
1585

1586 Ms. Freye - At the end of six months, what that will do for us, Mr.  
1587 McKinney, is we'll be able to say, "We've got a lease," either with the School Board, or with  
1588 the County. We can go forward with the County for a permanent site.  
1589

1590 If we don't have a permanent lease at that time, I'm afraid we'll have to come back and ask  
1591 for a renewal. But, we've discussed that with the County administration and the County  
1592 staff and they're aware of that. They are very much involved in working with us to try to  
1593 find a permanent site. We really don't want to get into a situation that happened with the  
1594 Westhampton Cemetery, which I really think got blown out of proportion, but that's just my  
1595 personal opinion. For a lot of reasons, that happened the way it did. We don't want a similar  
1596 situation to evolve here. So, we are trying to work with the staff. But we may have to come  
1597 back and ask for renewal if we don't have a permanent site worked out by...  
1598

1599 Mr. McKinney - You have a six month's lease with the swim and racket club?  
1600

1601 Ms. Freye - We have an initial term of one year, and it's renewable for one  
1602 year.  
1603

1604 Mr. McKinney - Well, I would think it would be more realistic to ask for one 12  
1605 months than 6 months?  
1606

1607 Ms. Freye - Well, sir, I agree.  
1608

1609 Mr. McKinney - That's my opinion. I don't know what opposition you have and  
1610 so forth, but there may be some conditions. I mean, I like the idea of this flag up there. I  
1611 mean, you've got Capitol Lincoln right at Parham and Broad who has a 100-foot pole. That's  
1612 15 feet higher than this.  
1613

1614 Ms. Freye - Absolutely. Well, we'll be glad to revisit that with the swim club  
1615 and see if they would be willing to do that. But, at this point, the whole idea is to design it to  
1616 blend with the trees; be just like the trunks of the trees that it stands beside, and have  
1617 everything about it be brown so that most people driving by, are not going to pay any  
1618 attention to it at all, whereas, a flagpole would attract some attention.  
1619

1620 Mr. McKinney - Brown against a cloudy sky shows up.  
1621

1622 Ms. Freye - It does.  
1623

1624 Mr. McKinney - Very good. That's all the questions I have for right now.  
1625

1626 Ms. Freye - Any other questions?  
1627

1628 Mr. Kirkland - Any one else want to speak on this case—opposing or for?  
1629

1630 Mr. Tom Tokarz,  
1631 Henrico Assistant County Attorney - Members of the Board, I'm Tom Tokarz from the  
1632 County Attorney's Office. Gloria is correct in a sense that the administration has been  
1633 working with the company to try and locate a site for permanent coverage for the system  
1634 that they wish to install. So, we're not here, today, to oppose this particular case. But I am

1635 here to ask the Board to consider the concern that the County has with respect to granting  
1636 temporary use permit applications for uses that require provisional use permits under the  
1637 Zoning Ordinance right now.

1638  
1639 The County is currently considering Ordinance Amendments to clarify the conditions under  
1640 which temporary use permits can be granted. One of the reasons is because of the situation  
1641 that we addressed within the last year with respect to renewal of temporary use permits.  
1642 But, a second is the issue that is before you today, which is what should be a correct body to  
1643 consider a situation for a use where the Zoning Ordinance requires a Provisional Use Permit?

1644  
1645 The reason that Provisional Use Permit had been set aside in the Zoning Ordinance is because  
1646 those cases are considered to be so sensitive that the Board of Supervisors has determined  
1647 that it wishes for the Planning Commission and for the Board of Supervisors to consider those  
1648 cases. Communication towers are a prime example.

1649  
1650 Gloria has mentioned the Westhampton site. Regardless of the consideration of the merits of  
1651 that case, the fact of the matter is, the Board has determined that those are uses that should  
1652 be coming to the Board of Supervisors and the Planning Commission for final and permanent  
1653 use.

1654  
1655 The point I would make to you today with respect to the temporary use permit process for  
1656 such uses is that there is an alternative that is available to applicants. This is not a case  
1657 where a variance is coming in where you ask for a variance of two feet or five feet, or  
1658 something like that where it would be impractical to go to the Board of Supervisors for a  
1659 rezoning. Here we're talking about a situation where the Board of Supervisors has specifically  
1660 carved out a use and said it should be considered through the provisional use process.

1661  
1662 Now, Gloria is correct. The Ordinance, as drafted, at the current time, does not prohibit a  
1663 temporary use permit for this use or any other use that requires a Provisional Use Permit  
1664 under the Ordinance. But we would ask the Board of Zoning Appeals to recognize the  
1665 sensitivity with which the Board of Supervisors considers those uses, and that, in considering  
1666 any future use permit applications that come before you, that occur during the interval  
1667 between now and the time when the Zoning Ordinance may be amended, that the Board  
1668 exercise restraint and impose two criteria for approval:

1669  
1670 One is, we would ask the Board not to approve any such temporary use permit unless there is  
1671 a compelling need shown to you.

1672  
1673 And the second would be, that we would ask that the Board, in particularly, give particular  
1674 emphasis to the word, "temporary:" While there is a two-year limit authorized by the Zoning  
1675 Ordinance, given the availability of the provisional use process to an applicant to use, we  
1676 would ask that you sharply limit the period of time that could be granted on a temporary use  
1677 permit for those uses.

1678  
1679 We think the six-month period that has been agreed to in the negotiations between the  
1680 administration and the applicant, in this case, is a maximum that would be appropriate in  
1681 future cases. And, as Gloria said, there may be a situation where they would come back  
1682 make an application to you for renewal. We would suggest that would be a preferable

1683 alternative than to grant an additional time period, at this initial stage, given the availability of  
1684 the Provisional Use Permit process.

1685

1686 Having said that, please let me emphasize that I'm not opposing this particular case. But, we  
1687 are asking you, if you would, to be sensitive to the concerns that involve a case where you  
1688 have a use involving a Provisional Use Permit.

1689

1690 Mr. McKinney - I'd like to ask one question. Is there any one in the audience  
1691 that is in opposition to this? (None was indicated). Mr. Tokarz, I know what you are saying,  
1692 with the Planning Commission and the Board of Supervisors. The reason for that is because  
1693 of the impact on the public. They're there to protect the public. And it appears there is no  
1694 public here in opposition to this.

1695

1696 Mr. Tokarz - That's the way it appears. And, if that were the case in the  
1697 Provisional Use Permit process, then I would expect the Provisional Use Permit process to  
1698 take that into account as well.

1699

1700 Mr. Wright - Isn't that, however, designed for permanent use?

1701

1702 Mr. Tokarz - The Provisional Use Permit?

1703

1704 Mr. Wright - Yes.

1705

1706 Mr. Tokarz - Yes, sir.

1707

1708 Mr. Wright - That's not designed for what we've got here today for a  
1709 temporary use permit.

1710

1711 Mr. Tokarz - Well, ultimately, I think the question is, "How is Triton PCS  
1712 going to obtain coverage in the area?"

1713

1714 Mr. Wright - Well, it's obvious, it's not going to be here.

1715

1716 Mr. Tokarz - Well, that's the expectation.

1717

1718 Mr. Wright - It's not going to be here. I mean, why put them through all of  
1719 that, if this is just going to be a temporary thing?

1720

1721 Mr. Tokarz - Well, I think the point I would try to make to you is that, in a  
1722 situation where you have a use, where the County believes communication towers should be  
1723 considered by the Board of Supervisors...

1724

1725 Mr. Wright - I understand.

1726

1727 Mr. Tokarz - We would like to funnel those to the Board of Supervisors rather  
1728 than...

1729

1730 Mr. Wright - If it were of a permanent use?

1731

1732 Mr. Tokarz - Well, I would suggest to, simply express the County's view that,  
1733 we would like to have that considered as being an area where we'd have great sensitivity  
1734 from the Board of Zoning Appeals.  
1735

1736 Mr. Wright - So do we.  
1737

1738 Mr. Tokarz - Thank you.  
1739

1740 Mr. Kirkland - Any other questions of Mr. Tokarz?  
1741

1742 Mr. Tokarz - Thank you.  
1743

1744 Mr. Kirkland - Any one else wish to speak? If not, Ms. Freye, rebuttal time.  
1745

1746 Ms. Freye - Thank you. I do not disagree with what Tom has said. But, I do  
1747 want to point out, that the Board of Supervisors delegated this legislative authority to you, as  
1748 the Board of Zoning Appeals, for temporary uses. And you have the ability to grant special  
1749 exceptions.  
1750

1751 Had the Board meant to exclude that, they could have said, "except for communications  
1752 towers." In fact, in one of the sections of the Ordinance where it talks about your powers, it  
1753 does say, "except for communication towers" where it's a permanent use.  
1754

1755 And, as Mr. Wright pointed out, we are asking for a temporary use. We don't have a  
1756 permanent foundation. It's going to be on trailers. We're doing this as an interim measure  
1757 until we can get something permanent worked out.  
1758

1759 Mr. Balfour- Excuse me. I don't think you need to keep going. I think he said  
1760 he didn't disapprove it. I think we all understand its temporary, and I think you've already  
1761 said you agree to six months.  
1762

1763 Ms. Freye - Yes, sir. Thank you.  
1764

1765 Mr. McKinney - One other question.  
1766

1767 Ms. Freye - Yes, sir.  
1768

1769 Mr. McKinney - Talk to them about the flag.  
1770

1771 Ms. Freye - We'll revisit that with the swim club.  
1772

1773 Mr. McKinney - I mean, if this is granted and you have to come back to renew it,  
1774 you might consider that.  
1775

1776 Ms. Freye - I'll be glad to talk to them about that, Mr. McKinney.  
1777

1778 Mr. McKinney - Thank you.  
1779

1780 Mr. Kirkland - No further information or any testimony from anyone. That  
1781 concludes your case. You can get your answer this afternoon.

1782  
1783 Mr. McKinney - Or in a few minutes.

1784  
1785 Mr. Kirkland - Or in a few minutes, whichever comes first.

1786  
1787 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
1788 Balfour, the Board approved the case.

1789  
1790 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1791 Negative: 0  
1792 Absent: 0

1793  
1794 The Board use permit this request as it found from the evidence presented that authorizing  
1795 this use permit will not be of substantial detriment to adjacent property and will not materially  
1796 impair the purpose of the zoning regulations.

1797  
1798 1. Only the improvements shown on the plan filed with the application may be constructed  
1799 pursuant to this approval. Any additional improvements shall comply with the applicable  
1800 regulations of the County Code.

1801  
1802 2. The property shall be developed in substantial conformance with the plan filed with the  
1803 application. No changes or additions to the layout may be made without the approval of  
1804 the Board of Zoning Appeals.

1805  
1806 3. If land disturbance will exceed 2,500 square feet the requirements of Chapter 10 of the  
1807 County Code apply. This includes water quality and erosion control requirements. The  
1808 applicant is responsible for contacting the Department of Public Works.

1809  
1810 4. This approval is not transferable except that the holder of the first mortgage on the  
1811 property may assume responsibility, after notification of the Board of Zoning Appeals.

1812  
1813 5. The tower and its equipment shall be screened from view on all sides by a wooden  
1814 privacy fence ten feet tall.

1815  
1816 6. There shall be no exterior lighting.

1817  
1818 7. This permit shall expire on September 22, 2000.

1819  
1820 UP- 36-1999 James A. & Jean A. Meador request a use permit pursuant to Section  
1821 24-12(e) of Chapter 24 of the County Code to operate a private kennel  
1822 at 251 Mill Road (Wilton Wood) (Tax Parcel 235-1-C-6), zoned R-2A,  
1823 One-family Residence District (Varina).

1824  
1825 Mr. Kirkland - Sir, would you state your name for the record, please.

1826  
1827 Mr. Meador - James A. Meador.

1828

1829 Mr. Kirkland - And would you raise your right hand and be sworn in by the  
1830 Secretary? Anyone else wishing to speak on this case, UP-36-99? Okay. Mr. Secretary.  
1831  
1832 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1833 truth, the whole truth, and nothing but the truth, so help you God?  
1834  
1835 Mr. Meador - I do.  
1836  
1837 Mr. Kirkland - Has all your notices been turned in, according to County Code?  
1838  
1839 Mr. Meador - Yes.  
1840  
1841 Mr. Blankinship - I don't see those in the file. Do you know when they were  
1842 delivered?  
1843  
1844 Mr. Meador - I sent one in. They requested another person to sign, and I sent  
1845 it in. So, far as I know, everything is in.  
1846  
1847 Mr. Blankinship - We must have a stack of those somewhere in the office.  
1848  
1849 Mr. Wright - Filing is like getting the minutes done.  
1850  
1851 Mr. Blankinship - You know we still have that secretarial position vacant. We're  
1852 kind of making do at this point.  
1853  
1854 Mr. Kirkland - Okay, sir, state your case.  
1855  
1856 Mr. Meador - I'm requesting this kennel license. I started to raise some  
1857 puppies, and I have four. I was going to get rid of two, but my wife fell in love with them,  
1858 and I had to keep them. So, I have five dogs now; four puppies and the father. I'm not in  
1859 business to sell dogs, or anything. I'm a rabbit hunter. I enjoy hunting. I've been fooling  
1860 with dogs every since I was a kid.  
1861  
1862 At one time, I did have a kennel license in Henrico, and I gave it up because I didn't have  
1863 none. I think I could keep 20 dogs at that time. But, I didn't have any, so I gave it up. So,  
1864 I'm just requesting this kennel for personal use only. And the pens are behind the shed, 20  
1865 feet by 40 feet. You cannot see them from the road unless you look real close. It's all  
1866 woods behind me. On each side of me there's no houses, just across the road. So, it will  
1867 not bother anyone as far as I can see. And, if it does, I'll get rid of the dogs.  
1868  
1869 Mr. Nunnally- How much land do you have there, Mr. Meador?  
1870  
1871 Mr. Meador - It's approximately three-quarters of an acre.  
1872  
1873 Mr. Nunnally- And you read the conditions suggested by the Board?  
1874  
1875 Mr. Meador I have.  
1876  
1877 Mr. Nunnally- And you agree with that?

1878  
1879 Mr. Meador - I'll comply with them. I might not agree with them, but I'll  
1880 comply with them. It's a difference. Sir?  
1881  
1882 Mr. Nunnally- I said, that's the main thing.  
1883  
1884 Mr. Meador - I wouldn't be here asking for a kennel license if I didn't comply  
1885 with the rules and regulations of the County as far as keeping dogs.  
1886  
1887 Mr. Nunnally- All right, sir. Thank you.  
1888  
1889 Mr. Kirkland - Any other questions of Mr. Meador?  
1890  
1891 Mr. Meador - No, sir. That's it.  
1892  
1893 Mr. Kirkland - Hearing none, anyone else wants to speak on UP-36-99? That  
1894 concludes your case. You can wait around, or call the Planning Office this afternoon.  
1895  
1896 Mr. Meador - Thank you for your time.  
1897  
1898 Mr. Kirkland - You're welcome.  
1899  
1900 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Wright,  
1901 the Board approved the case.  
1902  
1903 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
1904 Negative: 0  
1905 Absent: 0  
1906  
1907 The Board approved this request as it found from the evidence presented that authorizing this  
1908 use permit will not be of substantial detriment to adjacent property and will not materially  
1909 impair the purpose of the zoning regulations.  
1910  
1911 1. This approval is only for the five dogs owned by the property owner. The approval is not  
1912 for the boarding or breeding of dogs at any time.  
1913  
1914 2. No new or replacement animals may be added, so that the number of animals will be  
1915 reduced by natural means to the 3 animal limit allowed in a residential district.  
1916  
1917 3. The applicant must maintain the property so that odors are controlled.  
1918  
1919 4. This approval is not transferable except that the holder of the first mortgage on the  
1920 property may assume responsibility, after notification of the Board of Zoning Appeals.  
1921  
1922 UP- 38-1999 Tarmac America requests a use permit pursuant to Sections 24-103 and  
1923 24-52(d) of Chapter 24 of the County Code to extract materials from  
1924 the earth at 5090 New Market Road (Tax Parcel 270-A-1), zoned A-1,  
1925 Agricultural District (Varina).



1926  
1927 Mr. Kirkland - Would you state your name for the record, please?  
1928  
1929 Mr. Monte Lewis - My name is Monte Lewis.  
1930  
1931 Mr. Kirkland - Anyone else wishing to speak on this case? Would you raise  
1932 your right hand and be sworn in by the Secretary.  
1933  
1934 Mr. Blankinship - Do you swear that the testimony you are about to give is the  
1935 truth, the whole truth, and nothing but the truth, so help you God?  
1936  
1937 Mr. Meador - I do, sir.  
1938  
1939 Mr. Kirkland - Have all your notices been turned in, according to County Code?  
1940  
1941 Mr. Lewis - Yes sir, last week.  
1942  
1943 Mr. Kirkland - If you would, state your case.  
1944  
1945 Mr. Lewis - My name is Monte Lewis. I'm with E. D. Lewis & Associates,  
1946 representing Tarmac America. This is an existing mining operation. I've got an aerial  
1947 photograph, taken in 1998, of the site. It's, as you see it, its facing up is north. It's the  
1948 same site that you see in your packet. This just gives you a more visual impact. We have  
1949 approximately 30 acres left to mine on this site. We're just asking for a re-application to  
1950 continue our mining operations. As far as I know, there haven't been any complaints or  
1951 violations from the County on erosion control with this area. If you have any questions, I'd  
1952 be glad to answer them.  
1953  
1954 Mr. Nunnally- Are these the identical conditions that we had on the case  
1955 before?  
1956  
1957 Mr. Lewis - Yes, sir.  
1958  
1959 Mr. Nunnally- We haven't had any problem, have we, Mr. Secretary?  
1960  
1961 Mr. Blankinship - Not that I'm aware of. Mr. Hackett is here. There was one  
1962 minor matter. Was that on this site or the other site where there was some cutting?  
1963  
1964 Mr. Lewis - The other site. The boundary was off by a little bit. We just  
1965 moved some area from one side to the other. It wasn't anything significant.  
1966  
1967 Mr. Kirkland - Any other questions by Board members? Mr. McKinney.  
1968  
1969 Mr. McKinney - Did we not change this bond to \$2,000 an acre?  
1970  
1971 Mr. Blankinship - The way we're doing it right now, Mr. McKinney, is if they want  
1972 to bond the whole site, it's a \$1,000 per acre, and if they want to bond the area that they're  
1973 just going to be monitoring since we're decreasing the acreage, we increased it to \$2,000.  
1974 They're only got 30 acres left. Of course, they're not going to bond the entire Curles Neck

1975 Farm. But they've only got 30 acres left within this boundary, and they've already got a  
1976 bond posted. This is just a renewal.

1977  
1978 Mr. McKinney - Well, even though it's a renewal, the other one is running out.  
1979 So, we could require; we need some kind of guidelines to go by.

1980  
1981 Mr. Blankinship - Yes, sir.

1982  
1983 Mr. McKinney - I mean we can't have one come in and we ask them for \$2000  
1984 and the other one come in, and we give him \$1000. I don't think its fair.

1985  
1986 Mr. Blankinship - That's the guideline we're using right now.

1987  
1988 Mr. McKinney - Of \$2,000?

1989  
1990 Mr. Blankinship - If they're doing only the area to be disturbed, its \$2,000. If it's  
1991 a larger area, then it's \$1,000.

1992  
1993 Mr. McKinney - Well, they're doing 30 acre on this one. Is that what you said?

1994  
1995 Mr. Blankinship - If they had said they only wanted to bond the 30 acres, we  
1996 would have made it \$2,000. It would have been a \$60,000 bond.

1997  
1998 Mr. Lewis - If I could answer that question, the bonding is for the entire 200  
1999 some acres, not just the 30 acres that was left. I was just giving you that information just to  
2000 let you know where we are.

2001  
2002 Mr. McKinney - For that 201 acres?

2003  
2004 Mr. Lewis - Yes. And also, in addition to that, we're being double bonded  
2005 because we have this bond for \$1,000 an acre with the Planning Department, but we also  
2006 have an E&S bond with Public Works that is much more than that. Some of them have an  
2007 overlap for the same items to the County conditions, that hasn't been worked out. So, we  
2008 are actually double bonded on some items.

2009  
2010 Mr. McKinney - Well, Mr. Lewis, I was just trying to find out from staff where  
2011 they're coming from on their \$2,000 on one and \$1,000 on another. I don't have anything  
2012 else.

2013  
2014 Mr. Kirkland - Any other questions? Any one else want to speak on UP-38-99?  
2015 If not, that concludes your case.

2016  
2017 After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Wright,  
2018 the Board granted the case.

2019  
2020 Affirmative: Kirkland, McKinney, Nunnally, Wright 4  
2021 Negative: 0  
2022 Abstained: Balfour 1  
2023

2024 The Board granted this request as it found from the evidence presented that authorizing this  
2025 use permit will not be of substantial detriment to adjacent property and will materially impair  
2026 the purpose of the zoning regulations.

2027  
2028 1. This permit is subject to all requirements of Section 24-103 of Chapter 24 of the County  
2029 Code.

2030  
2031 2. Hours of operation shall be from 7:00 a.m. to 5:00 p.m. from December 1 to March 31,  
2032 and from 6:00 a.m. to 6:00 p.m. from April 1 to November 30, EST or EDT, whichever is  
2033 in effect in the County of Henrico.

2034  
2035 3. No operations of any kind are to be conducted at the site on Sundays, nor on national  
2036 holidays.

2037  
2038 4. All roads used in connection with this use permit shall be effectively treated by sprinkling  
2039 or otherwise treated with water, calcium chloride, or other wetting agents to eliminate  
2040 any dust nuisance.

2041  
2042 5. Open and vertical excavations having a depth of 10 feet or more, for a period of more  
2043 than 30 days, shall be effectively sloped to a 2 to 1 slope or flatter to protect the public  
2044 safety.

2045  
2046 6. Routes of ingress and egress shall be over the applicant's rights of way to the loading  
2047 area at the James River as outlined on the map filed with the application.

2048  
2049 7. A superintendent who shall be personally familiar with all the terms and conditions of  
2050 Section 24-103 of Chapter 24 of the County Code as well as the terms and conditions of  
2051 UP-38-1999, shall be present at the beginning and conclusion of operations each work  
2052 day to see that all the conditions of said Code and said Use Permit are carefully observed.

2053  
2054 8. Topsoil shall not be removed from any part of the property outside of the area in which  
2055 extraction is authorized. Sufficient topsoil shall be stockpiled on the property for  
2056 respreading in a layer with five (5) inches of minimum depth. If the site does not yield  
2057 sufficient topsoil, additional topsoil shall be brought to the site to provide the required five-  
2058 inch layer of cover. All topsoil shall be treated with a mixture of seed, fertilizer, and lime  
2059 as recommended by the County of Henrico after the results of soil tests have been  
2060 submitted to the County of Henrico. All topsoil shall be stockpiled within the authorized  
2061 borrow area and provided with adequate erosion control protection.

2062  
2063 9. The rehabilitation of the property shall take place simultaneously with the mining process.  
2064 Rehabilitation shall not be considered completed until the mined area is covered  
2065 completely with permanent vegetation.

2066  
2067 10. Responsibility for maintaining the property, fences, and roads in a safe and secure  
2068 condition indefinitely, or of converting the property to some other safe use, shall rest with  
2069 the applicant.

2070  
2071 11. Erosion Control Plans shall be submitted to the Department of Public Works for review and  
2072 approval at time of application for the Use Permit. Throughout the life of this extraction

2073 operation, the applicant shall continuously satisfy the Department of Public Works that  
2074 erosion control procedures are properly handled and furnish plans and bonds that the  
2075 department deems necessary. The applicant shall provide certification from a licensed  
2076 professional engineer that dams, embankments and sediment control structures meet  
2077 standard and approved design criteria as set forth by the State.  
2078

2079 12. The areas approved for mining under this permit shall be delineated on the ground by the  
2080 erection of five (5) foot high metal posts at least five (5) inches in diameter and painted in  
2081 alternate one (1) foot stripes of red and white. These posts shall be so located as to  
2082 clearly define the area in which the mining is permitted. They shall be located, and the  
2083 location certified by a certified surveyor, within thirty (30) days of the date of approval of  
2084 this use permit by the Board of Zoning Appeals, or this use permit is void.  
2085

2086 13. Excavation operations shall be discontinued on said site by October 30, 2001, and  
2087 restoration accomplished by not later than October 30, 2002, unless a new permit is  
2088 applied for by not later than 60 days before the expiration of the permit, and is  
2089 subsequently granted by the Board of Zoning Appeals.  
2090

2091 14. A financial guaranty satisfactory to the County Attorney shall be posted with the  
2092 Secretary of the Board of Zoning Appeals for extracting materials from 201 acres, in an  
2093 amount of \$1,000.00 per acre for each acre of land included under development, for a  
2094 total of \$201,000.00 guaranteeing that the land will be restored to a reasonably level and  
2095 drainable condition with a minimum slope on the restored property being five to one or  
2096 flatter. The guaranty may provide for the termination of the obligations after 30 days  
2097 notice in writing. Such notice shall be served upon the principal and upon the obligee as  
2098 provided by law for the service of notices. At the termination of the aforesaid 30 day  
2099 notice to the principal, all authority of the principal under this use permit to extract  
2100 materials, and work incident thereto, shall cease provided the applicant has not furnished  
2101 another guaranty suitable to the County within said 30 days. The principal shall then  
2102 proceed within the next ensuing 30 days following the termination of its authority under  
2103 this use permit, to accomplish the complete restoration of the land as provided for under  
2104 the terms of this permit. A notice of termination by such surety shall in no event relieve  
2105 the surety from its obligation to indemnify the County of Henrico for a breach of the  
2106 conditions of this use permit.  
2107

2108 15. The applicant shall furnish a certification each year, verifying that the guaranty is in effect,  
2109 premiums have been paid, and the bonding company reaffirms its responsibility under the  
2110 use permit conditions. This certification shall be submitted to the Board on October 30 of  
2111 each year.  
2112

2113 16. This permit does not become valid until the guaranty, required in condition No. 14, has  
2114 been posted with the County, and necessary approval received. This must be  
2115 accomplished within 30 days of the Board's action or the action becomes invalid.  
2116

2117 17. A progress report shall be submitted to the Board on October 30, 2000. This progress  
2118 report must contain information concerning how much property has been mined to date of  
2119 the report, the amount of land left to be mined, and how much rehabilitation has been  
2120 performed, and when and how the remaining amount of land will be rehabilitated, and any  
2121 and all pertinent information about the operation that would be helpful to the Board.

- 2122  
2123 18. If, in the course of its preliminary investigation or operations, applicant discovers evidence  
2124 of the existence of cultural or historical material or the presence on the site of significant  
2125 habitat or an endangered species, it will notify appropriate professional or governmental  
2126 authorities and provide them with an opportunity to investigate the site and applicant will  
2127 report the results of such investigation to the Planning Office.  
2128  
2129 19. The applicant shall comply with the Chesapeake Bay Preservation Act and all state and  
2130 local regulations administered under such act applicable to the property and shall furnish  
2131 to the Planning Office copies of all reports required by such act or regulations.  
2132  
2133 20. The applicant must obtain a mine license from the Division of Mineral Mining, Department  
2134 of Mines, Minerals and Energy, Commonwealth of Virginia within 90 days of the approval  
2135 of this use permit or the use permit is void.  
2136  
2137 21. No off-site generated materials shall be deposited on the mining site unless the materials  
2138 and the plans for their placement have been approved by the Planning Office.  
2139  
2140 22. A sign shall be posted at the entrance to the mining site stating the name of the operator,  
2141 the Henrico use permit number, the Division of Mineral Mining mine license number, and  
2142 the phone number of the operator. The sign shall be 12 square feet in area and shall be  
2143 properly maintained.  
2144  
2145 23. All drainage and erosion and sediment control measures shall conform to the standards  
2146 and specifications of the Mineral Mining Manual Drainage Handbook. Any drainage  
2147 structures in place prior to October 14, 1992 and which do not conform to the Mineral  
2148 Mining Manual Drainage Handbook may remain in place until such time as any  
2149 reconstruction is required at which time said structures shall be brought into conformance  
2150 with the Mineral Mining Manual Drainage Handbook.  
2151

2152 Mr. Kirkland - All those in favor say aye—all those opposed by saying nay.  
2153 Before we go any further, do you want to catch that passed by case one more time?  
2154

2155 Mr. McKinney - We should try before we start voting on them. The very first  
2156 case, Shapiro.

2157 A -119-1999 Robert N. Shapiro requests a variance from Section 24-94 of Chapter  
2158 24 of the County Code to build an addition at 13413 College Valley  
2159 Lane (Foxhall) (Tax Parcel 45-2-B-101), zoned R-2AC, One-family  
2160 Residence District (Conditional) (Three Chopt). The rear yard setback is  
2161 not met. The applicant has 37.0 feet rear yard setback where the Code  
2162 requires 45.0 feet rear yard setback. The applicant requests a variance  
2163 of 8.0 feet rear yard setback.  
2164

2165 Mr. Kirkland - A-119-99 Robert N. Shapiro. Is any one here to speak on that?  
2166

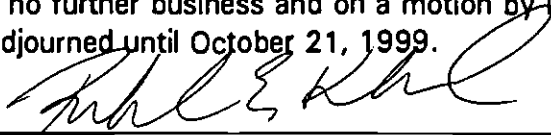
2167 After an advertised public hearing and on a motion by Mr. McKinney, seconded by Mr.  
2168 Wright, the Board approved the withdrawal of this case without prejudice.  
2169

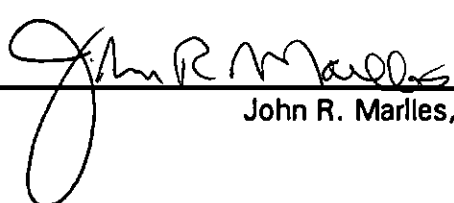
2170 Affirmative: Balfour, Kirkland, McKinney, Nunnally, Wright 5  
2171 Negative: 0  
2172 Absent: 0

2173  
2174 Mr. McKinney - It can't be deferred again.

2175  
2176 Motion to approve the minutes of April 22, 1999 and May 20, 1999 reserving the right to  
2177 make corrections by the October, 1999 meeting made by Mr. Wright and seconded by Mr.  
2178 McKinney.

2179  
2180 There being no further business and on a motion by Mr. Nunnally, seconded by Mr. Kirkland,  
2181 The Board adjourned until October 21, 1999.

2182  
2183   
2184 \_\_\_\_\_  
Richard Kirkland, Chairman

2185  
2186   
2187 \_\_\_\_\_  
John R. Mariles, Secretary

2188

*SB mins of  
5/27/99*