The Regular Meeting of the Board of Zoning Appeals was Held on Tuesday, February 8, 1972, at 10:00 A.M. in the Board Room of The Massey Building; Members Present: Daniel Smith, Chairman, George Barnes, Loy P. Kelley, Richard Long and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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DEFERRED CASES:

MURRAY M. HOLLOWELL, T/A CROSSROADS CLEANERS, app. under Sec. 30-6.6 of Ord. to permit erection of addition 10' from side property line, 2' from rear property line and 34' from front property line, Mason District, (C-G), 5800 Seminary Road, 61-4((17))B-1, V-236-71 (Deferred from January 11, 1971 for proper notification to nearby property owners).

Mr. Roy Swayze, 4085 Chain Bridge Road, Fairfax, Virginia, standing in for his partner Stanford Parris who was in Richmond at the General Assembly, represented the applicant and testified before the Board.

Notices to the property owners were in order.

The contiguous owners were Lincoln National Life, Post Office Box 731, Rye, New York and Charles and Helen J. Martina, 5405 Scoville Street, Baileys Crossroads, Virginia.

Mr. Swayze stated that Mr. Hollowell owns the property and is trading as an individual. This property was formerly a filling station, but Mr. Hollowell converted it into a cleaners. They are proposing an addition and that is why they are before the Board as they need a variance in order to build this addition. The proposed addition is 10' off the property line and they need 20'. If you take the 10' off the building this would not be a feasible building. There is a 4' board fence built down that property line which separates them from the adjoining commercial property. He said they feel there is a hardship presented here as they cannot put the addition on unless they have a building at least the size of the one they propose.

They are also asking for a variance to allow the building 34' from the front property line. The existing buildings next door are 34' from the road and this building would be adjacent and would be the same distance as the other buildings. He said this would be harmonous with these other buildings. The small building that is on the property now is so small it could not be used for any purpose except that of a filling station and will have to be enlarged.

Mr. Smith asked for more information regarding the owner of the property. Mr. Swayze said that on the site plan it gives the names of John H. and Murray Hollowell as recorded in Deed Book 3097 at page 206.

Mr. Long said they need a rendering of the building.

Mr. Smith said the application should be amended to include John H. Hollowell as co-applicant.

Mr. Baker moved to include John H. Hollowell to the application.

Mr. Kelley seconded the motion.

The motion passed unanimously.

Mr. Swayze said that the old building will be used for a reception area and the addition will be for the cleaning plant area.

Mr. Smith asked if they proposed to remove the fence. Mr. Smith stated this would give a little better access in case of fire.

Mr. Smith asked what the building next door is used for.

Mr. Swayze said he did not know, but he would find out.

Mr. Long asked if the entire block lined up with this building 34' from the front property line.

Mr. Vernon Long said the majority of the building on this street are set in front of this particular building it way it is situated today.

Mr. Barnes concurred with this. Mr. Barnes also asked what the rendering of this building would be.like and what the materials would be.

Mr. Swayze said the existing building is masonry and this would be made to match with some renovation to make it more attractive.

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Mr. Long said he would like to see the architectural facade.

Mr. Smith read the memorandum from Preliminary Planning Engineer's Office which said that:

"On December 19, 1968, the County Executive granted a site plan waiver for the existing use. The waiver was granted on condition that the overhead light located at the northwest corner of the property be relocated out of the existing travel way to a grass median to the rear. It is noted that the site will again be under site plan control and again this office will require that the said light be moved. It is suggested that a minimum 22' travel lane connection be made to the property to the west and for the full frontage of the property along Seminary Road.

Mr. Long moved that V-236-71 be deferred for decision only for thirty (30) days to allow the applicant to meet with the Planning Engineer's Office to get a landscape plan and and to provide a rendering of the proposed development.

Mr. Barnes seconded the motion.

The motion passed unanimously.to defer the above case for thirty (30) days.

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DEFERRED CASES FROM JANUARY 25, 1972

A & C REALTY, Originally TENNECO OIL CO & A & C REALTY (Tenneco Oil Co. withdrew from application on January 25, 1972) app. under Sec. 30-7.2.10.2.1 & Sec. 30-7.2.10.2.2 of Ord. to permit convenience type food store with gasoline pumps, 7515 Lee Highway & Meadowview Road, 50-3 & 50-1((18))1, Providence District (C-B), S-231-71

Mr. Smith read a letter from Mr. Hansbarger, attorney for the applicant, requesting that this case be deferred 60 days in order for the applicant to see if they could find another user for this application.

Mr. Barnes so moved.

The motion passed unanimously.

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FRANK B. PETERSON, app. under Sec. 30-6.6 of Ord. to permit erection of carport 15' from front property line, 1009 Gelston Circle, McLean, Scott's Run Subdivision, 21-3((12))12 Dranesville District (RE-1), V-240-71 (Deferred from 1-25-72 for correct plats - decision only)

Mr. Smith read a letter from Bert L. Parker who lives at 1008 Gelston Circle, McLean, Virginia stating that he felt that Mr. Peterson is entitled to every consideration with respect to his request, however, he feels that the Board should be aware of certain particulars relevant to the Scotts Run Subdivision (Gelston Circle and Blaise Trail) and he went into the details of the subdivision, price, size, and that each home is custom built and he feels that the zoning regulations are established to benefit the community as a whole and should be adhered to wherever possible and only varied when there is proven structural hardship or infeasibility. He said he hoped the Board would consider the environment surrounding the Peterson property and the effect an approved variance will create in this small but highly desireable subdivision.

Mr. Smith suggested the garage could be moved back.

The Board then questioned the word garage. The advertisement read carport and this makes a difference.

Mr. Peterson stated that he had put in the supplement letter that he submitted along with his application that he wanted either a garage or a carport. He stated that the garage would be hardly visible from the street because of the slope which starts right at the street and in order to make a leval place to park the car it is necessary to put the garage as they have placed it. The driveway is headed straight into the house at an 8 percent grade and is very dangerous in the winter as it is and to move the house and garage back would make the grade even steeper.

PETERSON (Continued)

Mr. Smith said all of the houses in the area meet the 30' setback requirement or greater. The normal setback in RE-1 is 50' and this is 20' closer to the property line. Mr. Smith said he feels the applicant will have to stick with the carport as it was advertised.

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Mr. Peterson said the word garage was left out by the woman who accepted the application.

Mr. Smith said if he had carport and garage on his request, it would have to be determined whether it was going to be a carport or garage and use only one of those words.

Mr. Peterson said he had had a meeting with the citizens of the community and they did not want him to erect a carport.

Mr. Smith said the Board could only grant or deny what was advertised and a garage is a greater request than a carport. There is an allowance for a carport, that it can come within 5' closer than a garage, therefore, the ordinance considers a garage a greater use than a carport.

Mr. Kelley stated that he could understand Mr. Peterson's problem and that he was trying to put himself in his position as the lot owner, and also as the owner of lot 11 and lot 13 and if Mr. Peterson went through with the plan as he now has it, it would not be fair to the people on either side of him. He said he believed that if Mr. Peterson worked with the architect and surveyors they could move the house back so he could stay within the setback or at least could ask for a minimum variance.

Mr. Peterson said this is the not the first house that he had designed for this particular lot as he had stated the week before. The other house after it was designed was found to be totally incompatible with the lot according to the judgment of all the professional people in that field. This particular plan has been worked over several times and this is the only plan they could come up with to fully utilize the lot, otherwise, they would be creating clifts all over the lot. He said they had added 10' of fill now. He said that without a garage or covered parking area he cannot see any point in having a driveway.

Mr. Kelley told him that the Board has to look at these applications at all the angles and if there is any way he could perhaps come in on the left side or something like that.

Mr. Smith asked Mr. Peterson if he realized what he was getting into when he purchased the lot. Mr. Peterson answered that this was the first lot that he has purchased on a hillside and he could not visualize how fast things were dropping off.

Mr. Kelley said there are a lot of lots around that builders have to use fill dirt on.

Mr. Kelley told Mr. Peterson that he would hate to deny this until Mr. Peterson has had an opportunity to check all possibilities.

Mr. Peterson said he felt they had exhausted all possibilities and they might as well forget it. He said he had had two builders refuse to bid on this house as they felt the whole situation was too forced and this is an attempt to try to get alone with a steep site.

Mr. Smith asked if they intended to live in this house. Mr. Peterson said they did and that he was not the builder. He said he bought five acres in Great Falls, but his wife did not want to live on it because there were no other people out there so it is up for sale.

Mr. Long asked if he could cut the garage to 11'. Mr. Peterson said it would do no good as they had three cars.

Mr. Smith said anything beyond the 5' variance would be unreasonable. The policy of the Board has been to discourage setback variances in the front yard as far as carports are concerned.

In application No. V-240-71, application by Frank B. Peterson under Section 30-6.6 of the Zoning Ordinance, to permit erection of a carport 15' from the front property line, on property located at 1009 Gelston Circle, McLean, Virginia, also known as tax map 21-3((12))12, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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Peterson (continued)

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of January, 1972, deferred to January 25, 1972 for correct plats and again deferred to February 8, 1972 for correct plats; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1 Cluster.
3. That the area of the lot is 23,550 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Long seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEMS:

SANDRA R. & CARROLL R. WARD, S-168-70, to permit operation of riding school.

Mr. Smith read a letter from Mr. Vernon Long, of the Zoning Inspection Branch, dated January 21, 1972 stating that an inspection of the property had been made by Inspector Koneczny on January 19, 1972 stating that certain conditions of the Special Use Permit had not been complied with, primarily the occupancy permit had not been issued for this use and that their office had received several complaints concerning dust, noise and traffic.

Mr. Smith said they will have to be notified to show cause why the conditions have not been complied with and why the granting should not be terminated, because they have not met the conditions set forth in the resolution, namely obtaining an occupancy permit.

Mr. Smith said then that actually they did not have an occupancy permit, therefore, they do not have a Special Use Permit, as the Special Use Permit is giving on the condition that they obtain the Occupancy Permit. Therefore, they do not have a valid use permit.

Mr. Smith said they should be notified that they have within 30 days to comply and come in and show cause and if they do not appear, this is notice to cease any operation of the use at this location.

Mr. Long moved that Use Permit No. S-168-70, granted on October 30, 1970, to Sandra R. and Carroll R. Ward for the operation of a riding school be placed on the regular agenda for a Show-Cause Hearing to recend the granting of the Special Use Permit because of non-compliance with the requirements set forth in the Special Use Permit and County Codes.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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WOODLAKE TOWERS - County Canine Corp.

Mr. Smith said Mr. Best had notified the Board that he would not be able to have the representative from the County Canine Corp. present and this would have to be deferred until next week.

Mr. Long asked Mr. Woodson what his position on this is.

Mr. Woodson stated his position is that this is not an allowed use in the Woodlake Towers Apartments as it is not directly related to the residents who live in that complex.

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Woodlake Towers - County Canine Corp. (continued)

Mr. Smith said in that case the applicant should be notified of the Zoning Administrator's decision that it is not a permitted use and if the applicant wants to appeal the Zoning Administrator's decision, then advise him of the proper procedure. The Board of Zoning Appeals only has the power to allow this use when it is with the concurrence with the Zoning Administrator.

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Mr. Smith said the matter of the variance form must be cleared up. The application for a building permit should be made before the application for a variance can be made. Mr. Smith stated that without first making application for a building permit and being denied, it is not a proper application for a varianceto be heard before this Board.

Mr. Long moved that the Zoning Administrator meet with the County Attorney to review the variance forms and make the necessary changes to bring them in compliance with the State and County Codes.

Mr. Barnes seconded the motion.

Mr. Smith said he would like to attend this meeting also.

The motion carried unanimously.

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Mr. Smith brought up the subject of paid parking in the County.

Mr. Smith said he would like to see a Parking Authority in the County where all the parking would be under that Authority. He said he feels this would be a great benefit to the citizens of Fairfax County as there would be better coordination, but there is so much going on now, there probably isn't sufficient funds to set up this type of thing.

Mr. Smith asked Mr. Woodson to check and see if he could find the folder on Colonial Investment which goes back to the mid-60's where the Board granted a variance to allow the parking garage within 25' of a residential area. This is the structure that we are now in Court on.

Mr. Smith suggested to Mr. Woodson if he would get the date of the Site Plan approval then that would give an approximate date for the granting, then we could check back in the minute books.

// Mr. Smith read a letter from Judge Arthur Sinclair regarding the situation of the Board of Zoning Appeals in their request for funds to defend the suit of Bd. of Supervisors vs. Board of Zoning Appeals and he stated he could not make any suggestions except to suggest that the Board contact the Commonwealth Attorney's Office to see if they could represent us. //

Mr. Long moved that the Special Use Permit Resolution Form be modified as follows:

No. 4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

No. 5. That the resolution pertaining to the granting of the Special Use Permit SHALL BE posted in a conspicious place along with the Certificate of Occupancy on the property of the Use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

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Mr. Long moved to adjourn. Mr. Kelley seconded the motion.
The meeting adjourned at 12:51 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH DATE Approved
June 21, 1972

The Regular Meeting of the Board of Zoning Appeals was Held on Wednesday, February 16, 1972, at 10:00 A.M. in the Board Room of The Massey Building; Members Present: Daniel Smith, Chairman, George Barnes, Loy P. Kelley, Richard Long and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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OTTO LeROY KARLSTROM, app. under Sec. 30-6.6 of Ord. to permit carport to remain 26.5' from front property line, 6438 Lakeview Drive, Lake Barcroft Subdivision, 61-3((14))375, Mason District, (R-17), V-242-71

Mr. Karlstrom spoke before the Board.

Notices to property owners were in order.

Mr. Karlstrom stated he did not have a building permit to build the carport extension that he had put up this extension himself with no help from anyone. He said they came back from overseas after several years and bought this home and found that they needed additional storage space and a carport, therefore, he built an extension to the present carport of 5' and put an 8' roof over another extended area and he did not believe a building permit was needed. Later when they added the addition to the kitchen, they received a building permit and during that period a building inspector came by and commented that he thought they might be in violation of the restriction line in the front where he had added to the carport. He said he explained the background to the inspector and the inspector was uncertain at the time as to whether or not he had to have a permit. He said he would check on it and let me know, but he did not and he did not hear anymore until he received a letter from Mr. McIntire. The justification for the carport is that even though the lot is fairly large it is very irregular and so shaped so that the only proper place to have the carport and outside storage area is the area close to the road. As lakefront property, this lot has no front yard. In addition to this, the carport is harmonious with the house and adds and improves the architecture of the house. It does not disturb the view from the road. The carport fron is not pointed toward the road, but parallel to the road. There is a fence along side the road and because of the grade, there is a 10' drop from the road. All of this means that from seven to eight months of the year, you can hardly see the carport and the rest of the year it is given protection by the fence, grading and trees. The carport variance would be similiar to those granted to other Lake Barcroft areas. He said he purchased his home in August of 1968.

Mr. Smith asked if he enclosed an existing carport.

Mr. Karlstrom said he put plyboards around it and extended it 12' toward the road, 5' of that area was enclosed also. There were spaces between the siding that was on the old existing carport and he filled in the gaps. He said he uses an electric saw quite a bit and felt the enclosure would keep down the noise.

Mr. Barnes asked him to restate what the topograph is in that area.

Mr. Karlstrom said from the road there is a 50' drop and most of this drop is from where the house is located, forcing the house toward the road.

Mr. Smith read the Staff report which stated that the carport joins the existing carport which is in the front side yard and if allowed to remain will obscure the view from the occupants next door.

Mr. Karlstrom said that he just could not visualize this as his carport is approximately on the same level from the road as the house next door.

Mr. Smith asked Mr. Vernon Long if he was familiar with this application and was this a violation.

Mr. Vernon Long said he did not know that a violation had been issued and that to his knowledge this application is the result of one of the inspector's going out to this residence several months ago and telling them of their problem and they came in to get the variance.

Mr. Smith said that apparently there was a complaint from the next door neighbor.

Mr. Smith read into the record a letter from Mr. and Mrs. Strauss, dated February, 1972.

They stated that they had lived in their house for sixteen years and at the same time Mr. Karlstrom built his carport they contracted to have one built also, but found that their planned carport would be too close to the front line and, therefore, they conformed to regulations. Mr. and Mrs. Strauss said it was their understanding that Mr. Karlstrom built his carport without a building permit from the County or the Lake Barcroft Community Association. They also stated that Mr. Karlstrom had turned the sign around.

In rebuttal Mr. Karlstrom stated that he had talked with Mr. Covington in the Zoning Office before he moved it back. The sign was placed there thirteen days prior to the hearing and they had guests coming and they asked if they could remove it just until Saturday night and they would put it back up. This they did and it was in place late Saturday night and more than met the 10 day requirement. The sign had been put in a tree and it meant that nobody could stop at that place at the road. This is why he called and asked permission to put the sign behind the fence until Saturday night.

Mr. Smith said that the Lake Barcroft Association covenants are a private civil matter and not before this Board. The main problem is that this was built without a building permit and this puts the Board in a position that is very bad as the Board does not condone this action.

Mr. Karlstrom said that he did not think and that was his error. He said he did speak with an Inspector in the early part of 1969 and the inspector was not sure as to whether or not he needed a variance and was supposed to let him know, but he did not contact him again. This year he had a letter from Mr. McIntire. Mr. Karlstrom said that insofar as the Strauss's were concerned, this is a matter of an unfortunate neighbor relationship.

Mr. Smith said if it was a personal matter that he could not speak to that.

Mr. Kelley stated that Mr. Karlstrom mentioned the fact that other carports in that area were as near to the road as the one he has built and he wondered if they have been granted variances or if perhaps this should be checked into prior to making a decision and also checked to see that these other places have been issued a building permit.

Mr. Smith said this is a very important factor and he said he was sure there had been variances granted in this area because of the topography in that area, but the unfortunate thing is the fact that there was no building permit obtained for this.

Mr. Smith said he they bring the carport back to its original state, then it would be conforming, but the addition would not be as it was constructed totally in the required setback area.

Mr. Woodson said the carport is allowed a 3' overhang.

Mr. Covington had been called to clarify the statement made by Mr. Karlstrom about permission to remove the sign for a period until Saturday night when he would put it back up.

Mr. Covington stated that he gave Mr. Karlstrom the regular time limit that the sign had to be up and told them, they both had called, Mr. and Mrs. Karlstrom, that if they wanted to take it down there was nothing he could do about it.

Mr. Smith said no one has the authority to remove a sign no matter when it is put up.

Mr. Covington said he tried to explain that to them on the telephone.

Mr. Smith said it is a violation to remove the sign.

Mr. Covington said Mr. Karlstrom told him that he was going to remove the sign and Mr. Covington continued, he read from the ordinance regarding the sign and he did not recall giving him permission to remove it and after I read the ordinance to him I think I told him if he wanted to take it down I guess he could.

Mr. Smith said that once that sign is in place no one should take it down until it is taken down by the proper County authorities.

Mr. Covington said they were both very upset about the sign being in front of their residence.

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Mr. Smith said he did not think it was fair to continue to ask questions of Mr. Covington about what he said as a person who has hundreds of calls per day, no one can remember exactly what one says, but we wanted to verify the fact that Mr. Karlstrom did make the telephone call and communicated with the County on this.

Mr. Karlstrom said the sign was up at least 10 days prior to the hearing.

Mr. Karlstrom asked if the Board would consider letting him leave the storage area in and take down the carport extension.

Mr. Smith told him it would be up to the Board.

In application No. V-242-71, application by Otto LeRoy Karlstrom, under Section 30-6.6 of the Zoning Ordinance, to permit carport to remain 26.5' from front property line on property located at 6438 Lakeview Drive, Lake Barcroft Subdivision, also known as tax map 61-3((14))375, County of Fairfax, Virginia, Mr.Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to thepublic by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 16th day of February, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 24,500 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

The Barnes seconded the motion.

The motion passed unanimously to deny.

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MICHAEL A. MASSIH, app. under Sec. 30-6.6 of Ord. to allow dwelling to remain 49.1' from Leamington Court, Lot 12, Sec. 7, Mantua Hills Subd., 9208 Leamington Court, Providence District 58-4((20))12, (RE-0.5), V-1-72

Notices to property owners were in order. Mr. and Mrs. Joseph R. Murphy were the contiguous neighbors on the left hand side and Mr. and Mrs. Elliott were on the back.

Mr. Massih stated that he did not construct the building himself, it was the builder who he contracted. They did not know of the mistake until the final inspection and he felt that it was done when the stakes were put in. The surveyor said that he would take care of the problem, but he did not. After the had the plans for the house, they made a little addition and after this addition was made, the plans were taken back to the County. He said he had lived in the house since July of 1970.

Mr. Smith asked him if he was aware of the fact that he needed an occupancy permit before occupying the house.

Mr. Massih said he thought the problem would be quickly cleared up and he would be able to get the permit.

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Mr. Massih stated that the inspectors did tell him he could move in and he did not know that he had to apply since the surveying company said they would do it. They staked the house and they made the error.

Mr. Smith said then as he understood it, the surveyors did not make the application and Mr. Massih had to make it himself after he became aware that this was necessary.

Mr. Massih said that was correct. He said he changed the plans prior to getting the building permit and before the house was staked. The surveyors had the same copy as the county.

The Board recessed for ten minutes until a copy of the building permit could be obtained.

The building permit copy was obtained and it was in order with the addition on it.

In application No. V-1-72, application by Michael A. Massih, under Section 30-6.6 of the Zoning Ordinance, on property located at 9208 Leamington Court, Providence District, also known as tax map 58-4((20))12, County of Fairfax, Virginia Mr. Kelley moved the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 16th day of February, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 22,061 square feet.
4. That compliance with all County Codes is required.
5. This is a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit; and

2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted forthe location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain certificate of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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KENT AND SHEILA WHITE, app. under Sec. 30-6.6 of the Ordinance to allow erection of addition to residence within 8' of side property line, 7106 Westmoreland Road, Falls Church, Woodley Subd., Sec. 2, 50-3((4))46, Annandale District (R-10), V-4-72

Mr. White testified before the Board.

Notices to property owners were in order. The property owners being contiguous were Markus Muehlhein, 7104 Westmoreland Road, Falls Church and Charles E. Ledford, 7108 Westmoreland Road, Falls Church, Virginia.

Mr. White stated that in his letter of justification he had explained that he needed this addition to his home since his family is growing and this particular spot seemed to be the best place for him and also for his neighbors. On the west side he said he only had 17.6' so that he would have to ask for a 15' variance plus the fact that on the west side there is a terrace 4' or 5' above his property. He said he could not construct it in the front either as he would also need a variance there. There is room in the rear, but there are two terraces back there, one is 3' high and on the northwest side there is a fish pond and a 10' bank and two locust trees and 2 oaks, plus the entire back yard would have to be regraded. Most of the proposed addition would be 10.1' off the side lot line and the only part that needs a variance is the rear corner or the northeast corner which would be 2' into the restriction line.

Mr. Smith asked him how long he had owned the house and if he planned to continue to live there and Mr. White answered that he purchased the house in February of 1966 and he did plan to continue to live there and it will be for his family's use. Mr. White said if his house was parallel to the side lot line, he would not even need a variance.

Mr. Kelley asked him what typeof material he planned to use and he answered he planned to use the exact same material as the existing house.

In application No. V-4-72, application by Kent & Sheila White under Section 30-6.6 of the Zoning Ordinance, to permit erection of addition to residence within 8' of side property line, and on property located at 7106 Westmoreland Road, Falls Church, Virginia, also known as tax map 50-3((4))46, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirement of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 16th day of February, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 12,907 square feet.
4. That compliance with all county codes is required.
5. This is a request for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
(a) exceptionally narrow lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure indicated on the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewal by action of this Board prior to date of expiration.
3. The architectural construction of this proposed addition shall be similar to the existing dwelling.
FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion. The motion passed unanimously.

DEFERRED CASES:

VULCAN MATERIALS CO., SUCCESSOR OF GRAHAM VIRGINIA QUARRIES, INC., app. under Sec. 30-7.2.1.3 of Ord. to permit extension of quarry permit issued by BZA in 1956 and last extended by the BZA October 22, 1968, 10050 Ox Road, being further extended only until the new Natural Resource Ordinance can be heard and passed upon and a public hearing by the Board of Zoning Appeals can be held, 112((1))Lot 3, 4, 6 and portion of 8, Springfield District (RE-1), S-199-71 (Deferred from 1-18-72 to set date for hearing only)

It was determined that the Board of Supervisors would be hearing the new ordinance on March 6, 1972 and on March 27, 1972 would hear the overlap district ordinance therefore, the Board of Zoning Appeals would be clear to hear this case on April 12th.

Mr. Baker moved to grant the extension to April 12, 1972 and set that as the hearing date.

Mr. Kelley seconded the motion.

Mr. Smith read a letter from Mayor Ritenour, the Mayor of Occoquan, complaining about this operation. He also read letter from various other citizens complaining about this operation and the deficiencies of the operation in relation to the permit that was previously granted.

Mr. Smith said these letters should be passed on to the Inspectors in order that they might check them out. The letters have indicated there are several violations taking place and the Board would like to know if these violations are taking place and if so they should be cleared up immediately or given a violation notice.

Mr. Smith said the Clerk should notify the people involved of the date of the public hearing.

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B.P. OIL CORP. & VINCENT WELCH, JANICE SWALES & ANNE WILKINS, app. under Sec. 30-7.2.10.2.1 and Section 30-7.2.10.2.2 of Ord. to permit service station, northeast corner of Pohick and Hooes Road, 97((1))69, Springfield District, (C-N), S-213-71 (Decision only - Request for new plats showing no variance needed)

New plats were submitted to the Board and had been submitted to the Staff the previous day.

After looking at the plats, Mr. Smith asked them to explain the additional land they had acquired adjacent to this C-N piece of property.

Mr. Farley said that this piece of residential land was presented owned by Gene Whales and the applicant is the contract purchaser. It was necessary for them to purchase this property in order to avoid having to ask for a variance.

Mr. Smith asked if it had been subdivided.

Mr. Farley answered that the applicant has contracted to purchase 22,000 square feet of land and settlement of that property and settlement of the original property is subject to getting this permit and this would be converted into one parcel.

Mr. Smith said that the Staff has raised the question about parking shown on the plat as the parking for a commercial use on residential property is not permitted without going before the Board of Supervisors.

Mr. Farley said the applicant is willing to represent that the parking would be removed from the residential area.

Mr. Smith said there would have to be new plats to show the parking.

Mr. Farley said that parking for a gas station was not required.

Mr. Smith told him he was mistaken, that parking is required for any use that will be sufficient for the use.

Mr. Smith also said that there is a property line there now and they would have to alleviate the property line.

Mr. Smith said there is a question as to whether the Board can consider this residentially zoned land in this use permit for a service station.

Mr. Farley said the contract will alleviate the property line.

Mr. Smith said the Board has been very surprised with these plats and previously the Board wanted plats to conform to whatever is being granted and certainly these would not conform. By conform, Mr. Smith said he meant conform to what was previously granted.

Mr. Farley said the applicant was not anxious to acquire an additional piece of land and this is the fourth time they have been before the Board. The Board had indicated that they did not want to approve any request for a variance so in order to attempt to try to comply, the applicant is purchasing this additional land and, of course, the property line is there now until the settlement of the two pieces is made. There also has to be a dedication for the travel lane and that cannot be done either until settlement is made.

Mr. Farley said that they had given 43,000 square feet of property which is one-half of their property for the travel lane so they started out with the acquisition of 40,000 square feet and ended up with about 30,000 square feet and now they are trying to purchase 22,000 more square feet in order to give the County what they required.

Mr. Smith said they do not need that large a piece of land. He said it would appear to him that if there is any way they could cut down the lot and move the boundary over to use just enough land to take care of the amount needed for the setback it would be better instead of tying up the entire piece for service station use. He said they might be coming back later to try to make some other use of their land and the Board didn't want that to happen and yet, he didn't see the sense of using all of that land when they didn't need it.

Mr. Farley said he agreed and he would not say that they would not come in again, they did not want to leave this land lying idle either.

Mr. Smith said it would be a problem as far as trash was concerned and he was sure the service station operator would not want to take care of all that extra property.

Mr. Smith said the way the plat is drawn this land could not be used for any other use other than the service station.

Mr. Smith said they haven't shown the septic field on the property.

Mr. Farley said he thought the septic field could be located on the other property.

Mr. Smith said they do allow that, and it should be shown and in addition the Board needs to have something from the Health Department stating that the septic field can be placed there.

A representative from B.P. Oil said there is a septic field on the property and it is operating.

Mr. Smith said the Board should have something from the Health Department on it, nevertheless. If they could cut this property off within 28' and also get the septic system on it, it would be good. Mr. Smith said he also assumes from the conversation and the previous resolution of the Board at the last hearing that the Board is going to stick to a rear bay entrance as they need to stick as close to the previous granting of the other station as possible.

Mr. Smith asked if there was a house on the property. Mr. Farley said that it was. Mr. Smith said this new plan should show the existing structure and the septic field and whatever else is on the parcel of land and today they have shown a plat that doesn't have everything on it and the Board is having to find out the hard way. There will be about 10 times as much use for a septic field with a service station than for a private residence and Mr. Smith said he suggests that this too be checked.

Mr. Farley said the house would be removed and in that case does the Board want that house shown.

Mr. Smith said the Board would like to see it as it is. The Board would require them to remove the house.

Mr. Farley said that in other words, the Board wants part of the plan as it now exists and part of the plan as it is planned and if theuse permit is granted the house can remain henceforth, unless the Board conditions it to be removed.

Mr. Baker said the practical thing to do would be to revise the property line, say 50' from where they plan to put the service station.

Mr. Smith said the plats should be in at least five days prior to the hearing in order that the Staff can look them over.

Mr. Baker moved that this case be deferred for new plats until March 8 and that the new plats show everything and show where the septic line will be and whether the septic field meets all the requirements from the Health Department.

Mr. Kelley seconded the motion.

The motion passed unanimously.

Mr. Farley asked if they could not have the plats ready in time, could they call and be rescheduled for the next week. Mr. Smith said that would be better so everyone that was interested would not have to come in. Mr. Smith said the only other people present for this case was Mr. and Mrs. Green and that the Clerk should notify them on when this case will come up again.

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V-226-71, B.P. OIL & VINCENT WELCH, JANICE SWALES & ANNE WILKINS (Withdrawn)

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INTERIM REPORT FROM MR. COOKE, DIVISION OF PLANNING, on progress and for additional input by Board members on Ordinance on Private Schools in Fairfax County.

Mr. Cooke stated that the purpose of his appearance is to bring the Board up-to-date on the activities which are taking place and the time frame for the remaining activities prior to the submission of their report.

Mr. Cooke said that when he first began this study, he found he was going into a lot of rules and regulations at County and State level and he felt that to do a comprehensive job and to have something workable and adjustable to day to day basis, it would be necessary to consolidate the views of both the County and the State. The Committee is composed of a member from the Board of Education, the State Department of Welfare and Institutions, two members from private schools, Flint Hill and Fairfax Christian, two architects who practice in Fairfax County.

The current definitions relating to private schools and other schools are ambiguous. The Committee is attempting to develop definitions which will apply to both day care and private schools.

The Committee has been reviewing a study which was undertaken by HEW where they assessed day care standards in fifty states and came up with a grouping of day care centers into three predominant groups. The Committee is trying to revise HEW definitions to be consistent with what is going on in Fairfax County and the State.

Mr. Cooke read the Board the definitions as they proposed them.

Mr. Cooke said they proposed to divide their report into three sessions.

The first session will be the standards themselves. The Committee proposes to look into the first, general location standards and criteria and what should be set as site requirements for the school in terms of

As an education facility the location would have certain requirements and would have a certain impact on the neighborhood. The Committee has taken a look at the current public educational sites and the standards for their sites. There should be a set criteria for the size of the site as it relates to the number of students the school will have or plan to have. For example, for a small school with 150 students, we could determine that they need a minimum of one acre. Then, as that school grows and comes in for a different size and number, then they would have to meet the different size of building, size of the location and other requirements, on up to a parity with public schools. Therefore, a person who hopes to serve 150 students in the beginning and wants to expand to 500 or 600 students at a later time will have to first look for a site that would accomodate the largest amount he would hope to expand to. This way we hope to avoid some of the mistakes that have occurred in the past.

The Committee has also considered the specific on-site requirements. Our architects that are working on this in the Committee are trying to develop a performance standard.

We have also found in the Committee, he said, that different types of schools may have different needs in terms of fencing.

The second session is to take a look at all of the existing codes and ordinances and all requirements of the State and County and assess these requirements with the people in the industry to see whether they should be made more realistic so that the State is not saying one thing and the County another.

Third Session is that of putting together a procedural manual. Mr. Cooke said he had gathered from the State and County all of the pieces of paper, forms, etc. that the applicant has to go through. He said he expected to put this together step by step with a copy of what the forms look like and the time it takes to complete these things, in order that when this is adopted these manuals could be distributed throughout the County. Then people could come in and pick them up and have the opportunity to look over all of the requirements at once. Hopefully this will alleviate the situation where a person goes through all of the procedures and then comes back for the series of inspections and finds that the requirements exceed his capacity and therefore has not only lost his fee, but also his time and that of the County employees who have been helping him.

The Fourth thing is one that is already underway in the Zoning Administrator's Office and that is one of reviewing of all of the permits. It is now 50% completed. We also hope to have a map available to the Board which could be continuously kept up-to-date and would make it possible to see where the schools are in relation to the public schools and other private schools.

Mr. Cooke said he hoped to get this report out sometime in March.

Mr. Cooke said he had failed to mention that the Committee also consists of members from citizens groups, the Fairfax County Citizens Association and one member from Land Use and one member from the PTA.

Mr. Smith said at the conclusion of the Report that this was a very good report. All the Board members concurred in this.

Mr. Smith told Mr. Cooke that Mr. Stevens, the County Attorney, feels that our forms should be changed somewhat and should not be accepted until the applicant has made application for a building permit and set forth his intentions of what he intends to construct and has submitted it to the Zoning Administrator and the Zoning Administrator should set forth his reasons why he is not allowed to do this and then he would be a proper applicant before the Board of Zoning Appeals.

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Mr. Smith reminded the Board that the meeting between the Planning Commission, the 5 Year Plan Steering Committee and the Board of Zoning Appeals would be February 24th and he hoped all of the members and the Clerk could be present.

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The meeting adjourned at 1:00 P.M.

By Jane C. Kelsey
Clerk

DANIEL SMITH, CHAIRMAN

Daniel Smith

DATE
June 21, 1972

The Regular Meeting of the Board of Zoning Appeals was Held on Tuesday, February 23, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present: Daniel Smith, Chairman George Barnes, Loy P. Kelley, Richard Long and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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MATTHEWS & WHEATLEY & RYAN HOMES, INC., app. under Sec. 30-6.6 of Ord. to permit house to remain 28.7' from front prop. line, 9210 Honey Creeper Court, Springfield Dist., 78-4 ((1))49. (RE-12.5 Cluster), V-5-72

Mr. William Matthews represented the applicants and testified before the Board. His address is 4085 Chain Bridge Road, Fairfax, Virginia.

Notices to property owners were in order. The two contiguous owners were Mr. Glover, 3204 Glenwood Place, owner of the property in the rear of this particular lot, and Mr. Mark Fried who is buying the lot, Mr. Parris, 9146 Burke Road was another.

Mr. Matthews stated that in computing the stakeout for the road, it was overlooked that the second floor would hang over and, therefore, the house was not setback far enough from the road. Mr. Matthews said he was the surveyor, but is not a partner in the construction firm of Ryan Homes, Inc.

Mr. Smith asked how many homes he had laid out with this similar design in this area.

Mr. Matthews stated that probably around 64 lots and about 15 to 20 houses with this design. The required setback is 30'.

Mr. Woodson confirmed this setback.

Mr. Long stated that this would be a minimum variance which it would only involve one corner of the house.

Mr. Smith asked if this 2nd story overhand was planned from the beginning. Mr. Matthews said it was.

No opposition.

In application No. V-5-72, application by Matthews & Wheatley & Ryan Homes, Inc., under Section 30-6.6 of the Zoning Ordinance, to permit house to remain 28.7' from front property line, on property located at 9210 Honey Creeper Court, Springfield District, also known as tax map 78-4((1))49, County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to thepublic by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of February, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Ryan Homes, Inc.
2. That the present zoning is RE-12.5 Cluster.
3. That the area of the lot is 8,512 square feet.
4. This is a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the Board has found that non-compliance was the result of an error in the location of the building; and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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016

JAMES WARNER, app. under Sec. 30-6.6 of Ord. to permit construction of carport 12.1' from side prop. line, 1920 Kenbar Court, 41-1((24))24A, Dranesville Dist., (RE-0.5) V-6-72

Notices to property owners were in order. The contiguous owners were Mr. Krasnecki, 1922 Kenbar Court and Mr. Paul Slud, 1960 Kenbar Court

Mr. Warner stated that he had looked at a number of different options to see if they could put the carport on the other side of the house, but on the left side the carport would be right in the neighbor's view. At the position planned, Mr. Slud is a good 30' from his property line. In the back of the house is a septic field, so as a practical necessity this is the best location.

Mr. Smith asked how long they had owned the property.

Mr. Warner stated they had owned theproperty since 1961. They plan to continue to live there. This is to be an open carport with a shed in the rear.

Mr. Smith asked if he could cut down the carport to 20', therefore, it would then be a minimum variance and this is the way the Board has to look at it.

Mr. Long said he noticed a chimney sticking out in the way that probably took up the extra 2'.

Mr. Warner said that was correct.

No opposition.

In application No. V-6-72, application by James Warner, under Section 30-6.6 of the Zoning Ordinance, to permit construction of carport 12.1' from side property line, on property located at 1920 Kenbar Court, also known as tax map 41-1((24))24A, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 23rd day of February, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 20,059 square feet.
4. That compliance with all County Codes is required.
5. This is a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

(a) exceptionally narrow lot
(b) unusual condition of the location of existing building, septic field and chimney.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. The architectural construction of the proposed addition shall be similar to the existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. This applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion and it carried unanimously.

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017

OAKTON LIMITED PARTNERSHIP & MOBIL OIL CORPORATION, S-205-71, granted on November 16, 1971.

A letter was read from Mr. Hazel requesting that such steps as are necessary be taken by the Board of Zoning Appeals to reflect among the records of the Board this change in lessee. Oakton Limited Partnership was at the time the permit was granted and will continue to be the landowner. All of the other terms and conditions of the Use Permit as granted will, of course, remain in full force and effect, the only change requested is the substitution of Potomac Oil, Inc. for Mobil Oil Corporation.

Mr. Hazel submitted a copy of the lease between Oakton Limited Partnership & Mobil Oil and copy of the lease between Potomac Oil and Oakton Limited Partnership.

Mr. Long made the following motion:

In use Permit No. S-205-71, granted to Oakton Limited Partnership and Mobil Oil Corp. on November 16, 1971, for the erection and operation of a gasoline station on property located at Hunter Mill Road, 900' from Route 123, also known as tax map 47-2((1))part of Parcel 99, County of Fairfax, Virginia, at the request of Oakton Limited Partnership and Mobil Oil Corp., the name of Potomac Oil, Inc. is hereby substituted for Mobil Oil Corporation, Potomac Oil, Inc. being the Lessee operator of record. All conditions set forth in the original Use Permit shall remain the same.

Mr. Barnes seconded the motion. The motion passed unanimously.
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Mr. Grinnell, Director of Community Services, spoke to the Board on Regulations on Carnivals and Fairs.

Mr. Grinnell stated that as a result of the dispute in March 1971 over one of the Boys Clubs in Annandale going into Springfield territory for a carnival, they have decided to try to bring all the Boys Clubs in Fairfax County together and see if they can amicably achieve a mutual understanding and agreement whereby there will be more organized carnivals and fairs and more even distribution of the areas used for these carnivals.

The Boys Clubs and Youth Groups have stressed the fact that carnivals are very important and their most important means of fund raising to support their programs and they could not operate without the revenue they derive from the carnivals. The Community Service Department also sees this as an important county service and community service. The Boys Clubs and Youth Groups have agreed that this does need stricter controls if it is to survive. They feel there should be controls on the size of the carnival, booths, and number of booths in relation to the size of the site to be used and in relation to the area where the site is situated. These clubs and the county have worked as an ad-hoc committee with Mr. Covington from the Zoning Office serving on it. The proposal has gone to the County Attorney as an amendment to the ordinance for his suggestions and the proposed amendment has been circulated to every organization permittee holder in the County that received permits in the years 1970 and 1971.

Mr. Woodson suggested the use of park property for this use as there are more and more groups being formed and not enough places to hold carnivals.

Mr. Grinnel said the main attraction of a carnival is the neighborhood concept with the people working there who live in the neighborhood and can more or less supervise the entire thing.

Mr. Woodson said he didn't mean just one central location, but there are parks in most all neighborhoods that could be put to good use.

Mr. Smith agreed.

Mr. Woodson said the main problem in shopping centers is the noise. In most shopping centers there are developments right across from them and the people in the neighborhood rightfully complain.

Mr. Smith said if there comes a time when quite a few people are complaining about the noise and nuisance factor then there will be no choice but to disallow this use, if there is great impact or great nuisance, but perhaps with this new amendment to the ordinance and a stricter control, this will help alleviate the problem.

Mr. Smith continued by saying that in areas such as Montgomery Wards, they seem to have no problem, but there are no residential areas directly surrounding this. That is a factor that will have to be constantly weighted, the nuisance vs. the value generated from it. Without this, though, Mr. Smith continued, these clubs would not be able to operate. The Little League operation is running more than one-half million dollars per year to operate in Fairfax County alone. To give that level of programs would cost taxpayers considerable more if the County had to furnish it and the people were bearing the financial burden. The community concept is a good idea too as it keeps the families working and playing together.

Mr. Grinnell submitted a chart to the Board which gave a brief overview of the organization of this suggested ordinance. One of the features of this organization is the Carnival Review Committee which envisions a committee of five persons from the Boys Clubs and Youth Groups. This committee would advise the Zoning Administrator on the points mentioned previously before; the relation of the carnival to the neighborhood, the noise factor of each particular carnival to the nearness of the residents, the number of booths of each location, the size of the organization that was sponsoring the carnival to determine whether or not it could handle this particular size of carnival by the number of booths, etc. Such things as the motorcyle in a tub for example would be improper in some communities. The games of chance that could be easily rigged would be disallowed.

Mr. Long said he hoped they could do something about telephone solicitation. He said he knew the people doing this were not from the local neighborhood clubs and this is the way they get around the local clubs and get the money for themselves.

Mr. Smith said this would be shown up in the financial records. The Clubs have to sell a certain number of tickets in advance to assure that the carnival people will come in at all. The tickets are printed up and numbered in advance so they can or should keep an exact count of who is selling the tickets and only the neighborhood people are allowed to handle themoney. This is the way it should be run and the Clubs have to make sure it is run like this.

Mr. Woodson said that his office had had to close quite a few booths down because they were not operated by community people, but they had cards already printed out for themselves saying they were a member.

Mr. Smith said this is something the Club itself will have to police as they know their members.

Mr. Grinnell stated that there was a provision in the amendment to the ordinance limiting each Club to two carnivals per year and this will cut down on the impact and not create a nuisance and also will require greater coordination.

Mr. Smith asked Mr. Grinnel if he really thought a Club should be allowed to have two carnivals per year, and that he felt that one good carnival would be sufficient.

Mr. Grinnell said that the second was put in because if a Club was rained out on the first one, then they would be able to make it up, otherwise they might not be able to operate the next year.

Mr. Smith said he had not thought of that and that sounded reasonable.

Mr. Grinnell stated that the ordinance envisions that the qualification factor be that the majority of the proceeds of the carnivals will be used for Fairfax County residents.

Mr. Woodson said a problem arises when Clubs in Alexandria ask to come into Fairfax County.

Mr. Grinnell said the proposed ordinance would prohibit any other area except Fairfax County residents and the Advisory Committee would advise on that, but one problem is, how do we handle Fairfax City. Fairfax City is served by Fairfax County in the Courts, Welfare Department, etc. and it should be considered as residents of the County.

Mr. Smith said he agreed;this should also go for theTown of Herndon and the Town of Vienna also as their programs overlap to a degree. Most of the Little League fields are in Fairfax City. The County and City have been working together beautifully.

Mr. Grinnell said the Zoning Administrator's office would be the legal recipient of the applications and in turn would transmit them to the Advisory Committee who would make the suggestions to the Zoning Administrator and return them to him for action.

Mr. Smith asked why would not the Office of Community Services accept and review the applications while they had them there, particularly when you already have a list of everyone who is going to sponsor these carnivals. Then when it was transmitted to the Zoning Administrator it would be ready for action. He said he particularly felt this was proper since the Office of Community Services coordinates the community activities in the county and the people who are going to pass the judgment on the applications are already working out of that office. The Zoning Administrator's Office does not have the work force to do all this.

Mr. Smith also stated that he felt there should be some time schedules set and that the office that is handling these applications be given 30 days or so to process the applications and that this should be done early in the year, or at least there should be an application stating the intent of what they are going to do. This would avoid duplications and you could give preliminary approval for a specific time and date provided all the papers were submitted.

Mr. Woodson said they had one application in January for May and he felt this was too long in advance.

Mr. Smith said "No", he disagreed, this was good planning.

Mr. Woodson said they did not have the papers necessary though.

Mr. Smith also suggested that there be a time limit that these carnivals could stay open.

Mr. Barnes said that on Friday or Saturday night it should be allowed to stay open a little later and he also felt that the applicants should qualify on or before a certain date or they could not operate during that year. They should get all the applications in the office at once.

Mr. Smith said the Clubs should be able to know early in advance so they could plan for the year.

Mr. Smith said he felt this was a very good plan and something that we have needed. He told Mr. Grinnell that he certainly had his work cut out for him. He asked Mr. Grinnell the size of his office staff and if he felt they would be able to handle it.

Mr. Grinnell said they did have a small staff, but they would do their best to get the job done.

Mr. Smith suggested that perhaps they could get some more volunteers to help in this.

Mr. Barnes agreed that this was a good plan.

Mr. Long asked the Chair if the Board was ready for a Resolution supporting this and Mr. Smith said it perhaps it would be better to wait until next week when the Board has had an opportunity to review the proposed amendment that Mr. Grinnell had given to them and perhaps the Board might wish to make some suggestions or comments regarding particular parts of that proposed amendment.

The Board agreed and thanked Mr. Grinnell for taking his time to come and explain this proposed ordinance to them and told him they would give him as much support as they could.
This finished the businessportion of the meeting.
Mr. Long moved the meeting adjourn, Mr. Baker seconded and the meeting adjourned at 1:00 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

June 21, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals was Held on Wednesday, March 8, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present: Joseph Baker, George Barnes, Loy P. Kelley, Richard Long, Vice Chairman.

The meeting was opened with a prayer by Mr. Barnes.

Mr. Long, Vice-Chairman, announced that Mr. Daniel Smith, Chairman, had a heart attack last week. He was taken from the intensive care section Monday and is now on the road to recovery. He is allowed limited visitors for short periods and Mr. Kelley visited with him yesterday. He is in Fairfax Hospital.

Mr. Long asked everyone to stand and give a minute of silent prayer for the complete and speedy recovery of Mr. Smith.

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RONALD VOLLSTEDT & URSULA VOLLSTEDT, app. under Sec. 30-7.2.10.5.4 of Ord. to permit Sales Lot for automobiles, located at Beddoo Street, 93-1((1))21, Mount Vernon District (C-G), S-172-71

RONALD VOLLSTEDT & URSULA VOLLSTEDT, app. under Sec. 30-6.6 of Ord. to permit office building within 9' of side property line and garage to remain 34' from side property line, 6726 Beddoo Street, 93-1((1))21, Mount Vernon District, (C-G), V-215-71

Mr. David Sutherland represented the applicant and testified before theBoard.

Mr. Sutherland stated that he was very sorry to hear that Mr. Smith was ill and was glad that he is getting better. He said he had been before Mr. Smith and this Board many times and he felt Mr. Smith was a grand man with a great mind and he hoped he would be back real soon.

Notices to property owners were in order. The contiguous owners were Humble Oil and Refining Company and the Fairfax County Fire Department.

Mr. Sutherland stated that they had been before the Board in December, but the notices were not in order, but the Board did discuss the application for about an hour.

Mr. Sutherland stated that Mr. Vollstedt is in the auto repair business for Volkswagons. This lot is commercial fronting on Beddoo Street and Mr. Vollstedt would like to have the auto sales lot there. This is planned to be a one-story building and the cars stand out under the trees off to the left of the office. There should be a letter from Mr. Chilton in Land Planning concerning the use of blue stone instead of macadam for the lots under the trees. The driveway would be macadam. A brick wall has been provided for screening from the adjacent neighborhood. The view from the highway is screened by the Esso Station's U-Haul Trucks that are parked adjacent to them.

Mr. Long stated that the Board would hear the Use Permit and the Variance separately.

Mr. William Allen, 6627 Beddoo Street, Alexandria, Virginia 22306 spoke in opposition to this application. He stated that he had a petition with signatures on it for both the special use permit and the variance request.

Mr. Long told him he could submit it now and resubmit it again when they hear the variance request.

Mr. Allen stated that the petition is signed by twenty owners around that particular area. One of the main objections is the fact that a used car lot brings traffic to their street as it is a limited access site. You can only get to this site by way of Route 1 or through the residentially zoned area. He said they were concerned about these businesses using their streets as a try-out point for these cars they were working on. There is a transmission place right across the street from this proposed site and they use their streets as a try-out zone. They can only see that a used car lot will bring more of this type traffic. They understand that the Fire Department has requested that there be no parking from the north side of Beddoo Street to Route 1. They feel the business area is not large enough for all those cars that will be there and therefore will be using their residential streets to park on. He also stated that the back part of this lot is zoned residential.

Mr. Steven Reynolds from Preliminary Site Plan statedthat a site plan has been submitted for this proposed use. Access for this site will not be built on any part of the residentially zoned land.

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VOLLSTEDT (continued)

Mr. Long said it looked as though the employee parking is on the residentially zoned land.

Mr. Reynolds said he did not believe this to be so since this would not be allowed.

Mr. Long asked Mr. Reynolds to confirm the exact location of the zone line in that the application has to be limited to the commercial property.

Mr. Kelley suggested that this case be deferred until the Board could take a look at the site, and the Zoning Administrator could determine the zoning along the back of the property. Mr. Kelley also read a letter from Mr. Alexander, Fire Marshall for Fairfax County, which stated that their office did not wish to take a position with regard to this application. He further stated that parking along Beddoo Street creates a hazard and requested that there be no parking along this street if this application was granted. Mr. Alexander further stated that the building location would not interfere with the fire department operation.

Mr. Long asked Mr. Woodson to speak to the question of the zone line. Mr. Woodson stated he would have to check the rezoning file to determine the correct zoning line.

Mr. Long asked Mr. Woodson if the parking would have to be set back from the residentially zoned property.

Mr. Woodson stated it would have to set back twenty-five (25') feet.

Mr. Long stated that in that case the plats are incorrect as they do not show the parking set back from the residentially zoned land.

Mr. Allen again spoke in opposition to this application. He stated that even though this area is improved from what it had been, they can anticipate that when Mr. Vollstedt gets used cars on this lot, it will not look as well as it does now. He stated that Mr. Vollstedt now has cars on the residentially zoned land.

Mr. Long told Mr. Allen that Mr. Woodson would be the proper person to act on any violation of the zoning ordinance, as he is Zoning Administrator.

Mr. Allen stated that the people who signed the Petition live on these two heavily travelled and impacted streets and will be most affected by this use.

Mrs. Richard Anderson also spoke in opposition to this application. She stated she agreed with Mr. Allen's statements and she lives at 6715 Beddoo Street across from the Fire Station.

In rebuttal Mr. Sutherland stated that they do not need to park on Beddoo Street and they do not want to. He agreed that there should be no parking along Beddoo Street. There is plenty of parking on the lot. They have provided spaces for customers to park and there is more parking spaces in the back. He said he would like to point out that this is commercially zoned land and Commercial General can go on this property by right. He reminded the Board that there was a Colonel who took time off from his job in December to come in to the hearing and speak in favor of the application. He could not be present today because of other commitments. He said they welcomed aview of the property by the Board. He said they had been working on this special use permit for six months and a few more weeks would not matter.

Mr. Sutherland asked if he would be able to at least present his variance case now. Mr. Long answered "No", since the Board did not have correct plats, they would not be able to hear it.

Mr. Sutherland said he had come to the meeting and missed some of the meetings of the General Assembly just to present this case. Mr. Long said he was sorry and he had no intention of depriving Mr. Vollstedt or Mr. Sutherland the opportunity of presenting his case when the Board has correct plats.

Mr. Barnes said he also wanted to look at this property.

Mr. Kelley moved that this case be deferred until new plats are submitted, if that is necessary after checking to see if they do need to conform with the setback and parking requirements.

Mr. Baker seconded the motion.

The motion passed unanimously.

Mr. Long asked the Clerk to notify Mr. Allen when this would be rescheduled so he may in turn notify all his neighbors that are interested in this case.

Mr. Sutherland stated that if their plats were in error, then it is an error they have shared with the County staff for six months.

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BUENA VISTA ASSOCIATES & GEORGE BLANDFORD, app. under Sec. 30-7.2.10.1.2 of Ord. to permit operation of an indoor Tennis Club, Chain Bridge Road and Engleside Avenue, West McLean Subdivision, Lot 1, Block 1, 30-2((7))(1)1, Dranesville Dist., (C-OL), S-7-72

BUENA VISTA ASSOCIATES & GEORGE BLANDFORD, app. under Sec. 30-6.6 of Ord. to allow building to be constructed within 11' from rear property line abutting Lot 2 and Lot 57, located Chain Bridge Road and Ingleside Avenue, West McLean Subd., Lot 1, Block 1, 30-2 ((7))(1)1, Dranesville District (C-OL), V-8-72

Mr. Frank Eubanks, realtor and co-owner of Buena Vista Associates, represented the applicants and testified before the Board. He is also co-owner of Total Tennis, Inc.

Mr. Long stated the Board was in receipt of a letter from Mrs. Reynolds stating that she would like this case returned to the Planning Commission for further investigation because she, as one of the contiguous property owners, was notified eight days prior to the hearing instead of the required ten days; and because she felt that the Staff was negligent in conducting their investigation.

Mr. Eubanks submitted six certified receipts stating that he had mailed the letters on February 26, 1972. The McLean Providence Journal had a notice in the paper on two occasions recently and Mrs. Reynolds was present at the Planning Commission hearing on February 28, 1972.

Mr. Long stated that the advertising was in order and met the legal requirements.

Mr. Baker moved that the Board accept the notices.

Mr. Barnes seconded the motion. The motion passed unanimously.

Mr. Eubanks stated that they were proud to plan the first completely enclosed tennis facility in a permanent structure in a commercial office zone in the County. He stated they had appeared before the citizens of McLean and the McLean Planning Committee and worked out all the details and had allowed them the opportunity to select the type of structure they wanted with regard to the architecture. Mr. Edward Dove, the engineer; Mr. Jack Bays, the builder; and Mr. William Kleene of Reston, the architect, were present to answer any questions that might arise in their respective areas.

Mr. Eubanks stated they had appeared before the Planning Commission for Fairfax County on February 28, 1972 and they recommended approval of both the special use permit and the variance. He stated that they were faced with a hardship in the selection of the proper piece of property. This have chosen this property because they felt it would blend in and be an asset to a commercial area and to the McLean citizens nearby in the residential area. This is under the McLean Central Business District Plan.

He said he wished to complement the County staff for the excellent job they did in researching and reporting on this project. His firm, he stated, has been working with the County's Landscape Architect to develop a plan that will be satisfactory to the citizens in the area.

Mr. Eubanks submitted for the record an artist's rendering and the landscape rendering along with pictures that he said he hoped would help the Board visualize the proposed appearance of this project.

He stated that one of the main hardships they have had to work with is the fact that the building is fronted on three sides by streets.

Mr. Eubanks said the McLean Planning Committee have made specific requirements and they have tried to meet their requirements.

Mr. Eubanks stated that they have place parking on Buena Vista due to the fact that Ingleside

Avenue will be a collector type road and it was the engineer's and architect's opinion that the parking should be placed on Buena Vista Drive. On the setback requirements, he stated, they do not need a variance today, but when the road is designed it will create a need for a variance. This is evidenced by the site plan which Mr. Dove and the County Staff will speak on.

Mr. Eubank stated that this project is being developed with people in mind, trying to keep the impact from being too severe, and yet trying to beautify McLean. The McLean Planning Commission has been helpful and he further stated that they intend to carry out what they have submitted that they would do plus working in conjunction with them with regard to lighting and shrubbery.

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Mr. Long acknowledged the Oakton Elementary School Civic C lass and welcomed them to observe government in action. Mr. Long explained the case that was before them today.

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Mr. Kelley asked Mr. Eubank the number of parking spaces. Mr. Eubank's stated there would be thirty-nine parking spaces.

Mr. John Aylor, attorney for Mr. George Blandford, co-applicant, 4017 Chain Bridge Road, Fairfax, Virginia, testified on behalf of George Blandford. He stated that Mr. Blandford had owned this property for quite a number of years and both Mr. and Mrs. Blandford are in their 70's and they have retired to New Hampshire. Mr. Aylor stated that the sale of this property is their main income toward retirement. They feel this is a good use for this land and they are familiar with the structure that will be put here. Mr. Aylor continued by saying that since the McLean Citizens Association and Planning Committee is one of themost active in the County, that is evidence that Mr. Eubanks has been working with them extensively. This will be a permanent structure. Mr. John Aylor requested on behalf of Mr. and Mrs. Blandford that the Board approve this application.

Mr. Young testified before the Board in favor of this application. She stated she lives right behind this on Ingleside Avenue. She feels, she stated, that this recreation will be good for the people in McLean and this use will be a better use than any of the other things it could be used for.

Mr. William Stell, Chairman of the McLean Planning Commission, spoke in favor of the application. He stated that the McLean Planning Commission voted unanimously to approve the request of this applicant for the erection and operation of the tennis facility. He stated that they were satisfied that this applicant has made strenuous efforts to make this a project that will be pleasing to the residents from an architectural point of view. Mr. Stell stated that to speak in support of this use, it must be certainly stated for the record that they feel this use should be restricted to use as a tennis facility and will not be later used for another type operation should the tennis operation not continue for one reason or another. They also would like the limitation put on it that there shall be no food or beverages served on the premises. They have no objection to a coke machine. These facilities should also be restricted to members of a private club and not be opened to the general public. He stated that he understood that the building would be constructed in accordance with the plan they were furnished February 28, 1972 and that the landscaping will be in accordance with the landscaping plan dated February 28, 1972, although he said he felt there was a typographical error on that plan. He said they were pleased that the project managers have made every effort to cooperate in the success of the completion of the McLean Central Business District Plan as approved by the Board of Supervisors of Fairfax County.

Mr. Thomas Tracy, member of the firm that is building the townhouses across the street from this project on Buena Vista spoke in favor of the application as such and stated that the only problem that is causing them concern is the screening. They are hopeful that the McLean Planning Commission and this Board will require screening to adequately screen the parking lot. They have townhouses going up right across the street and car lights in that parking lot, without proper screening, will shine directly into these townhouses.

In opposition to this application, Laura Reynolds, 6901 Meadowbrook Avenue, McLean, Virginia spoke. She stated that she first would like to read a letter from Mrs. Francis A. Allen objecting to this application. She stated in the letter that she (Mrs. Allen) lived at 200 Meadowbrook Avenue, McLean, Virginia. Mrs. Allen stated that before the Board rules on this application, they should thoroughly consider how the developer plans to minimize the impact on surrounding neighbors. Proper screening, hours of operation, lighting and parking as well as the appearance of the oversized structure, are of great concern to her, she stated. She stated she felt it would have a direct effect upon her husband, Mr. Allen, and he is in his 80's and currently very ill. She feels the excess noise, bright lighting, and increased traffic caused by the construction of this building will be harmful to her husband's health.

Mr. Reynolds, after she finished reading the letter from Mrs. Allen stated that she had talked with Mr. Knowlton in Zoning Administration and was told that there was a 10 day requirement that the two contiguous neighbors must have prior to the hearing. She, as a contiguous property owner, was not notified 10 days prior to the hearing.

Mr. Long said they had been through that before and the postmark was February 26 and the Board had agreed to accept notices, particularly in view of the fact that Mrs. Reynolds was present at the Planning Commission meeting of February 28, 1972.

Mrs. Reynolds said she also opposed this application because of the noise it would create the lighting and the traffic and she also felt the parking should be examined more closely and she felt 39 spaces were insufficient. She said this use is not only for tennis courts, but showers, sauna baths, exercise rooms, etc. and if these were all used at the same time there could be from 70 to 75 people there at once. This impact would also affect traffic and should be considered. She said she was also concerned about the drainage away from this point so that she can be assured that it will not affect her home and the home of Mr. and Mrs. Allen. She said she understood that there would be park benches around the building also and this will create loitering and littering. Then too there is a possibility this venture will not be successful and what happens to the building then. She felt that if the Board does approve this, there should be several things done; parking lot entrance adjoining her property line should be removed as it is not necessary; hours should be shortened; length of time of the permit should be shortened and renewable every year to make sure the stipulations were carried out; the fence should be erected before occupancy; and drainage away from the adjoining property should be properly planned and installed.

Mr. Barnes stated that the County has ordinances that control drainage and he was sure it would be properly taken care of.

Mr. Long asked her was her property zoned residential at the present and what is it in the Master Plan.

Mrs. Reynolds stated that it is presently zoned residential, but she did not know what the plan was.

Mr. Steve Reynolds from Preliminary Engineering Branch of County Development stated that it is in the Master Plan for C-OL. Mr. Reynolds stated that the required screening is 12' of fence and shrubbery, but the developer may provide a 6' brick wall with the brick facing the residential side on the property line as a choice to be agreed to by the County.

Mr. Barnes said he was sure Site Plans would take care of that problem.

Miss Laura Reynolds, 6901 Meadowbrook Avenue, McLean, Virginia spoke in opposition to the application. She stated that she was concerned about the drainage problem and the muddy streets that had been there when the townhouses were constructed and she was afraid that this would happen again.

Mr. Barnes told her that the County would make sure and take care of such things as drainage problems and traffic and if there was a big problem that she felt wasn't being taken care of, then she should call and tell them to check on it as it possibly might be a violation, but he said he was sure the County had ordinances to take care of this type problem.

Mr. Woodson, the Zoning Administrator, stated that to clarify this point, the County had a Siltation Control Ordinance and the County would have the authority and power to come in and correct the problem on their own initiative.

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Mr. Long acknowledge the presence of Mrs. Monie's Civic Class from the Oakton Elementary School.

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Mr. Long asked the Zoning Administrator if the sauna bath, the exercise room and the showers would be permitted with this application.

Mr. Woodson stated that it would be permitted as a part of the application.connecting with the use.

Mr. Eubanks stated that these other things were to increase the benefits of the club members, in order that they might warm up prior to playing tennis and take a shower afterward so they could return to their office perhaps. They did not plan to have massages at all.

Mr. Eubanks in rebuttal stated that he was very sorry that there has been opposition at all because out of 55,000 people in Dranesville and 13,000 people in McLean only one family has come forth and opposed this use. It is interesting to note, he said, that the applicants own three-fourths of this block. The entire block is in the plan for commercial offices and the people that are now opposing this entered into an agreement to sell their land and back the last request that came before the Board of Supervisors. They are trying to beautify McLean, not destroy it. They could have office space at this same location without asking for a special permit. He stated that they have met the parking requirements as they met with theCounty staff and discussed this aspect of the project along with all the other aspects of it. They have met with the Planning group from McLean. These are good people who play tennis, business executives. The reason for their opening early in the morning is for the convenience of the professional people like doctors who do not have the opportunity to get exercise. This is a national sport. Business executives are finding that they no longer have to take five hours on the golf course as they can do the same thing in one hour with tennis. With respect to the lighting that Mrs. Reynolds mentioned, lighting is one of the things that keeps the criminals from running around the neighborhood. For this project the McLean Planning Committee has not decided on an exact fixture and the applicants have agreed to their request to design a special lamp for this building.

With regard to traffic that Mrs. Reynolds mentioned, this project will have less than one-fifth of the traffic that would be generated if this were an office building.

With regard to the landscaping, he stated that he contended that the tall grass that is usually on this lot has not been cut in three or four years. They are landscaping according to the desires of the citizens of McLean. He said he has been in to discuss landscaping with the County architect on two occasions and are trying to work out something that is satisfactory to everyone. Should elderly citizens join this club they might enjoy sitting out on the park benches.

He said he feels that they are doing the right thing and they want very much to do the right thing and they ask this Board to grant the special use permit and the variance to the setback.

Mr. Kelley asked Mr. Eubanks if they planned to install any outside signs of any nature.

Mr. Eubanks answered that they did not plan to put up any sign except in conformity with the sign ordinance.

Mr. Barnes asked if they had agreed on the dedication of the street for the widening of Chain Bridge Road.

Mr. Eubanks said they had agreed to dedicate.

Mr. Kelley asked what their hours of operation would be.

Mr. Eubanks said they estimate they would like to stay open from 7:00 A.M. to 11:00 P.M. to allow all the citizens the opportunity to play. They feel they could not economically operate with less hours.

Mr. Barnes asked if they could feasibly make this building a little smaller.

Mr. Eubanks stated that they could not. They have changed the plans eight or nine times. Originally, they were going in with a drive-in bank. Then they hoped to have eight courts and they have cut it back to this because of discussions with authorities in the County that it would be better. They did not want to create any traffic problems, therefore, they struck the bank idea. They are now using less than 50% of the land.

Mr. Barnes ask Mr. Eubanks what the height of the building would be.

Mr. Eubanks stated that it would be 17' or 18' but then as the Board would see from the rendering there is a peak in themiddle which is somewhere in theneighborhood of 30'. He said there had to be a 20' height for the ball to go.

Mr. Long raised the landscaping question and asked Mr. Reynolds to comment on it. There was a letter in the file from P. G. Garman, Landscape Architect.

The letter stated that 1. in the areas marked in red on the accompanying plan a 3.5 foot wall of either plant material or compatible architectural material be provided and 2. because this requirement is for the protection of the abutting owners, and the future owners of the townhouses (yet unoccupied) across Buena Vista Avenue, and should these property owners agree in writing that such a wall is not necessary and the developer submits an architectural front for the west side of the building, it is recommended that the requirement for the wall be waived by the Director of County Development or his agent.

Mr. Reynolds stated that Mr. Garman thinks that it is a good plan and is concerned about the townhouses on the other side of Buena Vista from the subject site which are presently under construction and feels they have little screening from the glare of cars during the nightime; therefore, he has suggested that the plan show some type of low screening material in order to screen automobile lights from those townhouses.

Mr. Long read the Planning Commission memorandum which recommended unanimously approval of this application for a Special Use Permit and the application for the variance conditioned on; the building being constructed in accordance with the rendering presented by the applicant; some consideration be given to limiting the use permit so it would not be subject to transfer from this applicant and clarification of what other use would be permitted if this particular operation failed; that the landscape plan be implemented as presented and as enlarged by the McLean Planning Committee at the same time the building is built; that the screening to the rear be gone over in more detail by the County Landscape Architect before this application appears before the Board of Zoning Appeals and that there be provision that the staff request that the builder provide screening prior to occupancy of the structure and that it be a minimum of the stockade fence and 10' plant screening as prescribed by the County Landscape Architect; and that the staff have a recommendation to make on parking requirements for this type use for the Board of Zoning Appeals.

The Board then took up V-8-72 for the request for the variance.

Mr. Frank Eubanks again represented the applicants.

Mr. Eubanks stated that this is Buena Vista Association and Total Tennis, Inc. Mr. George Blandford is the owner of the land today and the contract is noncontingent and is to settle the 31st of this month.

Mr. Long asked if he had the Certificate of Incorporation.

Mr. Eubanks said they did not.

Mr. Long said before the application could be amended that they would have to file a certificate of good standing from the State Corporation Commission.

Mr. Eubanks stated they came before the Board today asking for a variance as they have a hardship and that is, the building faces on three streets therefore having to have three front setbacks.

In opposition Mrs. Laura Reynolds, 6901 Meadowbrook Lane, McLean testified before the Board. She stated that they have revised the plan several times in order to get this and she felt that they have made a poor choice of land. She said that Mr. Eubanks spoke on the positive aspects of tennis as a sport, but the Board is not being asked to rule on tennis as a sport, but on zoning.

Mrs. Reynolds said one more question she would like to ask is the number of members.

In rebuttal Mr. Eubanks stated that the question regarding the membership is very hard to answer as they are just starting this and they do not know how many people will want to become a member. They are governed by means of financial statements and they are a free enterprise and they wish to acquire the highest and best use of this facility and would like to be able to operate it at a profit and they will be paying additional taxes in the County. He stated that if Mrs. Reynolds were in private business she would be aware of that. They may be able to have 1000 members.

Mr. Long stated to Mr. Eubanks that if they elect to make this an association with members that in the past the Board has required that the rules and by-laws of the association be filed as a part of the application if they grant the use permit. That is one of the ways the Board is able to arrive at a parking requirement.

Mr. Eubanks asked the Board to be advised that tennis is played by the hour. When someone plays for an hour or two they have this time alloted to them and they play during that time on those Courts that are alloted to him, therefore, they will not have all the members there at one time and will have only a limited number at any one time. He stated that it is the feeling of the Staff that the parking requirement would be fulfilled with the spaces that they have planned in that the tennis courts if fully occupied have four players plus the attendants.

Mr. Long asked Mr. Reynolds if they were aware of the sauna, the exercise room and the showers at the time they made the recommendation as to the parking.

Mr. Reynolds stated that the applicants do have an excess of parking spaces therefore he did not feel this would create a problem and in addition these facilities would be used only by the people who are playing tennis.

Mr. Long said they are trying to determine how many spaces are provided and how many are required as it might help in the future if this problem arose again.

Mr. Baker said as he understands it they show how many people could be at this facility at any one time and then they show what parking spaces would be required for this number and give permanent spaces for the attendants, plus a surplus.

Mr. Eubanks said that he felt that this is a site plan requirement and should be a site plan requirement.

Mr. Long stated that the Board has to know the number of members and review the application and the total uses to know the impact, then they need to know the number of parking spaces provided. This is a part of the review of the application and the Board needs to know this.

Mr. Reynolds stated that under the site plan they do not make a requirement, but they make a recommendation to the Board and there is no parking requirement under site plan for this type of use in the zoning book. If you take the number of spaces needed on the site at any one time and add extra, then that should be enough.

Mr. Eubanks stated that there are two people playing on the court and they have six courts and that equals twelve people. If they play double that would be twenty-four people or twenty-four spaces needed and playing double does not happen but 25% of the time. They have provided for that situation plus three attendants and then they have additional spaces for situation that might arise where someone played a little longer than the usual, or stayed a little longer than usual.

Mr. Long asked how many saunas they would have.

Mr. Eubanks answered that they would have two.

Mr. Long asked how many people would be using the saunas at any one time.

Mr. Eubanks did not know, but he checked with the engineer who stated that they could get 5 people in each sauna.

028

In application No. S-7-72, application by Buena Vista Associates and George Blandford under Section 30-7.2.10.1.2 of the Zoning Ordinance, to permit operation of indoor Tennis Club, on property located at Chain Bridge Road and Ingleside Avenue, also known as tax map 30-2((7))(1)1, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is George E. Blandford, et ux.
2. That the present zoning is C-OL.
3. That the area of the lot is 96,585 square feet.
4. That compliance with all County Codes is required.
5. The Fairfax Planning Commission at its February 29, 1972, meeting recommended that this permit be granted.
6. The McLean Planning Commission recommends approval of the granting of this permit.
7. Compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and
2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. A minimum of 39 parking spaces shall be provided.

5. Landscaping and screening shall meet all requirements of the Director of County Development.

6. All outside lights shall be directed to the site.

7. Compliance with the Fairfax County sign law is required.

8. The use of these facilities shall be restricted to members of the Club, and will not be open to the general public.

9. There will be no food served on the premises except by vending machines.

10. Hours of operation shall be from 7:00 A.M. to 12:00 P.M., 7 days per week.

11. Dedication of right-of-way and construction of road on Old Chain Bridge Road, Buena Vista Avenue and Ingleside Avenue shall be in accordance with plans and plats submitted with this application.

12. The resolution pertaining to the granting of this Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during hours of operation of the permitted use.

Mr. Baker seconded the motion and the motion passed unanimously.

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029

In application No. V-8-72, application by Buena Vista Associates and George Blandford, under Section 30-6.6 of the Zoning Ordinance, to permit building to be constructed within 11' from rear property line, on property located at Chain Bridge Road and Ingleside Avenue, also known as tax map 30-2((7))(1)1, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

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WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is George E. Blandford, et ux.
2. That the present zoning is C-OL.
3. That the area of the lot is 96,585 square feet.
4. That compliance with all County Codes is required.
5. That compliance with Site Plan Ordinance is required.
6. The Fairfax Planning Commission at its meeting on February 29, 1972, recommended that this permit be granted.
7. The McLean Planning Committee recommends approval of the granting of this permit.
8. The dedication of land for the right-of-way on three streets makes the development of this property very difficult.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusion of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

(a) exceptionally narrow lot,
(b) exceptionally shallow lot,
(c) exceptionally unusual location of the lot; that is it is bordered on three sides by streets, and
(d) exceptional topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. The building may be constructed 11' from the rear property line if the Department of County Development waives the screening requirement of 12', otherwise the building must be a minimum of 12' from the rear property line.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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030

WALLACE W. EDENS, app. under Sec. 30-6.6 of Ordinance to allow erection of addition to residence 21' from rear property line, 7406 Park Terrace Drive, Alexandria, 93-4((8))127, Mount Vernon District (R-12.5), V-9-72

Mr. Wallace W. Edens testified before the Board.

Notices to property owners were in order. The contiguous owners were Carl Keene, 1104 Galewood Street and John E. Mealia, 1102 Galewood Street and Edward H. Sehert 7404 Park Terrace Drive.

Mr. Edens stated that there is an existing patio at the present time and they wish to built a room where the patio is in keeping with the present architecture.

Mr. Barnes asked him if he planned to continue to live there and Mr. Edens stated that he did.

Mr. Edens stated that his house is on a rather steep hill in the back with a very steep incline going up to the property in back of it. The houses faces on that terrace and to the back of that is what he is referring to.

Mr. Schoen, the architect for this project, testified before the Board as to what he intended to do. He stated he would use for landscaping, a water pool with flowing water up the hill down into a low pool and being recirculated, plantings around the pool to enhance the appearance of the entire back yard, the pool would be kidney shaped in Japanese fashion.

He shows the Board a sketch of his plan.

Mr. Carl Keene, 1104 Galewood Street, spoke in opposition to this application.

He stated he lived just directly in back of Mr. Eden and was objecting to this 4' variance and one of the reasons is that there is a huge popular tree located between the two properties on the property line and this construction might cause the tree to die.

Mr. Long asked him to tell the Board exactly why he thinks this construction will affect the tree.

Mr. Keene stated that the roots of the tree are all spread out and the construction is very close to the roots of this tree. This tree is from 70' to 80' tall. This is the only tree around except for a few shrubs.

Mr. Long said it looked as though there would be about 21' from that tree to the construction.

Mr. Keene said there is a retaining wall that will have to be built and the retaining wall will come very close to the roots of the tree.

Mr. Kelley stated that he felt it would not affect the tree as it was from 8' to 10'.

Mr. Keene also stated that he felt this would devalue the property.

Mrs. Keene also spoke in opposition to this application on the same basis as her husband.

Mr. Long said he doubted if it would affect the value of the property and asked her what basis they used for their statement.

Mrs. Keene stated that it would be apoint to try to give a lower price for the house.

Mr. Kelley and Mr. Long both stated that they had never seen a house degraded because of a variance that was granted yet.

Mrs. Keene said they had had a hard time getting sod to stick on that area as it kept washing away and slipping down. She said she felt that if their property does slide because of this construction, then it will cause a slide on their property also. She said one entire section of that grade is ivy bacause the previous owner couldn't get the sod to stay. She said some of their reasons for moving to Villa May was because of the restrictions and the protections they had for their property.

031

Edens (continued)

Mr. Edens stated that in rebuttal he could only say that as far as the devaluation of the property that this is purely a supposition on the Keene's part.

Mr. Schoen answered the question regarding the slipperage of the land.

Mr. Schoen stated that he wished to show the Board the plans once more in order to show approximately where the tree is and what is taking place.

He stated that the tree is up a grade from 8' to 10' and there is no chance the roots will do down and over that far. There is not going to be any construction except a wall and a slight retaining wall with a footing underneath of about 20'. The footing is already here under the patio. This retaining, Mr. Schoen stated, will be helpful.

In order to make a level wall, he said they would have to cut into the bank 18" and put a retaining wall 16' wide in, with a combination of the wall and the planting, he said he felt that this would be stronger.

In application No. V-9-72, application by Wallace W. Edens under Section 30-6.6 of the Zoning Ordinance, to permit erection of addition to residence 21' from rear property line, on property located at 7406 Park Terrace Drive, Alexandria, also known as tax map 93-4((8))127, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to thepublic by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 13,086 square feet.
4. That compliance with all County Codes is required.
5. This request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical condition exists which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:

(a) exceptional topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. The architecture and materials are to be compatible with existing dwelling.

4. Retaining wall shall be approximately 3' from proposed addition, to meet County Building Standards' requirements and inspection.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion and the motion passed unanimously with the members present.

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MRS.
/FRANK A. MICIOTTO, app. under Sec. 30-7.2.6.1.5 of Ord. to permit beauty shop in home at 4012 Guinea Road, Lee Forest Subd., 58-4((8))15, Annandale Dist., (RE-1), S-10-72

Mr. Frank A. Miciotto represented the applicant before the Board.

Notices to property owners were in order.

The contiguous owners were Harold Brookshire, 4008 Guinea Road and Edward Whatley, 8908 Walker Street, Fairfax, Virginia

Mr. Miciotto stated that his wife wished to have a one chair and two dryer shop and would never have more than two women there at any one time. The main reason they want to do this is that his wife had a major operation about five months ago and the doctors said that she should not do strenuous work for long hours and this would benefit her with something to do at home and help earn some well needed money too.

He stated that he had talked with the contiguous property owners personally and could have gotten a letter stating that they had no objection, but he didn't realize that they would have opposition.

Mr. Barnes asked him if he owned the property.

Mr. Miciotto stated that he did not own the property. His father owns the property and he is renting from his father. He stated that there was a letter in the file from his father stating that he has no objection.

Mr. Barnes told him he would have to have a lease or something in writing granting them the specific use of the property.

Mr. Woodson stated that he felt the Board could accept the letter.

Mr. Long stated that he felt that there should be something in writing also in the file stating that they could use the property for three years with an option to renew.

Mr. Barnes agreed.

Mr. Baker stated that he also felt there should be a lease to protect them as there were quite a few changes that would have to be made and without a lease, they might make all the changes and have no recourse to recover the money.

Mr. Long asked Mr. Miciotto if they were prepared to comply with the inspection report. Mr. Miciotto stated that they were prepared to comply.

Mr. Long stated thatthe staff recommended that they have a driveway from Walker Street to alleviate the traffic problem that might occur on Guinea Road.

Mr. Miciotto stated that they were prepared to comply with that also.

Mr. Milton Rourer spoke in opposition to this application. He stated that he represented the Lee Forest Citizens Association. He stated that this was against the covenants of that subdivision.

There was also a letter in the file from Charles Welk requesting that the application not be permitted as it would degrade the character of the neighborhood.

Mrs. Glen Miller 4231 Duncan Rd. from the Truro Subdivision also spoke in opposition to this application. She said she had a letter from Mr. and Mrs. Douglas McFadden who live next door to her and they also oppose this use. She said they felt that it cause more of this type of businesses in the neighborhood, such as a car garage, etc. The zoning is also irradic in this area and this will cause it to be worse.

Mr. Barnes told her that this was not a rezoning. There would be no change in zoning. It is in the ordinance to allow a one chair, home operated beauty shop with no sign. It will still keep its residential look.

Mrs. Miller stated that they are very restricted in that area because of their covenants Mr. Barnes said all areas are restricted and the covenants are a private civil matter.

In rebuttal Mr. Miciotto stated again that they did not plan a big operation, just his wife would be doing hair there. There would be only one chair. He stated that his wife, previous to the operation, had worked full time. She had had a license since 1968. They had been married for four months. His father had owned the property for about four years.

Mr. Kelley said he could understand the financial strain that they were in, but he is against a person going out and purchasing a home in a residential area and then wanting to put in a business. The Board is not able to inforce the restrictions of the covenants. He said if the father had never lived in the house that this is a point that should not be overlooked. The father has never lived in this house, he said, and this could go from this use to something else.

In application No. S-10-72, application by Frank A. Miciotto, under Section 30-7.2.6.1.5 of the Zoning Ordinance, to permit a beauty shop in home, on property located at 4101 Guinea Road, also known as tax map 58-4((8))15, County of Fairfax, Virginia, Mr. Baker moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Miles A. Miciotto.
2. That the present zoning is RE-1.
3. That the area of the lot is 22,977 square feet.
4. That compliance with all County Codes is required.'

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year after this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include but are not limited to, changes of ownership, changes of operator.

4. There shall be only one chair for this operation.

5. Hours of operation shall be 9:00 A.M. to 3:00 P.M. Monday through Friday.

6. Driveway to enter from Guinea Road and continue around the house and exit on Walker Road.

7. The applicant shall furnish a lease before a permit is issued by the Zoning Administrator.

8. This permit is granted for a period of three years with the Zoning Administrator being empowered to extend it for two, one year periods.

9. The applicants shall be the only occupants of the premises.

10. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

11. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conpicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Barnes seconded the motion and the motion carried 3 to 1, with Mr. Kelley voting No.

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AFTER AGENDA ITEMS:

CITY ENGINEERING & DEVELOPMENT CO., INC., S-5-70

A letter was received and read by Mr. Long from Mr. Edward D. Gasson attorney for the applicant requesting an extension on their use permit to permit the erection and operation of a service station at 6383 Little River Turnpike. This permit originally expired on March 10, 1971, but has been extended from time to time as the application has been in litigation.

Mr. Barnes said that he felt that since it is still in litigation that it should be extended as it was not their fault they had not been able to begin.

Mr. Baker agreed with Mr. Barnes that the applicants had no control over this situation.

Mr. Baker then moved that this be extended until March 10, 1973.

Mr. Barnes seconded the motion and the motion passed unanimously.

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FIRESTONE TIRE & RUBBER COMPANY, V-128-71

Mr. John Aylor attorney for the applicant asked that they be able to change their plats slightly and it would not affect the variance that was granted.

Mr. Barnes after looking at the plat that was attached to the letter, made the motion that the plats be accepted and that it be taken up with the Site Plan people and if they have no objection then to go ahead with it.

Mr. Kelley said that he felt that before it is accepted that Site Plan people should look into it and see just how much the changes would affect the over-all plan. Mr. Kelley said that was his motion.

Mr. Baker seconded Mr. Kelley's motion and the case passed unanimously to be sent back to Site Plan before the decision was made.

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VALLEYBROOK SCHOOL, S-105-68; Request for transfer to Educational Institutions, Inc. by new contract purchases.

Mr. Barnes made the motion that they should make a new application and come back for a full hearing on this, with new plats, etc.

Mr. Baker seconded the motion and the motion passed unanimously.

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KATHRYN ANNE BRUCH, S-9-71. A letter was read from Mrs. Bruch's attorney requesting that the Board determine whether or not their use permit had expired. They had begun construction, but because of the problem with getting the plumber, they were not able to complete their construction promptly, therefore they did not come in for the site plan waiver until February 18 and the permit expired or at least the use permit one year date was February 16, 1972.

Mr. Long said he felt the Zoning Administrator's office should investigate to see if any construction had, in fact, been started and make a report back the next week to the Board for their decision.

Mr. Woodson said that he would see to it that this case was investigated.

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March 8, 1972

GULF OIL CORP. S-136-70 and V-142-70

A letter was read from George Freeman, attorney for the applicants, requesting an out-of-turn hearing for their case of Gulf Oil Corp, as their former use permit and variance had expired as it had been slightly over one year. They had had a problem with the Highway Department and had been unable to begin construction and it was urgent that the renew their permit or get a new one in order to continue with their contract.

Mr. Baker moved that the Board grant their request and give them an out-of-turn hearing for the first available date which was March 22, 1972.

Mr. Barnes seconded the motion and it was passed unanimously.

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Mr. Baker moved that the Board approve the minutes of the Board of Zoning Appeals for the months of December and January.

Mr. Barnes seconded the motion and the minutes were approved for themonths of December, 1971 and January, 1972.

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Mr. Baker moved that the meeting adjourn at 3:40 P.M.

Mr. Barnes secnnded the motion and the meeting adjourned.

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By Jane C. Kelsey
Clerk

Richard P. Long
DANIEL SMITH, CHAIRMAN

June 21, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals was Held on Wednesday, March 15, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present: Richard Long, Vice Chairman, George Barnes, Loy P. Kelley, and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

Mr. Long stated that the Chairman of the Board, Mr. Daniel Smith, was still in the hospital recuperating, but they he did seem to be much better. Visitors were still to be very limited. We are all hopeful that he will continue to improve.

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THE MADEIRA SCHOOL, INC., app. under Sec. 30-7.2.6.1.3 of Ord. to permit construction of Field House for Use ofMAdeira School, 8328 Georgetown Pike, 20-1((1))14, Dranesville District (RE-2), S-13-72

Mr. William O. Snead, Business Manager for Madeira School, testified before the Board.

Notices to property owners were in order. Two contiguous owners were Mr. Scurlock, 1753 Army Navy Drive, Arlington, Virginia 22202 and Mr. Watson, 8540 Georgetown Pike McLean, Virginia.

Mr. Snead stated to the Board that they were proposing to put a field house close by their present stable for an indoor riding arena for use in the winter time and bad months. This will also be for other elements of their physical education program also. The building is to be 150' by 240' with a dirt floor and gable roof and of butler type construction. The area will be landscaped so that it will be attractive.

Mr. David Yerkes, Architect for the project, submitted to the Board a rendering of their proposed building. He stated the building would be set down 10' to 15' below the entrance road.

Mr. Long asked if they would have any objection to having the landscaping plan subject to the approval of the county landscaping architect.

Mr. Snead said they had no objection.

No opposition.

In application No. S-13-72, application by The Madeira School, Inc. under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit construction of Field House for use of Madeira School, on property located at 8328 Georgetown Pike, Dranesville District, also known as tax map 20-1((1))14, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 15th day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 376 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. Screening and planting shall be as approved by the Director of County Development, unless waived by the Director.

5. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

6. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Baker seconded the motion and the motion passed unanimously.

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CHRISTINE L. JURCA & JOYCE B. KOVAL, app. under Sec. 30-7.2.6.1.5 of Ord. to permit beauty shop in apartment, 4212 Wadsworth Court, Annandale, Fairmont Gardens Apartment, 71-1((3))2, Annandale District (RM-2), S-15-72

Mr. Long stated that this should not have been filed under this section of the Ordinance.

Mr. Woodson stated that the proper section should have been Section 30-2.2.2. of the Ordinance under RM-2 Districts, Specific Regulations.

Mr. Baker moved that this case be heard under theproper section of the ordinance.

Mr. Barnes seconded the motion. The motion passed unanimously.

Mrs. Koval represented the applicants.

Notices to property owners were in order. She stated that all the property owners that were notified were contiguous.

Mrs. Jurca was not present as she had to be out of town.

Mrs. Koval stated that this location had been a beauty shop for about four years.

Mr. Long asked Mrs. Koval ifshe had a copy of the inspection report and could they comply with the necessary changes. Mrs. Koval stated that she did have a copy and they did intend to comply.

Mr. Barnes reads a letter from Mrs. Koval where she states she was enclosing several items that were necessary for the file and the lease was not among them.

Mrs. Koval said she thought she had mailed that too.

Mr. Kelley asked Mrs. Koval if they had a lease whereby the apartment owners gave them permission to operate a business. Mrs. Koval told him they were in the process of drawing up this lease, but were waiting to see whether or not they had permission from the Board of Zoning Appeals to operate. The apartment owners were unsure whether to give them a regular lease or a commercial lease.

Mr. Kelley said he felt they would need a commercial lease.

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Mr. Barnes said they would need the commercial lease and he did not see how the Board could issue a permit until they have that lease, both of them, the commercial and the regular lease. Mr. Barnes asked the applicant if she could go back and get this lease and come back at the end of the Agenda and they would finish the hearing.

Mr. Kelley agreed that this would be a good idea.

Mrs. Koval said she would be happy to go back and get that lease and bring it to the Board later in the afternoon.

Mrs. Koval stated they planned to have two stations or two chairs in the shop and just she and her partner, Mrs. Jurca would operate this shop. They would like to operate on Monday, Tuesday and Wednesday from 9:00 A.M. until 3:30; Thursday from 10:30 A.M. until 6:30 P.M. and Friday and Saturday from 9:00 A.M. until 3:30 P.M. She stated that this would be the only beauty shop in this area of apartments and they would have no outside signs. The business would be primarily for people in the apartment. She stated that this shop is already equiped properly.

Mr. Baker moved that this case be deferred for decision only until this afternoon when the applicants return with the proper leases.

Mr. Kelley seconded the motion and the motion passed unanimously.

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This case was recalled in the afternoon. The applicant, Mrs. Koval, appeared before the Board with the proper leases and they were ruled in order.

In application No. S-15-72, application by Christine L. Jurca & Joyce B. Koval under Section 30-2.2.2 of the Zoning Ordinance, to permit a beauty shop in apartment Annandale District, on property located at 4212 Wadsworth Court, Fairmont Gardens Apts. also known as tax map 71-1((3))2, County of Fairfax, Virginia, Mr. Baker moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 15th day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Fairmont Associates.
2. That the present zoning is RM-2.
3. That the area of the lot is the apartment.
4. That compliance with all State and County Codes is required.
5. That compliance with Site Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicants only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

Koval and Jurca (continued)

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of operator and changes in signs.

4. There shall be only two operating chairs.

5. Hours of operation shall be 9:00 to 3:30, 5 days per week and 10:30 A.M. to 6:30 P.M. on Thursdays only.

6. There shall be no signs.

7. All conditions, limitations and requirements are to be complied with prior to start of operation.

8. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Barnes seconded the motion and the motion passed unanimously.

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JOHN W. SNURE, app. under Sec. 30-6.6 of Ord. to permit enlargement of garage to within 15.1' of property line, 9004 Cherrytree Drive, 110-2((11))1, Mount Vernon District (RE-0.5), V-18-72

Mr. John Snure, property owner, testified before the Board.

Notices to property owners were submitted and Mr. Snure stated that there was only one contiguous property owner as his house is located on a corner. The contiguous property owner's name is Dr. Crandall Koons, 9001 Cherrytree Drive.

Mr. Snure stated that he wished to enlarge his garage. The other side of his house is not level and there is an easement going through the other side. It is a conservation easement. He said he was only asking for a variance on one corner. He planned to have a 22' two car garage, except for the rear of the garage. He said he expected to continue to live there, and has lived there for ten years. He plans to use the same type of material and the outside will give the same appearance as is presently in existence.

There was no opposition.

In application No. V-18-72, application by John W. Snure, under Section 30-6.6 of the Zoning Ordinance, to permit enlargement of garage to within 15.1' of property line on property located at 9004 Cherrytree Drive, also known as tax map 110-2((11))1, County of Fairfax, Virginia Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 15th day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 20,145 square feet.
4. That compliance with all County Codes is required.
5. That the request is for a minimum variance.

6. That a conservation easement exists on rear of property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:
(a) exceptionally irregular shape of the lot,
(b) exceptionally narrow lot,
(c) exceptional topographic problems of the land,
(d) exceptional or unusual condition of the location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. The architecture, construction and materials for the proposed addition shall be similar to the existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion. The motion passed unanimously.

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KATHRYN ANN BRUCH, S-9-71.

At the previous meeting of March 8, 1972, a letter was written from the attorney for the applicant requesting the Board decision on whether or not Mrs. Bruch still had a valid use permit. They stated in the letter that construction had begun and they applied for a site plan waiver two days after the permit date had expired, but they had been in the process of constructing all that year and had asked for an inspection from the County, but the County had never inspected.

Mr. Covington's office had inspected the premises and made a report to the Board stating that the permit was granted on February 16, 1971 and on March 15, 1972 the Zoning Inspector made an inspection of the premises and found that construction had started prior to expiration of the use permit and construction is finished except for the final inspection by the Fire Marshall.

Mr. Barnes said that he felt that this is valid.

Mr. Baker agreed.

Mr. Woodson, the Zoning Administrator, stated that the resolution reads " construction or operation" and Mrs. Bruch has begun construction and because of circumstances that has prevented her from getting the final inspection,she was not able to get the occupancy perm it to begin operation.

Mr. Long asked Mr. Woodson if he would write to Mrs. Bruch and tell her that the Board's decision is that she has a valid use permit.

Mr. Woodson stated that he would do so.

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B.P. OIL, S-213-71, located on Pohick Road

Mr. Long read a letter from Mr. Green, regarding the above application. This letter asked the Board that a decision be made soon on the above application. He also said that despite the fact that the last hearing was for decision only, the applicants' attorney

was allowed to introduce the options and claim entitlement to a special use permit on the facts and circumstances. He stated that the Chairman did not call for those who wished to speak in opposition.

Mr. Woodson stated that if the plat is changed substantially, it would be brought back to the Board and give the opposition the opportunity to speak.

Mr. Baker agreed.

Mr. Long stated that the new plats were requested originally by the Board as the old plats were not sufficient and the Board asked them to redraw the plats not requesting a variance. The Board again referred the plats back as they did not comply with the ordinance. At this point, the Board does not know what is forthcoming.

Mr. Long said that the thing that concerns him is that they should have the Zoning Administrator contact Mr. Green and the applicant that there will be a new hearing on the new plat so that the opposition can be present and speak.

Mr. Woodson again stated that the applicant has new plats, both sides should have an opportunity to be heard.

Mr. Baker so moved.

Mr. Kelley seconded the motion.

The motion passed unanimously.

Mr. Woodson was asked to contact the applicant and Mr. Green and make them aware of this action of the Board and the Zoning Administrator.

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Mr. Long announced that the Board had present today the Oakton Elementary School's Special Study's Class. Mr. Long welcomed them to the Board of Zoning Appeals' public hearing and stated that theBoard had been taking up some After Agenda Items.

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GEORGE & ELIZABETH HETLAND, app. under Sec. 30-6.6 of Ord. to permit dwelling to remain 37.7' from Falstaff Road, 8018 Fallstaff Road, 29-2((3))326, Dranesville Dist., (RE-0.5 and R-17 Cluster), V-19-72

Notices to property owners were in order.

Mr. George Hetland, Jr. testified before the Board. Mr. Baker said that he noticed that the application read George Hetland and had left off the Jr. Mr. Baker moved that the application be amended to add Jr. to Mr. Hetland's name.

Mr. Kelley seconded the motion and the motion passed unanimously.

Mr. Hetland stated that Mr. Pettibone at 8020 Falstaff Road and Mr. Erickson at 8016 Falstaff Road were the contiguous property owners.

Mr. Long read a letter from Cdr. and Mrs. A. R. Thompson, Jr. stating that any tampering with the columns of the home which is across the street and is the property in question would distract the scenic beauty of this home and affect the entire neighborhood.

Mr. Hetland stated that he had owned this home for four years and planned to continue to live there.

Mr. Barnes asked the applicant if he had any idea how this error happened and if this portion of the house was built at the time the house was originally built.

Mr. Hetland stated that the builder must have put the columns on the house as there are other houses built by the same builder with this same portion on them. He stated that they rented the house for awhile before purchasing it. He stated that the error only affects one corner.

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Mr. Baker asked Mr. Hetland how the mistake was made. Mr. Hetland said he didn't really know that apparently somebody in the County's records department was going through the records and found it.

Mr. Barnes asked if they had financed it and had gotten the loan and still did not catch the error.

Mr. Hetland stated that was correct.

Mr. Long said he thought the original building plans did not show the portion that was in violation on them.

There was no opposition.

In application No. V-19-72, application by George & Elizabeth Hetland, Jr. under Section 30-6.6 of the Zoning Ordinance, to permit dwelling to remain 37.7' from Falstaff Road, Dranesville District, on property located at 8018 Falstaff Road, also known as tax map 29-2((3))326, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous andnearby property owners, and a public hearing by the Board of Zoning Appeals held on the 15th day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is REO.5 & R-17, Cluster.
3. That the area of the lot is 13,004 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit; and

2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vacinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

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Mr. Long acknowledged the Social Studies Class from Oakton Elementary Class.

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WOODLEY RECREATION ASSOC., INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit replacement of existing deteriorating swimming pool with larger pool, 7421 Camp Alger Avenue, 60-1((1)) 5, Providence District (R-10), S-20-72

Mr. Farman Johnson, attorney for the applicant, testified before the Board.

Notices to property owners were in order. Peggy Morris, 7412 Brad Street and M. Elizabeth Hanson, 7414 Brad Street, Falls Church were contiguous owners.

Mr. Johnson stated that this case was originally before the Board in 1954. At that time they obtained a use permit for the erection of the existing pool. The only condition to this granting was that the woods and screening that existed in that area be preserved between their pool and the adjacent pool property. The pool area lies out of the main line of traffic that serves the area and is in the center of the area it serves. Many of the houses are very close to the pool. There are sidewalks and many of the people walk to and from the pool rather than drive. Now that the pool is eighteen years old they have discovered that they have a leak and they were loosing 10,000 gallon per week. They were then faced with the choice of fixing the pool which would be a major project, or build a new one. They decided to build a new pool as they needed to design swimming lanes and a diving area, therefore, it was necessary to come back before the Board.

Woodley Recreation Association (continued)
They will be able to build this new pool and still preserve the scenic beauty of the area: the trees, the picnic areas, etc. They do not plan to increase the number of family members using the pool. Mr. Monte Welsh is the President of the Association.

Mr. Kelley asked Mr. Johnson how many parking spaces had they planned.

Mr. Johnson stated that the exact number of parking spaces is the same as the previous application. Fifty-six (56) in the existing parking lot. This is the parking arrangement that has been there for a long time. They have no place to add parking spaces unless they destroy the natural screening or use the flood plain drainage area on one end of the property, but then they would have to cover over a stream. Parking has never been a problem. The property immediately adjacent to this pool is occupied by a school. The School Board has been using the pool property to park school buses and the pool has been using the school parking lot to park overflow cars during metes. They have had a mutual understanding but Mr. John Davis, Division Superintendent of the Fairfax County Public Schools has written a letter to Mr. Welsh, President of the Woodley Recreation Association. In the letter he stated that they have reviewed in detail this parking arrangement and have agreed that the school property could be used for peak periods of pool use during the summer months as long as it did not interfere with school use and that they should cooperate with the School principal if the school session is in operation.

Mr. Johnson stated that they had 388 family memberships.

Mr. Barnes asked if they are all from the Woodley area.

Mr. Johnson stated that they were all within a one and one-half mile area. This is a requirement of their by-laws.

Mr. Barnes asked him what their hours of operation has been and is planned to be.

Mr. Johnson stated that they were usually from 10:00 A.M. to 10:00 P.M. and until midnight on Teen nights and special occasions.

Mr. Woodson reminded them that on those special occasions they must notify the Zoning Administrator's Office and ask for special permission and that these teen nights or special occasions were limited.

Mr. Barnes told him that all lights and loudspeakers have to be directed onto the premises.

Mr. Baker asked Mr. Woodson if there had been any complaints about this pool.

Mr. Woodson said he had received no complaints.

Mr. Long asked Mr. Johnson if they had any objection to working with County Development on a landscape plan to preserve the trees and possibly replant any areas that they felt were necessary.

Mr. Johnson said they agreed and would be glad to work with County Development on this.

Mr. Kelley asked if they already have a 7' chain link fence completely around the area. Mr. Johnson stated that they do have an existing fence around the area.

There was no opposition.

Mr. Long stated to the applicant that they would be under Site Plan Control.

Mr. Long asked the applicant if they had a rendering or architectural plan to present to the Board.

Mr. Johnson state that they did not because they did not as yet have all of the engineering completed in terms of the type of rendering. The outline of the pool will be as indicated on the plats submitted with the application and there will be no change in the appearance of the area.

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In application No. S-20-72, application by Woodley Recreation Association, Inc. under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit replacement of existing deteriorating swimming pool with larger pool, on property located at 7421 Camp Alger Avenue, Providence District, also known as tax map 60-1((1))5, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 15th day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 4.5142 acres.
4. That compliance with all County Codes is required.
5. That compliance with Site Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, thatthe subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. Hours of operation shall be from 10:00 A.M. until 9:00 P.M. and any later hours for special parties shall require permission from the Zoning Administrator.

5. There shall be a minimum of 56 parking spaces provided.

6. The total membership shall not exceed 388 family memberships, which shall be limited to the Woodley Area residents.

7. The site is to be completely fenced with a 7' chain link fence as approved by the Director of County Development.

8. Screening and planting shall be as approved by the Director of County Development.

9. All loudspeakers, lights and noise shall be directed to the site.

10. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

11. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

Mr. Baker seconded the motion and the motion passed unanimously.

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SANDRA R. & CARROLL WARD, application under Section 30-7.2.8.1.2 of Ordinance to permit operation of riding school, 6718 Clifton Road, 75((1))15, Springfield District (RE-1), S-168-70, granted October 13, 1970. (Show-Cause Hearing under Sec. 30-6.7.1.2 of Ordinance)

Mr. Harry Middleton, Jr., Post Office Box 152, Fairfax, Virginia, spoke on behalf of Mrs. Ward stating that she had written a letter which indicated that she was not going to do anything about this hearing. Therefore, people who are interested would like to be heard in lieu of Mrs. Ward.

Mr. Long stated that the Board was going to act under a democratic process and would be courteous. Mr. Long said he would first allow the County to state its case and then allow Mrs. Ward and interested parties to speak.

Mr. Vernon Long, Supervisor of Inspection Services in the Zoning Administrator's Office, stated that Mr. Koneczny had made the inspection and investigation during the course of their normal duties of inspection on special use permits. Mrs. Ward's permit gave her until October 13, 1971 to commence operation. She was required to do certain things to comply with the Board of Zoning Appeals' resolution and several of these items were not consummated, namely the deceleration and acceleration lane, item 10 of the special use permit and, the public facilities for male and female, item 11 of the special use permit and they have not brought a copy of their insurance in for the file and in addition the permit stipulated that they should submit a copy of their lease to the Zoning Administrator. The Occupancy Permit has not been issued for this use and as a result the Zoning Administrator's Office has asked Mrs. Ward to come before the Board to show cause why the original use permit should not be revoked. The Inspector, Mr. Koneczny is out on the road and has been contacted to come in immediately to testify on the County's behalf.

Mr. Richard Long listed the items again and read them aloud.

Mr. Vernon Long said they had also received several complaints regarding noise and dust. This inspection had been made on January 19, 1972. Mr. Long stated that he had met with her personally.

Mr. Richard Long asked if any of these items had been corrected since that that.

In checking the file it was noted that the insurance liability had been complied with. Mr. Barnes checked the policy and stated that it was sufficient.

In addition she had send in a letter which was for the lease portion of the requirement, therefore, that too had been complied with.

Mrs. Sandra R. Ward, 6718 Clifton Road, spoke before the Board. She stated that on December 11, 1970, she had received a waiver from the Site Plan Department. She stated that she lived at the same location as the riding school and that she did not have any neighbors immediately surrounding her. She said she just couldn't see how dust gets on their roofs. She stated that she had attempted to make the riding ring dust free and that she regularly waters it and uses shavings and they have also used powdered gravel. She stated that her ring is up on top of one of the highest points in the County the the winds come out of the north and if it blows anything at all it would blow it toward her house and not her neighbors.

She stated that they did use loud speakers one time and no one complained except someone did say "We heard your horse show", so since then they have used a bull horn instead of loud speakers. She said they had only had three or four shows in the last four years. She said when they do have a show they use sprinkling trucks.

Regarding the restroom facilities she stated that Mr. Koneczny came to her property to follow up on the special use permit and he said he came out to check on all special use permits in the area. She stated that she was never told by her attorney that she couldn't operate at all, until Mr. Koneczny told her that she couldn't operate until she had complied with all the limitations of the permit, but, she stated that she had gotten the waiver and she interpreted that it waived the requirements and, therefore, she did not have to do all those things.

Mr. Richard Long asked Mrs. Ward to read the letter from the Site Plan Office.

The letter stated that:

"Your request for waiver of all site plan requirements to permit the operation of a riding stable for two years was approved December 4, 1970, as an Exception under Section 30-11.3(a) of the Zoning Ordinance, on condition (1) that a triangular asphalt deceleration lane 12' wide at the driveway, tapering to 0' for a distance of 50' to the north of the entrance be provided; (2) the applicant secures an entrance permit from the Virginia Department of Highways before any construction begins; (3) that the banks be graded back and that the trees and underbrush be cleared on each side of the entrance in order to provide adequate sight distance; (4) that all conditions imposed on the Use Permit granted by the Board of Zoning Appeals on October 13, 1970 be fulfilled."s/ John F. Chilton, Land Planning Branch Chief Department of County Development, Division of Design Review, County of Fairfax, Virginia.

Mrs. Ward stated that she called her attorney to get him to interpret the letter for her as she didn't quite understand it, but he never returned her call and it was her feeling that the requirements were waived.

Mr. Richard Long stated that he had written the motion and one of the items stated that this must meet Site Plan Requirements and all they were trying to do was to be sure the staff reviewed this case and if site distance is a problem that it should be corrected. The Board was not saying it should be this long or that long, but that it should be determined by the Site Plan Office. The Site Plan Office waived the Site Plan requirements, but left those two exceptions in there as it stated in the letter.

Mr. Steve Reynolds from Site Plan Office came down and spoke regarding this case. He stated that their office had determined that the widening of this road is necessary at the entrance of this site. These people have horse trailers coming in and out and a standard entrance could not possibly handle the turning radius of an automobile pulling a trailer. This deceleration and acceleration lane would get the slow moving traffic off the highway.

Mrs. Ward stated that after Mr. Koneczny came out and they understood that they had misunderstood then they did get in touch with the County and they now have a permit to start on the road, but then she changed horses in midstream, so to say, and decided it was not worth all that effort.

Mr. Kelley asked Mrs. Ward if she realized that all of these conditions were to be met prior to the time of operation.

Mrs. Ward stated that the waiver stated that she had two years to do these things.

The Board looked at the Highway permit application with the returned check.

Mr. Long stated that with regard to the bathroom facilities that the Health Department is a separate operation and a separate organization and, therefore, the Board cannot waive something that is a Health Department requirement.

Mr. Reynolds stated that the Special Use Permit granted in this case made the bathroom facilities mandatory, but if the Special Use Permit had not stated it, then the Site Plan office would have, and if the Site Plan Office did not, then the Zoning Administrator's office would have before they would issue an occupancy permit. Mr. Reynolds stated that the Site Plan Office is one of the offices that has to sign off on the Occupancy Permit to state that their requirements have been complied with prior to an Occupancy Permit being issued.

Mrs. Ward stated that in that case, she doesn't see what was even waived in the first place.

Mr. Reynolds stated that the requirement for the Site Plan itself was waived. The only plan that was submitted to the Board was a plot plan. The Site Plan would have to show all facilities on the site and complete topography of the land and a complete layout of the ring and this would have to be done by a certified surveyor, engineer or architect certified to do business in the State of Virginia. The Site Plan is much more detailed than a plot plan and it is much more expensive. The Site Plan Office waived that requirement, except that she must comply with the road requirement and the bathroom facilities.

Mr. Ward asked why it was only waived for two years, and did that not mean that she had two years to comply with the exceptions.

Mr. Reynolds stated that this only waived the requirement for two years and at the end of the two years period she would have to come back and apply for an extension of the waiver or submit a site plan. He stated that this could have been checked through their office by a telephone call asking for clarification.

Mrs. Ward stated that after Mr. Koneczny came out that they realized that had to do these things now, they called the Health Department and they sent a man out there to discuss the problem. He told them they would have to (1) put in a new septic field and on the second question as to separation of the male and female, they have fifteen boys in the school and she said she discussed changing the tack room into a boys bathroom and using the one in the house for the girls and just add an outside entrance. He said he would check on that, but he never called back either. She stated that her husband had a meeting with the plumbing inspector, a Mr. Green, and he told her husband the requirements for the septic field and the electric baseboard heat and an exhaust fan that would have to be put in the bathrooms. This made bathrooms financially impossible and

The Board asked Mr. Koneczny in his experience what most of the riding schools in the County have in the way of bathroom facilities.

Mr. Koneczny stated that they generally have a minimum of at least one bathroom available from the outside with a door from the outside. They do not permit portable toilet facilities to be used in a permanent project.

Mrs.Ward stated that the older riding schools have outhouses.

Mr. Barnes asked Mrs. Ward how many students she had.

Mrs. Ward stated that she had between 90 and 100, but not at one time. They might have ten in one class and 6 in another. She stated that during the school year she gives only one class per day at 4 P.M. but in the summer she gives lessons during the week and not on the weekend. She stated that she is the instructor. She used to have one or two teachers to help, but now she does it alone.

Mr. Harry Middleton, Post Office Box 152, Fairfax, Virginia spoke before the Board.

He stated that with regard to the highway department requirement, the Wards were prepared to comply with this.

With regard to the toilet facilities, he stated that he was very familiar with most of the riding facilities in the County and that the people present at this meeting are horse people and he was sure they would confirm this and that is that there are very few riding schools in the County that have anything other than out houses. He stated that he had pictures (he held them up for the Board to see) that were taken just the day prior to this hearing on riding schools with only out houses and some of them were in a much more populated area than Mrs. Ward's facilities. He said he felt that it was discriminatory to require Mrs. Ward to have these facilities when all the other similiar schools do not have them.

Mr. Long reminded Mr. Middleton that it was not a Board requirement, but a Health Department requirement.

Mr. Kelley asked if these other schools have from 90 to 100 students.

Mr. Middleton stated that they had more than that.

He stated that Patty's Riding School has two outdoor Johns, out behind the barn and it is right in the community of houses, two or three houses per acre. He named some others such as Quailwood, Dearfield and Devenshire.

Mrs. Barbara Gibbs from the Villa May Subdivision on Mount Vernon Highway also stated that with regard to the bathroom facilities, she could not see why they could not change their standards. If they were going to require this type of thing, then they should require it in all schools, even the old ones.

Mrs. Gibbs stated that she was a riding instructor herself and also District Commissioner for the Woodlawn Country Club for Children. She stated that Fairfax County does not have enough recreational facilities for children between the ages of 8 and 18. Riding is good clean wholesome recreation and Mrs. Ward is providing this. Mrs. Ward lets the children use the bathroom in her house if they need to and she would be willing to put in an extra facility.

The Board members stated that this was a proper argument for the Health Department and not this Board. The Board would be satisfied with anything the Health Department requires.

Mrs. Gibbs said that with a riding school one of the most important things is the instruction and safety of the child and the care of the animals. Mrs. Wards horses are in the best of care.

Mr. Thomas Willard, 6822 Glen Cove Drive, Clifton spoke in favor of Mrs. Ward's application. He said they have just recently moved to the area and had to search for a riding school and Mrs. Ward's school was highly recommended. He read a Petition signed by 236 people which he submitted to the Board for the file.

Mrs. N. DeFrance, 8721 Victoria Road, Springfield, Virginia spoke in support of Mrs. Ward. She asked Mr. Vernon Long is he had written complaints.

Mr. Vernon Long stated that they did and it is a matter of record for the file.

She asked him the number of complaints that he had received.

Mr. Vernon Long stated that there was only one written complaint, but several telephone calls. He said he had received several telephone calls personally. He stated that after some of these telephone calls, he called Mrs. Ward's attorney, Mr. Hansbarger, about the fact that she had not obtained an occupancy permit.

Mrs. DeFrance stated that someone from the Department of Health should be present at the hearing in order that he could work out the problems Mrs. Ward is having with the Health Department.

Mr. Long said that is something completely separate from the Board of Zoning Appeals and they would have to confer with them.

Mrs. Warren, 11526 Fairfax Station Road, spoke in support of Mrs. Ward. She stated that since the original use permit was filed in 1969 which was denied, many of the people who had signed the Petition against the application have stated that the Petition was misrepresented and that they would now be more than willing to write a letter and state this fact and she said if the Board would check the file, they would probably find many of these letters.

Mrs. Zook, 6802 White Rock Road, Clifton, Virginia spoke in support of Mrs. Ward.

She stated that they are one of the closest neighbors to Mrs. Ward and the way her horse riding ring is located, as far as the dust is concerned, they would be the ones to complain about it and they have no complaint. If there was any noise they haven't noticed it and if there were it would be the joy of the children and she said she didn't feel that was something to complain about.

She said she felt that the Board should give Mrs. Ward a reasonable time to straighten these problems out. A person would need years to be able to solve all these expensive problems. Mrs. Wards runs the highest quality stables and has the best horses and her teacher is excellent and these are the reasons they send their children there, and not because of the bathroom facilities.

Dr. Herman, 6801 Glen CoveDR., Clifton, Virginia. He said spoke in support of Mrs. Ward. He said it seemed to him this all boils down to compliance with a Health Department Ordinance. He stated he felt as a physician that the requirements of the Health Department are out of the question. There are health standards needed, but these are unnecessarily strict. He said he was disappointed there was not someone from the Health Department present.

Mrs. Ward said the Health Department gave them no alternatives. What they were talking about would cost in the neighborhood of $4,000 to $25,000.

Mr. Long said he did not feel there was any way for the Board to resolve the problem at this meeting or even intelligently discuss it since it was out of the Board's jurisdiction.

Mr. Kelley agreed. He further added that the other thing that concerns him is that he doesn't feel the Board of Zoning Appeals can intervene in the decisions of the Health Department of the County or State, and until such time as those conditions are met the Board has no jurisdiction. He said he felt that in granting this special use permit, it was granted with these conditions and the use permit is not valid until these conditions are met.

Mr. Barnes stated that if something can be worked out, then he would be in favor of this use. He said he agreed that it is good to see kids take lessons and ride horses. When they are doing that, they are not drinking and doing other things that get them in trouble. He asked Mr. Kelley if he would be in favor of allowing Mrs. Ward to continue to operate during the spring months since this is a big time for this operation until such time as they can work something out with the Health Department.

Mr. Baker stated that he felt the Health Department was going a little overboard here. He agreed that she should be allowed to continue, and felt that they should put the same regulations on the other riding stables if they are going to impose it here in this one case.

WARD (continued)

Mr. Joe Ryan, 4210 Marble Street, Greenbriar Subdivision, spoke in support of Mrs. Ward. He stated that he had a son who took lessons there. He said he had never seen such good physical and mental promotion of health as is under the good horsemanship under Sandy Ward's guidance. He stated that he had never seen a traffic problem there and if anyone has to use the John in the hour that he is taking a lesson, then he has a kidney problem. He said he felt very strongly about the hearing today and he was present because he wanted to endorse this operation.

In Opposition

Mrs. Fred Smith, 6627 Clifton Road, spoke in opposition. She stated that she lives across the road from Mrs. Ward. She said they did get the dust and the noise. They have had horse shows that go on from 9:00 A.M. to 7:00 P.M. Mrs. Ward has a delapidated old barn on the property that is an eyesore. It was like a landmark and could have been restored, but Mrs. Ward used it to store hay. Then there was a terrible thing that happened. The barn burned down along with her hay. It burned for three months off and on. Then another tragedy happened. There was nothing done to clear the land from the debris of this old burned out barn and when the snows came the horses took shelter under the tin roof and the roof collasped. The horses were allowed to roam and they needed a place for shelter, but not in this old burned out barn. There were at least three horses that were buried under all that and she said she did not know how long they were there before they were discovered. Her husband helped pull them out and they were still alive and they bound them up and she didn't know what happened to them after that. She said in view of that, she questioned Mrs. Ward's care of horses that all the people talked about. She said she hoped if the Board didn't do anything else they would see to it that the debris is cleared up on that 100 acres. This debris is very injurious to both animals and humans too, she stated.

Mr. Holloway, 13101 Springdale Estates Road, which is 1/4 mile from Mrs. Ward said he was on both sides of the fence. He stated that he travelled that road every day and he did feel it was good to have the deceleration and acceleration lane. He also felt that the Board should see to it that it is maintained properly and that she has the proper facilities. He said he had had problems with the Health Department too in building his house and he had to comply with their rules and he felt that everyone else should have to too. He said he would be glad to help her with the Health Department red tape, since he had been through it once. He said if these conditions could be met, then he would like to see Mrs. Ward continue on a businesslike basis. He stated that the people seated in this room were his friends and he feels this use is something that is needed in this county, but it has to be maintained in a proper fashion. He commented that he almost ran into two horses that were loose several months ago. He stated that he had heard about this application coming back before the Board. He stated that there was a sign posted, but it was taken down.

Mr. Baker said the land certainly should be cleared of all debris.

In rebuttal the County asked Mr. Koneczny to state his views on this use.permit.

Mr. Koneczny said there seemed to be a misunderstanding as far as the site plan waiver was concerned. The letter which seemed clear to him but he could see where it might not be clear to someone who was not familiar with these terms. It was the applicant's responsibility to get the occupancy permit. In addition he felt that the Board could not grant Mrs. Ward permission to continue this use as the use was not valid until she had an occupancy permit.

Mr. Richard Long said he agreed that the Board could not waive any of the requirements.

Mr. Barnes asked why the sign was not posted.

Mr. Koneczny stated that to his knowledge the sign was posted.

Mr. Donald Smith, from the Technical Branch of Zoning Administration who is in charge of posting for the Board of Zoning Appeals cases spoke. He stated that Mr. Koneczny told him that Mrs. Ward had written a letter asking the County to come and remove the sign or she was going to take it down. Mr. Terry Cobb went down to check on the sign and found the sign down in the drainage ditch with a huge hole in it and it is no longer usable and the post was still in the ground. It was posted properly, but it only remained in position two days and it should have been ten days prior to this hearing. Mr. Cobb stated that it looked as though someone had kicked it or run their fist through it.

Mr. Ralph Nagler, from the Independent Businesses organization, P.O. Box 201, Springfield, Virginia 22150, appeared. He said he spoke on behalf of Mrs. Ward. The waiver problem is something that businessmen get into quite frequently. These things are worded in such a way that the average businessman does not have the ability to comprehend it. He stated that he agreed that the way the letter from the Site Plan Office was worded sounded like these things had to be done within a two year period.

As he understood it, the Health Department has asked Mrs. Ward to put in facilities for 90 to 100 pupils and she never has that many at one time, but only 6 or 8. He stated that the Health Department does permit Johnie's On The Spot.

Mr. Barnes said that he understood that they are only permitted on a temporary basis.

Mr. Nagler stated that it depends on what you call temporary. It is something Mrs. Ward could use while she is working on the other.

Mr. Long stated that this summed up the testimony. He stated that he would give the County an opportunity to Rebutt any of the foregoing testimony, then he would also give Mrs. Ward an opportunity to speak to the County's statements and to her opposition, Mrs. Smith, also.

Mr. Long stated that they would need an interpretation from the Zoning Administrator as to whether or not the sign was posted properly.

Mr. Long stated that in the file there is fifteen letters in support of Mrs. Ward.

Mr. Reynolds stated that he did not have any further comments except to restate that the Board of Zoning Appeals did not make the requirement regarding the health facilities, as that is a Health Department requirement.

Mr. Long read a portion of the letter from Mrs. Ward to Mr. Koneczny into the record where she stated that this letter was to verify the closing of the Bay Ridge Riding School and stating that they would not appear and wanted the sign regarding the hearing removed immediately.

Mr. Long also read another letter from Mrs. Ward stating that she would like to withdraw the application. Mr. Long stated that this is a point that needs to be cleared up.

Mr. Long asked Mr. Koneczny if he could comment on that.

Mr. Koneczny stated that he had nothing further to add.

Mr. W. S. Covington stated that regarding the sign that it was posted legally, but it was removed The sign should not have been removed at any time. Mr. Long stated that to make this operation legal it would be necessary to recend the original special use permit and have a rehearing with all the legal aspects of a new hearing and that would be his recommendation.

Mr. Barnes stated that due to the fact that she didn't live up to the requirements of that original use permit, that is the reason she is in this room now; and the second is the fact that Mr. Covington feels that in order to keep this operation she would have to come back for a rehearing.

Mr. Long asked if they felt that there is any justification in that she felt she had a valid permit.

Mr. Vernon Long stated that the Site Plan Waiver speaks for itself.

Mr. Barnes stated that it could be that she actually did not understand the letter since she is a layman.

Mr. Vernon Long stated that perhaps the Board has been mislead insofar as the Site Plan Waiver is concerned because in it it says those exceptions and that she has to comply with those items. Even though she started operation, because she did not obtain the permits it would not be a valid permit. She also operated prior to the initial granting of this permit.

Mr. Reynolds stated that his office try not to mislead anyone.

Mr. Baker stated that the first time he read the letter he thought she had two years to make the necessary changes.

Mr. Long said the idea and the purpose of the Board is not to put people out of business but to bring them into compliance with the Ordinances and Codes.

Mr. Hansbarger, attorney for the applicant at the time of the original hearing, testified before the Board. He stated that when this was before the Board on October 22, 1970, he represented Mrs. Ward. Since that time he has not continued to represent her. He said this problem was probably his fault since he was in a better position to answer these questions and he stated that he had to admit that he didn't treat her with the respect that she was due. Now, he has gotten involved again. He stated that he had not been paid for the time time, totally and probably wouldn't for this time either, but where there was such a public interest he felt he should try to do his part. He said she was confused and he should have straightened it out. He stated that he had been working with zoning and land use for fifteen years and that he too gets confused sometimes when he reads these letters that the County sends out. He said he did feel some obligation to try to help straighten this problem out. He said further he felt that Mrs. Ward does have a valid use permit. The Use Permit contained twelve conditions and Mrs. Ward has carried out all but two of them. He suggested to the Board that this be deferred for ninety days during which period of time Mrs. Ward will try to work out her problems and comply with the requirements imposed originally.

Mr. Hansbarger stated that he didn't feel that the restroom facilities costing $12,000. were necessary for this location, but he and Mrs. Ward would contact the Health Department again and try to work this out.

Mr. Baker moved that the Board defer this for ninety days for decision only in order to give Mrs. Ward the opportunity to meet with the Health Department and try to meet all of the requirements of the Board, namely:

1. To meet the requirements of the Health Department, and
2. To meet the requirement of the County Development Department regarding the deceleration and acceleration lane.

Mr. Barnes seconded the motion.

Mr. Kelley asked Mr. Hansbarger if he did feel this is a valid permit.

Mr. Hansbarger stated that he did feel it was a valid permit.

Mr. Barnes said he would like to say something to Mrs. Smith, who testified against Mrs. Ward. He told her that she had good comments and it was very well put and perhaps if Mrs. Ward is allowed to continue, she will be a little more cautious. He said he did not know exactly what happened, that he had heard of this incident and that he was going to check into it himself.

Mr. Vernon Long told the Chairman that regarding the Occupancy Permit that they couldn't give it to her on one hand, and take it away from her on the other hand. It is something that she has to have prior to any operation of any use.

The Chairman stated that here again the Board is arguing County Codes and County regulations and he did not thing this Board is involved with this procedure.

Mr. Long had the Clerk read the motion. The Board then voted on the motion and it passed 3 to 1, with Mr. Kelley abstaining.

Mr. Kelley stated that he was abstaining as he was not a party to the original motion.

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VOB, LTD. app. under Sec. 30-7.2.10.5.4 of Ord. to permit used car dealership including rentals, not to exceed 1 year in duration, or new car dealership, whichever occurs first, 8753 and 8801 Richmond Hwy. 109((2))7A, Mount Vernon District (C-G) & RE-0.5), S-3-72

Mr. Long stated that the Staff had given him word that the maps were wrong in the County and none of this property is residential, therefore, the Staff is recommending deferral until this error is cleared up.

Mr. Baker moved that this case be deferred for an indefinite period until these matters can be cleared up.

Mr. Kelley seconded the motion.

The motion passed unanimously.

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AFTER AGENDA ITEMS:

ROBINSON & THAYER, INC. & ASSOCIATES - OUT OF TURN HEARING REQUEST.

Mr. Long read a letter from Mr. Robert Thayer requesting an out of turn hearing as the County has requested the service drive be moved over in order to save some trees. He stated that any delay in the site plan approval will delay commencing construction. The applicant is ready to begin construction.

Mr. Baker moved that they be granted an out of turn hearing for the earliest date.

Mr. Kelley seconded the motion.

The motion passed unanimously.

The Clerk stated that the earliest possible date would be April 12, 1971.

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FIRESTONE TIRE & RUBBER COMPANY, V-128-71. Mr. Aylor in his letter stated that they needed to make a slight change in the plat and would like to have the Board's approval. This would not affect the side where the variance was granted.

Mr. Steve Reynolds from Preliminary Engineering stated to the Board that he did not see how the Board would reduce the 41' that they have asked for on that particular plan. This 41' is based on a minimum of the ordinance of 22' travel aisle. He said he did not feel they should recommend one way or the other, but he was just stating the facts as they relate to his office.

Mr. Baker asked if it was possible for them to move the building back.

Mr. Reynold stated if they moved it forward they would eliminate a parking space and he didn't know what their required parking spaces were for that building and the difference between the required amount and the existing proposed spaces would make the difference as to whether or not they could move the building back.

Mr. Long stated that he felt before the Board made a decision on this, they should give the applicant and the Preliminary Engineering Office an opportunity to meet together and work things out if possible.

Mr. Baker moved that this be placed on the After Agenda Items for March 22, 1972.

Mr. Kelley seconded the motion.

The motion passed unanimously.

The Clerk was instructed to write a letter to the attorney and ask him to meet with the Staff on this.

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March 15, 1972

WOODLAKE TOWERS

Mr. Woodson stated he received another letter from Mr. Stephen L. Best, attorney for County Canine Corp. who wished to have a guard service out of Woodlake Towers for that apartment and many more and he gave Mr. Woodson additional information regarding this operation which stated that the guards had to have a place to check in at on the premises throughout the day and a place where residents could call should a problem arise, and under those circumstances would Mr. Woodson please reconsider his opinion and allow them to operate out of Woodlake Towers.

Mr. Woodson stated that after studying the letter thoroughly that he would change his opinion and allow County Canine Corp. to operate out of Woodlake Towers.

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BELLE HAVEN COUNTRY CLUB, INC., S-161-70.

Mr. Babson, attorney for the applicant, represented them before the Board. He stated that the Club had written a letter requesting that they be allowed to construct a new wading pool as the old wading pool is not large enough to satisfy the requirements of their membership and they also need the new wading pool to eliminate the somewhat unsanitary conditions that have existed on occasions. The old wading pool does not have a good proximity to the main pool thus lifeguard supervision is extremely difficult. In addition, the existing wading pool has an antiquated concrete deck structure, a poor circulation system and a somewhat burdensome chlorination system, all of which are the by-products of a 16 year old pool.

The Board was also in receipt of a letter from Mr. J. W. Clayton Director of Division of Environmental Health stating that they had reviewed and approved the plans for the new wading pool and this should bring their wading pool into compliance with code requirements for the 1972 season as they had requested in their letter of September 21, 1971. They also stated that preliminary discussion reveals that the proposed snack bar facilities should be satisfactory pending their submitting final plans for their review and approval.

Mr. Babson stated they were asking the Board to allow them to replace the wading pool and extend the little screened portion on the bath house to use for a snack bar.

Mr. Walter Ash came up to explain the plans to the Board.

Mr. Kelley moved that the Board of Zoning Appeals amend the present use permit granted September 22, 1970, S-161-70, to include a wading pool and screened porch as shown on plats submitted with this application, March 15, 1972, and all other conditions incorporated in said permit shall remain the same.

Copy of the original resolution should be attached to this resolution and mailed to the applicant.

Mr. Baker seconded the motion.

The motion carried unanimously.

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Mr. Baker moved that the meeting adjourn.

Mr. Kelley seconded the motion and the meeting adjourned at 3:10 P.M.

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By Jane C. Kelsey
Clerk

Richard L. Long
DANIEL SMITH, CHAIRMAN
BY RICHARD LONG, VICE-CHAIRMAN

June 21, 1972
DATE APPROVED

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The Regular Meeting of the Board of Zoning Appeals was Held on Wednesday, March 22, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present: Richard Long, Vice Chairman; George Barnes, Loy P. Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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Mr. Long, Vice Chairman, announced that Mr. Smith the Chairman of the Board of Zoning Appeals was at home now from Fairfax Hospital, recovering from a heart attack. He seems to be better and several of the members had talked with him.

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POWHATAN ASSOCIATES, app. under Sec. 30-7.2.6.1.8 of Ord. to permit addition to nursing home, 2100 N. Powhatan Street, 41-1((1))62B, Powhatan Street, Dranesville District, (R-10 & RE-1) S-16-72 (Original Use Permit issued 1962)

Mr. Bruce Lambert, attorney for the applicants and also associated with the owners of the property, testified before the Board.

Mr. Lambert stated that this was scheduled to be heard before the Planning Commission but that had been postponed until next month. There was a misunderstanding with respect to the report of the Staff and in addition there was a question regarding notices. He stated that he had sent notices to the President of Powhatan Hills Association, but there were still some people who did not get notified and they want to make sure everyone is knowledgable about their proposal.

Mr. Lambert submitted the notices that he had sent out to nearby property owners.

These notices were ruled in order by the Board.

Mr. Lambert requested that this case be deferred until they could have the opportunity to meet with the citizens in the area and work out their problems.

The Planning Commission recommended deferral in their memorandum to the Board.

Mr. Barnes stated that he felt the Board should allow the applicant sufficient time to work out their problems.

Mr. Erick Johnson, who owns the property immediately to the west of Powhatan, spoke before the Board to express the views of the Powhatan Hills Board of Directors.

Mr. Johnson stated that this deferral would allow the citizens association the opportunity to meet with the applicant.

Mr. Kelley read the Planning Commission memorandum which stated " In application S-16-72 Powhatan Associates, Inc., the Fairfax County Planning Commission on March 22, 1972 unanimously recommended to the Board of Zoning Appeals that the hearing be deferred until after the public hearing of the Planning Commission which will be April 18, 1972, at the request of the applicant and the citizens of the community.

Mr. Kelley moved that this then be deferred until April 26, 1972.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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BERLAGE-BERNSTEIN BUILDERS, INC., (VANTAGE-Sect. of Stoneybrook Subd.) app. under Sec. 30-7.2.6.1.1 of Ord. to permit swimming pool south right-of-way South King's Highway and adjacent to Section 8 of Stoneybrook Subd. 92-1((1))pt. of parcel 20, Lee District, (R-12.5), S-11-72

John T. Hazel, attorney for the applicant, testified before the Board.

Notices to property owners were in order. Mr. William S. Banks, 1401 K Street, N.W., Washington, D. C. 20005 and Mr. and Mrs. Carl A. Tavenner, 3600 Lockheed Blvd., Alexandria, Virginia were the contiguous property owners.

BERLAGE-BERNSTEIN BUILDERS, INC. (VANTAGE)

Mr. Hazel stated that this swimming club will be in the Vantage Section of Stoneybrook Subdivision. The lots around this property have not been sold yet and, therefore, there are no citizens directly adjacent to it. They plan to have approximately 500 members. The subdivision is a contemporary subdivision and the building design for the pool will be in keeping with the homes that are adjacent to it. There will be146 parking spaces. Mr. Hazel stated that he realized that this is an early application, but his feeling is that the sooner the site plan is approved and in design, the better it is on all those concerned.

No opposition.

In application No. S-11-72, application by Berlage-Bernstein Builders, Inc. (VANTAGE, Section of Stoneybrook Subd.) app. under Sec. 30-7.2.6.1.1 of the Zoning Ordinance, to permit swimming pool, adjacent to Section 8 of Stoneybrook Subdivision, also known as tax map 92-1((1))part of Parcel 20, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 5.80379 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County and State Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ord.
2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain certificates of occupancy and the like through the established procedures and this Special Use Permit shall not be valid until this has been complied with.
5. The resolution pertaining to the granting of the Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be 9:00 A.M. to 9:00 P.M. with the Zoning Administrator being empowered to grant a limited number of extensions for special functions.
7. The maximum number of family membership shall be 500.
8. There shall be a minimum of 146 parking spaces provided.
9. All lights shall be directed onto site and noise from loudspeakers shall be confined to site.
10. Screening, planting and landscaping shall be as approved by Dir. of County Development.
11. Membership shall be residents of Stoneybrook, part of which is known as Vantage.

Mr. Barnes seconded the motion.
The motion passed unanimously.

BERLAGE-BERNSTEIN BUILDERS, INC., app. under Sec. 30-6.6 of Ord. to permit variance in setback from proposed Kings Road to reduce setback of Lot 3, Section 4, Groveton Heights from 35' to 11' and allow width reduction from 95' to 75' for corner lot, to allow connection of proposed King's Road to Memorial Street as required to service approximately 85 units and avoid impact on existing Virginia Hills Streets, 92-2((7))3, Lee District, (R-10), V-12-72

John T. Hazel, attorney for the applicant, testified before the Board.

Notices to property owners were in order.

Mr. Hazel said he would like to exhibit to the Board a plan showing a portion of the properties being served by this road. The subject tract that is proposed for the road was a part of the lot at one time. This is an access which the citizens have asked for and the situation arises because of the need to get access to Memorial Street. This is Section 1 of King's Landing Subdivision which has 90 units or 90 lots and it has been approved in preliminary approval by the County and is about to be approved on the final. The remaining cemetary property borders this property on the south side and then swings around to King's Highway. The entire area is zoned R-10. There is an average of 10,000 square feet in each lot and is similiar in zoning to the area on the north side which comprises the existing Virginia Hills Subdivision. Memorial Street is a straight shot from this entrance of the proposed subdivision and takes you straight out to King's Highway. This property location was obtained by buying a lot and removing a house that was in the right-of-way. Adjacent to this lot is Lot 3 which is actually the lot on which the variance is to be obtained. There are two types of variances needed, a variance in setback and the other on the front of a corner lot as this lot becomes a corner lot when the road goes in.

Mr. Hazel shows photographs of this area and points to the area where the variances are needed.

Mr. Hazel said he had never been involved in a situation like this. He said he had some question as to whether a variance was required, but it seemed to be the obvious and best thing so that everyone would be aware of what was going on and be able to approve it. He stated that there is no other place for this street to come out on Memorial Street. There is some question as to whether Austin Avenue will be a connection.

Mr. George E. Balton spoke in opposition. He stated that he is the owner of the lot in question. He said he had known that this development has been going on for a long time, but there have been so many different plans for this area that he is confused as to exactly what is going to be done. He said that one surveyor comes around and says one thing and another one says something else. He said he had a frame house with shingles. He said when they put a road through where a house originally stood he would not have enough privacy. He said that he would have a bedroom 11' from the street. He showed the Board a plan that the realtor had given him. He stated that this application before the Board cuts his lot down to 75' and they were now going to back away from their promise and not give him the additional land. He stated that the street location is not very good anyway. He said it would be better if they would take the double curve out. He asked if he would be responsible for the sidewalks and the curb that would be going in.

Mr. Covington, from the Zoning Administrator's Office, stated that Mr. Balton would be assessed on the fair market value regardless of the road. He also stated that Mr. Balton would not be charged for the curb and sidewalk.

Mr. Balton showed the Board the document which stated that he would be given some land so that he would not be as close to the road as he would otherwise. Mr. Hazel confirmed that this was so.

Mr. Young, Lot 24, who lives directly across the street from the proposed road spoke in opposition to this application. He stated that he felt that this road was bad thing and he did not like the fact that it comes out directly in front of his house. He stated that traffic on Memorial Street is very heavy now and this road would make it unbearable. He stated that the people living in that area have complained about the traffic, but to no avail. Since there is only going to be one other access to this property, traffic will be unbearable.

Mr. Young said everybody on that street is against this new proposed road. He said it is necessary for him to back out into that street to get out of his driveway.

Mr. Barnes told him that backing out in the street is against the law.

Mr. Long read the Staff Report from Preliminary Engineering. It stated: "A preliminary plat for Kings Landing, Section One, has been approved showing the alignment of the proposed Kings Road. The dwelling on Lot 3, Groveton Heights, is existing and the approved road alignment has necessitated this setback variance. This office would have no objections to the granting to this variance request."

Mr. Hazel stated that there is a 10' outlot that is to be conveyed to Mr. Balton therefore he would end up with a 22' setback on that side. He stated that that helps relieve the front width, but he did not want to take any chances with the planned road.

Mr. Long asked if this 10' outlot was being conveyed to Mr. Balton at any charge.

Mr. Hazel stated that there was no charge, it will be given to him to relieve the impact of the road.

Mr. Hazel stated that he could appreciate the feelings of the gentleman who lives on Lot 24, but it is obvious that from the existing road situation in this development, there is no other way.

Mr. Long asked Mr. Covington if he felt that the owner of Lot 3 should be a party to this application.

Mr. Covington stated that he felt the owner of Lot 3 should not be a party to this application as none of the taking of the property is being done by him.

Mr. Barnes agreed.

Mr. Long asked Mr. Balton if he now understood the position of the applicant regarding the road.

Mr. Balton stated that he did now understand.

Mr. Long asked Mr. Reynolds from Preliminary Engineering their feelings regarding traffic, location of the road, etc.

Mr. Reynolds stated that the approximate number of vehicles for any day is 490 for this intersection. The only other connection will be Austin Avenue where 525 vehicles will be generated by this new subdivision. These are the only two accesses to this property. The Department of County Development feels that this position where it is proposed is the most logical place in that this is the best place for good site distance. There will be a 10' strip of land between the road right-of-way and this Lot 3, the property in question. This 10' strip of land is to be conveyed to the owner of Lot 3 to reduce the impact of the road.

Mr. Barnes stated that in that case the house will be 21' away from the road.

Mr. Reynolds stated that he did not feel that this Lot 3 would be considered a corner lot and therefore would not be required to setback. Mr. Hazel is attempting to comply with the front yard setback and is getting the variance as a matter of necessity. This house is to be 21' from the right-of-way of the proposed road and 25' from the center line of the road.

Mr. Long asked Mr. Reynolds if the Staff had reviewed the site distance. Mr Reynolds answered that they had reviewed the site distance.

Mr. Long asked Mr. Covington who the owner of this property is.

Mr. Covington stated that the owner of the proposed King's Road is Berlage-Bernstein Builders, Inc. and technically Mr. Hazel did not have to come in here for this variance, but he did to afford the Board an opportunity to review and control this variance.

In application No. V-12-72, application by Berlage-Bernstein Builders, Inc., under Section 30-6.6 of the Zoning Ordinance, to permit variance in setback from proposed Kings Road, to reduce setback of Lot 3, Section 4, to allow width reduction from 95' to 75' for corner lot, to allow connection of proposed Kings Road to Memorial Street, on property located at Groveton Heights from 35' to 11' and also known as tax map 92-2 ((7))3, Lee District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. The applicant is the owner of the property on which the construction of Kings Road is to occur and the property to which the variance is granted is Lot 3 of the subdivision.
2. That the present zoning is R-10.
3. That the area of the lot is 10,125 square feet.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all county codes is required.
6. That this request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.
(a) a preliminary plat for Kings Landing, Section One, has been approved showing the alignment of the proposed Kings Road.
(b) realignment of West Oak Street (formerly Memorial Street) necessitates this setback variance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion

The motion carried unanimously.

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TYRONE DENNESSY, app. under Sec. 30-6.6 of Ordinance to permit erection of dwelling closer to street property line than allowed, 1633 Second Place, 31-3((3))(4)2, Dranesville District (R-12.5), V-24-72

Mr. Alfonse Audet, attorney for the applicant, testified before the Board.

Mr. Audet said that this lot only has one contiguous property and that is Lot 1 who also owns Lot 2, but they have notified six people in the immediate vacinity and directly across the street.

Mr. Baker moved that the notices be accepted. Mr. Barnes seconded the motion and it carried unanimously.

This Lot 2, of Section 4 is a lot in an old subdivision which was recorded in 1909. This lot is bounded by Old Dominion Drive, Hitt Avenue and Second Street. However, he stated that Second Street is not a street and is not used as a street, it is not developed and is grass. He stated he had inquired informally about vacating that street and there does not appear to be a problem there. There you setback the required amount from all these streets it would leave only a tiny portion (he indicates on the plat the portion that could be used) that would be buildable. On this portion nothing could be built. The proposed dwelling is modest in size and meets the side setback from the adjoining lot.

Old Dominion Drive is a heavily travelled street and it is not as though it is a subdivision street with beautiful dwellings on the other side. The front of the proposed property faces Hitt Avenue which has two older dwellings there which are very well kept but they do not set back more than 20', and seems to be more in the area of 15' from the sidewalk.

Mr. Barnes asked if this application is granted, then this house would be in line with what is now there.

Mr. Audet stated that this is what he is representing to the Board.

Mr. Audet stated that since there is no reason why Second Street cannot be vacated, this would add 1700 square feet to the lot area which would mean that the lot area would be 9500 square feet approximately and it then would comply with the side yard requirements on that side. He stated that as the Board can see there are unusual circumstances surrounding this application and without this variance no building could be constructed on this lot, thereby creating a hardship on the owner of this lot.

Mr. Long asked what the right-of-way width is on Old Dominion Drive and Hitt Avenue.

Mr. Audet said perhaps the staff would be able to answer this, that he did not know exactly. The driving width is 30 or 40 feet and the right-of-way is probably 50 feet. There is an application on file with the County for rezoning of Lot 20 across the street to RT-10 zoning. This application has not been acted upon as yet.

Mr. Long asked about Old Dominion Drive and the impact the widening of this road would have on this proposed dwelling.

Mr. Audet said it is one of the risks they would have to take as they do not know whether this will be widened or not.

In opposition, Mr. William Waugh, 6443 Hitt Avenue, directly across the street, testified before the Board.

Mr. Waugh stated that there was a previous application for a variance by Mr. Jerome which was turned down. He stated that s surveyor had been up and down Old Dominion Drive in the last couple of weeks and he felt it would be widened.

Mr. Reynolds stated that the Master Plan shows that Old Dominion is proposed to be realigned along Linway Terrace which is the road to the North of Old Dominion Drive. As the Board could see from the plat, Old Dominion Drive curves southwards and then north again and this realignment would relieve this situation. This would relieve some of the traffic problem that would affect the present application that the Board is considering.

Mr. Long requested the original file on Mr. Jerome for variances on this property to see why the Board had denied his application.

Upon reviewing of the Jerome file, it was found that the reason this application was denied because obviously the Board did not have full knowledge of the McLean Master Plan and did not realize that Old Dominion Drive would not be widened at this point. At that time it was felt by the Board according to the minutes that the Old Dominion Drive would be widened to 80 to 120 feet.

Mr. Barnes asked Mr. Audit what type of structure this would be. Mr. Dennessy stated that this would be a two story dwelling of about 70% brick and aluminium siding and in consonance with the area.

061

In application No. V-24-72, application by Tyrone Dennessy under Section 30-6.6 of the Zoning Ordinance, to permit erection of dwelling closer to street property lines than allowed, on property located at 1633 Second Place, Dranesville District, also known as tax map 31-3((3))(4)2, County of Fairfax, Virginia Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 7,875 square feet.
4. That compliance with all county codes is required.
5. This request is for a minimum variance.
6. This lot was subdivided in the year 1906.
7. The McLean Master Plan realigns Old Dominion Drive to coincide with the right-of-way with Linway Terrace.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:
(a) exceptionally irregular shape of the lot,
(b) exceptionally narrow lot,
(c) exceptionally shallow lot,
(d) dwelling located on a lot having three streets bordering property.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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LESLIE L. TURNER, JR., app. under Section 30-6.6 of the Ordinance to allow enclosure of porch within 28.5' of front property line, 6919 Barrett Road, Westlawn Subd., Section 3, 50-4((17))183, Mason District, (R-10), V-25-72

Mrs.Leslie Turner testified before the Board.

Notices to property owners were in order. The contiguous owners were Duane A. Coordes 6912 Westmoreland Road, Falls Church and Mr. James Simon, 6921 Barrett Road, Falls Church, Virginia.

Mrs. Turner stated that under the old ordinance the requirement was 25' from the front property line and that was when the porch was built, now the ordinance is 35' from the front property line. She stated that their back yard is so small they cannot build on it and this is a corner lot causing them to have to setback from two streets. She stated they plan to continue to live on this property.

062

In application No. V-25-72, application by Leslie L. Turner, Jr., under Section 30-6.6 of the Zoning Ordinance, to allow enclosure of porch within 28.5' of front property line, on property located at 6919 Barrett Road, Westlawn Subd., Section 3, also known as tax map 50-4((17))183, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 9,418 square feet.
4. That compliance with all county codes is required.
5. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:

(a) exceptionally irregular shape of the corner lot.
(b) telephone and electric easements across property.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. The architecture and construction of the proposed addition shall be similiar to existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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GULF OIL CORP., app. under Sec. 30-7.2.10.2.1 of Ordinance to permit erection of automobile service station, southeast corner of Gunston Cove Road and Lorton Road, 107((1)) 77, Lee District (C-N), V-30-72 (Out of Turn Hearing) Original Permit granted 8-4-70

GULF OIL CORP., app. under Sec. 30-6.6 of Ordinance to allow service station closer to property line than allowed, southeast corner of Gunston Cove Road and Lorton Road, 107((1))77, Lee District (C-N), V-30-72 (Out of Turn Hearing) Original Permit granted 8-4-70)

Mr. George Freeman, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous property owners were RF&P Railroad, Lorton Auto Parts, Inc. and Gaston Properties.

Mr. Freeman stated that this use permit was originally granted in 1970, but had expired. They had had problems with the highway Department trying to get the entrances located on their property. Their contract expires on April 1st and they would like to begin construction now that they have worked out their problems. They plan to use the same plan as originally planned. He stated they originally asked for a variance allowing them to come 13' from the property line and the Board granted the variance to allow them to come within 20' of the property line, therefore they changed the plats to reflect what theBoard granted originally.

Mr. Long stated that the original use permit was granted for a brick colonial station.

Mr. Kelley read the original motion granting this use permit and it stated "brick colonial".

Mr. Barnes stated that old brick like the brick in Old Gunston would be preferable.

Mr. Freeman stated that they might have trouble getting the old brick.

Mr. Baker stated that there is a dealer right there on Route 1 and that he was in favor of old brick in keeping with the area. He said he didn't feel it was too much more expensive and in fact doubted if it was any more expensive. There is a dealer there by the name of Bob Dodd. He stated he was not advertising, but wanted them to know where they could get it and that it was close by.

Mr. Long asked if they planned to have rental trailers and trucks, etc.

Mr. Freeman stated they did not.

Mr. Long told them that there could be no free standing sign located there and that the sign must be against the building.

Mr. Freeman stated that originally they were allowed a free standing sign.

Mr. Covington stated that the ordinance has been changed since then.

Mr. Freeman stated that their competition next door has a free standing sign and this would be discriminating.

Mr. Covington stated that their competition went in under the grandfather clause.

Mr. Freeman asked how long the other station had been there.

Mr. Covington stated that it had been there approximately three years. The new sign ordinance was adopted in October of 1970.

Mr. Long stated that he felt this was not a proper matter to come before the Board of Zoning Appeals.

Mr. Covington stated that there is no right of appeal to this Board other than to height.

Mr. Reynolds from Preliminary Engineering stated that this site plan has been submitted and the Staff has asked for not two, but only one entrance on Lorton Road and also that the pump be moved up so that the proposed realignment of Lorton Road that is on the Lower Potomac Master Plan could be built and not affect the pump islands and is why on the plats the pump islands are slightly offset.

Mr. Long asked Mr. Reynolds about the Staff comments in relation to attempting to save trees and he asked if they could show on the plat where this tree is located.

Mr. Reynolds stated that it is hard to pinpoint the exact location of the tree; however, it is in the vicinity of the travel lane that was mentioned.

Mr. Long asked if any member of the Board had any objection to the deletion of the travel lane on the plan and make it a staff determination.

Mr. Barnes stated that he felt it was a very good idea.

Mr. Long explained to the Board and showed them on the plats what he was referring to.

Mr. Kelley moved that this be done. Mr. Barnes seconded the motion and it passed unanimously. It was so deleted on the plan.

In application No. S-29-72, application by Gulf Oil Corp. under Section 30-7.2.10.2.1 of the Zoning Ordinance, to permit service station on property located at southeast corner of Gunston Cove Road and Lorton Road, also known as tax map 107((1))77 County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper posting of theproperty, letters to contiguous and nearby property owners and a public hearing by the Board of Zoning Appeals held on the 22nd day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Joseph Jerome O'Neill, et als.
2. That the present zoning is C-N.
3. That the area of the lot is 40,000 square feet.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County codes is required.
6. A Special Use Permit was granted to the applicant on August 4, 1970 for this use

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board; and is jfor the location indicated in this application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include but are not limited to,changes in ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. There shall not be any display, selling, storing, rental, or leasing of automobiles, trucks, trailers, or recreational vehicles on said property.
5. Any sign must conform to the Fairfax County sign ordinance.
6. The building shall be a three bay brick colonial station as shown by the rendering submitted with this application. (The Board prefers Old brick)
7. Screening, landscaping and planting shall be as approved by the Director of County Development.
8. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain certificates of occupancy and the like through the established procedures and this Special Use Permit shall Not be valid until this has been complied with.
9. The resolution pertaining to the granting of the Special Use Permit shall be posted in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the house of operation of the permitted use.

Mr. Barnes seconded the motion and the motion passed unanimously.

In application No. V-30-72, application by Gulf Oil Corp., under Section 30-6.6 of the Zoning Ordinance, to allow service station closer to property line than allowed, on property located at southeast corner of Gunston Cove Road and Lorton Road, also known as tax map 107((1))77, Lee District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Joseph Jerome O'Neill, et al.
2. That the present zoning is C-N.
3. That the area of the lot is 40,000 square feet.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all county codes is required.
6. That this request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:
(a) exceptionally irregular shape of the lot,
(b) exceptionally narrow lot

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion and the motion passed unanimously.

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DOWDEN TERRACE RECREATION ASSOCIATION, INC., app. under Sec. 30-7.2.6.1.1 of Ordinance to permit enlargement and improvement of existing swimming pool and other recreational facilities, 6300 Holmes Run Parkway, Dowden Terrace Subd., 72-2((1))1, Mason District, (R-10), S-21-72

Mr. Clinton Boo, President of the Dowden Terrace Recreation Association, testified before the Board.

Mr. Long stated that he has submitted the certificate of good standing from the State Corporation Commission

Notices to property owners were in order.

Mr. Boo stated that they are authorized 200 members, but they usually only have 195 family memberships during the swimming season. He stated that the Board has authorized the improvements and beautification of the area. He stated that their members were residents of Dowden Terrace. He stated that there would be no problem with the Staff's recommendation for additional screening and plantings.

Mr. Long asked the number of parking spaces.

Mr. Boo stated that the number is approximately thirty-five. He stated that most people walk or bring the kids by and return for them. They have had no problem in the past, he stated. He stated that most of the employees are from the neighborhood and do not drive.

Mr. Long read a staff report from L. C. Koneczny, Zoning Inspector, made March 3, 1972. This staff report shows that there was a variance from the original pool request that was granted on April 12, 1972 and that the volley ball court was constructed at the location where the bath and filter house was to have been located and a baby pool and two sheds have been constructed without approval of the BZA. The parking lot is lined off for 33 cars with facilities for parking of bicycles and it appears that the majority of members would travel to the pool by automobile.

Mr. Long asked Mr. Boo if he was aware that they had constructed in noncompliance with the original use permit.

Mr. Boo stated that he wasn't around then and they were not aware of this until they filed for this permit and the first architectural rendering that they have shows the pool in the location that it is in today.

Mr. Covington stated that he had had no complaints from the area regarding the pool.

Mr. Jack Mulligan, Chairman of the Operations Committee spoke in favor of the application. He stated that they indeed were surprised that their pool position was not the one originally approved and if the pool had been installed where the original pool was approved for, they would have had numerous problems and could not have met the setback requirements as they are today.

No opposition.

Mr. Long read a staff report from C. M. Garza, Branch Chief of the Technical Branch of Zoning Administration which stated that the applicants had submitted four prints of a revised development plan indicating that the 100-year plain, delineated by the Geological Surveys and adopted by the Board of Supervisors on May 11, 1966, does not touch the proposed buildings and that the underside of the proposed buildings will be 18 inches above said water level. These new plans calrify the questions that the Technical Branch had with reference to the proposed additions.

Mr. Barnes saw the Park Lawn Recreation Association indicated on the plat and asked where it was located in relation to this pool.

Mr. Boo stated that it was across the creek and for another subdivision.

Mr. Boo asked if they increased the size of the recreation area by a few feet if that would matter.

Mr. Long stated that if it was changed in any way, they must come back before the Board. As of this moment, the present plan had not been denied or accepted, therefore, if they felt they would change the plans they should say so.

Mr. Boo stated that because of the time frame they needed an answer as soon as possible.

Mr. Boo stated that they would stick to what they have proposed.

In application No. S-21-72, application by Dowden Terrace Recreation Association, Inc., under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit enlargement of and improvement of existing pool and facilities, on property located at 6300 Holmes Run Parkway, Dowden Terrace Subdivision, also known as tax map 72-2((1))1, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners , and a public hearing by the Board ofZoning Appeals held on the 22nd day of March, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of thelot is 1.2327 acres.
4. That compliance with all County and State Codes is required.
5. That compliance with Article XI of theSite Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. The hours of operation shall be 9:00 A.M. to 9:00 P.M. with the Zoning Administrator being empowered to grant a limited number of extensions of hours for special parties.

5. The maximum number of family memberships shall not exceed 215, which shall be residents of the Dowden Terrace Subdivision, Shirley Forest and immediate vicinity.

6. There shall be a minimum of 34 parking spaces provided.

7. The site shall be completely fenced with a 6' chain link fence.

8. Screening, landscaping and planting shall be as approved by the Director of County Development.

9. All lights shall be directed onto site and noise from loud speakers shall be confined to site.

10. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligations to obtain certificates of Occupancy and the like through the established procedures and this SPECIAL USE PERMIT SHALL NOT BE VALID until this has been complied with.

Mr. Baker seconded the motion and the motion passed unanimously.

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068

DEFERRED CASES:

MURRAY M. HOLLOWELL, T/A CROSSROADS CLEANERS, under Section 30-6.6 of the Zoning Ordinance, to permit erection of addition 10' from rear property line and 34' from front property line, on property located at 5800 Seminary Road, 61-4((17))B1, County of Fairfax, Virginia,(C-G) V-236-71

Mr. Stanford Parris, attorney for the applicant, testified before the Board.

He stated that notices had been filed in this case.

Mr. Parris stated that this former filling station has been used by Mr. Hollowell as a cleaning establishment and now he is attempting to consolidate the reception room and the cleaning plant. He stated that they had attempted to submit a very modest rendering of what this building will look like.

He said he and Mr. Hollowell have discussed the wooden fence and they have also discussed this fence/and with the adjacent neighbors they all agree that they would prefer the fence left as is.

No oppostion.

In application No. V-236-71, application by Murray M. Hollowell, T/A Crossroads Cleaners under Section 30-6.6 of the Zoning Ordinance, to permit erection of addition 10' from rear property line, and 34' from front property line, on property located at 5800 Seminary Road, also known as tax map 61-4((17))B1, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution;

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County C odes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of January, 1972; and deferred to March 22, 1972, for decision; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Murray M. Hollowell.
2. That the present zoning is C-G.
3. That the area of the lot is 14,891 square feet.
4. That compliance with all County Codes is required.
5. That compliance with Article XI, Site Plan Ordinance, is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:
(a) exceptionally narrow lot,
(b) exceptional and unusual condition of the location of existing building

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. The architecture and construction are to be compatible with existing building.
4. Landscaping, screening and planting shall be as approved by the Director of County Development.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Certificates of Occupancy and the like through the established procedures.

Mr. Baker seconded the motion and the motion passed unanimously.

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069

A letter from John Aylor, attorney for the applicant, was received at the previous meeting of March 15, 1971. In this letter Mr. Aylor requested the Board to approve some revised plats whereby the Firestone Tire & Rubber Company because of the exceptionally high cost for the development of this particular site and the construction of the building, decided to eliminate the second floor and make a very small change in the dimensions of the building to be erected on the said property. The surveyor, Mr. Walter L. Phillips has redrawn a plat showing in red the dimensions which were shown on the plat submitted previously and granted and shown in yellow the very small changes they proposed to make. The building had been lengthened by adding four feet towards Richmond Highway. All of the number of parking spaces remain the same and the distance from Woodlawn Trail remains forty feet. The variance granted was to permit the building to remain forty feet from Woodlawn Trail rather than fifty feet.

At the previous meeting the Preliminary Engineering Department of the County submitted in memorandum form and by statement that they had reviewed the plat dated February 25, 1972 and stated that the parking bay in the southeast corner of the property does not have sufficient width, and a 41' minimum distance is required for a single tier of parking spaces and travel aisle in order to provide adequate maneuvering room and also, it was suggested that the owner dedicate to 98' from the centerline of Richmond Highway, Route 1, to include the proposed service drive.

Mr. Reynolds from Preliminary Engineer was present and stated that his office had reconsidered and in this particular case they feel that the plat would show 38' of travel aisle and they have no objection to this parking aisle width and therefore withdraw the statement they made last week as far as the 41' is concerned. The engineer has stated that the building will be moved forward and the parking space itself will be reduced from 9' to 8 and 1/2 feet and this, of course, is the minimum requirement and therefore they have no objection to this.

In V-128-71, Firestone Tire & Rubber Company, Site Plan Number 448, plat drawn by Walter Phillips on February 25, 1972, Mr. Barnes moved that the Board of Zoning Appeals accept this substitute plat.

Mr. Baker seconded the motion and the motion passed unanimously.

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The Board referred back to the 11:20 item of Dennessy request for variance. The Board was in receipt of a note from the objector, Mr. William Waugh, who stated that he wanted it stated for the record that his house is 28' from Hitt Avenue. Mr. Waugh stated that there was a question raised as to how close his house was to this street and he went home and measured it.

Mr. Barnes moved that this be accepted and put in the record. Mr. Baker seconded the motion and it passed unanimously.

// Page 69; March 22, 1972

CEDAR KNOLL INN, File No. 54, Applicant Mildred Linster

A letter was received from Anthony J. Colorio, President of Stratford-on-the Potomac Citizen's Association, concerning the recent County approval of the expansion of the property located on Lot 5, Subdivision 1, Plat 111-1, zoned R-12.5. He continued by stating that this property was approved for operation of a tearoom on September 29, 1941. Recent County action indicates that there may have been a decision by County officials that the restaurant no longer falls under "non-conforming use" provisions, but it is unclear, he stated, to the citizens of that community what the details of this decision are.

He stated that according to Mr. Hoofnagle, Chairman of the Board of Supervisors of Fairfax County (in letter to member of their association on February 1, 1972) the expansion is permitted under Sections 30-4 and 30-4.1 of the County code. However, Mr. Colorio stated that they understood that Section 30-4.1 required the Board of Zoning Appeals to act prior to such approval.

Mr. Colorio requested the Board of Zoning Appeals review of this case since they feel there is a strong likelihood that an error in decision has been made. He said they were ready to provide representatives at a hearing on this matter.

Mr. William Barry from the Zoning Inspector's office was asked to enlighten the Board on what has happened.

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Mr. Barry stated that there had been mass confusion around this situation. Mrs.Maley is the current owner and there was a report that she was doing some expansion of her parking lot. This was about 18 months ago. Mr. Barry stated that he went down there and made an inspection of the property and after a lengthy conversation and inspection found that she was not expanding the parking lot, she was changing the topography of the level of the lot to level it out some and intended to gravel and blacktop it and improve it. There were some small trees that were removed. This was done under permit. He said he at first thought this was a non-conforming use and was under the impression that it was started back in '39 or '40 and was therefore making the judgment that no expansion was allowed at all. Several months went by and Mrs. Maley called and stated that she had asked her attorney, Mr. Barnes Lawson, to get in touch with the County officials to see what could be done as the Health Department was requiring that they make some changes requiring different facilities. A short time after this, Mr. Barry stated that it was brought to his attention that he was wrong and a use permit had been obtained by Mrs. Linister for the operation of a tea room and gift shop and he advised Mrs. Maley then that any expansion would have to go back before the Board of Zoning Appeals. Later Mr. Barnes Lawson came by with the request for the proposed items that were to be under the health, safety and welfare requirements. The Department went over the list and found that ten of the items were justified under this section of the Code and two were not allowed and that was the expansion of the tea room on the north end of the restaurant and the construction of an additional guest house. There is already a guest house on the property where the Chef lives. These two items were denied. In addition the expansion of the dining facilities was also denied. A short time after that Mrs. Maley came into the office and secured a building permit for the items that had been approved on the list and at that time signed an agreement to the effect that the so-called alterations were not to be used as an expansion of the dining facilities. He stated that he was asked to speak before the Citizens association down there which he did and he tried to assure the people down there of the type alterations were being done. He stated that he explained to the people the basis which had been used for allowing the alterations, but obviously it was not satisfactory to them.

Mr. Covington stated that he would like to give the Board a little of this case's history. He stated that as Mr. Barry had stated this is Fairfax County's oldest Special Use Permit on record. It was originally operated as a tea room and then was converted to a restaurant and has been operated in that capacity for about twenty years. They are still in business. This permit was issued without limitations. There has also been a small antique shop in this restaurant. "When Mrs. Maley came into the office I asked her to sign an agreement stating that these alterations would not be used to expand the existing dining facilities", Mr. Covington stated. Mr. Barnes Lawson and Mrs. Maley both agreed that any addition to this use would be brought back before the Board of Zoning Appeals.

Mr. Richard Long asked Mr. Covington if Mr. Smith, the Assistant County Attorney, and Mr. Lawson had felt that this was a non-conforming use. Mr. Covington stated that it was a matter of interpretation and possibly they could have enlarged it under this section of the code, twenty-five percent, but,Mr. Covington continued, he felt it would be safer if he had them sign the agreement as there appeared to be quite a gray area. He stated that frequent inspections of this property has been made.

Mr. Barnes stated that since it had been in operation that long, she should have the right to do this.

Mr. Baker stated that Mr. Heilberg is a long time friend and he had received a letter from Mr. Heilberg inquiring about this and hopes it can be cleared up.

Mr. Barnes said he did not believe this was an expansion, but an improvement.

Mr. Long stated that under the policy of the Board any additional uses should be reviewed by the Board for the Board's consideration. He stated that he agreed that it was a problem with the Health Department telling them to upgrade the facilities.

Mr. Baker stated that Mrs. Maley is the third owner of this property.

Mr. Covington stated that this was correct, but it was not specified in the motion back then that the permit was to a specific owner, so it goes with the property.

Mr. Long asked Mr. Covington to write a letter to Mr. Colorio stating the reasons why this improvement is being made and that it is the opinion that the Zoning Administrator has rendered and it is a policy of the Board that the Board can only hear a case on the formal application of an appeal from the decision of the Zoning Administrator.

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Mr. Covington stated that he would write this letter.

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Mr. Chilton, Deputy Director of Design Review, came before the Board with a group of architects concerning a development in Reston that they have a question to pose to the Board.

Mr. Long stated that he would like the remarks addressed to the Zoning Administrators, Mr. Woodson and Mr. Covington first and then the Board would make comments.

The Board and the Zoning Administrators looked over the plan in an informal session.

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The meeting adjourned at 3:40 P.M.

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By Jane C. Kelsey
Clerk

Richard Long
DANIEL SMITH, CHAIRMAN
By Richard Long, Vice-Chairman

June 21, 1972
DATE

The Regular Meeting of the Board of Zoning Appeals was Held on Wednesday, April 12, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman; George Barnes; Loy P, Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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Mr. Smith thanked everyone for their consideration and thoughtfulness during his recent illness.

The Board members welcomed Mr. Smith's return.

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KUMJAI L. SMITH, app. under Sec. 30-7.2.6.1.5 of Ord. to allow beauty shop in home, 6517 Harwood Place, Springfield, Westview Hills Subd., 89-2((5))308 & 308A, Springfield District, (R-12.5), S-26-72

Mr. Artley Smith, 6517 Harwood Place, husband of the applicant, represented her and testified before the Board.

Notices to property owners were in order. The contiguous owners were Thomas Frey 6515 Harwood Place and Shannon & Lucks Realtors, c/o John Willett, 1705 Fern Street Alexandria, Virginia.

Mr. Smith stated that he was not related to the Chairman of the BZA, Mr. Daniel Smith.

Mr. Artley Smith stated that Mrs. Smith would be the sole operator of this shop and there will be no exterior signs to indicate any type of business inside. This shop will be operated for the friends of Mrs. Smith by appointment only, therefore, there will be no traffic problems. He indicated that the Staff report from the County recommended that this application be granted. He then submitted a Petition signed by eighteen of their immediate neighbors indicating that they had no objection to this operation. He stated that they had owned their home since January of this year. All of his neighbors signed the Petition except two, the closest of which is the fourth house down the street. He stated that he was aware of the inspection report and they planned to make all the necessary changes. He stated that his wife is a registered beautician in the State of Virginia and a copy of her operator's license was in the file. He stated that they had no family at this time, that that had been a problem in the past and his wife hoped to quit working full time so they could perhaps begin a family sometime in the future. He stated that she works over fifty-two hours per week at the present. He stated that he is a full-time student at American University and his wife helps with the support of the family. He is going to school under the G.I. bill which helps, but is quite inadequate. This shop is to be a one chair operation with just his wife operating there.

Opposition.

Mr. Marchiafaba, 5614 Bloomfield Drive spoke in opposition. He stated that he was several miles from this site and is a member of the Virginia Hair Dressers and Cosmetology Association.

Mr. Daniel Smith stated that this is a special use permit application that is permitted under the ordinance and that he was before the wrong Board, that he should be before the Board of Supervisors if he wished to complain about the use itself. This is a permitted use if it is found that this use will not be detrimental to the neighborhood. He stated that if he is a businessman in this business that does not give him the right to oppose this application unless it affects him in something other than a competitive nature. He is not an aggrieved party.

Mr. Marchiafaba stated that he represented fifteen places of business in that neighborhood around the Springfield area.

Mr. Daniel Smith told him that unless he or one of the businesses that he represented owned property in the vacinity of this application he would not be able to speak in opposition of this application.

Mrs.Eddie Street, 6818 Remard Drive, spoke in opposition to this application. SHe stated that he was approximately three miles from this site, and represented the West Springfield Citizens Association. She stated that she was asked to be sure the Planning Commission memorandum was read and in that transcript, there is a copy of a letter from Mr. Arcoffer opposing this application.

Another letter was in the file from John Fantino, dated April 8, 1972, stating that he opposed this application, but could not be present to state this at the public hearing.

Mr. Smith stated that these letters would be entered into the record.

Mrs. Street stated that she and the citizens association believe that this is something that should not be allowed in a residential area.

Mr. Daniel Smith again stated that this opposition was again against something that is in the ordinance and has to be lived with as long as it meets the specific requirements. He stated that the most affected property owners would be those people contiguous to the site in question.

Mrs. Street stated that there is only one contiguous property owner that is within three or four doors from this site and they feel that their community will be affected and they feel their community is threatened by this application.

Mr. Daniel Smith again told her that this is something that should be argued before the Board of Supervisors and ask them to take it out of the ordinance completely.

Mrs. Street stated that she had a Petition signed by seventy signatures. She stated that the Planning Commission had raised the question as to whether or not this use should be allowed in a residential area.

Mr. John J. Jenson, 7721 Glenister Drive, one-half mile from the location in question spoke in opposition. He stated that there are seven houses between his house and the location in question. He stated that he objected for several reasons: 1) No need for this use as there are several beauty parlors in the area within one and one-half mile and 2) Keene Mills Road is a high speed highway and there are no sidewalks. Because of the grade of the driveway to this house no one would be able to park in the driveway and therefore would have to park in the street. He stated that he felt it would affect property values in the neighborhood.

Mr. Daniel Smith told Mr. Jenson that a physician could go into this house and use it as a doctor's office without even a use permit.

Mr. Daniel Smith also stated that need is not a criteria under the ordinance. He stated that he might even agree that this should not be in the ordinance, but it is in it along with the requirements under which it can be granted and these the Board has to make a decision on.

The gentleman in opposition stated that he wanted the Board to be aware of the hazardous conditions and that is a condition that the Board must consider.

Mr. Richard Long asked the degree of the grade

The gentleman in opposition stated that it has a slope of between 20 and 30 degrees. He stated that even though the house was built under FHA standards, this driveway was installed by the previous owner.

Mrs. Nancy Giering, 6509 Harwood Place, spoke in opposition. She stated that she wished to back up the gentleman who had just spoken. There is presently a traffic hazard on this corner and she stated she would not like to see people out of the neighborhood drawn to it for a business purpose as it would just make the hazard worse.

Mr. Daniel Peyser, 6511 Harwood Place, three doors away from the Smith's, spoke in opposition to the application. He stated he had never been approached to sign any statement or petition. He stated that the houses in this neighborhood are expensive. He stated that he felt that the eighteen people who had their signatures on the petition stating they had no objection were disinterested people and some of them rent instead of own their property.

Mr. Artley Smith spoke in rebuttal to the opposition. He stated that it seems that most of the objection centered around the traffic problem and he contends that as his wife will be operating on an appointment basis that there will be no traffic problem.

He stated that they do in fact have a driveway that slopes, but they have been parking on this driveway and they have had no problem getting up and down it. They do not plan to have a sign and they feel that this small shop will not be a detriment to the neighborhood.

Mr. Daniel Smith read the letter from the Planning Commission which stated:

"The Planning Commission on March 30, 1972, unanimously recommended to the Board of Zoning Appeals that the above subject application be denied.

The Commission felt this was obviously a community situation which was planned, developed, and zoned in a totally residential way and to put a business use in its midst would be totally contrary to good land use. The use permit route was a valid one for the applicant in this case, but it came up against the land use consideration which is paramount for a residential community. Such a change of land use, while in itself might not be bad, would be a forerunner of precedent and was contrary to the planning and zoning in the area.

Also, the Commission felt there was a dangerous traffic problem on Keene Mill Road.

In addition, the Commission, by a vote of 6-1, voted to send a copy of the transcript (minutes hereby attached) of the testimony on this application to the Board of Zoning Appeals for their information and indicate to them that the Commission would be in further contact with them in regard to the matter of special use permits allowed under the ordinance."

Mr. Daniel Smith stated that he felt sure that the Planning Commission is aware of the fact that there are many beauty shops in residential areas.

Mr. Long moved that this application be placed at the end of the Agenda for decision only and he stated that he assumed that the Board would take a look at this property during their lapse in schedule. This lapse was due to the Board of Supervisors' need to use the Board room.

Mr. Daniel Smith stated that he felt that use permits in general should be considered in depth. He stated that he could not recall the Planning Commission having pulled a beauty shop application prior to this case. He stated that he welcomed a meeting with the Planning Commission regarding use permits in a residential area.

The other members of the Board agreed.

Mr. Barnes seconded Mr. Long's motion and it passed unanimously to defer to the end of the Agenda.

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At the end of the Agenda the above case was recalled.

A letter was entered into the record from the contiguous property owner Mrs. Carol Frey. It had been stated earlier that it might be that this property owner was in the process of selling their home, therefore they would not be an interested party. They had stated in a Petition that they had no objection to this application. This letter from Mrs. Frey stated that "This is to advise that our property at 6515 Harwood Place, Springfield, Virginia, is not for sale. I am sincerely interested in my community." /s/ Carol Frey.

Mr. Kelley stated that the Board members that all been to see this site during the break in the BZA's schedule.

Mr. Richard Long stated that he was concerned about the traffic problem since the house was on the corner of Harwood and Keene Mill Road. Keene Mill Road is a high speed highway and is heavily traveled. The site distance was not very good either.

Mr. Barnes agreed that the traffic problem was a hazard at this location.

In application No. S-26-72, application by Kumjai L. Smith under Section 30-7.2.6.1.5 of the Zoning Ordinance, to permit beauty shop in home, on property located at 6517 Harwood Place, Springfield, also known as tax map 89-2((5))308 & 308B, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Arkley W. & KUmjai L. Smith.
2. That the present zoning is R-12.5.
3. That the area of the lot is 27,332 square feet.
4. That the Planning Commission recommended denial of this application at its regular meeting March 30, 1972.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion and the motion carried unanimously with all members except Mr. Smith present.

Mr. Baker stated that he wanted the record to reflect that the only reason he voted against this application was because of the traffic hazard at this location.

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HOLLIN MEADOWS SWIM & TENNIS CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to allow continuation of existing special use permit to operate community swimming pool and other recreational facilities with addition of lights on tennis courts and modification of parking requirements, 2500 Woodlawn Trail, Hollin Hills Subd., 93-3((1))6A, Mount Vernon District, (R-17), S-27-72

Mr. Gillett, former President of the Hollin Meadows Club, spoke before the Board.

Notices to property owners were in order. The contiguous owners were Charles Krisman, 2501 Appian Court, Alexandria and Mr. Gardfola, 7612 Elba Road.

Mr. Gillett stated that they were there to request lights on the tennis courts and modification of the parking facilities. He stated that they had asked the nearby school's permission to allow them to park on the school property if they needed additional parking spaces. He had a letter which he submitted to the Board. He stated that they would have convenient access to this parking lot.

Mr. Smith stated that this letter was from the Principal of the School, and he questioned whether or not the Principal of a school would have authority to grant the use of school property.

Mr. Gillett stated that they had filled out appropriate forms and submitted them to the Principal of the school.

Mr. Smith stated that he felt the Board should require confirmation from the School Board.

Mr. Gillett stated that this school parking was only if the Board should require them to have extra parking spaces. He stated that up to the present time they had had no problem and all of the members and the adjacent property owners also would not be in favor of expanding the lot. He stated that they have 300 members and this permit was originally granted in 1962.

Mr. Smith asked if they had a valid occupancy permit.

Mr. Gillett stated that they had a temporary occupancy permit which they received in February 1972. The Site Plan people gave them 90 days he stated to comply.

Mr. Smith asked when they received the first violation notice.

Mr. Gillett stated that they received a violation notice when they approached the Zoning Administrator to try to get permission to put lights in at the tennis courts.

Mr. Smith stated that the Special Use Permit would not then be valid as to the entire operation as they had never complied with the requirements of the County.

Mr. Garza, Chief of the Technical Branch of Zoning Administration, stated that they had reviewed the application and found that they had not complied with the original use permit. They do not have a dust free surface for the parking area and they did not comply with the parking requirement that the Board set.

Mr. Garza stated that they only have 46 spaces now and the Board set 97 as a requirement. They also need to clean their drainage ditch.

Mr. Smith stated that they certainly would have to comply with the original granting in order to have an extension of the use and will not receive an extension of the use until they have completed the requirements of the original permit.

Mr. Gillett stated that the major issue on the original plan is the parking.

Mr. Smith stated that the Board could not waive the parking. He told them they should have come back to the Board at the time they put in the parking if they wanted it waived and not wait 10 years. He stated that if this parking requirement was part of the original granting, then this Board could not waive it.

Mr. Frank Madley, current President of the Club, spoke before the Board. He stated that there was no problem with the dust-free surface and that it would cost $3,000, but they would do it.

He stated that both he and Mr. Gillett had only been members since 1968 and he was not aware that they were in violation.

Mr. Akin, 7604 Elba Road spoke in opposition to this application. He stated that originally they had two tennis courts. They built a third tennis court on the parking lot and that is where the parking lot went. He stated that occasionally they had a shortage of parking spaces. The major problem is dust. They do hold swim mates.

Mr. Smith stated that if they have three tennis courts they are in violation also. The original plan calls for two tennis courts. Mr. Smith stated that in looking at the original plan and the present one that they do not even resemble each other.

Mr. Gillett stated to the Board that they had not been given the opportunity to speak on the lights.

Mr. Smith asked them if they intended to pursue the lighting problem.

Mr. Gillett stated that they felt it was fruitless at this stage .

Mr. Alfred Akin, 7604 Elba Road, again spoke to the Board in opposition to this application. He stated that he objected to any expansion of this use permit. He stated they should not be allowed to expand particularly since they had not complied with the original permit. He stated he felt that the two existing tennis courts which were constructed in violation should be converted to parking in order for them to comply with the original use permit.

Mr. Barnes stated that he felt they should go back and work out something between the two groups.

Mr. Akin stated that he also objected to the off-site parking. He stated that it is not convenient, it is across the road and they would have to walk right through his yard.

Mr. Akin showed the Board on the map the relation of the schoolparking to his property and the property of the swimming pool.

Mr. Akin stated that of the contiguous property owners, four of the original owners that owned theproperty when the original use permit was granted, still live here. He stated that he was one of them and it was the original property owners whose permission was sought originally and it was by their cooperation and suffrage that the original application was granted. This was to be a family neighborhood swim and tennis club that would be run from dawn to dark and it was under that consideration that they sought permission to do this in the first place.

Mr. Kelley moved that this case be deferred until the two groups could meet together and make a decision as to how they can work out their problems amicably.

Mr. Smith told them they would have to start to comply with Site Plan with such items such as the ditch and the parking surface. Mr. Smith stated that they should meet together within two weeks in order that the club would not go beyond the 90 day temporary occupancy period.

Mr. Baker seconded the motion.

Mr. Long stated he would like to amend the motion to include,"that the staff have the opportunity to review any of the plans that these groups come up with prior to the hearing. They should have these plans in at least 5 days prior to the hearing."

Mr. Baker accepted this amendment as to his second. Mr. Kelley accepted this amendment. The motion passed unanimously with all members voting.

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11:30 - The meeting of the Board of Zoning Appeals ajourned for a period of three hours as the Board of Supervisors needed the Board room.

During this lapse, the Board of Zoning Appeals viewed the property of application S-172-71 and V-215-71, application by Ronald Vollstedt. This property was located at Beddoo Street a block off of Route 1 in Alexandria, Fairfax County. This application was for a sales lot for automobiles and a variance to the setback requirements. The Board spend considerable time viewing this property and talking with the applicant.

Immediately thereafter, the Board viewed the property of Kumjai Smith whose application was heard at 10:00 for a beauty shop in her home. This property was located at Harwood Place, Springfield in the Westview Hills Subdivision. All Board members went on this viewing trip, the Clerk, Mr. Reynolds, Mr. Long and // Mr. Maize and Mr. Covington also went along.

2:00 The Board of Zoning Appeals returned to take up the 10:40 item. Mr. Smith did not return for the remainder of the meeting as he wasn't feeling well.
ROBERT BAINUM, app. under Section 30-7.2.6.1.3 of Ord. to permit nursery school, Kindergarten through 3rd grade and day care center, ages 2 to 10, Monday through Friday, 6:30 a.m. to 9:00 p.m., 168 children, 3106 Juniper Lane, 51-3((23))A1, Mason District, (R-12.5), S-31-72

Mr. Bainum, 10701 Main Street, Fairfax, Virginia, spoke before the Board.

Mr. Bainum stated he wished to amend the application to reduce the number of students to 125 and he would like to delete the proposed addition to the structure and he would like to reduce the parking area by four spaces. Those four spaces are the spaces to the rear of the lot. He also stated that he had an engineering study made by a traffic engineer that he would like to place in the record and in addition, he had an opinion from a real estate appraiser of what the school will do to present market values in the area that he would like placed in the record.

Notices to property owners were in order.

Mr. Baker moved that the application be amended as the applicant requested.

Mr. Barnes seconded the motion and it passed unanimously with the members present.

Mr. Bainum stated that the subject property is located in a neighborhood that contains 750 different lots, bordered by Sleepy Hollow Road, Leesburg Pike and Tripp Run. This is a residential neighborhood, but Leesburg Pike has stores and there are some Doctors buildingsand Dentists buildings on Sleepy Hollow Road. This structure was one of the first structures on Juniper Lane. This property is located directly next to Lord & Taylor's parking garage on one side and on the other side is a vacant lot, across the street is a complex of four apartments or townhouses and at a 45 degree angle to the left is a parking lot for 150 cars for a highrise building and to a 45 degree angle to the right is a dentist's office.

The present owner, Mr. Sweeney, lived at this location and had a school in the basement area, but this structure was built with a school in mind, the petitions are in already.

Juniper Lane,Mr. Bainum stated, carries 1700 cars per day and Patrick Henry which parellels Juniper Lane carries twice that number per day. The Fairfax County Police Department in their records of accidents show no record of accidents in that block in the year 1971 and no accidents in the first two months of '72 and that is the most recent records on it. On Patrick Henry there was one accident without bodily injury during the last year and two months. The comprehensive plan shows Juniper Lane on Map 10 on Page 37. This is the plan for Bailey's Crossroads Planning District. In this plan they mention and list certain streets that have created problems, but it does not list Juniper Lane. He stated that he hired a traffic engineer to study Juniper Lane as to the impact a school of this nature would have. Mr. Flanagan a civil engineer in traffic in Washington D. C. who has been an expert witness in courts states that in his opinion the proposed use is in accordance with the Bailey's Plan and to continue the school for young children will not adversely affect the health and safety of the area and will not constitute a hazard.

Mr. Bainum stated that he had asked for an opinion from Mr. Douglas A. Brooks who is qualified in courts in this area as a real estate appraiser who stated in his letter that there is no problem with this application affecting real estate values in the area.

Mr. Bainum stated that this school has been operating for 21 years with 25 students but he is asking for 125. They will not change the exterior of the building. There will be a driveway and parking area. He stated that they had enough play area and inside space according to the State and County regulations.

Mr. Barnes asked how many square feet of floor area he had.

Mr. Bainum stated that he had 42,000 square feet of floor area. He stated that he could comply with the inspection report. He stated that he would be the director of the school.

Mr. Kelley stated that it was hard for him to believe that 125 children could be taken care of in 22,500 square feet, of land area.

Mr. Long asked him if he furnished his own transportation.

Mr. Bainum stated that they have two small buses that would be parking in the back.

Mr. Smith read the Zoning Administrator's Staff Report from the Zoning Inspector.

It stated that"this property is a small lot and does not provide off street parking. This location notwithstanding the fact that this school has been in operation since 1949; the increase in traffic on Juniper Street, and the topography does not provide for harmonous location for a school of any type; especially for 168 children. The previous permit only allowed for the use of the ground floor. Under this condition there is not enough floor space to accomodate the proposed use of 168 children."

Mr. Joseph Cribben, 3147 Juniper Lane, President of the Ravenswood Citizens Assoc. spoke in opposition.

He stated that the Citizen Association met and discussed this application and unanimously approved a motion authorizing him to come before this Board and object to this application. He stated that he had a Petition signed by 115 people in the community. He stated that they did not make an effort to obtain these signatures, these people came to the meeting and signed the Petition there.

Mr. Cribben stated that Mr. Bainum did not notify the most affected person, Mr. Burndrick who lives behind this school.

Mr. Burndrick 's back yard adjoins the school's back yard.

Mr. Joseph Fried, 3162 Juniper Lane, spoke in opposition to this application. He stated that Mr. Bainum did notify Mr. Poppelman who has a 99 year lease for Lord and Taylor and who lives in New York. He stated that he did not feel the impact on this man would be the same as if he had notified Mr. Burndrick who lives directly behind the school. He stated that the two points that the community as a whole object to is 1) the impact that this commercial operation will have on the community and the adjacent streets which would rezone 3106 from residential to commercial by way of a special use permit and if he accomplishes this he would violate the so-called "ridge line" which the Board of Supervisors established in 1963 when it approved the erection of the Lord and Taylor Store.

Mr. Barnes told Mr. Fried that this does not change the zoning.

Mr. Fried stated that after this man makes all the changes that are necessary to have a school for 125 children it will never be converted back to its original residential use and status.

Mr. Fried also stated that the school is proposed to operate from 6:30 A.M. until 9:00 P.M. and this school changes the whole concept of what this neighborhood school has been through the years. He stated that they never objected to Mr. Sweeney's school.

Mrs. Cortick, a resident in the community, spoke before the Board in opposition. She stated that the statement Mr. Bainum made earlier that they opposed Lord and Taylor was incorrect. She stated that the land was zoned for apartments, but the community went along with commercial and this was done because it was realized that Lord and Taylor was a help to the community. Mr. McIlvaine's property the community went along with also. Mr. McIlvaine is a long time resident of their community and they were confident that he would do what was best for the community that he resided in. Both the McIlvaine property and the Lord and Taylor property are up toward Leesburg Pike. This property that is the subject of the application before the Board today is located on the right hand side as you come in over the crest and go downgrade and causes direct impact on traffic. This property has only a 100' frontage and does not have a circular drive and as shown in the application has about 11 parking spaces and is reducing these to get play area for the children. It has an operating staff of from 12 to 14 people and will have minibuses and if he is going to have food prepared and catered then there will be additional traffic for this. Then there is the janitoral service she stated would have to be taken into consideration as needing parking.

Mrs. Lombar, a resident of the area, spoke in opposition to this application. He stated he wished to make a point to the Bailey's Plan that Mr. Bainum referred to. That plan has not been accepted by the Board of Supervisors and regarding Map 15 the Planning Staff is in the process of making recommendations on this map. Map 7 is more reasonable and is the map of existing landuses and land use policies and that map is currently indicating stable residential in character and says nothing about its institutional use. The Supervisors have not accepted this plan and neither have the citizens.

Mrs. Schick, 3219 Valley Lane, spoke in opposition to this application. She stated Mr. Bainum's report on the traffic was incorrect. Her son was hit by an automobile in October of 1970. She asked how many children must be hurt and perhaps killed before they realize they have a traffic problem and do something about it.

Mr. Bainum in rebuttal stated that they have a unique property here. The owner was one of the first in the area. He built a structure to be built as a school. The owner lived there and had a school for twenty-one years. It has served approximately thirty families in the immediate neighborhood. It is next door and nearby to commercial properties. You can hear cars stop and start from morning until the stores close at 9:00 at night. The neighbors that would be affected most are not present. He stated that he hoped the Board would take into consideration the needs of this gentleman who has had a heart attack and would like to sell this property and retire and the needs of a hundred families that need to send their children to private school.

Mr. Long indicated that there were eight letters of objection in the file that would be made part of the record.

In application No. S-31-72, application by Robert Bainum, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit nursery school, and kindergarten thru 3rd grade and day care center, on property located at 3106 Juniper Lane, also known as tax map 51-3((23))A1, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Wilbur K. and Ruth G. Swaney.
2. That the present zoning is R-12.5
3. That the area of the lot is 22,525 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

2. That the use will be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded the motion and the motion passed unanimously with all members present except Mr. Smith.

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MICHAEL O'HARA, app. under Sec. 30-6.6 of Ord. to permit addition to be constructed within 9' of side property line, 7600 Elba Road, 93-3((13))8, Mount Vernon District, (R-17), V-32-72

Mr. O'Hara testified before the Board.

Notices to property owners were ruled in order.

Mr. O'Hara stated that he had an easement on the other side of the house and would not be able to build there. He stated that his plans had been approved by the Hollin Hills Architecture Committee. He stated he expected to make this his permanent home and to live there with his family is his intentions. There is 36 and 1/2 feet separation between the closest point of the new addition and the house next door. He stated he knew of no objection from any of his neighbors. He stated he had notified the people who live in Pakistan and own one of the houses next door but he has heard nothing from them. He stated he also notified these people's father who lives in the area. He plans to use the same architecture as the present structure.

No opposition.

In application No. V-32-72, application by Michael O'Hara, under Section 30-6.6 of the Zoning Ordinance, to permit addition to be constructed within 9' of side property line, on property located at 7600 Elba Road, Mount Vernon District, also known as tax map 93-3(13))8, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 16,459 square feet.
4. That compliance with all county codes is required.
5. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:

(a) unusual location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats includes with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. The materials and architectural construction of the proposed addition shall be similar to the existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion and the motion passed unanimously with all members present except Mr. Smith.

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COL. CHARLES S. CUMINGS, app. under Sec. 30-6.6 of Ord. to allow installation of swimming pool 7' from rear of dwelling, 7106 Park Terrace Drive, Marlan Heights 93-4((4))(1)13 Mount Vernon District (R-12.5), V-33-72

Notices to property owners were in order.

Mr. Cumings stated that this pool would be constructed by the National Construction Company and they will do all the work including the heater, diving board, sliding board, etc. There will be a fence around the pool 6' high. He stated that he was requesting the variance because the ordinance requires that the pool cannot be within 12' of the house as it is a structure.

Mr. Smith told him that he could place this within 4' of the rear property line.

Mr. Cumings stated that he had a drainage swell and there is also a bank behind the house. He showed the Board some pictures of the property. He stated the incline is about 15 percent grade. He stated that his property goes about the first 3' of the grade.

A representative from the National Construction Company spoke before the Board. He stated that the reason they want to put the pool closer to the house is because the property line does extend up the bank behind the house to an extent to where it is more practical to handle the drainage around the pool by putting up a retaining wall to handle the grade difference.

Mr. A. M. Prothro, attorney for Mr. and Mrs. Charles F. Mullaly, 7107 Sussex Street, Lot 16, immediately to the rear of Col. Cumings, spoke for them in opposition to this application. He stated that it could be constructed elsewhere on the property. He stated that he not only was the attorney for Mr. and Mrs. Mullaly, but also a personal friend.and frequent visitor to the house. He stated that it would be a tragedy to put this pool in this proposed position because of the terrace feature on the property of Col. Cumings and also Mr. and Mrs. Mullaly. The Mullaly property overlooks the Cumings' property from the rear windows. The view from the Mullaly property is over the Cumings property and across a beautiful vista lying further to the east, overlooking Mount Vernon Parkway and the Potomac River area. The Mullaly residence was designed to take full advantage of this sweeping view. The Mullaly's living and recreation rooms are located in the rear, where large picture windows have been installed. It is in these rooms and in an outside patio living area, also located in the rear or back of their dwelling, that the Mullalys entertain their guests and most enjoy the serenity of their home. The natural noises which would emanate from a swimming pool in the immediate backyard of the Cumings household would most certainly disturb this serenity, he stated. He stated that it is their feeling that this pool will invade the privacy of the Mullaly property. The boundary line between the two properties is only 37 feet from the rear of the Cumings residence. He suggested that it could be installed to the north, south or east yard.

In addition Mr. Prothro stated that the hill on which the Mullaly residence is located drops off steeply to their boundary with the Cumings property and consists of filled ground. They are concerned with the possible sliding or ground slippage from the excavation for the pool. This problem should be fully explored before an excavation is made so near to the steep bank of filled ground. He called the Board's attention to Section 15.1-495 of the Code of Virginia, which provides that the granting of a variance must "alleviate a clearly demonstrable hardship, approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant..." He stated that it also provides that no variance will be granted unless the Board finds that its authorization "will not be of substantial detriment to adjacent property". He stated that they submit that this application fails on both of these counts. He stated that an engineering study is needed and this burden of proof should be borne by Col. Cumings.

Mr. Prothro asked Mr. and Mrs. Mullaly to stand and be recognized and to verify that they would give substantially the same testimony if they were to testify personally.

Mr. Kelley asked Mr. Covington if they could move the pool to where it did not require a variance.

Mr. Covington answered that he could put it in where he plans to now by moving it back 5 feet.

Mr. Cumings stated that if they moved it back 5' the retaining wall and the drainage work would be extension.

Mr. Barnes stated that he felt that to locate this pool any place else on the property would be unsightly and would devalue the property any place else as the pool would then be in a front yard.

The representative from the pool company stated that to his knowledge the Mullaly's do not have a scenic easement across the Cummings' property.

Mr. Cumings stated that he had never seen the Mullaly's use the patio. He stated that the noise would only be the noise of his wife and two year old child and any guests they might have from the Villa May Community. These people are nice people and know how to preserve the privacy of a neighborhood community. He stated that they had some pictures of pools put in by National Construction Company they would like to show the Board.

Mr. Cumings stated that Mr. Seale of the Design Review staff of the county has surveyed the property and has said that the pool could be built in either location.

The representative from the pool company stated that every pool they do is examined by the County.

Mr. Cumings stated that he felt that the pool being closer to his house would affect no one but his family.

In application No. V-33-72, application by Col. Bharles S. Cumings, under Section 30-6.6 of the Zoning Ordinance, to permit installation of swimming pool 7' from rear of dwelling, on property located at 7106 Park Terrace Drive, Marlan Heights Subd., also known as tax map 93-4((4))(1)13, Mount Vernon District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 21,912 square feet.
4. That compliance with all county codes is required.
5. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:
(a) exceptional topographic problems of the land,
(b) location of existing buildings on the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion and the motion passed unanimously.

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ROBERT L. SCHMIDT, app. under Sec. 30-6.6 of Ord. to allow construction of pool within 14' of Burford Drive, 7524 Royal Oak Drive, Old Swinks Mill Estates, 20-4((4))32, Dranesville District, (RE-1), V-35-72

The Chairman read a note given to him from the Zoning Administrator which was a telephone message from Mr. Schmidt. In this message Mr. Schmidt stated that he was in a Congressional hearing and would not get through in time to be present at his hearing.

There were some people in the room who were present to speak in opposition and because it had been advertised and posted to be heard this day, the spokeman for the group stated that he felt they should be able to speak to the case today.

Mr. Baker stated that he moved that these people be heard and then continue the hearing until April 19, 1972.

Mr. Kelley seconded the motion and it passed unanimously.

Mr. John Morrisette, 7525 Royal Oak Drive, directly across the street, spoke in opposition to this application.

He stated that he and the people in the room with him object to this application. He stated that they bought and built houses in Swinks Mill Estates because of the spacious area and this pool proposal is in the front yard setback requirement. He stated that they also object to the chain link fence as it will be unsightly. This street is the main thoroughfare through this development and everyone who comes into it will have to drive past this pool. He stated that he feels it should be in the back of the house.

Mr. Kelley asked if the land sloped in the back and Mr. Morrisette stated that it did.

In opposition Mr. Colombo, 906 Burford Drive spoke before the Board.

He stated essentially the same statements as Mr. Morrisette. He stated that the lot does slope down and it actually has two levels and he said he felt that it was his understanding that a pool could be built in the back of this house on the lower level.

Another resident Mrs. J. William Hemphille from the 7600 block of Burford Drive spoke in opposition. She stated that her biggest objection is bringing anything like this closer to the street. She stated that they have a home directly across the street. She said her neighbors were also planning on putting in a pool and they might decide to come in and ask for a variance too and put theirs in the side yard if this one is granted and this would open up pandora's box because the area is beautiful as it is now and everyone is trying to keep it beautiful.

Mr. Long stated that it should be noted that there were six people present in opposition to this application.

Mr. Long stated that the hearing is continued until April 19, 1972 and this testimony will be entered into the record.

ROBINSON & THAYER, INC., app. under Sec. 30-6.6 of Ord. to allow fence 6' high within setback from service drive; north side of Route 123 between Hunter Mill Road and Old Court House Road, 47-2((1))105 & 105A, Centreville District, (RT-5), V-42-72 (Out Of Turn Hearing)

Mr. Richard Dixon, attorney in Fairfax, represented the applicant.

Notices to property owners were in order.

Mr. Dixon stated that this is a townhouse development located next to the Oakton Shopping Center and the fence for which the variance applies runs along 123 along the service drive parellel to Route 123. He stated that they did not have to build the fence six feet high but Route 123 is being widened and they would like to provide more privacy for the owners of these townhouses. In an effort to save the trees that front Route 123 at the intersection of Hunter Mill Road it was necessary for the applicant to have their engineers in conjunction with Site Plan Review work out a change in the location of the service drive so there is a slight arc on the service drive and they will be losing 33' in order to align this up with the shopping center's drive. It also was necessary for this applicant to move the service drive over, that is, pull it closer to the house on the corner and if they pulled the fence in 10' the owner of the corner lot would lose his backyard. He stated that he did not feel there was any reason why

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this fence should not be put in along this service drive. The normal definition for front yard relates to the front of the house and the purpose is not to have a fence to the front yard and there is an obvious and distinct purpose for this. None of these things exist in this particular situation and actually just the opposite is true. To allow this 6' fence would be allowing screening to the traffic for the health and safety of the inhabitants.

Mr. Dixon stated that there is a rendering in the file of this fence. The fence will be brick and some wood to break the monotony.

Mr. Long asked if this design had been approved by the Fairfax County Landscape Architect.

Mr. Dixon stated that it had.

Mr. Long asked if this relocation was requested by the Staff.
Mr. Dixon stated that it was.

In application No. V-43-72, application by Robinson & Thayer, Inc., under Section 30-6.6 of the Zoning Ordinance, to permit fence 6' high within setback from front service Drive, on property located at north side Route 123, between Hunter Mill Road and Old Court House Road, also known as tax map 47-2((1))105 & 105A, County of Fairfax
Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State andCounty Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a loca l newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RT-5.
3. That the area of the lot is 7.625296 acres.
4. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:
(a) exceptionally shallow lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. Construction and materials to be approved by the Fairfax County Landscape Architect.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion and it passed unanimously.

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L'ACADEMIE MONTESSORI, INC., app. under Sec. 30-7.2.6.1.3 of Ord. to permit Montessori preschool, corner Ingleside Avenue & Elm Street, Ingleside Subd., 30-2((3))1 (R-12.5) Dranesville District, S-23-72

Mr. Winstead from the L'Academie Montessori School spoke before the Board.

Notices to property owners were in order.

Mr. Winstead stated that they have a contract to acquire this piece of property subject to this use permit. They have met with the citizens groups in McLean and at the time they met found that an access road was to be put in directly across their property. There were two alternates to this plan, one of which would permit them to have sufficient room to build the school on this property. He stated that due to the problems of going to one of the alternates, the Planning Commission and' the Staff recommended denial. He stated that he felt the property was ideally located across from the library and the civic center. They wish to be near community activity centers. They planned to have 150 students and have 7500 square feet of interior space with five classrooms, ten teachers and five interns, there will be thirty children in each classroom and they will operate on two sessions, morning and afternoon of three hours each. The play ground area was developed using the Montessori system for educational pre-schools for a guide. They plan to operate five days per week, Monday through Friday from 9:00 A.M. to 12 Noon and 1:00 P.M. until 4:00 P.M.

In opposition Mrs. Minera Andrews spoke to the Board on behalf of the McLean Citizens Association and the McLean Planning Committee of which the McLean Citizens Association is a member. She stated that they regret that they must oppose this application as the school would be an asset to the community. However, they feel the site is not the best place for such a school from the standpoint of the community in that a major road is designed or is planned to go through the middle of the property and any realignment of that road would jeopardize getting the State's cooperation in upgrading this major collection road. It is hoped that within the next five years they will attain the goal for these roads and have this overpas at this point as it is greatly needed. This realignment is highly desirable and may be critical to getting the State's cooperation, therefore, they must oppose this application. There is currently a residence on this site and it could continue to be used as it is and has been used for the past several years until such time as the road is constructed and then the area surrounding this will be in townhouses.

Mr. Winstead stated that he had no rebuttal.

Mr. Zimmerman spoke on behalf of the Montessori Schools in general and explained the difference between AMI Montessori Schools and Montessori Schools of America. He explained that teachers that have been trained in the MIA system will be accepted in either the AMI schools or the Montessori Society of America, although he said he was not sure whether or not they would accept each other. Their training program runs about twelve months from June through the following June. This includes an intensive training period of two months in the summer and the training of teachers in the classrooms for nine months. During this nine months, there are a number of required workshops that these teachers must attend. The AMI and their teacher certificates they offer correspond to something more than a Master's Degree from a college or university. In Oklahoma the University of Oklahoma offers a Master's Degree in Education for Montessori. The Association of Montessori International also has a similiar training program which covers many many hours of academic study. These programs include education in physiology, Montessori material and classroom management.

Mr. Smith read the memorandum from the Planning Commission recommending denial of this application.

Mr. Smith also read a portion of the Staff's report regarding this application. The Staff Report also recommended denial.

In application No. S-23-72, application by L'ACADEMIE MONTESSORI, INC., under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit Montessori preschool, Dranesville District, on property located at the corner of Ingleside Avenue and Elm Street, also known as tax map 30-2((3))1, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeal adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 43,64347 square feet.
4. That the Planning Commission voted on April 11, 1972, to recommend denial of this application.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

2. That the use will be detrimental to the character and development of the adjacent land and will not be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

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FAIRFAX QUARRIES, INC., app. under Sec. 30-7.2.1.3 of Ord. to permit stockpiling of quarried stone & erection of a maintenance building as an accessory use, 15717 Lee Highway, 64((1))12, Centreville District (RE-1), S-233-71

Mr. Long read a letter from Mr. Knowlton, Deputy Director of Zoning Administration stating that "the Board of Supervisors took action to defer the Natural Resources Ordinance and the attendant Natural Resources Overlay zoning for approximately two weeks. It was explicit in their motion that two things occur:

1. That all operations now in existence maintain the status quo until such time as the new controls can be put into effect; and
2. To request the Board of Zoning Appeals to take no action on any stone quarry or gravel pit application until such time as these items are resolved."

This action took place on April 10, 1972.

Mr. Long read a memorandum from the Planning Commission dated April 11, 1972 stating:

"The Planning Commission on April 6, 1972, deferred the above subject application to an indefinite date, that date to fall as soon as possible after action by the Board of Supervisors on the Natural Resources Ordinance.

It was the Commission's further respectful wish that the Board of Zoning Appeals also defer action on this case."

A letter from Robert W. Jentsch, Director, Division of Planning dated April 7, 1972 was also received by the Board and will be placed in the record.

Mr. Baker moved that the application of Fairfax Quarries, Inc., S-233-71, be extended until an indefinite date, that would follow as soon as possible after action by the Board of Supervisors on the Natural Resource Ordinance.

Mr. Long asked if this was agreeable with the applicant. Mr. Spence stated that it was.

Mr. Barnes seconded the motion.

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Mr. Long stated that it should be added to the motion that this was agreeable with counsel.

The motion passed unanimously.

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RONALD VOLLSTEDT & URSULA VOLLSTEDT, app. under Sec. 30-7.2.10.5.4 of Ord. to permit sales lot for automobiles, located at Beddoo Street, 93-1((1))21, Mount Vernon District, (C-G), S-172-71

RONALD VOLLSTEDT & URSULA VOLLSTEDT, app. under Sec. 30-6.6 of Ord. to permit office building within 9' of side property line and garage to remain 34' from side property line, 6726 Beddoo Street, 93-1((1))21, Mount Vernon District (C-G), V-215-71

Notices to property owners were in order.

Mr. Sutherland, attorney for the applicant, testified before the Board.

He stated that Mr. Vollstedt wished to have for sale some of the cars that he reconditions and possibly some new volkswagons later.

The variance relates to both the buildings. The one that exists now and the office building that is proposed. These property abutts a Fire Station which is not exactly a commercial use, but it surely is not a residential use. At the time Mr. Vollstedt constructed the other building, he was doing his own legal work and looked at the zoning code and it said 50' back for repair garages and no sideline requirements for commercial and he thought the Fire Station was commercial land, thus the mistake was made. He stated that he felt it was unreasonable to hold Mr. Vollstedt to the residential setback. This building could be used for several uses by right, but the automobile sales needs a special use permit. Should the County give up the Fire Station what happens then, he asked. He stated that he felt it would go commercial at that time, as the Fire Station could not possibly be turned into a residence. Should it be turned into a residence and at whatever time a site plan is filed for a residential use they would agree that the permit would cease. They would take down the sales office building and stop using the repair garage.

Mr. Vollstedt stated that he did not plan to make any entrances through the residential property.

Mr. Long stated that there are two points he would like to clear up and that is the reasons this application was deferred. First, they have a reply from Mr. Smith, Technical Branch, Zoning Administration, dated March 10, 1972, stating that the entire property is zoned C-G, except for a small triangular strip next to the Fire Station.

There is another letter in the file from Mr. J. O. Woodson, Zoning Administrator, dated April 7, 1972, stating that the building setback requirement in a commercial zone for a garage is 50 feet and the only parking setback restriction from adjoining residential property is that prescribed under site plan control for screening unless placed on the variance by the Board of Zoning Appeals. The only setback requirements for parking in C-G zones involving parking for all commercial permitted by rights are those prescribed under site plan control for screening. /s/ J.O. Woodson.

Mr. Long asked Mr. Covington, Asst. Zoning Administrator, the status of the brick wall if it is over the 7' height.

Mr. Covington stated that if it is over 7', he has to have a variance.

Mr. Long said the Board could request that this wall remain.

Mr. Barnes stated that when they push the dirt back around it it probably will not be too high anyway.

Mr. Kelley asked if they could grade down the fill on their side of the wall.

Mr. Vollstedt stated that they would run into difficulty because of the adjacent property.

Mr. Long stated that he felt this was a nice looking wall and he would not want to see it torn down.

Mr. Vollstedt stated that if he filled in on his side the Fire Department would have to fill in on theirs.

Mr. Long stated that in viewing the property earlier today, and looking at the residential property in the rear, he was wondering if Mr. Vollstedt could plant screening behind the parking that would screen that property.

Mr. Vollstedt said he would do all he could to screen his property from the residences in the rear. He stated he wanted to get permission to grade the area that is next to the Esso station and is owned by the Esso station and clean that up too.

In concurrence, Mr. Schulherr, 2509 Docksbury Place, spoke before the Board.

He stated that he was the recently appointed Chairman of the Planning Committee of the Mount Vernon Counselof Citizens Associations. I stated that he had not had an opportunity to go into the details of this application, but he had a call from the co-chairman and he asked that he come and state that the Mount Vernon Community of Citizens has no objection to this application, so he said he went by the Vollstedt property early this morning and looked over it with him. He said he did not want to make a statement until he had seen the property. He said he was impressed with what Mr. Vollstedt is doing and it appeared to him that Mr. Vollstedt was trying to improve the place. He stated that he was also impressed with the trees that remain standing on this commercially zoned lot.

Mr. William Allen, 6607 Beddoo Street, spoke in opposition to this application.

He stated that he was under the impression at the previous meeting that the Board had asked for a combined site plan of the entire area and he thought that would mean joining the two properties together in a common venture and that he would be unable to come out on Route 1 because of the width of the drive. Now, that he understood that he is only on the C-G property with this use, it changes things.

Mr. Long stated that the applicant has stated that he does not intend to make any connection between Lots 24 and 21 and the Board would require a fence along the back of Lot 21 without access between the two lots.

Mr. Long asked Mr. Allen to come forward and look at the plat.

Mr. Allen stated that the citizens in the Groveton Citizens Association are still in opposition to this application. He told the Board that there were three carcasses of cars on the front of this property only this morning before the Board viewed it. Normally, there are 18 to 25 cars parked in front of the building on Route 1 and there were only six today. He stated that the street in front of this property has a limited access and that will mean that these commercial uses will have to use the residential streets. He stated that the Board should consider the fact that Mr. Vollstedt built this building without a permit and he also built the wall without a permit. The Petition that he had submitted at the earlier hearing on the case were all property owners who live on Beddoo Street.

Mr. Vollstedt stated in rebuttal that the cars that he saw there today were some that were to be taken away and the wrecking company told them to put them out front and they were not there more than twenty-four hours waiting for the wrecking company to come and get them.

Mr. Covington stated to Mr. Vollstedt that he would not be allowed to store cars on the property on a storage basis and that any car that is brought there for repair would have to be in the rear of the property.

Mr. Vollstedt stated that these were cars that were there and awaiting insurance claim adjustments and they were left there for repairs and the owners never reclaimed them. He stated that when the property is improved the wreckers will be able to drive around back.

Mr. Barnes stated that this surely looks a lot better than it did look. He stated that he felt that Mr. Vollstedt was trying his best to make this property look better and when it is completed it will look most attractive.

Mr. Allen again stated that they were not opposing every business that might come into that area, but they were opposing the granting of a variance on this property and the sale of cars.

In application No. S-172-71, application by Ronald Vollstedt and Ursula Vollstedt, under Section 30-7.2.10.5.4 of the Zoning Ordinance, to permit sales lot for automobiles, on property located at Beddoo Street, also known as tax map 93-1((1))21, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of March, 1972 and the hearing was deferred until the 12th day of April, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is C-G.
3. That the area of the lot is 1.006 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use emobided in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Screening and planting as approved by the Director of County Development, along the northerly property line and at such other locations as deemed necessary, shall be done.

7. The brick wall as erected is to remain with the average height not to exceed 10 feet.

8. All building permits and site plans are to be submitted and approved by the proper authorities.

9. The trees are to remain if at all practical.

10. There shall not be any storage or parking of wrecked cars on the front of the property.

11. The building that is now on the property shall be inspected by the Inspections Dept. and shall be brought into conformity with all building code requirements.

Mr. Baker seconded this motion and it passed unanimously.

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VOLLSTEDT (continued)
April 12, 1972

In application No. V-215-71, application by Ronald Vollstedt & Ursula Vollstedt, under Section 30-6.6 of the Zoning Ordinance, to permit office building within 9' of side property line* on property located at 6726 Beddoo Street, also known as tax map 93-1 ((1))21, County of Fairfax, Virginia Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

*and to permit garage to remain 34' from side property line

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of March, 1972 and deferred until April 12, 1972; and

WHEREAS, the Board of Zoning Appeals has reached the following conclusions of Law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

(a) exceptional topographic problems of the land,
(b) unusual condition of the location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. Screening and planting as approved by the Director of County Development shall be done.

4. The existing building shall be inspected by the Building Inspections Dept. and brought into compliance with all building code requirements.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously. 4 to 0.

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VULCAN MATERIALS CO., SUCCESSOR OF GRAHAM VIRGINIA QUARRIED, INC., app. under Sec. 30-7.2.1.3 of Ord. to permit extension of quarry permit issued by BZA in 1956 and last extended by the BZA, Oct. 22, 1968, 10050 Ox Road, 112((1))Lots 3, 4, 6 and portion of 8, Springfield District, (RE-1), S-199-71

Mr. Baker moved that this permit be extended and deferred until the first meeting subsequent to the action by the Board of Supervisors with a maximum deferral not to extend beyond June 15, 1972, in view of the pending ordinance for Quarry operations and the agreement by all aggrieved parties and the applicant.
Mr. Barnes seconded the motion.

The motion passed unanimously. Mr. Long stated that this should be posted again.

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Mr. Covington brought up the application of Sleepy Hollow Nursing Home on Columbia Pike. He stated that there were several problems with this permit. The applicants were advertising this home in the yellow pages as apartments for the elderly and this was not what the Board approved. In addition there is a water cooler on this property and the adjacent homeowners cannot agree on where it should be put that will cause the least amount of impact.

Mr. Barnes stated that he felt it should be brought back before the Board and moved that it be placed on the Agenda for April 19, 1972 as an After Agenda Item and that the Clerk should so notify Sleepy Hollow Nursing Home that their use permit will be re-evaluated.

Mr. Baker seconded the motion and it passed unanimously.

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The meeting adjourned at 6:45 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH
CHAIRMAN

June 21, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals was Held on Wednesday, April 19, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman, George Barnes, Loy P, Kelley and Joseph Baker, and Jane C. Kelsey, Clerk.

The meeting was opened with a prayer by Mr. Barnes.

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JJS CORP. OF VIRGINIA, app. under Sec. 30-7.2.6.1.3 of the Ordinance to permit increase in capacity of Commonwealth Christian School by 100 children, nursery through 6th grade hours 8:00 to 4:00 P.M. and summer remedial classes, 5101 Thackery Court, 69-3((1)) Parcel 5, Springfield District (RE-1), S-34-72

Mrs. Shirley Boyett, 5102 Thackery Court, testified before the Board.

Notices to property owners were in order. The two contiguous owners were Mr. R. H. Nash and Mildred L. Zahns.

Mrs. Boyett stated that she and her husband were contract owners of the property located at 5101 Thackery on which they are requesting a use permit to expand the number of children in the Commonwealth Christian School. She stated that they have two other locations, 8822 Little River Turnpike and 5100 Thackery Court. It is Parcel 6 and 6A to the left of the present school that is before the Board today. This is contiguous to the present school. The present school was granted five years ago and has been in operation ever since. Since that time they have continued to grow and now have been able to obtain the only piece of property adjacent to the present school. This new property contains two acres of land which, when added to the existing property, gives a total of 9.8 acres. It is a brick and frame dwelling which can be made very suitable for school purposes. This school will be used for all day students with not more than fifteen students that will be under 5 years of age. They plan to be open between 8:00 and 4:00 P.M. with the school sessions being from 9:00 until 3:00. They will have approximately four of the small school buses, and four teachers and since their rates for the school include bus service, they do not expect many parents to drive their children to and from school. She estimated that about four out of every hundred students are driven by their parents. They presently have 160 children in the facility next door which is a normal 9 month school period. They do have next door two sessions of Kindergarten. They hope to have a class of remedial studies during the summer months.

Mr. Smith reads the staff report from Preliminary Engineering.

"This use will be under site plan control. It is noted that no provision is shown for either the dispersing of students from automobiles and buses to the proposed and existing school facilities or for increasing the playground area even though the number of pupils is increasing. The existing parking area is not easily accessible to the school facilities for visitors or faculty members. Also, this use abuts single family residential units. -- For the above reasons, this office is providing a suggested layout that could alleviate the problems mentioned."

Mrs. Boyett stated that they do not even use the existing parking lot except for three or four cars during the day. She stated they have eleven busses in the morning and six at noon and eight in the evening.

Mr. Reynolds stated that his suggestion is partly the result of discussions with adjacent property owners.

Mr. Barnes inquired if the busses were painted yellow and have the proper lighting.

Mrs. Boyett stated that not all of the busses comply.

Mr. Barnes stated that they all have to comply with the new State regulations.

Mr. Long asked Mr. Reynolds if when this was reviewed, they had a copy of the new proposed ordinance.

Mr. Reynolds answered "No."

Mr. Smith stated that after reading the proposed ordinance this site, other than the suggested changes basically meet the new proposed ordinance requirements.

Mrs. Boyett stated that the playground hours were staggered and there is never more children than is allowed at any one time on that playground.

Mr. Long inquired if the Planning Commission had heard this application. Mrs. Boyett answered "No."

Mr. Smith read a memorandum from John W. Clayton, R.S., Director, Division of Environmental Health, dated April 18, 1972 stating:
"The sewage disposal system at 5101 Thackery Court, Tax Map 69-3((1))Parcel 5 is adequate for a maximum of 30 pupils 8 to 4 daily or 60 pupils for four hours or less per day.

We request that if the Board grants this use that the approval be subject to providing public sewer or enlarging the septic tank system as required by the Health Department prior to the time the enrollment would exceed the number of pupils stated above."

Mr. Smith asked Mrs. Boyett if she was familiar with this report and she stated that she was.

In opposition Mr. John Roberts, 5104 Thackery Court, spoke before the Board.He stated that Mr. Krafsig will be helping him with the presentation and he lives at 5103 Thackery Court. He stated that his property is adjacent to Mr. Boyett's property and fronts on the only ingress and egress route of the existing and proposed school. He stated that they represented the residents on Thackery Court and Commonwealth Boulevard who have signed the Petition.

Mr. Smith asked if this Petition includes the contiguous property owners.

Mr. Roberts said it did not. He showed on the map where the people lived who signed the Petition.

Mr. Roberts stated that they had no objection to the extension of this permit provided that all facilities are improved. He stated that the reason they were providing the slides is to show their side of the problem.

Mr. Roberts then showed slides to the Board showing the parking lot at the existing school and the point where the busses deliver the passengers. He showed several slides of cars backing into or out of the adjacent neighbor's driveway and the congested area around the existing entrance to the existing school. He stated that to mention a couple of the problems (1) Adequate off-street parking should be provided in accordance with the ordinance (2) The parking spaces should be located so as not to impede the flow of traffic. (3) Adequate improvements should be made leading into and out of the school both for vehicles and pedestrians with a turn around and a wider road.

The parking presently is inadequate and is not located in an area where it can best be utilized, therefore, the parents park in front of the houses in the area. On occasions Mrs. Krafsig has had to ask parents to move their cars out of their driveway.

During special school functions such as spring activities, open house, etc., the cars are parked on both sides of the street. On one occasion there was a teacher sitting in her car in front of his house, he said, while children from the school were playing in his front yard.

The plan Mr. and Mrs. Boyett has submitted shows no plans for additional parking to handle the present problems or the additional ones that will be when the new school goes into operation. He then shows a slide of the over all view of Commonwealth Boulevard. Then a slide of a parent backing all the way from in front of his school back down the street leading from Commonwealth Blvd.. He shows several more slides of other parents' cars that were creating traffic hazards. He stated that the reason for some of these cars pulling into the neighbor's driveways is because there is no adequate turn around at the school. Specific traffic counts were made last week, and at the start of a typical day one can expect to have 5 teachers, 3 to 8 parents, and 5 to 9 buses simultaneously arriving and leaving the school. This could add up to 35 trips into and 35 trips out of the area each day. These cars and busses are arriving and leaving at the same time.

There are 15 children in the 4 houses on Thackery Court and 5 of these are preschoolers. He stated that they felt neither their children nor their property should be subjected to these hazards.

Mr. Roberts requested a copy of the minutes of this hearing.

He stated that the elevation of the houses is important here too. There is already a smell from the existing septic field at the proposed site.

Mr. Vernon Long from the Inspections Division stated that they had received no complaints regarding this school.

Mr. Roberts stated that they are opposed to the expansion of the drainage field. Any overflow or odor would come right down the hill toward the residences of Thackery Court, therefore, they would prefer the standard sewer connection.

Mrs. Boyett in rebuttal stated that this is the first objection she has had from any person relative to this operation. When the school was first built there was no objection and the neighbors did not want the trees cut down. She said they put up a fence and asked the adjacent neighbor if he would like the fence extended to Thackery Court past his property to keep the children from getting on his grass and he asked them not to put up the fence. There are no children who walk to school through Thackery Court. They only ones would be the ones that parents drop off. There are only four parents who regularly drop their children off. She stated that the pictures were accurate. There is only one time per day when the busses are all there. They are waiting in front of the school. They stay at that location for approximately fifteen minutes.

She stated that she agreed that the street needs to be widened.

The parking lot is located in the rear because when they originally got the use permit the present neighbor wanted the parking lot down there. At first they had the parking lot in the front, but the neighbors did not want the parking in the front where they could see it. She stated that if the neighbors wanted the parking in the front she would be glad to put it there.

Mr. Smith said that he felt the neighbors had realized that if this property were developed there would be more traffic than there is now with the school and have taken this into consideration.

Mr. Long moved that application S-34-72 be deferred and sent to the Planning Commission to be reviewed under the proposed ordinance and that this case be deferred for decision only until they have heard and made a recommendation on it.

Mr. Barnes seconded the motion.

Mr. Smith stated that he questioned whether they should send it back to the Planning Commission since the Planning Commission did not see fit to hear it originally and these people do want some changes and the applicants are willing to make the changes. It is the Board's responsibility to act on the application based on the present ordinance. He stated that he did not feel it was fair to the applicant nor to the Planning Commission to send this case back to them now. If the Board wanted them to hear it it should have been requested prior to this hearing. The opposition has stated that they do not object to this use other than certain deficiencies.

Mr. Smith continued by saying that the Board should allow the opposition and the applicants to come to some agreement.

Mr. Kelley asked Mr. Long if he would consider a substitute motion and that is that this case be sent back to the County Staff to see if they could work out something and meet all the requirements set forth in the staff recommendations prior to the meeting.

Mr. Long stated that he had no objection to this.

Mr. Long withdrew his motion and Mr. Barnes stated he would accept Mr. Kelley's motion, but added that the citizens of the community should be in on the meeting with the school and the County Staff and work something out and then come back to the BZA.

Mr. Reynolds from Preliminary Engineering stated that this school would be under Site Plan Control and they could handles a lot of the problems under the Site Plan Ordinance.

The substitute motion passed unanimously.

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MARCIA A. DIFFIN, app. under Sec. 30-7.2.6.1.3 of Ord. to permit kindergarten, 9:00 A.M. to 12:00 P.M., ages 3 to 5, 30 children in '72 and 45 in '73, 7134 Penguin Place, Falls Church, 40-1((1))14B, Dranesville Dist., (R-17), S-28-72

Notices to property owners were in order. The contiguous owners were Benjamin Akin, 7242 Penguin Place and Carl Campbell, 7130 Penguin Place.

Mrs. Diffin stated that there would be no afternoon classes and no lunches served and there would be no babysitting, but there would be a Jr. Kindergarten. She stated that she had been teaching about four years and they had owned the property for 40 years. She has also lived there for forty years. The children will be transported by private cars and she would encourage car pools. She does not anticipate any busses at the present time. She stated that she hoped to have interested families in the immediate neighborhood. She said they plan to put an addition on the house and hope to begin this month. There is no further expansion anticipated. These children will be from 3 to 5 years old and they do not plan to compete with the public schools. There will be 15 children per classroom. These plans have been checked by the team inspectors and improvements in the existing house will be finished to comply with the inspection report. The wooded area in the back of their house will provide the children with a first hand study of their natural surroundings. She stated that she has a degree in Music and graduated from the University of Virginia. In addition to being a teacher for 4 years they have also had a number of foster children and foster babies over the years. She stated that she came to teaching late so this is something that she has chosen to do because she believes in children just as she believes in Thanksgiving every day. She stated that there are two things that she feels is very important and that is to foster and encourage the wondering interest of children in the world around them and to help the child believe in himself. She stated that she would have a fenced recreation area 50 x 100 with equipment that meets the County ordinance requirements. They have two acres of ground.

Mr. Long asked if the well was approved in its location which is 15' from the drainage field.

Mrs. Diffin stated that they did approve it.

Mr. Long stated that they normally require it to be at least 100' from the drainage field.

Mr. Covington stated that an occupancy permit would be required now if this special use permit is issued.

Mr. Long stated that the well should be checked by the Health Department.

Mr. Covington stated that the present ordinance requiring the well to be 100' from the drainage field was only adopted 7 or 8 years ago and when this well was dug and the drainage fields put it, it was not in the ordinance.

Mr. Smith stated that the Health Department tests the water in all cases when it is to be used as public facilities.

Mr. Long asked Mrs. Diffin if she could provide a turn around area on this property for people coming in and going out to deliver children.

OPPOSITION: Mrs. Raymond J. Gardner, 2000 Friendship Lane, testified before the Board. She stated that she lives directly across from Mrs. Diffin's property on Lot 14B. Penguin Place stops and one has to go through a little gate to get into it and it is not public. Coming in from Friendship would be the only way to get to the Diffin property. This section includes 68 homes and she stated that she represented the residents of Southampton Forest Subdivision. The reasons for this opposition is: (1) Friendship Lane is the only route of access to and from the Southampton Forest subdivision of Fairfax County from Idylwood Road. There is no possible way that an additional exit or entrance can be provided. The subdivision consists of 68 planned family residences, 32 of which are built and occupied by homeowners or tenants and it is expected by the developer that the remaining homes will be completed this year. The operation of a junior kindergarten at the junction of Friendship Lane and Penguin Place will bring additional motor vehicles to their already overcrowded street, and in addition she stated that there is no turn-around for the school traffic since the school will be at a dead end street. (2) Friendship Lane is the only entrance available for fire fighting equipment to enter Southampton Forest on call to service 68 occupied homes. This could be a serious fire hazard with extra traffic pressures. (3) She submitted the Petition signed by thirty residents of Southampton Forest. requesting this this application be denied.

Mr. Smith stated that the Board was also in receipt of a letter from the Kraymore Construction Corp. dated April 18, 1972 stating that upon completion of 68 homes, forty-four are situated on 4 cul-de-sacs, it is to be noted that any additional traffic would be detrimental to the planned traffic flow as well as a serious hazard to entrance by fire fighting equipment on Friendship Lane which is the only access road into and out of this community. /s/ Ate Kramer, President.

Mrs. Diffin in rebuttal stated that she has no wish to destroy her neighbors, as they have been good neighbors. She stated that she felt they were acting in fear and she hopes it is groundless. She stated that the traffic could hardly be considered congested on Friendship Lane and there is no need for on street parking by the residents. She stated that she believes that any traffic created by the school will be benign. She stated that she had talked of this school to her friends and neighbors for about a year and the response was enthusiastic and she was surprised that this has come up now. She stated that she had also discussed it with the civic association and they concluded that there was no need to take a stand on this. She stated that she had just spoken with the President of the Civic Association just last evening and at that time they had no opposition and felt there was no need to take a stand.
She stated that she had a list of names, three of which are in that development, who had indicated an interest in this kindergarten and would want to look into it and consider it for their children and three more names who said they did want to send their children to her school. She stated that the cars would be turning around on her own property.

Mrs. Diffin then read a letter from Mr. Akin, who has lived contiguous to her property for fifteen years, stating that within the past several years they have seen a piece of land next to them that had one house on it resubdivided and now there are twelve homes on that same piece of land with plans for thirty more. He stated that this is the point in the County known as ground "o". He said he was faced with the proposal of having a small kindergarten next door and their first impression was to oppose it, but after giving the matter serious thought, they had concluded that this school would have little effect on their property and there is adequate land at the Diffin's for this school and they anticipate no detriment to their property from this use. Therefore, he stated that they had no objection to this application being granted.

Mrs. Diffin stated that Mr. Campbell is here to state that he has no objection.

Mr. Campbell rose and Mr. Smith asked him if he supported the letter written by Mr. Akin. Mr. Campbell stated that he did support the letter and the Diffin's proposal.

In application No. S-28-72, application by Marcia A. Diffin, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit kindergarten 9:00 A.M. to 12:00 P.M., ages 3 to 5, thirty children, on property located at 7134 Penguin Place, Falls Church, Virginia, and for forty-five children in 1973, also known as tax map 40-1((10))14B, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is James T. Diffin.
2. That the present zoning is R-17.
3. That the area of the lot is 1.84 acres.
4. That all State and County Codes is required.
5. That compliance with Site Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of this Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of students shall be 30 in 1972 and 45 in 73, ages 3 to 5.

7. Hours of operation shall be 9:00 A.M. to 12:00 Noon, Monday through Friday.

8. A minimum of six parking spaces shall be provided.

9. Specific approval of well by the Fairfax County Health Department is required.

10. This permit is granted for a period of three years with the Zoning Administrator being empowered to extend the permit for three, one year periods.

11. This permit shall not be valid until all conditions set forth herein have been met.

Mr. Baker seconded the motion and the motion passed unanimously.

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SARATOGA SWIM CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit swim pool club with wading pool & bath house & vending machine snack bar located off of Lake Pleasant Drive, Saratoga Section Subd., 98-4 ((4)) A-5, Springfield District, (R-12.5) S-36-72

Mr. Smith read a letter from Mr. Richard R. G. Hobson, attorney for the applicant, stating that the applicant wishes to withdraw without prejudice the subject request.

Some of the nearby residents have objected to the proposed location and the applicant wishes to consider other alternatives.

Mr. Baker moved that they be allowed to withdraw without prejudice and Mr. Barnes seconded the motion and the motion passed unanimously.

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JOHN R. CASSEEN, app. under Sec. 30-6.6 of Ord. to permit enclosure of open carport for porch 31.30' from Hanover Avenue, 5907 Hanover Avenue, 80-3((2))(28)6, Springfield Dist., (R-10), V-37-72

Notices to property owners were in order. The two contiguous owners were Carl C. Scott 5909 Hanover and Harold R. Cox, 5905 Hanover.

Mr. Casseen testified before the Board. He stated that the carport was built and designed at the time the house was constructed and it went 3.3' into the 35' setback regulation. He stated that he later screened the barport and enjoyed it very much but now he would like to take the screening down and put in windows in order that this porch can be used during most of the year. He stated that he had not used this as a carport for many many years. There will be no bedroom use of this room nor will there be any plumbing facilities and he doubted if he would even heat it except for a space heater. He has owned the property for 16 years and plans to continue to live there and this will be for his own family and not for roomers, etc.

In application No. V-37-72, application by John R. Casseen under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of open carport for porch 31.30 ' from Hanover Avenue, on property located at 5907 Hanover Avenue, Springfield District, also known as tax map 80-3((2))(28)6, County of Fairfax, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous andnearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 9,610 square feet.
4. That compliance with all county codes is required.
5. That the required setback is 35' from Hanover Avenue.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
(a) unusual condition of the location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

Mr. Barnes seconded the motion.

The motion carried unanimously.

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KENNETH W. SPEARS, app. under Sec. 30-6.6 of Ord. to permit erection of garage 5.06' from side prop. line, 2505 Monroe St., Herndon, Rocky Knoll Subd., 25((5))10, Centreville Dist., (RE-1), V-38-72

Mr. Spears submitted two sets of notices. He originally notified the property owners on March 2, 1972 about this hearing, but at that time he apparently did not have the time and date of the hearing. He again notified the same property owners on April 13, as to the time and date of the hearing. Mr. Smith asked the determination of the Board regarding these notices.

Mr. Baker stated that he felt the property owners were adequately notified.

Mr. Barnes moved that the Board go ahead and hear this case as the property owners were notified earlier and there were no letters in the file and no indication that anyone objected.

Mr. Baker seconded the motion, and it passed unanimously to accept the notices.

Mr. Spears stated that there was no other place on his property to erect this garage because in the rear of the house is the septic field and on the other side there would be a need for a variance also. This is to be a one car garage and he would also use it to store garden tools, etc. He planned to use the same type of material as the house is constructed of. The dwelling on Lot 9 is about the same distance off the property line as he is. He stated that his neighbor had stated to him that he would be glad to come to this hearing, but he had not thought it necessary.

No opposition.

Mr. Covington stated that this is a substandard lot and subdivision and this lot does not meet the required width as it is today, and the other houses in the subdivision do not meet the requirement today either. Mr. Spears stated that he was going to live in this house and was not putting it up for sale. He had owned it since 1966.

In application No. V-38-72, application by Kenneth W. Spears, under Section 30-6.6 of Ord. to permit erection of garage 5.06' from side property line, 2505 Monroe Street, Herndon, Rocky Knoll Subd., 25((5))10, Centreville District (RE-1), Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
   (a) exceptionally narrow lot,
   (b) unusual condition of the location of existing building.

AND WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 21,842 square feet.
4. That compliance with all county codes is required.
5. That the required side yard setback in an RE-1 zone is 20'.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

Mr. Baker seconded the motion and the motion passed unanimously.

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SIBARCO STATIONS, INC., app. under Sec. 30-7.2.10.2.1 of Ord. to permit service station at Southwest corner of U.S. Route 50 & Galesbury Lane, 44-2((1))part parcel 9, Centreville District (C-D), S-39-72

Mr. Smith stated that the Board should take up first the memorandum from the Planning Commission requesting that they be allowed to hear this case. Mr. Smith stated that this memorandum request came after the 30 day limit set by the Ordinance. The Ordinance states that the Planning Commission may hear and make a recommendation on any Board of Zoning Appeals case within 30 days from the time it is received.

Mr. Baker stated that he moved that the BZA deny this request as the time had passed.

Mr. Barnes stated that he felt the Planning Commission had enough time in which to hear this case.

Mr. Barnes then stated that there is an existing permit on this piece of property for a service station.

Mr. Long asked if this was for a transfer of the permit from one operator to another.

Mr. Hazel stated that this could have been a transfer request along with a 90 day extension request, but they felt it would be simplier in view of the Board's policy to grant only one 6 month extension after the year's expiration to submit a new application. The new request is essentially the same as the existing use permit, but it has an improvement which the existing permit plat does not show.

Mr. Smith asked if this request was for a larger request.

Mr. Hazel stated that it was not a larger use. It is the same type except it is a rear bay station.

Mr. Long moved that the Board of Zoning Appeals proceed with the public hearing until after we have heard the testimony and defer decision on whether or not to defer until after the Planning Commission hears this until the end of the testimony.

Mr. Baker accepted this substitute motion and seconded it.

The motion passed unanimously.

Mr. Hazel showed some slides on the viewgraph showing the corner of the Brookfield Shopping Center.

Mr. Hazel stated that there are two things that are different about this station from the existing plan. The existing plan was a three bay station fronting on Galesbury Lane and this is a three bay station fronting on Route 50. The delay for beginning the old station was the rather uncertain and long process of determining what the sewer situation was going to be in the Brookfield area. The connections now are available and there has been a $3,000 payment made to Fairfax County last November.

Mr. Hazel showed the Board a photograph rendering of an Atlantic station that would be built on the site.

Mr. Smith asked for notices and they were submitted and ruled in order. The contiguous owners were Mr. James O. Saunders, 4006 Maple Drive and Bernard J. Mahoney, 4016 Maple Drive.

Mr. Hazel stated that Atlantic Richfield is the operating company, but Sibarco Stations, Inc. is the applicant. Mr. Smith asked Mr. Hazel to submit the corporate papers on both stations. The Board was in receipt of the corporate papers on Sibarco.

Mr. Long moved that the application be amended to include Atlantic Richfield. This motion was seconded and passed unanimously.

Mr. Hazel stated that the staff has asked that the entrances be combined with the shopping center entrance, but, he stated that he was not aware of what the staff has in mind as their reasoning on this. He stated that they had had considerable involvement with the highway department regarding the median being used and they plan to have a left turn lane. This matter was the subject of a lot of discussions. The site distance requirements were changed. He suggested that this be left to the site plan people when the site plan is submitted. He said he did not believe the staff has a full awareness of the facts and he felt this request would be detrimental.

Mr. Reynolds stated that the Staff realizes that the plan submitted to the Board shows two entrances from the service station to the service drive. They are not asking that both be closed. They are only asking that the one closest to Galesbury Drive be closed. He stated that they are trying to create fewer entrances around the service drive and Galesbury.

Mr. Hazel stated that then the traffic would not have an access point to get back on the service drive and go through the intersection. The service road is a major transportation connection and they want to be able to maintain the movement through the service station onto the service road and up to the intersection.

Mr. Reynolds told Mr. Hazel that they felt the traffic on Galesbury will be such that a stacking lane will be required to gain access on Route 50.

Mr. Smith asked if this could be worked out with the Staff. Mr. Reynolds stated that it could.

Mr. Hazel stated that he had filed a site plan in the preliminary stage and it is in accord with this plan. It was submitted yesterday.

Mr. Long asked Mr. Reynolds if his recommendation was made on the plan the Board is reviewing. Mr. Reynolds stated that it was.

Mr. Smith asked Mr. Hazel if there was any plans for landscaping.

Mr. Hazel stated they would landscape the front of the buildings and he presumed that they would also do the islands, also.

Mr. Long stated that the Board has been requesting gasoline stations to put the landscaping plan on the plat.

Mr. Smith stated that there was an existing use permit on this site and this application is more in conformity with what the Board is trying to do, with the rear bay stations and the landscaping.

OPPOSITION: Mr. Marshall Sorokwasz, 13736 Pinewood Court, Chantilly, Virginia spoke before the Board. He stated that he had mixed emotions regarding this use. He said he was speaking for the Brookfield Civic Association of which he is President. He stated that the association met last night and this case was brought up and discussed. It also was discussed that the association came forward and put on record three years ago in favor of the shopping center, the filling station and everything connected with it. Now, they are saying that they are not in favor of this service station nor the shopping center. One of the reasons is because there is an Arco Station down the street about three-fourths of a mile, therefore, the need for another gasoline station is questioned. He stated that Mr. Brown of their association thought that they were moving the site of the station, but he had found that this was not true, but the association instructed him that if they were either changing the site or changing the direction so that it faced Route 50 instead of Galesbury, then he should go on record on stating that the Brookfield Civic Association opposed this new application.

Mr. Sorokwasz then said he would like to speak for himself as a citizen of Fairfax County and a resident of the Brookfield subdivision and go on record as being in favor of this station. He stated that it was his feeling that the time to express opposition to the shopping center or the filling station, etc. was three years ago when it was originally brought up. Now that these people have gone through this much work it is not the time to oppose it.

Mr. Smith told him that during the rezoning the filling station was on the plan with the shopping center, the bank, etc.

OPPOSITION: Mrs. Nancy Namich, 4324 Moylan Lane, Fairfax, stated that they were sent here to speak in opposition thinking that it was a rezoning, but since they found it was not a rezoning she could only say that they were opposed to the shopping center, to any gasoline station or any further rezonings in the area.

Mr. Hazel stated that he appreciated the reasonableness with which these people spoke.

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SIBARCO (continued)
Mr. Long asked Mr. Reynolds if he was satisfied that the entrance problem could be resolved and Mr. Reynolds answered that he was satisfied that it could be resolved in site plan. Mr. Long moved that this case be placed at the end of the agenda for decision only.

Mr. Barnes seconded the motion and the motion passed unanimously.

This case was recalled at the end of the Agenda and the following resolution was made.

In application No. S-39-72, application by Sibarco Station, Inc., and Atlantic Richfield, Inc. under Section 30-7.2.10.2.1 of the Zoning Ordinance, to permit service station on the southwest corner of U.S. Route 50 and Galesbury Lane, on property located on tax map 44-2((1))part of parcel 9, County of Fairfax, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is J. H. Dodge, M. R. West, Jr. and J. E. Miller, Trs.,
2. That the present zoning is C-D.
3. That the area of the lot is 28,900 square feet.
4. That there is a use permit on this property for a gasoline station granted November 10, 1970, No. S-195-70 which is still in existence.
5. That compliance with Site Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C Districts as conatined in Section 30-7.1.2 in the Zoning Ordinance, and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes i n screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The gasoline station is to be constructed of brick, 3 rear entrance bays.

7. There is not to be any storing, rental, sale or leasing of automobiles, trucks, recreational equipment or trailers on these premises.

8. There shall not be any free standing sign on these premises in connection with this use.

9. Entrances onto the service road along Route 50 shall be as approved by County Development.

10. Landscaping shall be as approved by County Development.

Mr. Barnes seconded the motion and the motion passed unanimously.

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RBD ASSOC., app. under Sec. 30-7.2.10.5.9 of Ord. to permit erection of motel, 102 units, 250' north of Intersection of Route 1 & Old Mill Road, 109((2))11 & 12, Mount Vernon District (C-G), S-40-72

Mr. Dove testified before the Board. He stated that through a clerical error the notices were sent out but not ten days prior to the hearing; however, we have, he stated, approached all of the parties that were notified in the initial notification, two of which are contiguous owners, and have waivers signed and notarized to waive their ten day notice.

Mr. Dove presented these to the Board.

Mr. Smith stated that he did not feel this would be adequate, but asked the Board their decision. Mr. Kelley stated that he agreed that these notices were not adequate. Mr. Smith then said that they had four days on this and would the Board want to defer this until the next meeting.

Mr. Long said that the next meeting still would not give him the ten days that is required and to his knowledge the Board has never waived the ten day requirement.

Mr. Smith stated that the Chair rules that these are improper notices.

Mr. Dove stated that he had an extreme hardship here and would appreciate any consideration from the Board.

Mr. Long stated that he felt the ten day notice requirement should be adhered to, and that this property should be reposted and the applicant required to make proper notification and that this case be rescheduled for the first meeting in May, which would be May 10. He said this was his motion.

Mr. Kelley seconded the motion. The motion carried unanimously.

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AMENDED TO: MOUNT VERNON ANIMAL HOSPITAL
GLENN R. NOFFSINGER, app. under Sec. 30-7.2.10.5.2 of Ord. to permit veterinary hospital 8623 Richmond Hwy., Alex., 101-3((1))pt. of Lot 104, Mount Vernon Dist., (C-G), S-41-72

Mr. Tom Lawson, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Curtis Corp. 319 Cameron Street, Alexandria, and Pettitt, Irene, 8609 Richmond Highway, Alexandria.

Mr. Lawson stated that Dr. Noffsinger is a veterinary doctor who has been practicing for a number of years and this Board granted a use permit for him to have a veterinary hospital on Backlick Road and one other in Woodburn.

Mr. Lawson submitted some photographs which show the area as it exists at the present time. He stated that this is a rundown area and this hospital will be an improvement. There is a 7-11 and a gasoline station in the nearby neighborhood. This operation will be completely enclosed and there will be no external runs and no noise and no odor. This will be operated on an appointment basis and the hours will be from 8:00 A.M. to 6:00 P.M. This will be called the Mount Vernon Animal Hospital and will be a trade name. He asked if the application could be amended to read Mount Vernon Animal Hospital.

Mr. Baker so moved. Mr. Barnes seconded the motion and it passed unanimously.

Mr. Lawson submitted copies of the architectural plans to the Board.

Mr. Smith stated that the rear abuts residential property and he asked Mr. Lawson what they planned to do back there.

Mr. Lawson stated that plan was to screen along that 12' strip.

Mr. Smith stated that he felt they should also have an architectural design toward the residential area. He stated that the Board has to set the design of the building.

Mr. Smith also asked Mr. Lawson if he was aware of the Staff request for dedication along Richmond Highway.

Mr. Lawson stated that he was aware of this.

Mr. Smith read this comment from the Preliminary Engineering Branch.

"This use will be under site plan control. It is suggested that the owner dedicate the service drive along Route 1, Richmond Highway, prior to site plan approval. A minimum 22' travel aisle will be required to the rear parking area. It is suggested that the developer redesign the parking arrangement to accommodate the 22' aisle."

Mr. Smith asked Mr. Lawson if he was in accord with this. Mr. Lawson stated that he was.

Mr. Lawson stated that it is his intent to have 17 parking spaces.

In application No. S-41-72, application by Glenn R. Noffsinger, under Section 30-7.2.10.5.2 of the Zoning Ordinance, to permit veterinary hospital on property located at 8623 Richmond Highway, Alexandria, Virginia, also known as tax map 101-3((1)) part 104, Mount Vernon District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Grover Lawson.
2. That the present zoning is C-G.
3. That the area of the lot is 15,374 square feet of land.
4. That compliance with Article XI, Site Plan Ordinance, is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY and the like through the established procedures and this Special Use Permit shall not be valid until this has been complied with.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE posted in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. All screening shall be as approved by the Director of County Development.

7. A minimum 22' travel aisle will be required to the rear parking area.

8. The owner is to dedicate the service drive along Route 1, Richmond Highway prior to site plan approval.

9. This permit is granted for a period of five (5) years, with the Zoning Administrator being empowered to extend the permit for three (3), one (1) years periods.

10. A copy of this resolution shall be posted in a conspicious place within the building.

Mr. Baker seconded the motion and the motion passed 4 to 0 with Mr. Long abstaining.

Mr. Lawson asked for a clarification on the limit of the permit.

Mr. Smith said that it meant that in five years he would have to come in and request another extension and the Zoning Administrator could indicate by letter as to whether or not it could be extended.

Mr. Lawson asked if this was automatic. Mr. Smith said it was not, the applicant has to come in with a letter requesting this extension.

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A & C REALTY (Formerly Tenneco Oil Co. & A & C Realty) S-231-71 and V-232-71. Request for withdrawal without prejudice.

A letter was read from Mr. Hansbarger, attorney for the applicant, requesting the withdrawal without prejudice of this case. Mr. Long so moved.

Mr. Baker seconded the motion and it passed unanimously.

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DEFERRED CASES:

ROBERT L. SCHMIDT, app. under Sec. 30-6.6 of Ord. to allow construction of pool within 14' of Burford Drive, 7524 Royal Oak Drive, Old Swinks Mill Estates, 20-4((4))32, Dranesville District (RE-1), V-35-72 -- Deferred from April 12, 1972

Notices to property owners were in order.

Mr. Smith told Mr. Schmidt that at the previous hearing, the one that Mr. Schmidt was unable to attend, the Board allowed the opposition to speak to this application. This will be placed in the record regarding this application. He asked Mr. Schmidt if he had any objection.

Mr. Schmidt stated that he did not.

Mr. Schmidt stated that he was requesting a variance from the zoning laws of Fairfax County in order to construct a swimming pool within 35' of the property line.

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He stated that he would like to revise his application to take the pool further away from the street in order to comply with the critisms of the neighbors. He stated that this is the only spot he can build this pool on his lot and there is just no other alternative available.

Mr. Schmidt submitted some photographs to the Board which indicate the severe topographic problems he has on the lot, the angle of the slope which is somewhere between 45 degrees and 50 degrees and the level area where the pool will be constructed.

Mr. Smith stated that the request has been substantially reduced and the Board has been submitted new plats.

Mr. Long stated that he did not feel these new plats could be accepted as it would not be fair to the people that were here at the April 12, 1972 meeting.

Mr. Barnes said he agreed with Mr. Long.

Mr. Kelley stated that he agreed also, but the Board would take into consideration the fact that he has offered to reduce the amount of the variance in the substituted plat.

Mr. Smith stated that the major objection last week was the location of this proposed pool in the front yard that would spoil the view. He stated that the Board has never allowed a pool in the front yard setback.

Mr. Long stated that one of the objectors, Dr. Colombo, pointed out that this road is the major access into their subdivision.

Mr. Schmidt stated that he could not place the pool in the back because of the severe drop of the property to the area to the rear of the house. The drop is 45 degrees. The area to the rear of the house has both the sewer easement. He stated that he had owned the property since September of 1971. This is his permanent residence and they plan to continue to live there. He stated that he would like to introduce some support into the record. He stated that the two contiguous property owners were in favor of this pool. Mr. Floyd Campbell, 913 Frome Lane, McLean, who abuts his property on the side that the pool is proposed. Mr. Campbell wrote to stated that he was supporting Mr. Schmidt's pool. He stated that Mr. Schmidt's property is adjacent to his but he felt that the pool with the proper landscaping would enhance the property. He also stated that he was contemplating building a pool and had a permit to begin. The pool would be located to the rear of his residence and he feels it would not interfere with this pool.

Mr. Maganus is the contiguous property owner on the other side and supports the pool. Mr. Rogers is a neighbor who lives two doors away and supports the pool and Pete McClusky lives three doors away and supports the pool.

Mr. Schmidt stated that the pool could be built in the back, but the cost would be doubled at least. He would also have to destroy twenty-five trees in order to locate it in the back. These are mature trees and stand 40 to 50 feet in height. He said he felt this pool would enhance the surrounding property. There are no public pools in this area. He said that he felt the evergreens and shrubbery would shield the pool from the neighbors. The overall height of the fence within the 50' area would only be 4 feet. He said he would be willing to construct it higher if it would be desirable to insure the safety and protection of the children of the neighborhood.

Mr. Kelley reads the comments from the Staff, the Chief Zoning Inspector, which stated that this is a corner lot and if this pool is allowed it would tend to cause it would have an adverse effect as the main thoroughfare to the community fronts this pool.

Mr. Covington stated that if he sets this pool 12' behind his house he could come within 4 feet of the side property line.

Mr. Kelley asked Mr. Schmidt if, prior to purchasing this house, he contemplated building this pool.

Mr. Schmidt stated he he did not think in terms of a specific pool and wasnot aware that he would have such strict setbacks.

Mr. Pete McCloskey, 7625 Bufford Drive, McLean, spoke in favor of this pool.

Mr. John Morrisette who had previously spoke in opposition to the pool at the previous hearing stated he would like to see the revised plats. After looking at the revised plats Mr. Morrisette stated that he had no opposition.

Mr. Barry, Zoning Inspector, came forward and Mr. Smith asked him to clarify his statement he made to Mr. Schmidt on the telephone that there had been other pools granted a variance in the front setback area.

Mr. Barry stated that there was a pool located in a subdivision called Sunny View in Franconia. This was an above ground pool but it was large, about 18' as he recalled and this was about two years ago that this was granted. It was about 21 feet from the property line but the density was higher. He said he believed the density to be R-12.5. It was also a corner lot and in that particular case there was just no other place for the pool.

Mr. Morrissette came forward and stated that after looking at the revised plans he no longer had any objection.

Dr. Colombo, who testified the previous week, came forward and stated that even though they understand that there will be sufficient screening they are still objecting to this variance. He stated that it would affect adversely the value of the homes in the area. He stated that the Ames who were present the week before had called him and said that they still objected to this application.

He stated that his feelings were in conjunction with the Staff Comment from the Chief Zoning Inspector that since this was right on a corner and would be seen by everyone who came into the subdivision it would affect the community as a whole. He stated that he hoped the Schmidt's could see their way to place the pool down on the lower part of the rear yard.

He read a Petition into the record which stated that "We, the undersigned, hereby object to the request for a zoning appeal variance regarding construction of a swimming pool on Burford Drive.

We are voicing our objections to the building of this structure because we feel that it is detrimental and unsightly to the area and that it is not in keeping with the architectural tenor of the neighborhood. Many of the undersigned live in direct view of this proposed pool.

We feel that a pool in such a location surrounded by a fence will be detrimental to the overall appearance of the street and neighborhood having hereby an adverse effect on the esthetic and financial value of our homes./s/ H. B. Sandmyer, 905 Lynton Place, McLean, Virginia; Pat Amford (inaudible) 906 Frome Lane, McLean, Virginia; Gerald F. Hadland, 7641 Burford Drive, McLean, Virginia; Alfred L. Stringle, 7633 Burford Drive, McLean, Virginia; M. Jane Hamphill, 7645 Burford Drive, McLean, Virginia; John Morrissette, 7525 Royal Oak Drive, McLean, Virginia; Joan B. Palumbe, 906 Frome, McLean, Virginia; Malfrid Dutemple; 7652 Burford Drive, McLean, Virginia, Anita Eng, 7648 Burford Drive, McLean, Virginia."

Mr. Schmidt stated in rebuttal that the important fact to remember here is that the two contiguous property owners who support the proposal and the property owner directly across the street just stated that he no longer had any objections and if the pool is located in the rear it could still be seen by the property owners and would be more expense.
Mr. Smith told him that financial hardship was something that the Board could not take into consideration especially when there is a chance of this having an adverse effect on the area as a whole.

In application No. V-35-72, application by Robert L. Schmidt under Section 30-6.6 of the Zoning Ordinance, to permit construction of pool within 14' of Burford Drive, Dranesville District, on property located at 7524 Royal Oak Drive, Old Swinks Mill Estate, also known as tax map 20-4((4))32, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of April, 1972, and deferred to the 19th day of April, 1972; and

Page 109
April 19, 1972
SCHMIDT (continued)

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 42,021 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

/ Mr. Baker seconded the motion and the motion passed unanimously.

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AFTER AGENDA ITEMS:
SLEEPY HOLLOW NURSING HOME, Virginia Doctor's Properties, Inc.

On April 12, 1972 at the meeting of the Board of Zoning Appeals, Mr. Covington brought up the application stating that there were several problems. Number One they were advertising this home in the yellow pages as apartments for the elderly and this was not what the Board approved. In addition, there is a water cooler on this property and the adjacent homeowners cannot agree on where it should be put that would cause the least amount of impact. It had been moved, seconded and passed unanimously that this should be brought back before the Board to allow the applicant's to tell the Board just what they were doing and their use permit would be re-evaluated.

There was a statement in the granting of this use permit, Mr. Covington stated, that said that it had to be in keeping with the residential character of the neighborhood and he stated that he did not feel this was and neither did the neighbors.

Mr. Covington stated that the thing they are proposed to be under their advertisement is not in his estimation in the category of a nursing home.

Mr. Smith asked Mr. Covington if the ownership of this establishment had changed.

Mr. Covington stated that it had not to his knowledge.

Mr. Straus Campbell was present to represent the nursing home.

Mr. Campbell stated that Mr. Lillard handled the application before this Board at the time it was filed in the name of Manor Home, Inc. He stated that there had not been a change in ownership nor in corporation name. The original application read S-203-69, Virginia Doctor's Properties, Inc., an application to permit an addition to nursing home on property located at 6710 Columbia Pike

Mr. Smith asked if Sleepy Hollow Manor, Inc. was a subsidiary.

Mr. Campbell stated that it was not. It had been conveyed to Virginia Doctor's Properties, Inc.

Mr. Smith said"the question is,'Has there been a change in use?'"

Mr. Campbell stated that there had not been a change in use. At the time this application was made it was for an addition to a nursing home. He stated that prior to the hearing and under the applicable Virginia statutes the matter of being a nursing home and convalesant home is handled by the Department in Richmond.

Mr. Smith interposing stated that this is under a use permit in Fairfax County and the Board would like to see if there is a change in use and a change in category and if they were renting to retired citizens apartments with kitchens.

Mr. Campbell stated that this will be used for the people in the nursing home who do not require the medical attention of doctors and nurses and under state regulation nursing homes are divided into three categories; nursing homes that require skilled nursing around the clock, interim care,and facilities which are used for the elderly and this is the third case, facilities which are used for the elderly. They will still have twenty-four hour service and the people from their original nursing home as they become able to handle their own affairs can move into this wing. He stated that this type of thing is encouraged by the people in Richmond.

Mr. Smith again asked if they were proposing to lease or rent individual apartments here with kitchens as indicated in the ad in the yellow pages of the telephone directory.

Mr. Campbell stated that they would rent. He stated that Mr. Williams is present. He is the Administrator.

Mr. Williams stated that they will be leasing these rooms to individuals. Some who are in the nursing home now. As far as the yellow pages is concerned, it is listed under nursing homes and homes for the elderly. It is listed on page 589

Mr. Chairman asked about the listing on page 452 of the yellow pages.

Mr. Williams stated that this was discussed with the Zoning people and the people in Richmond.

Mr. Smith again stressed that this use permit was granted by the County of Fairfax and there were certain conditions that were attached to it and the Fairfax County Zoning Ordinance interprets homes for the aged and homes for the elderly in an entirely different category and if this is apartments with individual living units it is not under the Fairfax County Zoning Ordinance's interpretation of the use permit that was granted.

Mr. Williams stated that they believed they were clearly within that use that is titled nursing homes and convalesant homes and they contend that this is a nursing home. Some elderly people do not like the name of nursing home. They would prefer to be living in a residence for the elderly and that is exactly the purpose for calling this a home for the elderly.

Mr. Smith stated that first we must consider the Code of Fairfax County and our Ordinance does not interpret the same as they do at the nursing home. Mr. Covington stated that this use is not permitted under the existing use permit and he stated that he agreed.

Mr. Williams stated that they were willing to comply with the definition of a nursing home and this was discussed with County officials and Mr. Woodson, Zoning Administrator, some years ago.

Mr. Smith asked if they had something in writing on this.

Mr. Williams stated that he did not.

Mr. Smith stated that the present Zoning Administrator doesn't agree with the nursing home facilities adding a home for the elderly and it was now up to the Board to make a decision.

Mr. Williams stated that they have people now in the nursing home who must have food provided for them and need some type of care but they do not wish to be near senile people and are qualified to partially care for themselves. They can live in a home or apartment by themselves. The size of the apartment is about the same as a room at the nursing home now. It has a full bath and a small kitchen. He said perhaps they had used the wrong word as the kitchen only has two burners and one small refrigerator and one cabinet and it is primarily to cook soup and things of that nature. The main dinner, etc. is provided in the main dining room, but the Staff wanted them to have some place where they could fix their own coffee and keep soft drinks, etc. They have a built-in alarm system so a nurse would respond to that unit if it was needed and they would know exactly which unit to go to.

Mr. Long moved that since they had all read the minutes of the previous hearings the Board of Zoning Appeals should uphold the decision of Mr. Covington, the Zoning Administrator and give the owners of the property a period of 30 days to comply with their original Special Use Permit or apply to the Board of Supervisors for a proper permit under home for the elderly.

Mr. Barnes seconded the motion.

Mr. Long stated that he felt it was a matter for the Zoning Administrator to handle. If the property owners wish to modify their operations to comply they can or they can go before the Board of Supervisors.

Mr. Strauss stated that he hoped the Board realized the situation they were in. He stated that they felt this was being done extremely well and their plans were approved and it certainly was not their intention to violate the use permit. He stated that the State had given them a license for a home for the elderly.

Mr. Smith again told him that the people in Fairfax County are the ones who suffer the impact of the institution. This is where you have to get a use permit.

Mr. Smith stated that this use would have to be expanded in the same manner as the existing facilities.

Mr. Sullivan asked if they eliminated the kitchens would that be sufficient. Mr. Covington stated that they would also have to eliminate the gift shop and the beauty shop.

Mr. Smith stated that that was not included in the application either.

Mr. Louis Wack, 6712 Columbia Pike, immediately adjacent to the left side of this extension, testified before the Board. He asked if they would have an opportunity to view the plans should they decide to go before the Board of Supervisors.

Mr. Smith told him that he would.

Mr. Wack stated they were now in the position of looking down on thirteen patios with thirteen sliding glass doors and at the original hearing they were told they would be looking at one emergency exit and one nursing station.

Mr. Mack, 6707 Kapstain Drive, testified before the Board. He stated that he also overlooks these patios. He stated that the way these people are constructing it seems to be totally inconsistent with what they were granted and inconsistant with the residential character of their neighborhood.

Mr. Garland Page, 6714 Laney Court, testified before the Board. He stated that he did not believe the Board had viewed the property and he submitted pictures for the Board to see, one of which he taken from his back yard before he came to the hearing showing the new construction with the thirteen windows.

Mr. Smith stated that this does not appear to be in conformity with the original granting or the extension of the use that was granted.

Mr. Smith stated that there was a motion on the floor to give the applicant thirty to conform to the use permit that was granted or go before the Board of Supervisors. This motion had been seconded by Mr. Barnes and he called for a vote.

This motion passed unanimously.

Mr. Covington then brought up the subject of the water cooling tower that is sitting in the yard.

There was extended discussion on where the best place to put this tower.

Mr. Smith asked about the noise factor of this unit.

Mr. Paul Saudett, 8027 Leesburg Pike, Leesburg, Virginia, came before the Board and stated that it would be 15 decibels which is lower than the noise level of the area and less than the family air conditioner. He stated that he did not know the horsepower. It is a cyntrifical motor. He stated that he had a statement from the manufacturer, General Electric,and it is a self-contained unit. They are willing to remove it to another place and they have submitted three locations and no one has been able to agree on which of the three locations is the most logical and preferable. He stated that they have submitted that they would build a wall 15' high around it. The unit is 14' high.

It was suggested that the area nearest Leary School would be the area of least resistance. The parking area is adjacent to that.

It was stated that they were coming close to the required number of parking spaces and there might not be extra spaces. This unit would take up several spaces.

Mr. Reynolds from Preliminary Engineering stated that at least one space would have to be removed for this purpose.

Mr. Williams stated that they were at their limit now he thought.

Mr. Smith stated that he hoped this could be resolved without having to come back before the Board.

Mr. Wack said he wanted to be sure there was screening in front of the brick wall.

Mr. Smith stated that there would be as that was part of the conditions in granting this use permit and they would have to screen or they would not be able to get an occupancy permit.

Mr. Wack stated he would like the screening installed immediately.

Mr. Smith stated that as long as they complied prior to the initiation of the use itself, they could not ask them to put in the screening earlier.

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Mr. Grinnel came back before the Board with the Carnival Ordinance.

He stated that there were some changes made in the ordinance. One of these was in the suggestion of the Board that these applications be received by Community Service, and Community Service Office will be dissolved in thirty days so now the applications must go back to the Zoning Administrator.

Mr. Smith stated that he was sorry to hear this.

Mr. Grinnel stated that he would like to have some official endorsement of this by the Board of Zoning Appeals.

Mr. Smith stated that at the next meeting they would have a formal resolution on this.

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B.P.OIL, ET ALS on Pohick Road.

Mr. Smith stated that the applicant should be notified that they would have until May 17, 1972 and this property should be reposted and the property owners renotified at least ten days prior to the hearing date. If the applicant fails to comply, the Board would consider dening the application for lack of interest.

Mr. Long so moved.

Mr. Barnes seconded the motion.

Mr. Smith stated that it is imperative that they have all plats and all information in at least ten days prior to the hearing to give time staff time to review this.

The Clerk should remind the applicant, Mr. Smith said, that it was the intent of the Board that this case should have been acted upon March 15, 1972 or somewhere in that time frame.

The motion passed unanimously.

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The Board adjourned at 5:00 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

June 21, 1972
DATE

The Regular Meeting of the Board of Zoning Appeals was Held On Wednesday, April 26, 1972, at 10:00 A.M. in the Board Room of The Massey Building; Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman, George Barnes, Loy P. Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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CHAIN BRIDGE DEVELOPERS, app. under Sec. 30-6.6 of Ord. to permit division of lot with less frontage at building setback line than allowed, Mount Daniel Subd., Lot 22A, 40-4((15)) Lot 22A (Resub. of Lots 20, 21, 22 & pt of 23 & 24, 27 thru 30). Dranesville Dist., (R-10), V-43-72

Mr. Pammel, Director of Zoning Administration, sent a letter to the Board, which the Chairman read stating:

"The subject request is scheduled to come before the Board of Zoning Appeals on April 26, 1972. The staff at this time, would request that the Board defer this item for a period of ninety (90) days to allow the staff to schedule for public hearing a request by the City of Falls Church to permit the expansion of the Mount Daniel Elementary School on property immediately adjacent to and involving a portion of the property owned by Chain Bridge Developers. This review will require the action of the Planning Commission under Section 15.1-456, 1950 Code of Virginia as amended.

A further consideration in this matter will be the vacation of Greenwich Street which involves not only the property of Chain Bridge Developers but that property owned by the City of Falls Church. The right-of-way of Greenwich Street is presently unimproved; however, the City of Falls Church has constructed a parking lot on a portion of this right-of-way to serve the Mount Daniel Elementary School.

The matter involving the school under Section 15.1-456 of the State Code and the related item of the Greenwich Street vacation should proceed any action taken by the Board of Zoning Appeals on the variance being sought and the resultant resubdivision of Mount Daniel Subdivision. Once these items have been considered, and the final decisions made thereto, it might well be that action by the Board of Zoning Appeals on a variance may be unnecessary."

Mr. Richard Clement, Vienna, Virginia, represented the applicant and testified before the Board.

Notices to the property owners were in order. Some of the contiguous property owners were Sidney Johnson, 6804 Walnut Street, Falls Church; Willard Thompson, 6804 Walnut Street, Falls Church; Mr. Gallagher, 2349 Greenwich Street, Falls Church; and the Falls Church City School Board. Mr. Clement sent out twenty notices. He stated that he did this to make sure everybody knew about the hearing.

He stated that they were only asking for a variance on Lot 22A. Their subdivision plan for developing this subdivision has been based on considerable work with the City of Falls Church. He had a letter from Mr. Wells, City Manager, Falls Church which he submitted to the file. The letter stated:

"Please schedule on the Planning Commission's Agenda, as soon as possible, the request of the City of Falls Church for action by the Commission on the matter of amending the Fairfax County Public Facilities Plan to show the use of Parcel "A" as being for public school purposes and the vacation of a portion of Greenwich Street (Route #1747), as shown on the attached Plat and lying within Parcel "A", to be used for parking purposes.

We would greatly appreciate an early scheduling of this matter in view of the fact that the City is negotiating the purchase of Parcel "A".

/s/ Harry E. Wells, City Manager.

Mr. Clement also read a letter from Mr. Wells to Chain Bridge Developers stating that "the letter is to advise that the Falls Church School Board does not plan to make any major changes in the lots of the Mount Daniel Subdivision for which the City of Falls Church has been negotiating to purchase from Chain Bridge Developers. We wish you to know that the School Board requested the developers to consider a plan such as that which has been proposed. If Greenwich Street had been completed as originally projected, serious problems to the operation of Mount Daniel School would have resulted. A through street would have serious hazards to the safety of children and in addition to the safety hazard, there would have been a loss of parking facilities. The City's purchase of Parcel "A" within the subdivision is expected to alleviate these problems."

Mr. Smith asked him when he thought this purchase would take place.

The coordination of all of the elements involved here, Mr. Clement stated, is a problem. The purchase of Parcel "A" by the City of Falls Church is based on Chain Bridge being able to proceed with the resubdivision plan. In order for us to know whether we can proceed with that plan, we need two public hearings, one would be the request for the variance on Lot 23 and the other involves the vacation of Greenwich Street.

Mr. Smith asked him if he thought the vacation should come prior to this hearing.

Mr. Clement stated that this has been a topic of discussion and they were unable to get a firm date for the hearing before the Board of Supervisors and they hoped it might be heard before this, and since it had not, he hoped this would be approved subject to the hearing before theBoard of Supervisors.

Mr. Smith stated that he felt that it should go to the Board of Supervisors first.

Mr. Knowlton, Deputy Director of Zoning Administration, stated that there is a formal application before the County Executive for the vacation of this portion of Greenwich Street. He stated that if you would notice from the plats that were submitted with this application, that some of the lots do utilize some of the land that will result from that vacation. The vacation is being reviewed by the County Executive and will ultimately go to the Planning Commission and then to the Board of Supervisors for the vacation action. The subdivision, therefore, is entirely in question until this land is available for subdivision. He stated that he did not know if it had been scheduled before the Board of Supervisors as yet. He said he did not know a specific date.

Mr. Smith said the applicant is trying to expedite the vacation and get some agreement with theCity of Falls Church so they can develop the area.

Mr. Clement stated that it was back in October when this first came up and they proceeded with discussions with the City ofFalls Church and the School Board and had meetings with them and through these meetings this plan that is before you today has evolved. He stated that they were now under construction of ten lots in that subdivision. These lots are to be developed and delivered in May and the last one is to be delivered in August. He said they are trying to proceed with the construction operation plans so they can keep going. He stated that he did have building permits and have ten houses already sold. He said he did have a proper street outlet for these houses. He stated that there were twenty-one in the original recorded plats and there are now remaining 17 lots with this cul-de-sac plan and lot 22A as shown. He said they did not have official approval for this, but it had been discussed with the county staff on the seventh floor and they have had no approval because of these two facets that require a public hearing. They are only constructing on approved lots.

Mr. Knowlton stated that the first step in the process is the review by the County's public facilities's site selection committee which has to do with the establishment for the removal from the plan of streets and the locations of public facilities. He stated that he was informed by Mr. Wycoff, the Administrative Assistant to the Planning Commission, that the Planning Commission will schedule that hearing under 15.1-456 immediately after the recommendation of the site selection committee, but it will probably be in the neighborhood of thirty days after that recommendation which may put the hearing in June.

Mr. Edward Perkins, 2351 Oak Street, Falls Church, spoke before the Board. He suggested that it would be his suggestion that instead of the Board saying, "Defer for Ninety Days" perhaps it would be better to only delay this until the other parties have acted on it.

Mr. Smith stated that they have to set it for a definite time, but this all matters are resolved before the ninety days are up then the applicant could ask for an earlier hearing.

Mr. Long moved that application No. V-43-72 be deferred for ninety days or until such time as Greenwich Street is vacated and the issued raised before the City of Falls Church have been settled.

Mr. Baker seconded the motion.

The motion passed unanimously.

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HARRIET B. & W. HERBERT LAMB, app. under Sec. 30-6.6 of Ord. to allow enclosure of existing porch within 6' of side property line, 1903 Belfield Road, Belle Haven Subdivision, 83-3((14))(2)10, (R-10), Mount Vernon District, V-44-72

Notices to the property owners were in order. The contiguous owners were Mr. Charles Noon, 1901 Belfield Road and C. H. Luce, 6002 Grove Drive.

Mrs. Lamb testified before the Board. She stated that they wished to enclose the existing porch and they had a topographic problem as there is a garage on the other side of the house and in the back a porch would cover a living room window. The present porch is only used two months out of the year. The noise and dirt from the construction on U.S. Route 1 is terrible. They do need an addition bedroom. She stated she would like to begin construction as soon as possible. They intend to use the same roof and floor. The house was built in 1934.

Mr. Smith stated that this is a substandard lot by today's code.

Mrs. Lamb stated that they had lived at this house since 1956 and they plan to continue to live there untilthe end of their time. They plan to make this porch compatible with the remainder of the house. It will be clapboard with windows on the end, and toward their neighbors will be completely enclosed for privacy. She stated that they had several letters from the people in the neighborhood, one of which is one of the contiguous property owners, Mr. Noon, stating that they have no objection to this porch being enclosed.

In application No. V-44-72, application by Harriett B. & W. Herbert Lam, under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of existing porch within 6' of side property line, on property located at 1903 Belfield Road, Belle Haven Subdivision, also known as tax map 83-3((14))(2)10, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been property filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 7,200 square feet.
4. That compliance with all County Codes is required.
5. This is a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:

(a) exceptionally narrow lot.

NOW, THEREFORE, BE IT RESOLVED, thatthe subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. All architecture and materials are to be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Long seconded the motion and the motion passed unanimously.

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R. E. HOLLAND, app. under Sec. 30-6.6 of Ord. to allow lot with less frontage than required, 6407 Lincolnia Road; 72-1((1))59C, Mason District (RE-0.5), V-45-72

Mr. Roland E. Holland, Jr., son of the applicant, testified before the Board.

Notices to property owners were in order.

The contiguous owners were Hallie L. Young, 6415 Lincolnia Road, Alexandria, and William E. Martin, 4300 Braddock Road, Alexandria, Virginia.

Mr. Holland stated that the hardship in this case is created because of the narrowness of the frnnt portion of the lot. He stated that his father has the house that fronts on Lincolnia Road and he wishes to place this house on the back portion with a drive back to it.

Mr. Reynolds stated that this lot in the rear will be pipestemed onto a state maintained road, but they do need a variance because of the width of that front area is not enough. He stated that it would be a private road to the house.

In application No. V-45-72, application by R. E. Holland, under Section 30-6.6 of the Zoning Ordinance, to permit lot with less frontage than required, on property located at 6407 Lincolnia Road, also known as tax map 72-1((1))59C, County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 24,000 square feet of land.

WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:

(a) exceptionally deep lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion and the motion passed unanimously.

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L. B. MEIER, app. under Sec. 30-6.6 of Ord. to allow house to remain 36.50' from right-of-way line of Meadow Rose Court, (3.5' variance req) 3819 Javins Drive, 82-4((17))3, Lee District (R-12.5), V-46-72

A letter was received requesting deferral on this application because they realized just this morning that they did not send out the letters by certified mail.

Mr. Long moved that this case be rescheduled for May 17 and the applicant be notified to fulfill his requirements as far as notices are concerned.

Mr. Baker seconded the motion and the motion passed unanimously.

There was no one in the room that was interested in this case.

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TEXACO, INC., app. under Sec. 30-7.2.10.2.1 of Ord. to permit gasoline station, Intersection of Telegraph Road & Highland Street, 82-3((4))1-A, Lee District (C-N) S-47-72

Mr. Richard Hobson, 4085 University Drive, Fairfax, represented the applicant.

He stated that this property was under contract to purchase. He stated that he had filed with the Board a certificate of good standing and all the corporate documents.

Notices to property owners were in order. The contiguous owners were Mr. and Mrs. James E. Coffee and the Southland Corporation.

Mr. Hobson submitted plats to the Board and he also submitted other exhibits. These plats, he stated, were the same as those plats that the Planning Commission considered.

Mr. Hobson stated that the property is in a C-N zone and the property immediately to the rear is in the C-N zone, to the left is C-N and owned by Southland, property across Highland Drive is zoned C-G and is where the Fairfax Millwork and Lumber Yard is, the property immediately across is zoned RE-1, but the property in the general area is zoned R-12.5 and R-10.

He stated that the exhibits include a plot plan that was just referred to, the building construction drawings for the building, an engineering plan showing the drainage system existing on the property as it now stands including the out-fall sewer and a profile of the proposed retaining which will be more specifically described and referred to in the testimony of the engineer. The property is in a

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commercial area and has been zoned since 1964 and is located 1.1 miles from a commercial zone at the intersection of Kings Highway and Telegraph Road which has an Esso Station and 2 miles from a commercial area near the beltway which has a service station. There is an existing special use permit on the property which was granted on September 8, 1964, following which a site plan was approved a building permit issued to Atlantic Richfield, Inc. who is the contract seller and the owner of the property at the present time. Texaco is the contract purchaser. Construction on the site was hampered because of a soils slippage condition where the soil kept sliding into the hole and as a result thereof the County revoked the building permit which had been issued, thereby preventing Atlantic Richfield from going forward and Atlantic Richfield then came in and put a drainage facility behind the property and an out-fall storm sewer in. This land was seated and is now stable at this time. Texaco wishes to build its own station in accordance with the building plans submitted, but by bringing this application for a special use permit for its service station building, he stated, they they wish to specifically state that it does not waive any of its rights or Atlantic Richfield's rights under the existing use permit and site plan already approved.

Mr. Smith asked Mr. Hobson if this permit had expired.

Mr. Hobson stated that the existing permit was issued in December of 1964, a building permit was issued.

Mr. Smith stated that this permit was no longer in existence because the one year clause in the ordinance at that time would have eliminated this.

Mr. Hobson stated that a building permit had been issued and construction begun, then the building permit was revoked. He said that now you get down to a legal question.

Mr. Smith stated that he was right because if construction had begun within one year and there was a legal existing permit this use permit is in existence until such time as there is a transfer of ownership.

Mr. Hobson stated the the permit was revoked because of the soils conditions on the property and the safety factor.

Mr. Hobson stated that with respect to the traffic, there is no access planned for Highland Drive.

Mr. Hobson pointed out the relation of the station to the other properties surrounding it.

Mr. Hobson stated that they have planned a retaining wall and showed on the map where that retaining wall was proposed to be. He stated that the retaining wall will extend down a portion of the distance on Highland Drive and adjoin Southland Corporation on the left. No access is planned for Highland Drive and the only access will be to Telegraph Road. The applicant will widen the road on its side and will provide a space for an extra lane of traffic in front of the subject property to permit left turns to be made without holding up traffic as shown on the plan. The station is on the intersection between Highland Drive and Telegraph Road. Highland Drive is not state maintained and serves Fairfax Millwork adjacent to it and a community swimming pool and recreational facility at the top of the hill on Highland Drive. It does not serve a residential area. The property is located on the outside of a slight curve with good site distance in both directions.

He stated that he would call Mr. Burton Sexton, traffic consultant, who has made a study of the site and will report on that. He is a licensed professional engineer and graduated from Purdue University in 1949, graduated from Yale University in highway and traffic in 1950 and is a member of traffic engineers in the National Society of Professional Engineers and has been in practice since he organized his own firm in 1950 in Washington and has practiced in this area for 20 years.

Mr. Smith stated that prior to that, he would like to request the Zoning Administrator to ascertain at sometime prior to final action on this case as to whether there is an existing use permit there, whether the original compliance in the one year was substantial enough for Atlantic Richfield to have a vested interest in this application. In addition, there is some change in this application, Mr. Smith stated, as the applicant is not requesting a variance from any of the setback requirements. There was a variance granted to Atlantic Richfield.

Mr. Saxton submitted a written report to the Board which would be made a part of the file. In summary, he stated that this study was conducted to ascertain whether or not the service station proposed for this site would constitute a safety hazard because of traffic or as specified in the Fairfax Zoning Ordinance (30-7.1.2). He stated that he (1) made a study of existing vehicular movements by direction of fifteen minute periods (2) estimates of the amounts of traffic that would be generated by the proposed station and (3) the effects of the service station traffic generation.

He stated that a service station operation does not generate new traffic. There will be an increase in turning movements to and from Telegraph Road to the station; however, he stated that these turning movements would not exceed and would probably be less than those associated with other retail uses. There is good sight distance on Telegraph Road on both sides of the proposed site. The turning movements which are the main concern of this analysis can be absorbed by Telegraph Road. The developers of the site will widen Telegraph Road to provide for an additional lane in the northbound direction. The widening will accommodate a storage for the left turning vehicles. There is no provision for pedestrian traffic; however, the plan will provide sidewalks within the limitations of the site.

In conclusion, he stated that it is his opinion that the service station proposed to be located at this location will not create dangerous or otherwise objectionable traffic hazards; in addition, the requirements noted in Section 30-7.1.2 of the Zoning Ordinance are met.

Mr. Smith asked Mr. Hobson how many bays and how many pump islands this station would have.

Mr. Hobson stated that there will be two pump islands and three bays. He stated this would be a standard station with no body work, no rental trailers and the lights will project only on the property of the applicant. He stated that the main problem is the soil and they have a soils expert who will testify on that subject.

Mr. Smith said he would also like to hear what the County Soil Scientist has to say. He a sked if they had talked with County Development.

Mr. Hobson stated that they had, but they feel this is not before the Board. He stated they had not filed their projected solution to this problem.

Mr. Smith stated that he felt this should be done prior to getting the use permit. He stated that these solutions must be approved by the engineering staff and not by this Board and he felt it was unfair for the members of this Board to have to pass on construction technicalities.

Mr. Hobson stated that the soils problems have been a big contention in the neighborhood and for that reason he felt they should present their solution at this public hearing.

Mr. William Price, representative from the Southland Corporation, spoke before the Board in favor of this application.

Mr. Smith asked Mr. Price if he lived adjacent to this applicant's property. Mr. Price replied that he did not live there.

Mr. Smith asked if he had a letter from the Southland Corporation in support of this application or giving him the authority to represent them.

Mr. Price stated that he did not believe that was necessary. He stated he was responsible for the development of the stores in this area.

Mr. Smith told him that he appears frequently before this Board in support of applications and in each case he should have a memorandum from the company that some action has been taken giving him the authority to represent them in favor of, or in opposition of an application.

Mr. Hobson stated that Southland Corporation plan to develop their property at the same time Texaco develops this property in question, but under two different site plans.

Mr. Vilas Upenicks, Engineer for Springfield Surveys, testified before the Board regarding the soils condition and their proposed solution. He stated that he had been associated with Springfield Engineering firm for 15 years. He stated that a soil study, performed on this site by Dr. John Gaffey of Soil Consultants, Inc. has revealed that the surface materials consist of deposits of gravel,sand, silt and clay. These (probably marine) deposits, (about 200 feet in thickness), are underlain by ancient crystalline rocks which dip downward as they approach the Atlantic coastal region. Through subsequent geological ages, the sedimentary deposits have been partially worn away, leaving an area in which a number of gullies have been formed. Telegraph Road lies in such a depression. A typical profile through the construction site is shown in Exhibit #1. The erosion that has taken place can be visualized in the sketch. The uppermost cap consists of gravelly silt, fine sand and clay of relatively

shallow depth - perhaps 6 feet - in the area of the proposed construction site. The material immediately below the cap is the Potomac formation, a gray, blocky-structured, fissured clay; the material is probably overconsolidated due to the loss of up to 50 feet of overburden material and possibly countless alternate saturation/dessication cycles.

Previous experience in the immediate vicinity has clearly shown that the upper "cap" material is unsuitable as foundation soil; it loses practically all shear strength when saturated; it is frost susceptible; and it is a source of seepage, (since it is relatively permeable). The underlying Potomac material, on the other hand, has entirely different characteristics. When exposed to free water and atmosphere the clay was observed to change from a relatively high-strength, overconsolidated clay to a material possessing no shear strength: The original, highly cohesive material completely disintegrates in a matter of minutes.

A subsurface soil-boring program was conducted on the property. It showed the following: (1) The Potomac Clay is very "sensitive" - that is, it can lose its shearing strength completely by (a) remodeling; or (b) by dessication and re-wetting. The laboratory tests also indicate that the clay is remarkably uniform in its characteristics. The results of the unconfined compressive strength tests for example, indicate unusually homogeneous conditions. The clay also possesses a very high shrink-swell potential and is overconsolidated; that is, the clay has been compressed to an extremely dense condition. This is significant because (a) little settlement should be expected; and (b) there is a good possibility of volume expansion when the imposed (overburden) stresses are released from the clay(for example, as would occur during "cut" operations).

2. The field observation wells clearly demonstrated that the only freeflowing groundwater exists in the "cap" material, and not in the Potomac clay. Since this water flows over the top of the Potomac clay, it is important to prevent it from entering fresh "cuts" in the clay, thus bringing on possible slope failures.

3. Slope Stability. The construction sites are located at the toe of a long, uphill slope, averaging 15 per cent for several hundred feet. The site and the slope have been quite stable in the past before development was attempted.

The original developer faced great problems during the construction. Surface and subsurface drainage runoff and its adequate disposition. Since the regular work sequence was followed: site excavation performed first, followed by the installation of drainage facilities, the surface drainage and storm water discharge from the existing subdivision into the excavation made the site unsafe without expensive construction measures. It was decided, at this time, that the additional costs were not warranted and that the site should be restored to its original condition.

A storm sewer and under drain system with filter material was installed at the uphill property line to intercept the surface water and the ground water moving downhill in the "cap" material. The site was backfilled to approximately the original elevations. An adequate storm sewer was installed around the site, across Telegraph Road and through the church property to an existing storm sewer. The church property was filled in, thus creating a good building site.

Our analysis, Mr. Upenicks continued, indicates that in order to permit development of the site and eliminate the possibility of slippage, they have to recommend the following:

(1) A retaining wall should be constructed and the clay cut slope waterproofed with asphalt membrane. This will accomplish two things: (a) additional weight will be available to resist sliding forces; and (b) the original clay properties will be maintained as they now exist. The recommended typical wall section is shown in this exhibit. The unusually deep key or cross member is necessary to insure resistance to movement in the event the clay undergoes a "dry-wet" cycle. None of the on-site "cap" material can be used directly against the wall as it is highly frost susceptible. An 18-inch blanket of granular material shall be used directly behind the wall. Weep holes fitted with screens are to be placed in the wall just above pavement grade. It must be emphasized that the entire cut face - the slope, the wall footing and key excavations - must be coated with asphaltic material to assist in maintaining a uniform water content in the clay. Fill dirt will be placed behind the wall and the surface area will be seeded.

(2) All foundation elements will lie on the Potomac clay. As pointed out previously, the clay possesses adequate strength as long as the water content remains constant. Therefore, excess water and drying-out should be prevented. By using pavement around and over the footings (either floor slabs or vehicle pavements), these conditions can be achieved. We have recommended a design bearing capacity of 3,000 pounds per square foot for all footings.

(3) If this system is installed as recommended, the adverse soil condition on the site will be stabilized and the adjacent properties will not be affected by this construction.

In Opposition, Mr. Christianson, spoke before the Board. (6409 Merriview Street) He stated that he was speaking for the Rose Hill Civic Association and as an adjoining property owner. He stated that he has watched the property develop over the last five years. Atlantic Richfield came in and dug a pretty big hole and the ground fell in and their property went down with it, then after three years of trying, they got the hole filled back up again. He stated that he didn't understand why the soils expert was talking about the various soils because there is new soil in that hole.

He asked if the traffic report contained information that also related to the 7-11.

Mr. Smith stated that it pertained only to the service station.

Mr. Christianson stated that when this property was rezoned in 1964, there was a lot of vacant property around this site. Above the property now is a segment of $40 to 50,000 homes that once was a wooded area and across the street is now a big church. In other words, at that time there was no extensive building around this site.

The property in back of his contains artesian wells and drains into his property. It also contains many springs. It is also a marsh land. There has been these past problems with slippage and the adjoining property owners have taken the brunt of it. The neighbor who lives next door, who is present today, lost about 10' of his property. Therefore, this is why they are vitally interested in this. Atlantic Richfield wanted to put a gas station on this property and they decided after meeting with the County, and, he stated, he was a part of that meeting, after being presented with the alternatives to make this land suitable for a gas station, that they would not. Now Texaco wants to try it and it is in the middle of residential property.

Mr. Smith reminded him that the zoning was proper.

Mr. Christianson said he wanted to stress the traffic problem. The Fairfax Millwork which is directly north of the property piles lumber 20' high along the road which would completely close off the gas station.

Mr. Smith stated that if they created a hazard it could be cleared up.

Mr. Christianson stated that the gas station is going in lengthwise along Highland Drive. He stated that he opposed a gas station being put in at all. Gas stations stay open until 11:00 P.M. at night and 7 days per week and that would be very disturbing to the people who live there.

In opposition, Mr. Robert Rossman, 5971 Wilton Road, Wilton Woods, Fairfax County spoke before the Board. He stated that Highland is a very small country road and leads to the Highland Park swimming club. He stated that the size of the lot was only one-half acre and it also objected to it because it would stay open late seven days per week. It would be a hazard to the children coming home from the pool in the summer months. He stated that his house was an example of what can happen because of the bad soils conditions in this area as in the past year one of the walls has started to move out from the house and another one in. He stated that he assumed this was caused by building that was done two blocks away, which changed the water level. He stated that he was a marine engineer and naval architect and machanical engineer, not a soils engineer. There are six gasoline service station in a three mile stretch of Telegraph Road. Five of them near the beltway and one down near the intersection of Telegraph Road and South Kings Highway. Mr. Rossman stated that he felt the nearby property owners should have some say when the development will hazardously affect their property.

Mr. James Davis, 3501 Pike Road, President of the Virginia Hills Civic Association, spoke in opposition to this application. He stated that he represented 750 homes in Fairfax County. He stated that the center of Virginia Hills is located across from the proposed gas station and herein lies their interest. He stated that aside from the soils slippage problem, their main concern is that there will be too much pedestrian traffic at that intersection in the summer months. Children and their parents continuously walk along this street from 10:00 A.M. until about 8:00 P.M. in the evening. The traffic problem in the summer time is bad at that intersection now and a filling station would make it intollerable. A lot of children are coming home from the pool around 4:00 in the afternoon or 5:00 in the afternoon at the same time the fathers are coming home from work. He stated this resolution to oppose this application was passed by the Virginia Hills Civic Association. He stated he would forward a copy of that resolution to the Board within the week.

In opposition, Mr. Shaffer, 6109 Paulonia Road, Alexandria, Virginia, spoke before the Board regarding this application. He presented a Petition signed by 57 people from the Virginia Hills area in opposition to this application. He stated that they were against any gasoline station at that site in question. He stated he was presenting the viewpoint of the citizen.toward this rezoning.

Mr. Smith told him that this was not a rezoning.

He stated that he was told by a member of the Planning Commission that if the only thing against the application for rezoning was citizen opposition, then the citizen would have a hard time winning.

Mr. Smith again reminded him that this was not a rezoning and he did not wish to cloud the record by talking about rezonings.

Mr. Shaffer stated that the citizens did not understand why this gas station is necessary. He stated that they object to their streets becoming another Route 1. He asked why' this commercial zoning was necessary.

Mr. Smith stated that the zoning is here. It is now zoned commerical.

Mr. Shaffer stated that they wished to go on record as opposing this application for the following reasons:
1. Soil slippage 2) There are six major gasoline stations within three miles of each other and 3) There is a dangerous hazard to the Highland pool members who would be using Highland Street and 4) There is a general feeling that this would lower property values for all the homes that have physical contact with that piece of property, as well as the general area.

Mr. Smith stated that they were going to accept his Petition as long as it did not contain the word "rezoning".

In opposition, Mr. Pendergast, 5058 Old Telegraph Road, spoke before the Board.

Mr. Pendergast stated that he was speaking for the Wilton Woods Citizens Association. He stated he would have a letter to that effect from the President of the association within the week.

He stated that they are opposing for two main reasons: 1) the soils problem. He stated that they may be able to solve this problem and maybe they won't, but the property owners adjacent to this property are the ones who will suffer. He stated that he had not heard anyone pose the question of who bears the responsibility should there be another soils slippage. The second problem is the traffic. The third thing is why do the citizens need an additional gasoline station.

Mr. Smith told him that as he had mentioned before, "need" is not a criteria under the ordinance.

Mr. Ellison, 6324 Telegraph Road, Alexandria, Virginia, spoke in opposition to this application. He stated that he had lived in the area since 1941 with his family. They moved there to get away from traffic. He stated that he was a registered engineer in Washington, D. C. and Virginia. He stated he felt this was very bad from a safety standpoint. Even if the land doesn't slip down the hill, it will cause bad cracks to develop in the houses.

Mr. C. S. Coleman, Soil Scientist for Fairfax County, who lives at 10415 Armstrong Street, in Fairfax, Virginia, spoke regarding this application.

Mr. Coleman stated that when this property came up for rezoning back in September of 1964, he was asked to make a study for this property,which he did. He stated that at that time he went out and took a number of borings on the site where the service station is proposed and the 7-11 property and the property between the service station property and the swimming pool. The following is what he wrote to the Planning Commission at that time. One-third of this property is way-side soil which has considerable gravel and sand and the other two-thirds of the property, the remainder,which is approximately one acre, is marine clay with a number of wet weather springs. This part of the property rates poor for supporting large buildings. If an excavation is made for a building in this part, the chance for land slippage is high.

It did not take long from the time they started excavation for the Atlantic Richfield service station until what he had predicted came true. Shortly, after they made the excavation, the hill behind it started to move and filled in part of the excavation and they had to come back and clean it out and after this second time it moved a third time. When the third slide occurred, the building inspector decided it was time to revoke the permit until some way was found to control the slides because it was endangering the property to the west. The slides were moving in a series up the hill and were getting right up to the property line and in a very short time unless it was stopped, it could endanger the houses on the west. So, they required the company to hire an engineer to come up with a plan for a storm sewer to pick up the water that was coming out of the subdivision and onto the site. The storm sewer was designed and approved by the County and was constructed and it now picks up the storm water that formerly flowed down on the surface of the service station site. This installation of the storm sewer and leveling out of the site has stablized this land for the time being, but unless proper measures, either retaining walls designed so as not to move if the whole hill above it moves against it and to be taken down to a zone of different material. He stated that in his opinion it would have to go much deeper than the one shown here today because if you had a slide occur, they usually swing in an arch, it would go far below the footings on this design here and take out the whole retaining wall with it, therefore, there would have to be a combination of underdrain systems to pick up all the water that is in the hill behind that.

He stated that he was out on the hill behind there when they were making the investigations and he had quite a few discussions with Dr. Gaffy at the time. Dr. Gaffy is no longer in this area, he has moved to California. At the time, Mr. Coleman stated, he did not agree with what Dr. Gaffy came up with. Dr. Gaffy had the idea that the entire hill was a mass of clay. If this were true, there wouldn't be any water in it because clay when water gets on it swells up tight and holds the water and would prevent it from going into the soil. The water that is coming out is a series of springs below the swimming pool and is water that is travelling in strates of sandy material or sand mixed with gravel and all of these would have to be intercepted and taken out into the storm sewer before you could be assured that that hill was stable. If you had unusual storms or an unusually long snowy period and it lay there for many many days and melted slowly, you could get a condition that we had down in Belle Haven where the first house in the County was completely destroyed by slides. This is quite possible. "I know," he said, "before the County will ever issue a permit, since what has already happened there and what has happened is the County has spent large sums of money trying to correct what has happened in other areas, the plan for slides will have to be almost fool-proof before they will issue a building permit."

In Rebuttal, Mr. Hobson stated that this is not a rezoning. "There is commercial zoning on this property and the desirability of commercial areas is not in question on this application. With respect to traffic, I think the Board knows, but I will state and Mr. Sexton has advised me and I will put him on and he will so state and I am sure you know, that the trips in and the turning movements for many of the retail uses, and I think he said this, permitted by right in the zone, are greater than that for a service station. Now that is the standard that the ordinance puts on this Board with respect to traffic as it is and would be expected to develop," he stated.

Mr. Hobson stated that the Staff recommended approval of this application. He stated that that recommendation was sound for exactly the reason that Mr. Coleman has just said, the County is not going to issue a building permit for this application until they are satisfied that the soils problem is handled in a very fool-proof manner. The soils problem has been a problem and is a problem and must be taken care of before the land can be developed, but that soils problem would be true in a use permitted by right. It does not have anything to do with this application.

As to the use permit the soils problem is not a relevant matter before the Board. But, he stated, if the solution they have proposed is not satisfactory with Fairfax County, they will not get the building permit and they will have to come forward with another solution, one that meets Mr. Coleman and the Staff's proposals.

Mr. Smith stated he wished to straighten the record out. He stated he did not think the Staff has recommended that the Board approve it.

Mr. Hobson stated that he had a copy of that. He read the report to the Board recommending approval.

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Mr. Smith read the Planning Commission memorandum which stated:

"The Planning Commission on April 13, 1972, unanimously (with an abstention by Mr. Warlick) recommended to the Board of Zoning Appeals that the above subject application be denied.

The Commission felt that the soil slippage problem was a very definite hazard to the community and that even if treatment was effective for this portion of the tract it could do serious damage to the other area and ultimately the neighborhood. A copy of the letter regarding this tract from the County Soil Scientist is attached.

Additionally, the Commission felt that a need had not been shown for an additional gas station in the area and that the small size (approx. 20,000 square feet) on the site would make a congested gas station."

Mr. Long asked whether or not it was the Chairman's intention to have the Zoning Administrator rule on whether or not this is a valid use permit.

Mr. Covington read Section 30-6.15 to the Board. "Expiration of permits or variances. Whenever a variance or a special permit is issued by the Board of Zoning Appeals, activity thereby authorized shall be established and any construction authorized thereby shall be diligently prosecuted and shall be completed within such time as the Board may have specified or if no such time has been specified then within one year after the effective date of such variance or permit, unless an extension shall be granted by the Board because of recurrence of conditions unforeseen at the time of the authorizing of such variance or the granting of such special permit. If not so acted upon and completed within a period of one year, unless the same is extended as aforesaid, such special permit or variance shall automatically expire without notice." So this has expired, he stated.

Mr. Smith asked Mr. Covington if he considered it expired if a permittee starts construction prior to the end of the year. He stated that in other cases that he knew of they have determined that they were a valid permittee.

Mr. Covington stated that the code states "completed".

Mr. Smith said the code says "completed," but as Mr. Covington is aware, "... you permitted people to, as long as they begin construction within the one year period, you have allowed and decided that they have complied as far as the variance or use permit is concerned. As long as they start construction within the one year period." Mr. Smith stated that the fact that the building permit was terminated would be the only question. If they were given an alternative and did not accept this, or did not persue it, then Mr. Smith said he would agree that it would terminate the permit.

Mr. Covington stated that the excavation was filled.

Mr. Long asked that this be placed in writing in the file.

Mr. Reynolds read the report from the Preliminary Engineering Branch. He stated that this use will be under Site Plan Control. It is recommended that the owner provide an ingress-egress easement along Telegraph Road for the travel lane as well as an easement for the proposed common entrance. The proposed common entrance will be subject to the Virginia Department of Highways approval when the site plan is submitted.

Mr. Long stated that before the Board acts on any application, the Board should be assured that the applicant is going to comply with the special conditions.

Mr. Smith stated that the Board may have to restrict gasoline stations to a period of five-years. We have a situation where the oil companies comes in and gets the use permit and they lease the property and this is creating problems as the lessee is unaware that he is not allowed to rent, sale, or keep trailers on the property under our ordinance.

Mr. Barnes agreed that this service station problem is getting out of hand. The operator doesn't know anything about the conditions. We will have to do something perhaps give them a building permit and when they lease the property to an operator then they should reapply, the operator should reapply, so he would be well aware of the conditions of the use permit for his use. He stated that this is his opinion. He stated he felt that something should be done, because half the time you can't see the gas pumps for the trailers.

Mr. Hobson stated the way it is now, the Zoning Administrator has a perfect right to come and and tell the operator to remove the trailers and if he doesn't then the permit is revoked.

Mr. Smith told Mr. Hobson that he was glad that he agreed. He said they were spending a lot of time in court and that having these conditions were not working out as well as the Board would like. He stated that Texaco does have one station that is in non-compliance.

Mr. Hobson stated that the one station that there was a question on is now in compliance.

Mr. Smith stated there was one in Merrifield.

Mr. Covington stated that this was zoned I-L.

Mr. Long stated that unless it is a provision on the site plan and there is screening provided the gasoline station operator cannot put in trailers.

Mr. Long moved that S-47-72 be deferred 30 days for decision only to allow the Zoning Administrator to determine Texaco's compliance with the special conditions set forth in their use permits in existing gasoline stations in Fairfax County.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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OAK MEADOW, INC., app. under Sec. 30-7.2.6.1.8 of Ord. to permit addition to nursing home of 36 beds (ori. use permit granted 1962 for 60 beds, making a total of 96 beds) 1510 Collingwood Road, 102-4((1))11, Mt. Vernon District (R-12.5), S-49-72

OAK MEADOW, INC., app. under Sec. 30-6.6 of Ord. to allow addition of nursing home closer than 100' from prop. lines, 1510 Collingwood Road, 102-4((1))11, Mt. Vernon District (R-12.5), V-50-72

Notices to property owners were in order. The two contiguous owners were Mr. William Crump, 1500 Collingwood Road and J. Edward Bennett, 1712 Collingwood Road.

Mr. Jernigan represented the applicant before the Board. He stated that this home was built in 1963 and because of the growth and the need for therapeutic treatment they need to have additional beds in order to have space for their physical therapy department.

Mrs. Barbara Frick spoke before the Board. She stated that she had been with Oak Meadows since its beginning and she would like to give the Board a little history. She stated that it was built by her father who was the Administrator for the first year before he left the area. Their purpose is to provide a total nursing care facility for the patients. They have licensed nurses around the clock, dietician, recreational therapy and crafts. They have a complete physical therapy department and try to help the patients reach their maximum potential. They try to help the patient get back home. They are full and stay full with a waiting list and also get calls they cannot fill.

Mrs. Diane Rowe, the physical therapist, spoke before the Board to tell them about what her work consisted of.

Mr. Cross, architect, spoke before the Board. He stated that this building was designed in a peculiar way in 1961 around a new concept in nursing home design. It is a building around a circular nursing wing, the center being the nurses station to minimize traffic. The center building is the administration building.

The building is setback 86' from Collingwood Road. It would set back from the property line 45'.

Mr. Smith asked if they could move it back any.

Mr. Cross stated that it would push the buildings together too tightly.

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Mr. Long stated that new plats were needed to show the exact number of parking spaces. He asked if they intended to improve Collingwood Road.

Mr. Billy Wren, President of the Corporation, whose address is Remington, Virginia, Route 3, spoke before the Board. He stated they would contribute or do what is necessary on Collingwood Road. The question is what is the future of the road. He stated they would be willing to accept that responsibility at such time as the whole County wishes to improve the remainder of the road.

Mr. Schiller, representative from the Mount Vernon Counsel of Citizens Associations, spoke before the Board in support of this application. He stated he would bring a letter from the associations if the Board desired.

He stated that he was Chairman of the Planning and Zoning Committee for Mount Vernon Counsel of Citizens Associations, and Little Hunting Creek Association. He stated that in general they adhere to the Master Plan for this area and they are in favor of the expansion of this facility as it is the only facility for many miles around. He suggested that if the Board granted this application, that they add a stipulation that the architectural design be in conformance with what is now existing.

No opposition.

Mr. Jernigan submitted several letters to the Board in support of this application.

Mr. Smith read one letter of opposition from the Mount Vernon Community Park and Playground Association.

In relation to the variance Mr. Jernigan stated that they were asking for the variance as they had a hardship in that the building is situated peculiar to the lot . They have given up 25' off of their land which makes expansion under the ordinance almost impossible unless they construct on the west side of the property. At that point the land slopes down and there is a creek there. Many of the homes in this area are 40' from the street.

Mr. Long stated that the new plats should show the road improvements and they should work with the Staff and work out a plan for landscaping as they asked for in their report.

Mr. Long moved that S-49-72 be deferred until May 10, 1972 for decision only to allow the applicant the opportunity to provide plats prior to May 7, showing all improvements and landscaping and plats in conformity with the rules and regulations established by this Board.

Mr. Barnes seconded the motion and the motion passed unanimously.

Mr. Long stated that prior to the drawing of the plats, they should get together with the Staff.

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EDUCATIONAL INSTITUTIONS, INC., app. under Sec. 30-7.2.6.1.3 of Ord. to permit private school, nursery thru 1st Grade, 3420 Rose Lane, Taynton's Addition to Valleybrook, 60-2((32))1, Mason District (RE-0.5), S-48-72

Mr. Hansbarger represented the applicants before the Board.

Notices to property owners were in order. The contiguous owners were Fred & Pauline Egbers, 3405 Rose Lane, and Darrel Seastream, 6817 Glenmont Street, Falls Church, Virginia.

Mr. Hansbarger, attorney for the applicant, stated that there was to be no change in the existing facility, no expansion of the buildings or pupils. They presently do not have over 90 at any one time. The location of the parking area and paving of same will be done at the request of the County Staff. There will be a fence around the rear property line along with the present fence. They would like to have the hours of 8:00 A.M. until 6:00 P.M., five days per week, except Holidays and for fifty-two weeks per year. The present owner is Valleybrook School, Inc. and that Certificate of Good Standing is on file and in addition there is a certificate of good standing in the file for Educational Institutions, Inc. Mr. and Mrs. Lucas are the stock holders and they live in McLean and teach in Prince William County. Mrs. Lucas has been a teacher for ten years. They are not operating the facility as yet, but are awaiting the outcome of this hearing. They have settled, but the proceeds are in escrow.

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No. Opposition.

Mr. Smith asked Mr. Covington if there had been any complaints on this school. Mr. Covington stated that there had not been.

Mr. Smith read a letter from Mrs. Seastream which stated that they did not have any objection to the transfer of ownership of this school and the continuance of this operation, her only concern was that they have a fence to the rear of the property.

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In application No. S-48-72, application by Educational Institutions, Inc. under Sec. 30-7.2.6.1.3 of Ord. to permit private school, nursery thru 1st Grade, on property located at 3420 Rose Lane, Taynton's Addition to Valleybrook, also known as tax map 60-2((32))1, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Educational Institutions, Inc.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 50,625 square feet.
4. That compliance with all County and State Codes is required.
5. That compliance with Site Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and
2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain certificates of occupancy and the like through the established procedures and this Special Use Permit shall not be valid until this has been complied with.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The ages of the children will be 3 to 8 and the maximum number of children at any one time shall be 90 with the hours of operation from 8:00 A.M. to 6:00 P.M., 5 days per week, 52 weeks per year.

7. There shall be a minimum of twelve parking spaces.

8. Screening and planting shall be as approved by the Director of County Development.

9. The fence on one side is 6' and on the other side is 4'. The recreational area and the rear of the property shall be fenced with a suitable fence with a minimum of 4' in height.

10. All buses used for transportation shall conform with the Fairfax County and State school bus requirements.

Mr. Baker seconded the motion and the motion passed unanimously.

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JEFFREY SNEIDER & CO., app. under Sec. 30-6.6.5.4 of Ord. to allow garage to remain within 4.3' from side prop. line 8740 Arley Drive, Rolling Valley Sec. 8B, 89-3((6)) 137, Springfield District (R-12.5) V-56-72

Mr. William Hansbarger, attorney for the applicant, represented the applicant and testified before the Board.

Mr. Hansbarger stated that Mrs. Melbourn and Clarence Milbourn were the contract purchasers at the time this application was filed, but they have now settled on it. He asked that the application be amended to include the Milbourns.

Mr. Long so moved.

Notices to property owners were in order. The contiguous owners were Mr. and Mrs. Coppola, 8738 Arley Drive, Springfield, Virginia 22153 and William G. Obermyer, 8742 Arley Drive, Springfield, Virginia.

Mr. Hansbarger stated that the building plans submitted for the building permit only showed a carport, but a garage was built. They have a garage and have paid for a garage. The construction of the garage has been completed.

Mr. Covington stated that an open carport can go 5' into the yard, but not closer than 5', so even a carport would be in violation.

Mr. Logan Jennings, 6122 Golfway Drive, Centreville, Virginia spoke with the Board. He represented the builders.

He stated that they had a permit to do business in the County as Jeffrey Sneider & Co. Mr. Logan stated that just as Mr. Hansbarger had stated the house was proposed for a carport and it would have been in conformance. It was sold with a garage and a garage was built. He stated that it was an error on the part of the architect.

The architect was not present.

Mr. Logan stated that this is Jeffrey Sneider & Co.'s second project in the Fairfax County area.

No opposition.

There was a letter in the file from the Milbourns stating that they concurred with the application.

No opposition.

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In application No. V-56-72, application by Jeffrey Sneider & Co. & Clarence Milbourn under Section 30-6.6.5.4 of the Zoning Ordinance, to permit garage to remain 4.3' from side property line, on property located at 8740 Arley Drive, also known as tax map 89-3((6))137, County of Fairfax, Virginia Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 14,181 square feet of land.
4. The garage has been completed.
5. The required setback is 10'.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the Board has found that non-compliance was the result of an error in the location of the building; and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is hereby granted.
Mr. Barnes seconded the motion and the motion passed unanimously.

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EDWARD KNOFF & BETTY KNOFF & JEFFREY SNEIDER & CO., app. under Sec. 30-6.6.5.4 of Ord. to allow carport to remain within 5.7' from side property line, 8739 Arley Drive, Rolling Valley Section 8B, 89-3((6))56, Springfield District, V-59-72

Mr. Knoff was present and Mr. Smith asked him if he was familiar with the request to bring his house in conformity and if he concurred.

Mr. Knoff stated that he was familiar with the request and he did concur.

Mr. Hansbarger again represented the applicants.

Notices to property owners were in order. The contiguous owners were Mr. and Mrs. Norman Zigrossi, 8735 Arley Drive, Springfield and Mr. Foster, 8743 Arley Drive, Springfield, Virginia.

Mr. Jennings came forward to explain how this error was made.

This error was caused by the chimney; the chimney went out and they started to measure from the chimney and measured out 20'.

Mr. Smith asked whose fault this was.

Mr. Jennings stated that it was the architect's fault.

Mr. Smith asked if this architect still worked for the firm.

Mr. Jennings stated that he did.

Mr. Smith stated that he didnot like to see this many errors in one subdivision.

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In application No. V-59-72, application by Edward Knoff & Betty Knoff and Jeffrey Sneider & Co., under Section 30-6.6.5.4 of the Zoning Ordinance, to allow carport to remain within 5.7' from side property line, on property located at 8739 Arley Drive, Rolling Valley Section 8B, also known as tax map 89-3((6))56, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing held on the 26th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant, Mr. and Mrs. Edward Knoff.
2. That the present zoning is R-12.5.
3. That the area of the lot is 9,160 square feet.
4. That the carport is complete.

AND, WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant, Mr. & Mrs. Knoff.
2. That the present zoning is R-12.5.
3. That the carport is complete.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the Board has found that non-compliance was the result of an error in the location of the building.
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is hereby granted.
Mr. Baker seconded the motion and the motion passed unanimously.

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JEFFREY SNEIDER & CO., & KENNETH TRACY, & MR. & MRS. OBERMEYER, app. under Sec. 30-6.6.5.4 of Ord. to allow garage to remain 6.0' from side prop. line, 8742 Arley Drive, Rolling Valley Subd., 89-3((6))136, (R-12.5), V-58-72

Mr. Hansbarger, attorney for the applicant, testified before the Board.

Notices to property owners were in order.

There was a letter in the file from the owners concurring in this action.

The Tracys' purchased the house from the Obermeyers who purchased it from the builders. The Tracys' are now occupying the house. The house was purchased with a garage, but it was proposed with a carport.

The Tracys' agent, Lee Lumbert, from Routh Robbins, 7310 Woodson Drive, Springfield, was present to represent the owners. He stated they were familiar with the application and concurred.

No opposition.

Mr. Smith told Mr. Jennings to please relate to Mr. Sneider that it was hoped that there will be no more of these mistakes. This is a very serious mistake.

In application No. V-58-72, application by JEFFREY SNEIDER & CO. & KENNETH TRACY under Section 30-6.6.5.4 of Ord. to allow garage to remain 6.0' from side property line, on property located at 8742 Arley Drive, Rolling Valley Subd., 89-3((6))136 County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of April, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. Tha the owner of the subject property is Kenneth Tracy.
2. That the present zoning is R-12.5
3. That the area of the lot is 13,029 square feet of land.
4. The garage is complete.
5. The required setback is 10'.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the Board has found that non-compliance was the result of an error in the location of the building; and

2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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POWHATAN ASSOCIATES, app. under Sec. 30-7.2.6.1.8 of Ord. to permit addition to nursing home of 75 beds, (2100 North Powhatan Street; 41-1((1))62B, Powhatan Street; Dranesville District (R-10 & RE-1), S-16-72 (Original Use Permit issued 1962).

Mr. Bruce Lambert, attorney for the applicant, represented them before the Board.

Mr. Lambert stated that there were 93 beds now at the present .

Mr. Smith stated that the Chair is ruling that the request is for 75 additional beds to the existing 93.

Mr. Lambert stated that originally they had a use permit for 160 beds.

Mr. Smith told him that was true, but they came back and asked to develop 100.

Mr. Smith told Mr. Lambert that if he wished to argue the point he would listen.

Mr. Lambert stated that he didn't think there was any use arguing. He stated that there had been a misunderstanding all the way through.

Mr. Smith read Mr. Lambert a portion of a letter stated that "...these modifications were still not satisfactory for nursing home facilities at a rate that is within the reach of persons..." "accordingly, we have decided to abandon the plats for the 160 bed project and instead we propose to construct 100 beds..."

Mr. Smith told Mr. Lambert that that was their position in 1964.

Mr. Lambert stated that when they made this application it was their intention to ask for 75 additional beds to the 160 which was reflected in the file as being approved making a total of 235 beds at the completion of it.

Mr. Smith stated that he made the ruling as he was present on the Board at the time and in fact made the original motion and he had recently studied every facet of this.

Mr. Lambert asked if there was any way they could amend this application and bring it back into proper prospective.

Mr. Smith stated that he would say not. This has been a concern of the Staff and to many people here.

Mr. Smith told Mr. Lambert he had to come back to the Board for any expansion of the use.

Mr. Lambert stated then he would go ahead with the presentation. He stated that the people who own this association live in the northern Virginia area. The Powhatan Nursing Home provides general nursing care and they have certified a part of the home, 20 beds, for participation in the medicade program, group health and to other third party programs. There is a real need for additional beds in this area.

It is a shame, he stated, to have to farm the older people out to other counties because there is not enough facilities for them in Fairfax County.

Mr. Lambert submitted a package to the Board. He stated that in that package there is a letter from the Administrator of the Arlington County Hospital. He stated that this home is one of the few in the Metropolitan area accredited by the joint commission as an extensive care facility, which is the highest designation. This is in addition to the state licensing and certification by the Department of HEW.

He stated he wanted to comment on the Garza report. He stated that he did not feel that this report was relevant to this case.

Mr. Smith stated that it looked as though this was a corporation.

Mr. Lambert stated that it was.

Mr. Smith stated that there should be a certificate of good standing from the State Corporation Commission.

Mr. Lambert continued in his presentation by stating that the Garza Report is erroneous in that it did not go into the complete facts. He stated that when this

building was built back in 1961, the builders were building along Orlando Street and they had preliminary plans showing the extension of the street through the present nursing home property,they then put up a bond to construct Wicomico Street. When they contracted for this land from Mr. Witchur they were required to pay an additional amount for the construction of Wicomico Street and the builder agreed, so Powhatan Associates did pay for and build the entire street along side the nursing home. They were also required and agreed to construct so much of Powhatan as went beyond the entrances into the property. That they did. Mr. Garza did not go into that thoroughly. Also he went into the drainage to some extent. He stated newstorm sewer construction would be required on-site to carry the site run-off to the outfall. Mr. Lambert stated that they put in all the drainage for that street and it will now drain the upper part of this new subdivision. The grade for that street should have been considerably lower than it is now and by raising that grade 4 or 5 feet quickly they did real damage to the looks of the property and instead on continuing a slow and easy slope, it goes up real fast and has a very bad effect on the looks of the property and a bad effect on the looks of the other subdivision that it goes into. He stated that they did this for a nominal amount as to what it will cost them to keep it in shape.now. Mr. Garza has indicated that they took over that burden and in effect insinuated that Powhatan held them up. Powhatan stated they felt that they had much rather they had gone ahead the other way and Powhatan thought they did the County a favor, because the County said it would let them work much faster and they would not have to hold up their construction. He stated that they were trying to be a good neighbor when that happened. He stated that he felt that Mr. Garza's letter is pointed for the letter of the attorney for the builders of which he had a copy, but did not agree with it.

Mr. Smith asked that Mr. Garza's report be put into the record verbatim.
"The proposed addition to the Powhatan Nursing Home appears to be a feasible use of the undeveloped portion of this site. However, all requirements of the site plan ordinance must be met, including adequate disposition of drainage, fire protection, screen planting, etc.
The proposed addition would increase the actual imperviousness of the site to approximately 54%. Imperviousness of 36% was used for computing the run-off coming from this site to Nantucket, the subdivision immediately adjacent to the north. The proposed increase in the impervious areas would overload slightly some portions of the existing Nantucket storm sewer system. This inadequacy would average approximately 5% of the design capacity of the affected lines, between 2 and 4 cubic feet per second. An "As-Built" of the existing outfall lines should be required. Any critical inadequacies that might be caused by the increased inperviousness of this addition would have to be corrected by this developer. New storm sewer construction would be required on-site to carry the site run-off to the outfall.

Access to the Nursing Home is limited and awkward at the present time. The only direct approach is from the south because neither Powhatan Street nor Wicomico Street are complete. Powhatan Street dead ends justnorth of the existing entrance. However, the approved plans and profiles for Nantucket show that Powhatan Street will be constructed between the subdivision and the Nursing Home entrance.

Under the original approval of Site Plan #358, the developer of the first section of Powhatan Nursing Home cited a financial hardship. Since Powhatan Street at that time was not constructed beyond their property, they asked to be relieved of the requirement to construct Powhatan Street for the full frontage of their site. In lieu of said construction, they dedicated the 50-foot right-of-way in front of their site.

During the rezoning of the adjacent Nantucket Subdivision, the builder was requested by the Board of Supervisors to construct Powhatan Street in front of the Nursing Home in order to provide through circulation from Arlington County to Kirby Road through his subdivision and the Marlborough Subdivision. However, during the negotiation to acquire the necessary slope easement from the Nursing Home, the builder of Nantucket had to pay approximately $3,000 for slope easements to the Nursing Home. These slope easements were necessary in order to conform with his agreement with the Board of Supervisors to construct Powhatan Street in front of Powhatan Nursing Home.

The proposed two story addition to the Powhatan Nursing Home appears to cover about the same area as the original one story construction. It will, therefore, generate approximately twice as much additional traffic as the existing institution. It is our opinion that it would only be fair that the Nursing Home now shoulder its fair share of road improvements for construction of Powhatan Street from its existing terminus to Nantucket Subdivision and relieve the builder of Nantucket from this off-site expenditure.

Wicomico Street is complete in front of the Nursing Home, but dead ends near the north property line. The Nantucket plans show that this street also is to be completed and will connect with Freedom Lane. Until these two short connections are constructed, access to the Nursing Home is very indirect.

The plans, when submitted should also incorporate a detailed planting plan. The natural woodland near the north boundary should be utilized insofar as practiable for screening between the Nantucket Subdivision and the site. However, the southern boundary, facing the Powhatan Hills Subdivision, will require substantial new planting if adequate screening is to be provided.

Detailed provisions for fire protection should be discussed with the office of the Fairfax County Fire Marshall prior to plan submission.

The pro rata share contribution for the site is $3,283.00 per impervious acre.
7.664 acres X 54% impervious X $3,283.00 = $13,588.00.
$3,000.00 was paid on June 20, 1966 with Site Plan #358. The balance due is $10,588.00"
/s/ C. M. Garza, Branch Chief, Technical Branch, Zoning Administration

Mr. Lambert went over the package that he had submitted to the Board. This package consisted of a traffic study; a residence census; number of employees and their resident address; letter from Thomas H. Walker; architect, Bureau of Medical & Nursing Facilities Services stating that in general, the plan for this additional facility meets the rules and regulations for the Licensure of Convalescent and Nursing Homes in Virginia; definition of Intermediate Care Facilities Program as defined under Section 1121 of the Social Security Act; and an excerpt from the State Board of Health Public Hearing April 14, 1972; letter from Mrs. Marietta C. Cohen, Program Head, Nursing of the Northern Virginia Community College regarding utilizing the Powhatan Nursing Facility for student learning experiences to be conducted in the nursing home, another letter from Mrs. Sandra Bailey, Program Head, Medical Record Technology, of the Northern Virginia Community College, stating that she was pleased that Powhatan Nursing would be participating in their program during the spring quarter of 1972 and detailing specific items regarding this; letter from Helen F. Walker, Coordinator for Nursing Seminars, University of Virginia, Center for Continuing Education, School of General Studies regarding refresher courses to be held in the Powhatan Nursing Home.

Personnel ?

Mr. John Bordelon, 3526 Jean Street, Fairfax, Virginia, Administrator of the Powhatan Nursing Home, spoke before the Board regarding the traffic study.

Mr. Lambert spoke on the food service by Cleve's Food Service.

Mr. Bordelon again spoke on the definition of intermediate facility.

Dr. Orsinger, who resides near the nursing home, spoke before the Board in support of this application. He stated that he made a call ~~the~~ on the way to the meeting. He stated that everyone there was human and that he treats sick people and everyone wants to feel that there is going to be a hospital bed for them should they become sick. He stated that there was a need for more beds in Powhatan. Doctors tend to live near hospitals so they can go see their patients, otherwise the patients suffer. He stated that he came to this meeting on behalf of the medical profession.

Mr. Thomas Easton, 408 Park Avenue, City of Falls Church, spoke in support of this application. He stated that Mr. David Sutherland was present the entire morning, but he had to go back to Court, but Mr. Sutherland asked him to express to the Board his full support for this application. Mr. Easton stated that he had a vested interest in this home as his 80 year old mother is there. The serenity that surrounds this nursing home is second to none. He stated that he knew people who had tried to get in this home and could not as they have a long waiting list. He stated that he hoped the Board would approve this application so other people's mothers would be as happy as his is.

Mr. Quackenbush, who lives in the Powhatan Subdivision just out side of the nursing home, and has lived there for nine years, stated that he has no interest in the home itself. He stated that he was there to try to bring some substance of fairness to this application. He stated that there was a lot of controversy regarding this application, but he feels there is no problem with this addition being added to this nursing home. He stated that he did not belong to any civic organization as he has found that associations of this type hender progress more than help matters.

He stated that the grounds have been used as a play ground for his children and other children, who ride bikes, play ball, etc. The grounds are kept in excellent condition The civic associations have been allowed to use the rooms within this nursing homes. True, he stated, there will be more traffic, but he felt that these are problems that can be worked out and the people surrounding this home should accept some of the inconveniences for the sake of the good use of this home.

OPPOSITION

Mr. McDermott, 2008 Powhatan Street, Marlboro Citizens Association, spoke before the Board in opposition to this application. He stated that there are 80 families in this association. He stated that none of them had come to argue the merits of a nursing home. They are arguing size and impact as to traffic, etc. Any increase in size will bring more service trucks. Their main consideration is the safety of their children. It happens that the peak hours for the home coincide with children coming home from school. For these reasons, they request denial of this application.

Mr. Eric Johnson, representative from the Powhatan Hills Civic Association, spoke before the Board in opposition to this application. He stated that he was there to represent the people who signed the Petition, all of whom live next to the nursing home property, or close to it on Orland Street, Wicomico, Powhatan and Freedom Lane, with a few interested parties from the courts opening off these streets.

He stated that they objected and recommended denial as they do not feel they can absorb the increase in congestion which this expansion would generate. He stated that the present ordinance prohibits a facility from having a capacity of over 50 beds in any district of less density than RT-10. The Powhatan already exceeds that number. He stated that although they knew that the grandfather clause allows this home a loophole for expansion they thought that the clause was designed primarily for the Sleepy Hollow Nursing Home which is located on Columbia Pike, a major highway. He stated that none of these conditions apply to the Powhatan Nursing Home which lies in the heart of a remote, inaccessible R-10 neighborhood of private homes and quiet, residential streets. He discussed the over-all layout of this site and its surrounding streets together with the traffic pattern and access routes. Mr. Johnson showed views of the streets with the viewgraph.

He stated that they could not see how their little Wicomico Street could absorb all this activity and still function as a through street. In their traffic count they came up with 40 cars during the peak hour.

He stated they were appealing to the Board to deny this application.

Mrs. Shalanberger, who has a contract to purchase a home at 2108 Powhatan Street, stated that they wished to state their objection to this expansion for the reasons that have been previously stated.

REBUTTAL

In rebuttal Mr. Lambert stated that most of the homes on Orland Street were built and sold prior to the time they began operation on May 1, 1966. Almost every person in the area shown on the viewgraph knew that the nursing home was there at that time. There are numerous subdivision being built around there recently and that accounts for a lot of the excess traffic that these people have spoke of. They have had some difficulties with minibikes, etc., but that has had no relation to the nursing home. He stated that they would try to cooperate with these people as best they could.

Mr. Smith noted that the Planning Commission considered this application on April 18, 1972 and recommended that the Board of Zoning Appeals deny the subject application.

Mr. Long moved that application S-16-72 be deferred until May 17 for decision only to allow the Board to view the property.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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HOLLIN MEADOWS SWIM & TENNIA CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to allow continuation of existing special use permit to operate community swimming pool and other recreational facilities with addition of lights on tennis courts and modification of parking requirements, 2500 Woodlawn Trail, Hollin Hills Subd., 93-3((1))6A, Mount Vernon District, (R-17), S-27-72 -- (Deferred from April 12, 1972 for two weeks for the two groups to meet together and amicably agree on plan)

Mr. Gillett, 7708 Elba Road, represented the applicant. In addition the attorney for the applicant, Mr. Archer, was present.

Mr. Gillett stated that they had reached an agreement to meet with all the citizens at a joint meeting and air their problems. They have scheduled the meeting for the 22nd of May. They were like to have 45 days to work out their problems, but be allowed to open their pool.at the normal time, the Memorial Day weekend.
Mr. Alfred Aiken, representing the opposing citizens, read a joint statement that was agreed to by both factions.

"Mr. Smith and members of the Board, as you know the representatives of the Hollin Hills Swim & Tennis Club appeared before this Board on April 12, 1972 to request (a) exception to the requirement of 100 parking spaces, the requirement which would involve the expansion of current parking areas; b) approval to add lights to existing tennis courts. The second issue did not come up for discussion because of problems encountered with the first, specifically objections made by contiguous neighbors of the club. Our petitions were tabled by the Board with the request that we get together and see if we could resolve our differences and return to the Board within two weeks. Subsequently, there has been a meeting of the Club Board of Directors and then one with the adjacent property owners. The latter meeting took place on April 22, 1972, with 14 of the adjacent property owners present. We jointly, the Club and the adjacent neighbors, feel that progress has been made on the issues outstanding between us. There are issues regarding the Club's Use Permit on which the neighbors wish assurances from the Club. This will require a special meeting with the 300 club membership which will require additional time and preparation of position statements, arrangements for the meeting place and the minimum advance notice required by our by-laws. We feel that we can work things out. Our intent is to appear before you with a single nondisputed position, but this will obviously take time. We, therefore, respectfully request the 45 day extension to our temporary occupancy permit to allow the Club operation to proceed while these actions and the subsequent deliberations of the Board of Zoning Appeals take place."

Mr. Smith stated that he felt that instead of extending a nonexisting use permit that we will ask the Zoning Administrator to take no action until after June 14, 1972, if this is agreeable with Mr. Covington.

Mr. Covington stated that it was agreeable with him.

Mr. Archer stated that he had the application in now for the Permit unless the citizens come up with something that is more compatible.

Mr. Gillett stated that there is no application for lights at this time.

Mr. Smith stated that this would then be an application for a lesser use than the previous application.

Mr. Gillett and Mr. Aiken asked if Mr. Garza could be present.

Mr. Smith stated that that would be up to Mr. Garza, but they could request him to be present if they so desired.

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AFTER AGENDA ITEMS:

B.P. OIL CORP. & VINCENT WELCH, JANICE SWALES & ANNE WILKINS, app. under Sec. 30-7.2.10.2.1 and Section 30-7.2.10.2.2 of Ord. to permit service station, northeast corner of Pohick and Hooes Road, 97((1))69, Springfield District, (C-N), S-213-71

Mr. Smith read a letter from Paul Backus, B.P. Oil Corp. requesting withdrawal of the above application for a Use Permit on Pohick and Hooes. He stated that due to their inability to obtain sewer or septic system approval from the County, they did not feel they should proceed with this site at this time.

Mr. Long moved that the above application be allowed to be withdrawn with prejudice. Mr. Kelley seconded the motion and the motion passed unanimously.

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CARNIVAL ORDINANCE

The Board discussed several aspects regarding carnivals in Fairfax County.

Mr. Grinnell, Director of Community Services, had at the previous meeting submitted to the Board of Zoning Appeals a proposed ordinance which they were to study, make comments on and then make a recommendation on it.

Mr. Smith at the meeting of April 19, 1972, stated that the Board would make a formal resolution regarding this ordinance at the April 26, 1972 meeting.

Mr. Kelley moved that the Board of Zoning Appeals recommend to the Board of Supervisors adoption of the proposed carnival ordinance.

Mr. Barnes seconded the motion and the motion passed unanimously with three voting for the resolution and Mr. Baker abstaining.

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KARLSTROM (Request for rehearing) This matter was taken up by the Board and the Zoning Administrator was requested to check to see whether or not the building met all building codes.

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Mr. Smith asked the Clerk to write a letter to the Planning Commission agreeing to meet with them and ask them if they could set a tentative date for the meeting to discuss Special Use Permits.

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The meeting adjourned at 6:25 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

DATE June 21, 1972

The Regular Meeting of the Board of Zoning Appeals was Held On Wednesday, May 10, 1972, at 10:00 A.M. in the Board Room of The Massey Building; Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman, George Barnes, Loy P. Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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The W. S. Covington, The Assistant Zoning Administrator was present, and Mr. Vernon Long, Supervisor of Field Inspections, and Mrs. Jane Kelsey, Clerk to the BZA, were present for the entire hearing. In addition, Mr. Steve Reynolds, Preliminary Engineering, was present for portions of the hearing relating to his department.

WILLIAM E. SARGENT, app. under Sec. 30-6.6 of Ord. to permit erection of dwelling 18.2' from side property line, 4002 Belle Rive Terrace, Belle Rive Subd., 110-4((4))26, Mt. Vernon Dist., (RE-0.5), V-53-72

Mr. Ed S. Holland from Holland Engineering represented the applicant. Mr. Holland's address is 110 N. Royal Street, Alexandria, Virginia. He stated that the applicant, Mr. Sargent was present and was available for questions.

Notices to property owners were in order. The contiguous owners were Mr. Brenthaven, 1916 Macklin Court, Alexandria, Virginia and Frieda C. Winifield, 9309 Boothe Street, Alexandria, Virginia.

Mr. Holland stated that Mr. Sargent had an architect and had selected a building similar to one that already has been built with some minor exceptions. The lot is beautiful and overlooks a ravine overlooking the Potomac. Only the corner of this house will encroach into the setback area, therefore they are only asking for a variance of 1.8' at the rear corner of the building. He submitted photographs of the house that is similar to the one Mr. Sargent wishes to build.

Mr. Long stated that this is a minimum variance.

Mr. Holland stated that the lot is very narrow and has an irregular shape. /The house that the owner has selected cannot be reduced in length without making major changes in the building plans.

No opposition.

In application N. V-53-72, application by William E. Sargent, under Section 30-6.6 of the Zoning Ordinance to permit erection of a dwelling 18.2' from side property line, on property located at 4002 Belle Haven Terrace, Mount Vernon District, also known as tax map 110-4((4))26, County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 22,486 square feet of land.
4. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:
(a) exceptionally irregular shape of the lot,
(b) exceptionally narrow lot

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion and the motion passed unanimously.

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TEXACO, INC., app. under Sec. 30-7.2.10.2.5 of Ord. to permit design change in an existing service station under existing special use permit so as to include a drive-through car wash, 6543 Little River Turnpike, Hanna Park & Glendale Subd., 72-1((12))(11) A 7 & 1, Mason District (C-N), S-54-72

Mr. Calvert, 3800 Pickett Road, Fairfax, Virginia, spoke to the Board, representing the applicant.
Notices to property owners were in order. The contiguous owners were Mr. and Mrs. James M. Shaffer, 4724 Edward Street, Alexandria, Virginia and Mr. Joseph K. Phillips, 4725 Edwards Street, Alexandria, Virginia and Mr. W. R. Talbert, 3800 Pickett Road, Fairfax, Virginia.

The testimony for this case was that this station is three years old and they now have an exterior car wash and now they are asking for an interior car wash, thereby improving their property by installing this interior car wash in the place of one of the three bays. They would extend the building roof by approximately 2 feet on one wall. The exterior car wash is a hand operation and the interior will be mechanical.

Mr. Long asked if they had given any thought to the stacking lane.

It was stated that they had stacking room on the property for five cars and it takes two minutes to wash a car and at no time do they anticipate problems with any stacking on Edwards Street. There is an existing road in front of the station. This is a deal where you buy gasoline and wash your car too. They estimate 80 cars per day. The water will run into the sanitary sewer and they have checked and the present sewer facilities will take care of this water.

The adjacent property is owned by Texaco.

There was a question as to the setback for the rear of the lot.

Mr. Covington stated that the entrance to the general public establishes the front.

The front then was determined to be Route 236.

Mr. Smith stated that there was an application for a car wash down the street next to the Kenny Shoe Store which was denied.

In opposition, Mr. Houston, 524 Cherokee Avenue, Alexandria, spoke before the Board.

He stated that he was speaking for the Lincolnia Park Civic Association. Mr. Houston stated that this property lies within the highway corridor zone and is subject to it. He stated that in view of the testimony here today, there is some doubt in his mind as to whether the applicant does own the additional C-N to fulfill the setback portion of the ordinance. Therefore, for these reasons they urge the Board to deny this application and should it be granted they urge the condition be added that no stacking lane for cars will be permitted on Edwards Street.

Mr. Smith stated that there would be no stacking of cars on any street. This is one of the problems with car washes and gasoline stations as you can see on the one in Annandale which is C-G zoned.

Mr. Smith asked if the highway corridor was now in existence. (He directed the question to Mr. Covington) Mr. Covington stated that it is now in existence.

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TEXACO, INC. S-54-72
May 10, 1972

Mr. Smith stated that after rechecking the plats, it looks as though the setbacks are alright. It is zoned C-N and Texaco does own that property in question adjacent to the subject application's property.

Mr. Smith stated that he did not believe that the Board can extend these uses to include an automatic car wash. He stated that if they wanted to continue with a hand operated car wash setup then the Board could consider that, but personally he did not believe that there could be any expansion under the new ordinance relating to highway corridors as it would not be in keeping with the spirit of the ordinance. This would increase the potential stacking problem which then overflows into the surrounding streets.

Mr. Yaremchuk, Director of County Development, was welcomed to the hearing.

Mr. Long moved that S-54-72 be deferred for 30 days for decision only to allow the applicant the opportunity to submit new plats showing adequate stacking lanes and these plats to the Division of Land Use Administration and to the Zoning Administrator five working days prior to the hearing.

Mr. Kelley seconded the motion and the motion passed unanimously.

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MRS. LUCILLE E. AUGUSTINE, app. under Sec. 30-7.2.6.1.3 of Ord. to permit nursery for children ages 2-6, 30 children, 7:00 A.M. to 6:00 P.M., 2905 Preston Avenue, Memorial Heights Subd., 93-1((18))(F)207 & 208, Mount Vernon District (R-12.5) S-55-72

Notices to property owners were in order. The contiguous owners were Rita Allen, 2914 Popkin Lane and Steven W. Yane, Memorial Heights, 701 Memorial Heights Drive.

Mrs. Augustine stated that she owned the property and has lived there for fourteen years. She stated that she did live there, but she moved out and now the dwelling is used primarily for a nursery school. She has had this school at this location for 13 years and had a use permit, but because she didn't keep up with the records well enough, she let it expire and did not know it. She presently has 30 children and she wants to continue to use this location in the same way that it has been used with no changes.

The memorandum from the Health Department stated that they had no objection to this application.

Mr. Covington stated that the Zoning Office had had no complaints. It was granted on a three year basis in 1968.

Mrs. Augustine stated that she transported some of the children by bus and a station wagon.

Mr. Barnes told her that the bus had to be painted yellow with proper lights in conformity with the new State regulations.

Mr. Smith then read a note stating that Trooper Hughes had been in the office of Zoning Administration and talked with Mrs. Kelsey. His office was checking to see how the BZA was handling this bus situation. He wished to talk with the Chairman of the BZA and explain to him the new state regulations. He had left copies of all the State regulation which the Clerk had sent to Mr. Cooke who is coordinating material for the new Private School Ordinance and drafting it.

Mr. Smith stated that he would like to talk with Trooper Hughes about this problem.

Mr. Kelley told Mrs. Augustine that she would have to comply with this regulation before the next school year.

No opposition.

Mr. Smith stated that this permit was issued back in 1959 and he felt that it should be kept the same, but perhaps extended to a five year period.

No opposition.

In application No. S-55-72, application by Mrs. Lucille E. Augustine, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit nursery for children ages 2-6 7:00 A.M. to 6:00 P.M. on property located at 2905 Preston Avenue, Memorial Heights Subd., 93-1((18))(F)207 & 208, Mount Vernon District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 6,250 square feet.
4. That compliance with all county and state codes is required.
5. That a special use permit was granted by the BZA October 22, 1968 for a period of three years.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 30, ages 2 to 6.
7. The hours of operation shall be from 7:00 A.M. to 6:00 P.M., 5 days per week, Monday through Friday.
8. The recreational area shall be enclosed with a chain link fence in conformity with state and county codes.
9. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions, and the obtaining of a certificate of occupancy.
10. All buses used for transporting students shall comply with State and Fairfax County School Board regulations in color and light requirements.
11. This permit is granted for a period of three years with the Zoning Administrator being empowered to extend the permit for three one year periods.

Mr. Baker seconded the motion.

The motion passed unanimously.

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ROBERT & KATHLEEN GOMEZ, app. under Sec. 30-6.6.5.4 of Ord. to allow porch on house to remain 25.3' from Berlee Drive, 6113 Berlee Drive, Heywood Glen Subd., 72-2((9))9, Mason District (R-12.5), V-60-72

Notices to property owners were in order.

Mr. Gomez stated that the porch is in violation 4.7 feet on the south corner and 2.7' on the north corner. They now occupy the dwelling. Mohawk constructed this house. They moved in in accordance with the real estate contract under a rental agreement prior to settlement. Sometime after the week they moved in they were informed that a portion of the porch was in violation and that they had two alternatives 1) to tear the porch down or come before this Board and asked for a variance. It was apparently a mistake of the builder or an oversite in planning.

Mr. Smith asked that the builder come forward and speak since it was his error.

Mr. Lawrence Standard came forward.

Mr. Smith asked him if he had a county license.

Mr. Standard stated that he did and he was the builder of the development of the Heywood Glen Subdivision. He stated that these houses come with two elevations. This house was started prior to Mr. and Mrs. Gomez buying it. After he had purchased it, he found that Mr. Gomex had selected the house with the columned porch style in front, the builders and people on the site did not think that it was over the building restriction line until the final survey and at that time it was brought to their attention.

Mr. Smith asked who the settlement attorney was.

Mr. Standard stated that it was James Lockwood, Jr., right across the street from this County office building.

Mr. Covington stated that he doubted if they had an occupancy permit, but he would check.

Mr. Standard stated that the plans that were originally turned in were slated for a Georgian front and it was changed during the course of the construction after it was started. Mr. Ghent found on the final check that they were in violation.

Mr. Smith stated that in other words if the surveyor had not been honest they and the County would have never known of the mistake.

Mr. Covington stated that the County makes them honest with all their double checks.

No opposition.

In application No. V-60-72, application by Robert & Kathleen Gomez under Section 30-6.6.5.4 of the Zoning Ordinance, to allow porch on house to remain 25.3' from Berlee Drive, Mason District, on property located at 6113 Berlee Drive, Heywood Glen Subdivision, also known as tax map 72-2((9))9, County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant 2. That the present zoning is RE-05. 3. Thatthe area of the lot is 15,052 square feet. 4. The porch is existing.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the Board has found that non-compliance was the result of an error in the location of the porch; and 2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance; and will not be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, thatthe subject application be and the same is hereby granted.

Mr. Barnes seconded the motion and the motion passed unanimously.

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JOHN W. SNURE, app. under Sec. 30-6.6 of Ord. to allow garage to come within 13.5' of side property line, 9004 Cherrytree Drive, Mount Vernon Forest Subd., 110-2((11))1, Mount Vernon District, (R-12.5), V-60-72

Notices to property owners were in order. Contiguous owners were Donald Blair, 9006 Cherrytree Drive and John Kennedy, 9005 Cherrytree Drive.

Mr. Snure stated that he had been before the Board previously and obtained a variance, but he cut the back edge of his garage off so he wouldn't need to ask for as much variance. After this was granted, he took his plans to a builder and the builder told him that in addition to being difficult to build and more expensive, it would not be compatible with the house and neighborhood and the builder suggested he come back before the Board and asked that he be allowed to put the corner back on the proposed garage. He was before the Board in February, 1972.

The Board suggested this and looked at the previous plats and the new plats.

No opposition.

In application No. V-61-72, application by John W. Snure, under Section 30-6.6 of the Zoning Ordinance, on property located at 9004 Cherrytree Drive, Mount Vernon District, also known as tax map 110-2((11))1, to permit garage to come within 13.5' of side property line, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. Thatthe owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 20,145 square feet.
4. That compliance with all County Codes is required.
5. That this is a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
(a) exceptionally irregular shape of the lot,
(b) exceptionally shallow lot,
(c) exceptional topographic problems of the land,
(d) unusual condition of the location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. The architecture, construction and materials for the proposed addition shall be similar to existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion and the motion passed unanimously.

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THOMAS A. CARY, INC. & JOE B. MARBURGER, et ux, app. under Sec. 30-6.6.5.4 of the Ord. to allow house to remain 28.70' from Dobbin Court, Rolling Valley West Subd., 78-4((6))80, Springfield District (R-12.5), V-62-72 (6215 Dobbin Court).

Daniel Shaner, attorney for the applicant, testified before the Board, on behalf of the original applicant Thomas Cary.

Mr. Shaner asked that the application be amended to include Joe B. Marburger, et ux.

Mr. Baker so moved.

Mr. Long seconded the motion and the motion passed unanimously.

Mr. Shaner stated that there was a letter in the file concurring with this request from the Marburgers.

Mr. Shaner stated that in the course of the original stakeout and the pouring of the footings, either the original stakeout was incorrect or the footings were set in incorrectly. During the intermediate check the error was compounded as it was not caught then and was not found until the final as-built and then the engineering people discovered the error.

Notices to property owners were in order. The contiguous owners were Eugene Decker, 6220 Draco Street, Burke, Virginia and Mr. Robert W. Ross, 6216 Draco Street, Burke, Virginia.

Mr. Shaner stated that Mr. Marburger is now the record owner and he is also occupying the dwelling. Mr. Shaner stated that Mr. Marburger is present and he was aware of the problems.

No opposition.

In application No. V-62-72, application by Thomas A. Cary, Inc. and Joe E. Marburger, et ux under Section 30-6.6.5.4 of the Zoning Ordinance, to allow house to remain 20.70' from Dobbin Court, Springfield District, onproperty located at 6215 Dobbin Court, Rolling Valley West Subd., also known as tax map 78-4((6))80, County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 10,775 square feet of land.
4. The construction of the dwelling is complete.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the Board has found that non-compliance was the result of an error in the location of the building; and

2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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THOMAS A. CARY, INC. & R. L. KIPER, ET UX., app. under Sec. 30-6.6.5.4 of the Ord. to allow house to remain 27.42' from Garretson Street, Rolling Valley West Subd., 78-4((6)) 106, Springfield Dist., (R-12.5), V-62-72 (6215 Dobbin Court)(as amended)

Mr. Daniel Shaner, attorney for the applicant, represented them before the Board.

Mr. Shaner asked that the application be amended to include R. L. Kiper, et ux.

Mr. Baker so moved.

Mr. Long seconded the motion and the motion passed unanimously.

Notices to property owners were in order. The contiguous owners were Mr. Frederick S. Bray, 6214 Gerretson Street, Burke and Mr. John W. Kern, Jr., 9034 Andromeda Drive, Burke, Virginia.

Mr. Shaner stated that they did not know exactly how this error had happened, but they speculated that it happened in the course of the stakeout or subsequent to the stakeout the stakes could have been moved by the workmen or by vandals, or at the time of the pouring of the footings by the subcontractors, they might not have poured the footings in line with the original stakeout. This error was compounded as it was not found by the intermediate check. This variance is for approximately 2.5'.

No opposition.

Mr. Smith asked if the man responsible for these errors was in the employ of Mr. Cary.

Mr. Shaner stated that he was no longer in the employ of Mr. Cary.

In application No. V-63-72, application by Thomas A. Cary, Inc. and R. L. Kiper, Jr., et ux., under Section 30-6.6.5.4 of the Zoning Ordinance, to allow house to remain 27.42' from Garretson Street, on property located at 6212 Garretson Street, Rolling Valley West Subd., also known as tax map 78-4((6))106, County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant, R. L. Kiper, et ux.
2. That the present zoning is R-12.5
3. That the area of the lot is 11,183 square feet of land.
4. That the construction of the dwelling is complete.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the Board has found that non-compliance was the result of an error in the location of the building; and

2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, thatthe subject application be and the same is hereby granted.

Mr. Barnes seconded the motion and the motion passed unanimously.

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B.P. OIL CORP. & ROLAND E. GOODE, TR., app. under Sec. 30-7.2.10.3.1 of Ord. to permit service station, intersection of Lee Chapel Road, (Route 643) and Old Keene Mill Road (Route 644) 88-1((1))pt. 14, Springfield Dist., (C-D), S-69-72 (S.U.P. granted previously 10-12-71 to Roland Goode & CITCO, S-189-71),

Mr. Douglas Adams represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Catholic Church P.O. Box 2G, Richmond and George C. Stone, 7104 Leesville Blvd., Springfield, Virginia.

Mr. Adams stated that the one difference in this application from the CITCO is the bays in this application are coming in from the rear.

Mr. Adams submitted a rendering to the Board.

Mr. Smith asked if the shopping center is now complete.

Mr. Adams stated that it had not yet been started.

Mr. Smith asked if this service station was shown at the time of the rezoning.

Mr. Adams stated that this question came up at the original hearing. The rezoning showed general uses and did not have specifically a gasoline station on it.

Mr. Long asked about the sign that is shown on the corner.

Mr. Adams stated that the sign simply indicates that they would like to have the sign. He said this was not part of the application.

Mr. Long told Mr. Adams that they relate the use permit to the plat and the rendering and the plat shows the proposed sign and they are not allowed under the sign ordinance as Mr. Adams was aware.

Mr. Smith stated that the Board has not been granting free standing signs and signs of that nature. This is under a special use permit and one of the special conditions for this use is that there can be no free standing signs and we base our granting on the plats submitted with this case.

Mr. Adams said that he felt the Board had authority to make suggested changes on any plats that were submitted.

Mr. Long stated that he did not feel there was anything wrong with the plat except we want the revised plat showing deletion of the sign.

Mr. Smith agreed.

Mr. Adams stated that this proposed B.P. station is a three bay rear entrance station with two pump islands and a canopy. There will be two dispensing units on each island for a total of four. He stated that Mr. Ward, the architect, is present should the Board have any questions for him. Mr. Backus representingB.P. Oil is present also.

Mr. Adams stated that parking spaces were provided as requested and also in connection with the other application certain ingress and egress provisions were requested by site plan.

Mr. Baker asked about the future pump island as was indicated on the plat.

Mr. Adams stated that that was for future expansion.

Mr. Baker told him that if they expanded the use they would have to come back, as it is what they intend to do within the next 12 months that would be granted in this application.

Mr. Long asked Mr. Adams if he was aware of all the conditions of the original use permit and would this oil company willingly comply.

Mr. Adams stated that he did not have those conditions before him, but he was sure they would comply.

Mr. Long asked Mr. Adams if the parking spaces was for employees and customers and not for trailers, and trucks, etc.?

Mr. Adams stated that was correct.

Mr. Adams stated that the construction of the station would be the same as indicated on the previous application of CITCO, the same brick that will be used throughout the entire shopping center. He stated that Mr. Ward had brought a brick sample in the last time.

Mr. Ward came forward and stated that it will be the same type brick, light tan, Atlas Brick, 600B.

Mr. Adams stated that the original motion stated that the brick was to be identical with that in the shopping center, would have the same roof line and basically the same plantings.

No opposition.

Mr. Long moved that application S-69-72 be deferred for a maximum of 30 days for decision only to allow the applicant the opportunity to furnish new plats deleting the sign.

Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Smith told Mr. Adams to have the plats in 5 days in advance of any meeting in that 30 day period.

Mr. Adams asked if it was necessary that he be present.
Mr. Smith told him that was not necessary.

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CHARLES & LAURA HAAR, app. under Sec. 30-7.2.6.1.3 of Ord. to permit day care center, 40 children, ages 2-6, 5 days per week, 7:00 A.M. to 6:00 P.M., 9350 Burke Road, 78-2 & 78-4((1))Parcel 1, Springfield District (RE-0.5), S-64-72

Mr. Charles Haar testified before the Board.

Notices to property owners were in order. The contiguous owners were Ryans Homes, 7011 Calamo Street, Springfield, Virginia and James Betcher, 9320 Burke Road, Virginia.

Mr. Haar stated that these Ryan Homes were just now under construction. He stated that he had resided at this address for eleven years and their is not part of the new subdivision. This will be a group child care center which will provide adequate facilities for 40 children. This will be operated 5 days per week, Monday through Friday. The administrator will be himself and they plan to have teachers that will comply with the State regulations. There will be no transportation provided at this time.

He showed theBoard a rendering of what his school will look like. This school will be on the same lot as his house. They plan to continue to live there. This will be a one story frame house and it will comply with the State Codes. He stated that the rendering does not do the house justice. This is a very wooded area and it will be a very attractive building. He stated that since this community is a close community with houses in the middle range, this will be a service to the people in that area. There will be 147 Ryan Homes. The County is provided day care centers for low income families and they will try to provide good care for the middle income families.

There was a discussion regarding the plats and they will ruled in order.

Mr. Haar stated that he would like to submit a list of names and signatures he had obtained from 50 people who are in favor of the operation of this center.

Mr. Haar stated that they would like to have 40 children, twelve months per year.

Mr. Steve Reynolds from Preliminary Engineering stated that he felt the applicant should know that Cardinal Estates plans have been approved and they have to provide curb and gutter and are under site plan. The County's Preliminary Engineering Department also asks that this applicant provide curb and gutter.

Mr. Smith reads the staff report to that effect.

Mr. Haar stated that he would be glad to dedicate the land and work with the county, but he didn't feel he should have to construct.

Mr. Kelley asked if the nine parking spaces would be sufficient.

Mr. Haar stated that the children would not be brought in at the same time, but from time to time during the hours they are open from 7:00 to 6:00 P.M. They do not anticipate 40 cars at the same time coming or leaving. They do not plan to transport any children.

Mr. Barnes told him if they did transport their children, then their buses would have to be properly marked in accordance with the state and county regulations, as to color and lighting.

No opposition.

Mr. Long stated that he would like to move that this case be deferred for the new ordinance.

Mr.SMith told Mr. Long that this application was heard under the old ordinance and would have to be decided on under the old ordinance, but the new ordinance could be used as a guideline.

Mr. Covington stated that the new ordinance would not be in effect for about two months as he understood.

Mr. Haar stated that the Planning Commission recommended when the Ryan Homes came in for their rezoning, that twelve acres be contributed to a school in this particular area and that did not come about. A school is needed in that area.

Mr. Smith stated that under site plan they can get a school in that area.

Mr. Long stated that he felt the Board of Zoning Appeals could not function as a Planning Commission and decide on schools of this magnitude. The Planning Commission should study it.

Mr. Smith told Mr. Long that this is not a school, but a day care center.

Mr. Long withdrew his original motion and moved that application S-64-72 be deferred for thirty days for decision only to allow the Division of Land Use Administration the opportunity to review this application under the guidelines of the new ordinance.

Mr. Kelley seconded the motion and the motion passed unanimously.

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Mr. Long moved that the Staff review all the applications on day care centers and schools in conformity with the new ordinance and send a report back to the Board prior to the hearing of the application by the Board of Zoning Appeals.

Mr. Kelley seconded the motion.

The motion passed unanimously.

Mr. Long asked Mr. Reynolds if they were reviewing these under the present ordinance or the proposed one.

Mr. Reynolds stated that they were reviewing these cases using the present ordinance as the proposed ordinance was not adopted yet.

Mr. Smith stated that Mr. Long was placing the responsibility on the Staff that he felt was already overworked now and that is one of the reasons why the school ordinance has not been adopted because the Staff is also working on the 5 year plan.

Mr. Kelley stated that to study what is proposed and interpret the proposal against the present and proposed ordinance is too much to do in such a short time as the Board has to do it in, therefore, they need the Staff to study this and make a report or recommendation.

Mr. Smith stated that he agreed that it should be studied, but studied by the Board members.

He stated that he would assure the members of the Board that the Staff is overworked. This is actually the Board's responsibility.

Mr. Long stated that the staff is being congratulated on their good work and He as a member of this Board finds it helpful in making decisions to have a staff recommendation and that he felt they should go a little further in their investigation.

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DEFERRED CASES:

RBD ASSOC., app. under Sec. 30-7.2.10.5.9 of Ord. to permit erection of motel, 102 units, 250' northeast of intersection of Route 1 & Old Mill Road, 109((2)) 11 & 12, Mount Vernon District (C-G), S-64-72

Mr. Edward W. Dove represented the applicant. His address is 2100 North Randolph Street, Arlington, Virginia. He stated that he was also Vice-President of Trico Associates.

This case had been deferred for proper notices.

Notices now were in order. Contiguous owners were Jack Cooper Smith, 927 15th St., N.W. Washington; D. C., Texaco, Inc., 2100 Hunter Avenue, Long Island; Future Farmers of America; and the Dept. of HEW, Washington, D. C.

Mr. Dove stated that he had a letter from Mr. Morris from Fairfax County Sewer Availability Dept. outlining the availability of Fairfax sanitary sewer to them. He stated he also had three letters from contiguous owners giving their approval in favor of this proposal.

Mr. Dove stated that this motel falls in the historic district and has been reviewed by the Architectural Review Board. It was given enthusiastic approval. This lot is fronted by Texaco. It has 40' of frontage and the bulk of the site lies between all C-G zoned land on three sides out of four. In the rear is the Future Farmers of America and some type of transmission repair shop. There is a 7-11, Esso and Texaco and a hardware store called Lucas Hardware. The architectural problems was to try to create an atmosphere that was pleasant in order to upgrade this particular area as required by the architectural review board. This facility will have the parking on the outer part. It contains a pool and landscaping. The units have two double beds, but it does contain an under counter kitchen located in the back area. This is proposed to be constructed with modular construction. That is, the units will be manufactured in Fredericksburg and then put together on the site. The units will be self-contained, and structurally designed to be stacked one on top of another. There is a similar facility being constructed here in Fairfax City now on Lee Highway. There is also a similar facility being constructed in Ocean City and some in the Norfolk area. The unit will be 11' from side to side.

In answer to Mr. Smith's question regarding their sign, Mr. Dove stated that they had had a problem because of all of the uses in the immediate area, all with huge signs. Therefore, they decided rather than try to compete with the signs, they would take a low key approach. They will use a low sign with a lighting fixture shining down on the name of the motel and light the area with globe lights giving the unit an idenity in itself. He stated that the Architectural Review Board left the type of sign open to come back before them if they found the sign not quite adequate. He stated that they felt their customers would be from references rather than traffic off of Route 1.

Mr. Smith stated that they did not show the sign on the plan.

Mr. Long asked Mr. Covington if they would be allowed a free standing sign.

Mr. Covington stated that this is in the highway corridor and it is in the CBD district zoning and they would be allowed a free standing sign.. He stated that the proposed sign is well within the limitations, as they can have a 12' sign.

Mr. Long asked about the 40' entrance.

Mr. Reynolds from Preliminary Engineering stated that they only require a minimum of 22' of access; however, the applicant has a hardship in that he only has 40' and some clearance would have to be obtained from the State Highway Dept. with regard to the entrance. This applicant will not have direct access to Route 1, except through the service drive.

Mr. Dove stated that they had agreed to do this.

Mr. Smith stated that he felt they would have a turning problem with a 22' entrance.

In application No. S-40-72, application by RBD Associates under Sec. 30-7.2.10.5.9 of the Zoning Ordinance, to permit erection of motel, 102 units, on property located at intersection of Route 1 and Old Mill Road, also known as tax map 109((2)) 11 & 12 Mount Vernon District, County of Fairfax, Virginia Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C Districts as conatined in Section 30-7.1.2 in the Zoning Ordinance; and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but arenot limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO obtain certificates of occupancy and the like through the established procedures and this Special Use Permit shall NOT be valid until this has been complied with.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property os the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Approval from the Architectural Review Board is required.

7. There shall be a minimum of 113 parking spaces.

8. The owner is to dedicate the service drive for the full frontage of the property along Route 1 prior to site plan approval.

9. No direct entrance from U.S. Route 1 to site to be allowed.

10. All planting, screening, landscaping, and brick walls, as shown on plats shall be as approved by the Director of County Development.

11. All signs must be approved by the Architectural Review Board and must comply with the Fairfax County Sign Ordinance.

Mr. Baker seconded the motion.

The motion passed unanimously.

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OAK MEADOW, INC., app. under Sec. 30-7.2.6.1.8 of Ord. to permit addition to nursing home of 36 beds (ori. use permit granted 1962 for 60 beds, making total of 96 beds) 1510 Collingwood Road, 102-4((1))11, Mount Vernon District (R-12.5), S-49-72

This case was deferred for decision only to allow the applicant to submit new plats.

The new plats had been submitted and reviewed by the Staff.

The Board studied these new plats and asked the applicant some brief questions.

In application No. S-49-72, application by Oak Meadows, Inc., under Section 30-7.2.6.1.8 of the Zoning Ordinance, to permit addition to nursing home of 36 beds, on property located at 1510 Collingwood Road, Mount Vernon District, also known as tax map 102-4 ((1))11, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 3.128 acres
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County and State Codes is required.
6. The Board of Zoning Appeals on June 12, 1962, granted a special use permit #9415 for 60 beds.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

2. That the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the comprehensive plan of land use embodied in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, thatthe subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirementsof this county. The applicant shall be himself responsible for fulfilling his obligation to obtain certificates of occupancy and the like through the established procedures and this special use peamit shall not be valid until this has been complied with.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occuapncy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

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OAK MEADOWS, INC. (continued)

6. There shall be a maximum of 96 beds.

7. Architecture and materials used in addition shall be compatible with existing building.

8. The minimum number of parking spaces shall be 47.

9. Landscaping and screening shall be as approved by the Director of County Development.

10. One-half the required road section of Collinwood Road shall be constructed or a provision for its ultimate construction at the time of Site Plan approval.

Mr. Baker seconded the motion.

The motion passed unanimously.

In application No. V-50-72, application by Oak Meadows, Inc. under Section 30-6.6 of the Zoning Ordinance, to allow nursing home closer than 100' from property line, on property located at 1510 Collingwood Road, Mount Vernon District, also known as tax map 102-4((1))11, County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of April, 1972; and continued until the 10th day of May, 1972; and
WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 3.128 acres.
4. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
(a) exceptional topographic problems of the land,
(b) unusual condition of the location of existing buildings
((c) setback requirement of 100'.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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NOFFSINGER, GLENN R., T/A MOUNT VERNON ANIMAL HOSPITAL, app. under Sec. 30-7.2.10.5.2 of the Ord., to permit erection of an animal hospital, 8623 Richmond Highway, Mount Vernon District, (C-G), 101-3((1))104, S-92-72; Granted April 26, 1972

Mr. Tom Lawson appeared before the Board requesting that the condtion limiting this use to a 5 year period with the Zoning Administrator empowered to extend it after that, be removed. He stated that Mr. Noffinger is going to invest in excess of $100,000 and he could not understand why the Board cannot remove this limitation. This limitation may keep Mr. Noffsinger from getting the mortgage loan.

Mr. Smith stated that the Board of Zoning Appeals might want to recommend to the Board of Supervisors that animal hospitals if they meet the sound proofing requirements, etc. that they should be allowed by right

Mr. Barnes agreed.

Mr. Long stated that he is concerned not only about this particular application, but the overall policy. He stated he did not see how the Board could make a man spend all that money that would be required and then in five years cause him to do it over again.

Mr. Baker stated that there would have to be a new hearing.

Mr. Baker then moved that the Board grant a new hearing on this case.

Mr. Smith stated that this has been the policy of the Board in the past that if the Board amends or changes the existing use permit there has to be another hearing.

Mr. Smith stated he would like to see this remain as it is and go to the Board of Supervisors and have them take this out of the ordinance.

Mr. Lawson stated that that would not help his client.

Mr. Barnes stated that he would second Mr. Baker's motion if there was no other way to do this.

Mr. Baker stated that that was why he had made the motion, because there doesn't seem to be any other way.

Mr. Long stated that he would support the motion because he was against the 5 year limitation.

Mr. Kelley abstained.

The motion carried.

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FORD LEASING DEVELOPMENT CO., S-133-70; Granted August 4, 1970

Mr. Covington stated that recently the Board granted a use permit to Churner Motor Co. under Ford Leasing for a sales room facility in a C-D zone on 236 and in the approval the Board stated that it was approved as per plats attached, but at the time of the approval the Chairman, Mr. Daniel Smith, said that it was his understanding that the body shop and the major repairs were not permitted, yet the plats were in the file showing a body shop.

Mr. Covington stated that since the Board approved or established a use of a new car sales room, he would feel that related uses such as body shops would be permitted. He stated that there was another application that was approved in a C-D zone on Route 7 which also showed a body shop and a complete facility.

Mr. Smith stated that it was not supposed to. A body shop is not allowed in a C-D zone, although repair is not body work and paint work. He asked if this was not the case, why would they make Logan Ford go over into an industrial zone.

Mr. Covington stated that he would say that 95% of the new car dealerships have body shops with their facility.

Mr. Smith stated that this was not the case under use permits.

Mr. Covington stated that under the definition of a car dealership they are a total use.

Mr. Smith stated that this is not permitted under the ordinance.

Mr. Covington stated that he issues occupancy permits all over the county for body shops.

Mr. Smith stated that he did not know how he could justify this.

Mr. Covington stated that it is under "auto repair".

Mr. Covington stated that with regard to Ford Leasing he felt that if you said auto repair could not be done within a new car dealership would be to say they, the new car dealership, could not go in C-G.

Mr. Smith stated that the dealer has to service the cars that he sells, but there is no warranty on body andpaint work.

Mr. Covington disagreed.

Mr. Long stated that he remembered this case and he made the motion and knew why Mr. Smith had asked him at the end of his motion if it was his intent not to have body shops or major repairs and that was because it had been discussed in complete detail and there was no question as to whether or not this would be allowed. It was clear that this would not be allowed and they had stated that the cars would be sent out for body work and there would be no major overhauling, etc. "When Mr. Smith, the Chairman, asked me that question I told him that it was my intent not to have body work or repairs," Mr. Long stated.

Mr. Smith stated that these uses are granted on conditions and in this case he had abstained and that was probably because the use was shown on the plat and it should have been deferred to allow the applicant to redraw the plats leaving this use out, as the Board relates the granting to the plats.

The Board called upon Mr. Houston, an adjacent neighbor of the subject property, to testify and asked him what he remembered of the hearing. He stated that he remembered it just as the Chairman and Mr. Long has related it. There was considerable discussion at that hearing and also the hearing of the Planning Commission. He stated that it was very clear that there would not be a body shop under this special use permit and it was in fact prohibited because of the residentially zoned land surrounding it.

Mr. Long stated that he was positive of this.

Mr. Covington stated that then if this is the intent and was the intent of the Board at the time of granting then they would hold Ford Leasing up until the body shop could be removed from the site plan.

Mr. Smith agreed that this definitely was the Board's intent. Mr. Long agreed also.

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Mr. Smith asked Mr. Yaremchuk to set up an appointment with the County Attorney, Mr. Pammel, Mr. Covington to go over some of the areas where we are in disagreement.

// SLEEPY HOLLOW MANOR NURSING HOME

Mr. Covington stated that they now have a revision of the plat of Sleepy Hollow Nursing HOme and they have changed to comply with the use permit.

The Board stated that in that case they do not need to review the plat.

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KARLSTROM; Re Variance

Mr. Covington stated that he had sent an inspector out to the Karlstrom house and Mr. Karlstrom had not complied with the building code. He will need to make some changes before he can comply. He asked the Board what they wanted him to do.

Mr. Smith stated that in view of the fact that it was constructed without a building permit and the fact that it does not comply with the building and electrical code requirements, then it should not be considered for a new hearing.

Mr. Barnes agreed.

Mr. Baker moved that the request be denied on the basis that the evidence submitted was not sufficient to warrant a new hearing.

Mr. Kelley seconded the motion.

Mr. Barnes stated that it should be brought out that he does not meet the electrical or building code.

The motion passed unanimously. Mr. Long abstained.

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Mr. Covington stated that he had a letter from Sylvia Short that on June 15, 1971, a special use permit was granted for her beauty shop. SHe would like to have it extended as k they had been constructing their house, but the shop was not yet completed and all the inspections were not complete.

Mr. Smith stated that it seemed to him that Mrs. Short had complied if she had begun constructing. He asked Mr. Covington to find out if she had a building permit and had actually started construction that section of the house that would contain the shop.

Mr. Long agreed.

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The meeting adjourned at 5:30 P.M.

By
Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

June 21, 1972
DATE

The Regular Meeting of the Board of Zoning Appeals was Held On Wednesday, May 17, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman; George Barnes; Loy P. Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF THE NATIONAL CAPITAL AREA, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to allow new facility for Fairfax County Y.W.C.A. 39-4((1))1, Providence District (RE-1), S-65-72 (Wolf Trap Road (Route 696) and Cedar Lane (Route 698)

Mrs. Virginia Foster spoke for the applicants.

Notices to property owners were in order.

Mrs. Foster stated that they were under a contract to purchase.

Mr. Hazelton, representative from the Metropolitan Area, Board of Directors, spoke before the Board. He stated that this facility will be a service to the community. They have been housed in a temporary building. He submitted a brochure to the Board to give them an idea of the problem. He stated that they have been searching for years for a good site. They have an advisory counsel of realtors, bankers and others who have been working toward this new facility.

Mr. Robert Bryan, Architect, 4301 Connecticut Avenue, N.W., Washington D. C. spoke before the Board and told them about the building they plan to build. They will attempt to keep this building with the residential character of the neighborhood. They plan to construct this building with brick and have a sloped roof with asphalt tile shingles. He stated that he would get a copy of the rendering for the file. He stated that they planned no major exterior recreational facilities at this time. They have planned an outdoor swimming pool. They do plan a day care facility; in the immediate future it will only be used as a baby sitting service. They are constructing the facility in accordance with the County and State Codes. They do not plan any transporation services for this.

Mr. Smith read the memorandum from the Preliminary Engineering Branch Chief stating:

> "This office has reviewed the subject application and would suggest the owner dedicate to 45' from the centerline of the right-of-way of Wolftrap Road, Route 696, for the full frontage of the property. This dedication would be in compliance with the Vienna Master Plan adopted by the Fairfax County Board of Supervisors. Under site plan control this office will require curb, gutter and sidewalk be constructed to 35' from the centerline of the right-of-way on Wolftrap Road as shown on the attached drawing."

In application No. S-65-72, application by YWCA Assoc. of the National Capital Area, Inc. under Sec. 30-7.2.6.1.1 of the Zoning Ordinance, to allow new facility for Fairfax County YWCA, on property located at Wolftrap Road and Cedar Lane, also known as tax map 39-4((1))1, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of May, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 10.93 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use PermitUSes in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. There shall be a minimum of 52 parking spaces.
7. The owner shall dedicate to 45' from the center line of the right-of-way of Wolftrap Road, Route 696, for the full frontage of the property. This dedication would be in compliance with the Vienna Master Plan adopted by the Fairfax County Board of Supervisors.
8. Construction of curb, gutter and sidewalk to 35' of center line of the right-of-way on Wolf Trap Road is required.
9. Any signs must comply with the Fairfax County sign ordinance.
10. Landscaping, screening and planting shall be as approved by the Director of County Development.

Mr. Baker seconded the motion. The motion passed unanimously.

Mr. Smith asked about the certificate of good standing.

They stated that they were a branch of the YWCA for the National Capital Area. They are qualified to do business in Virginia and do have a registered agent. They said they would submit a certificate of good standing promptly.

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EDWARD & LOUISE NELSON, app. under Sec. 30-6.6 of Ord. to allow garage to be constructed within 2.3' of side prop. line, 6803 Dante Court, West Springfield Village, Section 3, 89-1((7))60, Springfield District (R-17), V-66-72

Mr. Nelson testified before the Board.

Notices to property owners were in order. The contiguous owners were Ltc. & Mrs. Wilfred C. Bain, 8302 Wythe Lane, Springfield, Virginia and Mr. and Mrs. William J. McCarron, 8300 Wythe Lane, Springfield, Virginia.

Mr. Nelson stated that they had owned the property since July of 1967. He submitted another sketch to simplify his explaination as to what he planned to do. He stated that this is a part of the overall modification of his house. The entire project will enlarge the existing dining room and will necessitate the relocation of the porch and moving the garage over toward the side property line. He stated that he could place the garage in the middle of his back yard, but the neighbors would not approve. His back yard joins three neighbor's back yards. The screened porch has been there since the house was built, he stated.

Mr. Smith stated that from the pictures it looked as though he did have an odd shaped lot.

Mr. Covington stated that this is a substandard lot and that even though it is R-17 zoning, it was developed under R-10. This lot is very small and the shape of the lot is odd and also the placing of the house on the lot is odd.

Mr. Smith asked Mr. Covington if he thought the way the house was placed on the lot was because of the topography of the lot and the problem with that.

Mr. Covington stated that that would be his guess.
No opposition.
Mr. Barnes moved that this case be deferred until the Board could view the property and see if there is an alternative location.

Mr. Baker seconded the motion and the case was deferred until the 21st of June for decision only.

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AND ASHTON C. JONES, JR.

GEO. H. RUCKER REALTY CORP., app. under Sec. 30-6.6 of Ord. to allow building to be constructed within 1' of rear property line, 2719 through 2721c, Dorr Avenue, One Warehouse Building, Merrifield, Lee-Hi, Providence District, Industrial Park, 49-1((13)) 23-A, V-67-72 (IL & IP)

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Mr. Harrison, 7343 Eldorado Street, McLean, Virginia represented the applicant and testified before the Board.

Notices to property owners were in order. The contiguous owners were Timberlake S. McCue in the rear and Mr. Allen C. Adams, who owns the property adjoining this property to the south. Mr. Harrison stated that Rucker Realty owns the other property that adjoins this. He stated that he had letters from both these contiguous owners stating that they had no objection.

Mr. Harrison stated that the zoning line runs almost through the center of the back of their property and leave them with a situation where they can build to the property line on one-half of the building and must set back on the other half. They have the building under construction now.

Mr. Ashton Jones, 3333 North Glebe Road, Arlington, Virginia spoke before the Board.

Mr. Jones stated that 2/3 of the building is in I-P. He stated that they originally designed the building to come all the way back to the property line, but Site Plan sent it back to them. Then they changed the plan for the entire building to set back and resubmitted it. Now, they are applying to the BZA to have their original plan take effect. He stated that there was only a small portion of the building that needs the variance. They meet all the other setback requirements. They have the footings poured on the construction. They have the major portion of the building leased now.

Mr. Jones requested that this application be amended to include Aston C. Jones, Jr. as co-applicant.

Mr. Baker so moved. The Long seconded the motion and it passed unanimously.

Mr. Baker stated that there was more than ample parking spaces now.

Mr. Smith asked Mr. Jones if this would be an integral part of the building and it is not intended as an additional building.

Mr. Jones stated that their intent is as soon as they get approval on this, they will amend their site plan for one complete individual building.

Mr. Smith stated that this is an unusual zone line here.

No opposition.

In application No. V-67-72, application by George H. Rucker Realty Corp. and Ashton C. Jones, Jr., under Section 30-6.6 of the Zoning Ordinance, to permit building to be constructed within 1' of rear property line, on property located at 2719 through 2721c Dorr Avenue (One Warehouse building), also known as tax map 49-1((13))23A, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the BZA held on the 17th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the present property is the Ashton C. Jones, Jr.
2. That the present zoning is IL & IP.
3. That the area of the lot is 73,438 square feet.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with All County Codes is required.
6. That this request is for a minimum variance.

AND, WHEREAS, the BZA has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

(a) Location of the zoning line through the lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to otherland or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. There shall be provided 77 parking spaces.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion and the motion passed unanimously.

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YOUNG AMERICANS FOR FREEDOM, INC., app. under Sec. 30-7.2.5.1.4 of Ord. to allow office for mutual benefit association and proposed addition for printing facilities, 8700 Arlington Blvd, 49-3((1))24, Providence District (RE-1), S-68-72.

Mr. George Bennett, attorney for the applicant, represented them before the Board.

Notices to property owners were in order.

Mr. Smith stated that he was in receipt of a letter from the Methodist Church, Bruen Chapel Church, requesting a deferral of the hearing.

Mr. Bennett stated that he was surprised to hear that as they met with the members of the Board of Directors of the Church and explained to them their purposes and what they planned to do. The applicant is the contract owner and their contract will expire soon, therefore, they need to have the hearing as soon as possible.

Mr. Barnes moved to defer the entire thing.

Mr. Kelley seconded the motion.

Mr. Smith stated that the applicant is here and ready for the hearing.

Mr. Bennett stated that they had had their contract extended twice previously as they were unable to get on the docket before this Board.

Mr. Smith took a count of the interested people in this case and there were eleven.

There were no people present in opposition.

Mr. Barnes withdrew his motion. Mr. Kelley withdrew his second.

Mr. Smith stated that the Board would then hear this case and give the Church one week in which to get their comments in to the Board for the record.

Mr. Smith stated that one of the problems is the printing in the addition.

Mr. Bennett stated that this would be used only to prepare stationery to be used by headquarters of the organization and the monthly publications are published elsewhere. The headquarters are located presently in downtown Washington on Mass. Avenue.

Mr. Wayne Thorburn, Executive Director of YAF, 118 Old Interprise Road, spoke before the Board. He stated that YAF is a conservative organization. Mainly, it consists of young adults. This is the twelfth year the YAF has been in operation. They plan to use this structure and the proposed addition for their administrative offices. They have a staff of twelve employees. Their printing consists of sending memoranda to the State Chairmen and local chapters throughout the county. Their magazine is printed elsewhere. Their national membership is approximately 60,000. The requirement to become a member or an active member is not be over 39 years of age and to agree with the basic statement of their principals; dues are in the range of $1 to $10 per year.

The main objectives of the organization as far as community activities are concerned are several, he stated. One of which is trying to educate young people in the values of the American tradition and in conservatism to the extent where they can take leadership positions in society in the future. The bulk of the membership being highschool and college students. They are also involved in campus issues. Issues on college and highschool campuses, in this regard we try to provide speakers on programs and sometimes the local chapters will start their own campus newspapers and trying to maintain classes on campus when they are trying to be shut down and generally a process of involvement in affairs. They also try to encourage members to become involved in the political process, such as running for elections and working for candidates in state and county offices. They do not endorse any candidates. They encourage members to become active, but they do not tell the members who to become active for.

In answer to Mr. Smith's question of Mr. Thorburn's definition to conservatism, he defined it in terms of intellectual or philosophical conservatism concerned with support for the free enterprise system of economics, national defense, policy of opposition to communism, and international affairs, respect for law and order, limited role of the federal government.

Mr. Long asked if they took part in any demonstrations.

Mr. Thorburn stated that they do not. Mainly, their activity in the past has been opposing the activity of the SDS and other radical groups who try to shut down universities, and in that circumstance, they try to circulate petitions among the students calling for the retention of classes and to work with the administration to make sure that classes are held.

Mr. Long stated that he agreed with the definition of conservatism, but was concerned about how the impact of a use similiar to this could have on a residential neighborhood.

He stated that he didn't know what the impact would be. If the Board was thinking of someone showing up at the property who might disagree with them and trying to demonstrate, they could say that it has never happened in the past 12 years.

Mr. Long stated that there are a lot of problems on the campuses today and there is a need for this type of thing.

Mr. Smith asked if they planned to develop the addition in phases.

He stated that the only one of the three phases that would be immediate would be the first of the three, the immediate extension of the existing house.

Mr. Smith stated that the only thing that would be granted is that phase that they intend to construct and occupy within the period of one year.

He stated that the house is run down more on the inside than outside and there is a lot of work to be done. He stated he wanted to stress that this would be primarily an office building with a limited amount of office printing. The lot is heavily wooded. The setback requirements under this use is 100' in every direction, which leaves a span of trees 100' in every direction. The building is not visible from Arlington Blvd. The entrance is on Cedar Lane and is the first entrance off Arlington Blvd. and this would tend to minimize traffic problems. The traffic impact would be considerably less than the church traffic is now. The work of the printing is very limited, he stated. This he wanted to stress. Right now if you visit the office of the YAF and the press is running and the door is closed, you can't even hear it. The total area of the building covers only 10% of the lot or under 10%, he stated.

He stated that Mrs. Inman was present this morning earlier but wasn't able to stay. She addressed a letter to the Board stating she had no objection to this use. They also have letters from other contiguous property owners, Mr. Brown, Mr. Crane and Mr. Archer supporting this operation.

He stated that he was familiar with the team inspection report and they would be able to comply with it. He stated that the coverage of that first addition would be 2,000 square feet and the existing structure is roughly 25,000 square feet. They intend to hook up with sewer and water. They also stated that they could try to comply with the report from Preliminary Engineering, regarding dedication.

Their hours of operation were planned to be from 9:00 A.M. to 6:00, 5 days per week. Mr. Smith suggested they make it 6 days per week, in case someone wished to work on Saturday.

The Doctor who lives behind this residence came forward. He stated that he was not opposing.

Mr. Smith stated that he should hope that he was not opposing as he was operating his doctor's office out of his house.

No opposition present.

Mr. Long moved that application S-68-72 be deferred for decision only for a maximum of thirty days to allow the applicant the opportunity to furnish new plats showing: (1) dimensions and renderings of the existing dwelling and the proposed additions in keeping with the residential area, (2) limit of disturbed areas where existing trees are to be maintained and (3) required dedication of service road along Route 50 and (4) required dedication for road widening along Cedar Lane.

Mr. Smith stated that they would leave the record open for additional written information only.

Mr. Barnes seconded the motion and the motion passed unanimously.

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FRANCES AND FRED GRIFFITH, JR., app. under Sec. 30-6.6 of Ord. to permit erection of garage within 8.30' of side property line, 7403 Lanhan Court, Falls Hill Subd., 40-3 ((3))181, Providence Dist., (R-12.5), V-70-72

Notices to property owners were in order. The contiguous owners were Anise Becker, 7401 Lanhan Road, Mary Ann Kenny, 7405 Lanhan Road and Laura Bishop, 2424 Inglewood.

Mr. Griffith stated that they have seven children and three adults living in that residence and the garage is necessary. The plan the garage to be constructed of the same type material as the house with the same roof line. The variance is only for approximately 7' of the addition. In other words, they start at 3 1/2' and go in, because of the irregular shape of the lot. They will not come any closer than 8.30' from the side property line.

In application No. V-70-72, application by Frances and Fred P. Griffith, Jr., under Section 30-6.6 of the Zoning Ordinance, to permit construction of a garage 8.30' from side property line, on property located at 7403 Lanham Court, Falls Church, Virginia also known as tax map 40-3((3))Lot181, County of Fairfax, Virginia, Mr. Kelley moved that the BZA adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of May; 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 11,964 square feet.
4. That compliance with all County .Codes is required.
5. That this request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
(a) exceptionally narrow lot at rear.
(b) unusual location of existing building.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. The architecture and materials to be used in proposed addition shall be similar to that used in existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion. The motion passed unanimously.

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HAYFIELD FARMS SWIM CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ordinance to permit additions to community swimming pool facility, 7852 Hayfield Road, Hayfield Farms Subd., 100-2((2))Parcel E, Lee District (R-12.5), S-71-72

Mr. Rowe spoke before the Board and represented the applicant.

Notices to property owners were in order. The contiguous owners were Ruth and Michael McNamara and Henry Watson.

Mr. Rowe stated that they were in the process of trying to improve their pool and make it more attractive. They wanted to add a cover over the existing patio at one end of the bathhouse as is on the other end. They would also like to add a basketball court, shuffleboard and volleyboard courts. They do not plan to change the membership.

Mr. Kelley noted that the plat shows 133 parking spaces.

Mr. Rowe stated that they had begun their landscaping project.

No opposition.

Mr. Long moved that application S-71-72 be deferred for a maximum of 30 days to allow the applicant to submit:

(1) rendering of the front of the building and development along Hayfield Road.
(2) landscaping on Hayfield Road and the adjoining developed areas.

Mr. Barnes seconded the motion and the motion passed unanimously.

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JOHN B. PIPER, app. under Sec. 30-7.2.9.1.7 of Ord. to permit residence to be used as real estate office, 2100 Chain Bridge Road, Old Courthouse Subd., 39-1((3))58, Centreville District (RE-1), S-180-71 (Deferred from Sept. 28, 1971)

Mr. John Piper represented himself before the Board.

Notices to property owners were in order.

He stated that he was in the real estate appraisal business and would open his own office at this location. He was prepared to extend the sidewalk in front his property at any time a sidewalk adjoins to either side of his property and to dedicate land for a service road when land on either side is dedicated and to surface the driveway and to construct screening along any property line where there is a request by an adjoining property owner. The second house on the property is rented as an apartment. There are two houses and a barn on the property. The barn is used for storing his personal furniture. He is on a septic tank and well.

No opposition.

Mr. Long stated that he would question whether or not he would be able to rent the other building on the property as a residence.

Mr. Smith stated that this is an unusual situation.

Mr. Baker stated that this site had once been used for a fuel oil distribution business with four to six trucks operating out of it.

Mr. Smith asked what the area was master planned for.

Mr. Covington stated that it was proposed as residential.

Mr. Smith read the Staff Recommendation from Preliminary Engineering Branch.

Mr. Kelley stated that all the land around this residence is zoned residential.

Mr. Piper stated that there was a service station across the street.

Mr. Kelley asked Mr. Piper if he had met with the Staff and tried to work this out. He stated that he did not want to deprive Mr. Piper the use of this land.

Mr. Long stated that this is one of the approaches to Tyson's Corner and how it is developed would have an impact on the immediate area.

Mr. Long moved that this be application S-180-71 be deferred for a maximum of 30 days if they can comply with the requested information which is:

New plats showing the following additional information in compliance with Article XI Site plan ordinance.
(1)Sidewalk and service drive along Route 123
(2)Screening on all sides of the adjoining residential property as approved by the Division of Land Use Administration.
(3)All physical features on the property existing and proposed.

Mr. Kelley seconded the motion and the motion passed unanimously.
Mr. Smith stated that this would be for decision only.
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Mr. Knowlton came forward and stated that this particular site is covered by the Vienna Plan which was adopted by the Board of Supervisors on October 1967 which shows this particular property and all land to the south and west to be developed at 2.5 dwelling units per acre, residential.

Mr. Long asked if commercial establishments were conforming or nonconforming.

Mr. Covington stated he suspected that it was non-conforming.

Mr. Piper asked Mr. Knowlton if there wasn't a plan that called for less density than 2.5 units per acre.

Mr. Smith told Mr. Piper what Mr. Knowlton was referring to is the adopted Master Plan.

Mr. Knowlton stated that there is a plan in the Planning Division of the County that is being worked on. He stated that he was not familiar with that plan and there has not been a public hearing, nor has it been released by the Division of Planning.

Mr. Piper stated that there has been a rezoning in that area to C-N and to C-OL.

Mr. Smith stated that he was amazed that that land was rezoned, but he did not know the circumstances. He stated that Mr. Piper could very well be correct, that in the next year there might be a new proposal amending the Master Plan for that area since that Plan is now five years old.

Mr. Long stated that he would like to explain that this property has been used in a non-conforming use for a period of years and for that reason he would support a use permit here if the applicant complies with Article XI of the Site Plan Ordinance and that is why he moved that this case be deferred for 30 days to allow the applicant to furnish additional information, for decision only. Mr. Long stated that this would allow the County Staff to work out any arrangements they desire.

Mr. Reynolds stated that the Staff could not waive construction of a service drive, or the road widening and sidewalks. This would be up to Dr. Kelley acting on behalf of the Board of Supervisors.

Mr. Smith stated that he gathered that the intent of the motion is to allow the applicant to submit new plats showing these improvements and dedications and then the Board would take action if in the judgment of the Staff you, the applicant, has complied with their requirements and recommendations.

Mr. Smith asked Mr. Piper if he would work with the Staff and Mr. Reynolds to work out these problems. Mr. Piper stated that he would.

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SHOW-CAUSE HEARING -- AMERICAN OIL CO., app. under Sec. 30-7.2.10.2.1 of Ord. to permit erection of service station, N.E. corner Valley View Drive and Franconia Road (6134 Franconia Road), Lee District, 81-3((1))part 3 (C-N), S-143-70, Special Use Permit Granted 9-8-70

Mr. Grayson Hanes, attorney for the applicant, testified for theapplicant before the Board.

Mr. Smith asked who the owner of this station is. Mr. Hanes answered that it is Mr. Alexander Milton. The same owner as was the owner at the time of the original application. He stated that there was a copy of the lease in the folder that shows it.

Mr. Smith stated that apparently the permit was granted to American Oil only.

Mr. Smith asked Mr. Hanes if he was aware of the illegal sign placedon this property by American Oil Company.

Mr. Hanes stated that he was aware of the legal sign placed there.

Mr. Hanes stated that the reason it was legal was because there was a stipulation placed on this Use Permit by the Board of Zoning Appeals that stated that the sign should comply with the Fairfax County sign ordinance. That sign ordinance has been ruled invalid by the Courts.

Mr. Smith stated that that may or may not be true, but this is a use permit and the State and County gives the BZA authority to impose conditions on these uses and one of the conditions intended that there be no free standing sign.

Mr. Hanes stated that that condition made reference to the Fairfax County sign ordinance.

Mr. Smith stated that that was not the intent of the motion.

Mr. Hanes stated that he would like to present to the Board the various documents supporting his position in this case. One document was the as-built site plan, submitted and approved by the county, which included two signs. They do have an occupancy permit.

Mr. Smith asked when this was granted.

The Zoning Administrator told Mr. Smith it was granted at the time a complete site plan was completed, inspected and approved and all of the inspections were approved. At the same time the sign ordinance was in County Court and there was no valid reason to withhold or obstruct the occupancy permit.

Mr. Smith asked why Mr. Dwight H. Dodd was involved in this.

Mr. Barry, Zoning Inspections, stated that Mr. Dodd was the erector of the sign.

Mr. Hanes stated that he would like to give the Board the history of the events around this sign. On September 8, 1970, the Board of Zoning Appeals granted a Special Use Permit stipulating some conditions. In these conditions, there was no reference made to prohibiting the free standing sign. On September 8, 1970, the Board approved that Special Use Permit as per the plat in the file. That plat shows two free standing signs. On September 8, 1970, the Board granted this Special Use Permit in accordance with the sign ordinance. He stated that his client was willing to comply with that ordinance. On October 7, 1970, the Board of Supervisors saw fit to adopt an ordinance which was opposed by many people, including some members of the Staff which is an illegal and unreasonable ordinance. Mr. Dodd was under the impression that the old ordinance was in effect and between the time the Special Use Permit was granted and about a month later when the County had adopted the new ordinance, the sign was erected. There are numerous free standing signs in the direct vacinity of this American Oil station. He stated that it is unfair to allow the other oil companies to have a free standing sign and not allow them to. He stated that he also had a memorandum from Mr. William Barry stating that one could not see our station until one was parellel to it. On that basis and because the Court felt it was unfair to have an ordinance that no one could comply with and one that would prevent competing with the competitors the sign ordinance was struck down. The sign has been erected and the people have spent money and they did it on the basis of the use permit that was granted to American Oil. If you take the privilege of having that sign away now, it is like granting a permit to build a building and when the building is finished telling them to now tear down the building.

Mr. Smith stated that there was considerable objection to the service station going in at that time. This was one of the factors that the people objected to.

Mr. Smith stated that this sign was put up without a permit.

Mr. Hanes stated that he would question this as he felt that going to Court alleviated the necessity for getting the permit.

Mr. Barry stated that after a discussion with Mr. Stevens, the County Attorney, regarding whether or not the ruling by the Court regarding the sign ordinance would be contested, and several other discussions with various county officials, on November, 1971, a permit #850 was issued to American Oil for that sign at that location and he stated that he was sure that the proper electric permit was obtained at that same time too.

Mr. Smith stated that he was told that there had been no sign permit issued for this sign.

Mr. Covington stated that he was under the impression that there was no sign permit issued.

Mr. Smith asked who authorized that permit being issued.

Mr. Covington stated that he imagined that it carried his initials and the initials of Mr. Long because they have a two step procedure.

Mr. Hanes stated that the Court knew this station was under a Special Use Permit as he pointed it out to the Court in his Statement of Facts. He also point out that this was in a C-N District and the permit was granting by the BZA on September 8, 1970.

Mr. Richard Long moved that the applicant in S-143-70, has presented evidence showing compliance with the Special Use Permit Granted for the Use and therefore the hearing can be closed.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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POWHATAN ASSOCIATES, app. under Sec. 30-7.2.6.1.8 of Ord. to permit addition to nursing home (Original permit issued 1962) 2100 North Powhatan Street, 41-1((1))62B, Powhatan Hills Subd., Dranesville Dist., (R-10 & RE-1), S-16-72 (Deferred from 3-22-72 and 4-26-72)

Mr. Smith stated that this case had been deferred from April 26, 1972, to allow the Board to view the property. He stated that he pointed out at the original hearing and had ruled that the applicant was asking for 75 additional beds, he now had 93, therefore, the request that the Board of Zoning Appeals should consider was 168 beds. He stated that he had requested the applicant to revise the plat to show 160 beds not 235 beds.

The Board of Zoning Appeals recessed the hearing for 10 minutes.

Mr. Smith continued then by saying that originally the use permit was granted for 160 beds, but in the intervening time and after several delays, the developer came back and requested 100 beds, but they did not develop the 100 units, but only 93 of the proposed 100. They had indicated at that time that they had no interest in building the 160 at that time.

Mr. Long stated that he felt the plats should conform to the County requirements, therefore, he moved that this case be deferred in order for the applicant to bring in new plats.

Mr. Smith stated that these new plats should not be for more than 160 beds.

Mr. Barnes seconded the motion. Mr. Long suggested that the applicant meet with the Staff so the plats are drawn properly.

The motion passed unanimously.

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L. B. MEIR, app. under Sec. 30-6.6 of Ord. to allow house to remain 36.50' from right-of-way of Meadow Rose Court, (3.5' variance request), 3819 Javins Drive, 82-4((17))3, Lee District (R-12.5), V-46-72

(Deferred from April 26, 1972 for proper notices)

Mr. Kirsh, from Holland Engineering, represented the applicant.

Notices to property owners were in order. Contiguous property owners were Mr. Wright 3815 Javin Drive and Mr. Jester, 3816 Javin Drive, across the street.

Mr. Kirsh stated that lots 1, 3 and 4 were owned by the applicant and lot 5 is vacant. Lot 5 is contiguous to lot 4 which Mr. Meir owns.

The Board ruled the notices in order.

The hearing recessed until Mr. Covington could obtain a copy of the building permit.

Mr. Kirsh stated that Mr. Seamon was the contractor. Their office prepared the plot plan and staked out the house. The house was built in 1969. He stated that they prepared the plan for a certain size house and then the owner decided to make it larger and did so apparently without knowledge that he was in violation of the setback requirement.

Mr. Smith stated that he did not build the house in conformity with the building permit application.

Mr. Smith asked who made the mistake, the builder or the owner.

Mr. Kirsh stated that he assumed the builder did not make the house larger without the owner's instructions. The violation is from Meadow Rose Court which physically does not exist. It is entirely under the overhead VEPCO wires and is a VEPCO right-of-way, and it is very unlikely that the street will ever be put in because none of the lots can have houses built on them because the lots are within the VEPCO right-of-way and physically it falls off sharply from Javins Court and it is physically not possible to build on these lots. He stated that he wished to correct one thing. There is only one contiguous owners actually, Lts 7 and 8 were notified.

Mr. Smith asked Mr. Kirsh if Mr. Meir was present.

Mr. Smith stated if he, Mr. Meir, made the mistake it would have been good to have him present.

Mr. Long stated that he agreed with Mr. Kirsh because if those lots are under a VEPCO easement then they would never allow them to be built upon.

Mr. Smith stated that if the man built the house large than had been planned and larger than the building permit that he had obtained, then he has brought the problem upon himself.

In application No. V-46-72, application by L. B. Meier under Section 30-6.6 of the Zoning Ordinance, to allow house to remain 36.50' from right-of-way of Meadow Rose Court, on property located at 3819 Javins Drive, Lee District, also known as tax map 82-4((17))3, Lot B, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 13.529 square feet.
4. That compliance with all County Codes is required.
5. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit; and

2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

Mr. Long seconded the motion.

The motion passed unanimously.

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B.P. OIL CORP. & ROLAND E. GOODE, TRUSTEE, app. under Sec. 30-7.2.10.3.1 of Ord. to permit service station, intersection of Lee Chapel Road (Route 643) and Old Keene Mill Road (Route 644), 88-1((1))14, Springfield District (C-D), Permit granted to Roland Goode and CITCO 10-12-72 (S-189-71)

Mr. Adams, attorney for the applicant, testified before the Board for the applicants.

Mr. Adams had submitted plats showing no free standing signs as had been suggested by the Board at the previous hearing.

In application No. S-69-72, application by B.P. Oil Corp. and Roland E. Goode, Trustee, under Sec. 30-7.2.10.3.1 of the Zoning Ordinance, to permit service station at intersection of Route 643 and Route 644, on property located at Lee Chapel Road and Old Keene Mill Road, also known as tax map 88-1((1))14, Springfield District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and public hearing by the Board of Zoning Appeals held on the 17th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Roland E. Goode, Trustee.
2. That the present zoning is C-D.
3. That the area of the lot is 33,756 square feet.
4. That the compliance with Site Plan Ordinance is required.
5. That compliance with all County codes is required.
6. That the BZA granted permit S-189-71, on October 26, 1971, to Roland E. Goode, Trustee for Cities Service Oil Company at this location.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of theoperator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation

to obtain certificates of occupancy and the like through the established procedures and this Special Use Permit shall NOT be valid until this has been complied with.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. There shall not be a single free standing sign for this use. Any sign must be on the building and conform to the Fairfax County Sign Ordinance.

7. There shall not be any display, selling, rental, storing, or leasing of automobiles, trucks, trailers, or recreational vehicles on said property.

8. The owner shall dedicate the required land for future road widening along Keene Mill Road as shown on plats submitted to this Board.

9. The entrances onto Keene Mill Road shall be as approved by the Planning Engineer.

10. The brick shall be identical to the brick used in the shopping center.

11. The facade and roof shall be the same as that used in the shopping center.

12. It is understood and agreed that this is to be the only service station located in said shopping center.

13. Landscaping, screening and planting along the proposed Torrance Street shall be as approved by the Director of County Development. Any other area on the site where there is a need for landscaping, screening, or planting, shall be as approved by the Director of County Development.

Mr. Baker seconded the motion and the motion passed unanimously.

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AFTER AGENDA ITEMS:

VULCAN QUARRIES.

Mr. Royce Spence, attorney for the applicant, testified before the Board.

He stated that on May 15, 1972 a brief hardship arose. There is pending before this Board a Special Use Permit request to continue operating Vulcan Quarries at Occoquan. The BZA had this case deferred until June 14, 1972, with the hope that the Board of Supervisors would pass the new ordinance on Natural Resources. In order to create better relations with the Town of Occoquan, he stated that recently theymet without attorneys down there to see if they as individuals could work out some of the problems that exist between the Town of Occoquan and the Quarry. He stated that he understood they had a stormy meeting, but they did form a committee of personel from Vulcan and the Town of Occoquan to see if they could resolve some of the complaints as far as blasting was concerned. They had present at the meeting Dr. Burger who has testified and is an expert on blasting. It was his advice that there would be less effect from the blasting on the people of Occoquan if the quarry was allowed to blast earlier in the day, as the time between 5:00 and 6:00 P.M. the atmospheric conditions are such as to increase rather than decrease the effect of the blasting. The community and the quarry are, therefore, requesting the BZA to allow the quarry to blast at other than specific times during the day for experimental purposes and remove the condition that the quarry must blast only between 5:00 and 6:00 P.M. They would like to have the time for blasting from 9:00 A.M. until 6:00 P.M.

Mr. Barnes stated that he felt it would be a good idea.

Mr. Smith stated that it would be good to have a letter from the citizens group.

Mr. Baker suggested this be granted until the hearing on June 14, 1972.

Mr. Smith questioned whether or not this was proper to change a condition without a formal hearing.

Mr. Spence suggested that this lifting of condition on time of blasting be restricted to apply only until June 14, 1972 and if there is any objection to it, they would agree to cease at once.

Mr. Long moved that the request by Vulcan Materials Company of May 15, 1972 to allow them the right to vary the times of blasting in connection with their operation of the rock quarry at Occoquan, Virginia for the next thirty (30) days be granted subject to the following conditions:

(1) The procedures to be followed, conditions and time of blasting is to be approved by the Director of County Development prior to implementing any new procedures.

(2) The Director of County Development is to be notified prior to any blasting to allow him to have inspectors on the site.

Mr. Barnes seconded the motion.

The motion passed 4 to 0, with Mr. Smith abstaining.

Mr. Smith asked Mr. Long if this meant that all other conditions were still to be met.

Mr. Long stated that yes they were still to be met.

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FAIRFAX BREWSTER SCHOOL.

Mr. Covington submitted a letter to the Board from this school requesting that they be allowed to put up another building on the site 20 x 20.

Mr. Smith stated that he felt this was major construction and would have to come back to the Board with a new application.

Mr. Long stated that from the looks of his plans, he does not meet the setback requirements.

Mr. Long stated that he too, felt they would have to come back.

The other members of the Board agreed and Mr. Covington was instructed to inform the Fairfax Brewster School that they would have to come back with a new application.

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Mr. Covington told the Board that he needed a resolution regarding the extension of the hours of operation of swimming pools in the area. They were all requesting permission to have extended hours now for teen parties, etc and he needed to tell them what the Board would like them to have.

The Board stated that this is something they should give some thought to and they would make the formal resolution at the next meeting.

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The meeting adjourned at 5:00 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

June 21, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, May 24, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman; George Barnes, Loy P. Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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P.D. LAWNS, INC. & WL LAWNS, INC.
PINEWOODS LAWNS DEVELOPMENT CO., app. under Sec. 30-6.6 of Ordinance to permit construction of multi-family dwelling with less than required side setback, 8409 through 8423 Orinda Court, Pinewood Lawns Subdivision, 100-4((1))8, Lee District (RM-2G), V-72-72

Mr. Max Ratner, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. Bowers and Hughes were contiguous owners.

Mr. Ratner stated that certificates of good standing on the WL Lawns and the P.D. Lawns, Inc. were sent in. He stated that both corporations have a direct bearing on this variance.

Mr. Ratner stated that the applicant has obtained an easement from the adjacent property owners. That land cannot be utilized. This is a storm sewer and drainage easement. He stated that Mr. Corson, from Springfield Engineers, could explain this better than he and he was present.

Mr. Smith asked what the hardship is.

Mr. Ratner stated that the fact that they have 39.6' and 50' is needed or required would render the land useless and they would loose approximately eight units on this tract of land.

Mr. Ratner stated that this company is trying to provide low cost housing and this does constitute a hardship if one of the units cannot be built.

Mr. Smith stated that this was not in the ordinance. Under the ordinance the owner has to establish a hardship. Mr. Smith read from the ordinance regarding the critera to be used to determine whether or not there was a justified hardship whereby the Board could grant a variance.

Mr. Ratner asked if they could amend the application to include these two corporations.

Mr. Barnes so moved. Mr. Long seconded the motion and it passed unanimously to amend.

Mr. Smith stated that getting back to the ordinance, the ordinance states that the owner must have an unusual hardship, such as irregular lot, the way the buildings are placed on the lot, or some topographic problem, and they did not have that, or at least they had not stated it.
Mr. Fitzgerald from Pinewood Development Company spoke before the Board.

Mr. Fitzgerald stated that they have had this plan before the Site Plan people and they felt it would be a logical request for the Board of Zoning Appeals.

Mr. Smith stated that the BZA does not grant automatic variances, that must abide by the ordinance.

No opposition.

Mr. Smith asked Mr. Ratner when the subdivison plats were originally approved.

Mr. Ratner stated they were approved July 30, 1971, final approval was not until 6 months ago.

Mr. Long moved that this case be deferred for decision only for 30 days to allow the Board members to view the property.

Mr. Barnes seconded the motion and the motion passed unanimously.

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STANLEY & CAROLINE LEROY, app. under Sec. 30-6.6 of Ord. to allow addition closer to side property line than allowed in Ordinance, 3826 Skyview Lane, Brian Acres Subd., 58-4((19))2, Providence District (RE-0.5, V-73-72

Mr. LeRoy stated that for the past three years they have had a drainage problem in the back yard. They have decided to add a room on the south side to help alleviate the drainage problem. The other side of the lot will not permit an addition anyway. This addition will be in conformity with the neighborhood standards. They have lived at this location for four years and plan to continue to live there. They have a very narrow lot and very steep in the rear.

No opposition.

In application No. V-73-72, application by Stanley & Caroline LeRoy, under Section 30-6.6 of the Ordinance to permit additon closer to side property line than allowed, on property located at 3826 Skyview Lane, also known as tax map 58-4((19))2, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 24,817 square feet.
4. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
(a) exceptionally shallow lot,
(b) exceptional topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. Architecture and materials to be used in proposed addition are to be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Long seconded the motion and the motion passed unanimously.

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EARL & PHYLLIS KLIOZE, app. under Sec. 30-7.2.6.1.10 of Ord. to permit dental office, 9425 Braddock Road, 69-3((1))23, Springfield District (RE-1), S-74-72

Dr. Klioze testified before the Board.

Notices to property owners were in order. The contiguous owners were Irene Snider, 9431 Braddock Road and Robert Rooland, C & P Telephone Company, 9419 Braddock Road.

Dr. Klioze stated that the main reason he would like to move his offices out of his residence is because of the lack of parking spaces and the traffic problems that they have encountered in the last two years. He stated that he does not plan to live at 9425 Braddock Road. He does live and work out of the same residence now. He showed the pictures of his present residence and office to theBoard. He stated that the proposed office is fairly close to his present residence. The proposed property has 1.87 acres of land. They have plenty of land for off-street parking. The telephone building next door to the proposed office already has a fence and plantings. He stated that in the last year there has been a bus stop added directly in front of his residence and people from the surrounding area drive down to the bus stop and park their cars and leave them all day while they are at work. This creates a traffic problem and a parking problem. He shows slides of the parking problem as it is in the morning and during the day. He stated that the patients have to park sometimes a block away.

Mr. Smith stated that the patients should not be using the public space for parking anyway. The ordinance requires that this parking be provided on the premises. Therefore, this testimony is not relevant to the case.

Dr. Klioze disagreed with Mr. Smith and Mr. Smith asked Mr. Covington for an interpretation. Mr. Covington stated that home occupations had always been allowed to use the street, but he would check the ordinance. After checking the ordinance he stated that Mr. Smith was correct, that anyone having this type of home occupation in his home was required to furnish off street parking.

Dr. Klioze stated that there had been numerous accidents along this road and it was hazardous for his clients at the present location to drive to and from this location. He stated that if he was allowed to move to the proposed location it would be a benefit to the community and the community agrees with this also. There has been no opposition. At a meeting before the community association a resolution was passed to support this application.

Mr. Smith asked him why he could not move his offices to an established medical building.

Dr. Klioze stated that the cost of that move would in turn be passed along to the patients with a higher cost in dental care. In addition this would be within walking distance to a lot of patients as his office is now.

Dr. Klioze stated that he had notified most of the people in the neighborhood and no one objects to this.

Mr. Smith asked him why he did not have it rezoned commercial at that location then.

Dr. Klioze stated that then he would create opposition by bringing in commercial zoning into the area and initiating it. This would also affect his patients who he is trying to protect.

Mr. Long asked Dr. Klioze if he was aware of the Pohick Master Plan.

Dr. Klioze stated he was not.

Mr. Long stated that in the Pohick Plan Braddock Road is proposed to be widened from 120' to 160' and under site plan control the owner of this property would have to construct curb, gutter and sidewalks all along the full frontage of Braddock Road.

Dr. Klioze stated that he had talked with Mr. Keith from the State Highway Dept. and Mr. Keith told him that an individual does not have to do this.

Mr. Smith stated that under all use permits this is a requirement if it comes under site plan. He told Dr. Klioze that he is operating a business;that is quite different from an individual homeowner.

No opposition.

In application No. S-74-72, application By Earl & Phyllis Klioze, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit dental office on property located at 9425 Braddock Road also known as tax map 69-3((5))23, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of May, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Mr. and Mrs. Dodson.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.879 acres.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Long seconded the motion and the motion passed unanimously.

Dr. Klioze stated that he felt this was grossly unfair.

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CHESTER BARNES, et ux, app. under Sec. 30-7.2.6.1.3 of Ord. to permit nursery school, grades 1 & 2 of elementary and summer day camp, 3206 Glencarlyn Road, 6:30 A.M. to 6:00 P.M., 150 children, 61-2((5))3 & 4 and 5104((8))A, Mason District (R-12.5) S-75-72

Harold Miller, 5600 Columbia Pike, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. The contiguous owners were Ellis Grover, 3204 Glenwood Place and C. N. Gregory, Lebanon Drive.

Mr. Miller stated that there was some opposition in the community and the Planning Commission had recommended deferral and he would like to point that out in fairness to those neighbors in opposition.

Mr. Smith stated that he is of the opinion that if these cases are heard under the existing ordinance, then the decision should be made under the existing ordinance. The Board and Staff can use the guidelines of the new ordinance.

Mr. Miller stated that they met the requirements of the proposed ordinance as well as the existing one.

Mr. Smith stated that according to the new ordinance Mr. Miller's clients do meet the requirements.

Mr. Long stated that he felt there was no sufficient space.

Mr. Miller stated that they did plan to add a second story to this structure and finish off the basement. He submitted a rendering of how the building would look.

Mr. Miller stated that this venture is designed for working mothers who have to have a good place to take their children while they are at work. The number of children in the classroom will be 115; the others will be there in the early morning and the late evening after school. There is a great need for this type of facility as more and more mothers are working these days. The back of the lot is heavily wooded and will act as a shield and in addition a fine place for the children to learn nature.

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BARNES (continued)

Mr. Miller stated that the Barnes's will be glad to put an attractive fence up to protect the neighbors. The only neighbor who adjoins them is Mr. Kostea. Mr. Barnes lives in the 7 Corners area and has every intention of doing a good job here. These will be all small children, nothing past the second grade. The hours will be from 6:00 A.M. until 6:30 P.M. This is so working mothers can drop their children off on the way to work and pick them up when they return from work.

Mr. Reynolds from Preliminary Engineering stated that this school had been reviewed under the proposed ordinance.

Mr. Long questioned the area being large enough for 150 children.

Mr. Miller stated that expected to have approximately seven teachers as the hours would be staggered. He stated that if the Board wished them to have more parking they would put it in.

Mr. Smith asked if this application were granted if they would begin immediately.

Mr. Miller stated that he believed they would start with a summer plan and expand later. The expansion work will cost about $50,000. There is not room for 150 children at the present time. There is room for 88 children there now he stated.

Mr. Long stated that he would like to go on record as stating that he did not feel that the plats were proper and he does not believe that they have been reviewed in conformance with the motion that was made last week regarding preschools and day care facilities. He stated that he was sure that this does not conform to the new proposed ordinance.

Mr. Long stated that he did not feel the Board could grant 150 children here. He stated that it was up to the Staff to check these things out and he felt the staff was obligated to review the application and make specific recommendations and guidelines for this Board to follow.

Mr. Smith stated that Mr. Reynolds had stated that he had reviewed this application based on the proposed ordinance, but that he did not have certain factors such as the number of children, but the Board has the plats before them and the Board has to make a decision. He stated that it seemed to him that this application does meet the requirements. He stated that the applicant has 9,700 square feet and have 150 students and they are required to have 105,000 according to the proposed ordinance.

Mr. Long stated that he felt that they need a stacking lane.

Mr. Reynolds stated that this will be under Site Plan Control and the entrances, widening of the road and deceleration lane, etc. will be handled under Site Plan.

In opposition Mr. Jerry Forcier, President of the Long Branch Citizens Association, spoke before the Board. He stated that he also had a letter from the Lee Boulevard Heights Citizens Association, Inc. expressing their opposition to this application as they felt it was out of character with the residential zoning of the neighborhood. There are six adjacent property owners, 5 of which are opposed to this application Mr. Forcier stated. Mr. Morgan who Mr. Miller mentioned as not opposing this application and being an adjacent property owner, does not live at this address. He stated that he was representing 350 residents. He stated that they now have three community type child care operations now in three churches. He stated that they felt this would be the beginning of a commercial enterprise. They are opposed to these type thing. They also do not like the huge signs that these schools put up.

Mr. Smith asked him to give an example of a huge sign being put up at some school in Fairfax County.

Mr. Forcier named Bobby School.

Mr. Forcier also stated that the traffic would be a hazard to the community. In closing he stated that they opposed all rezonings or other type use in their community other than that which now exists.

Mr. Costia, spoke in opposition to this application. He stated that there were several points the Board should take into consideration. One thing is the noise pollution from the number of cars at the peak hour of traffic. The other problem will be the traffic. Another problem is the creek. He stated that the water comes up to flood stage during heavy rains.

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He stated that this flooding condition could be very dangerous to the children. In addition the drainage ditch would be a constant danger to these children.

Mr. Hudson Nagel, 3304 Glencarlyn Road, down the street from the subject property, spoke before the Board in opposition. He stated that Mr. Costia had covered almost all the points. He stated he was concerned particularly with the extra traffic hazard this school will cause. Parents will be bringing their children in and taking them out at the prime traffic periods during the day.

In rebuttal, Mr. Miller stated that this school will have a community approach. The children will not be playing in the drainage ditch. These children will be supervised and safely cared for. The children will not be allowed to wander all over the neighborhood. The parent will have to come before the child will be released. He stated that he felt what the Barnes plan to do here will be an improvement from what it has been there.

Mr. Long moved that Application S-75-72, be deferred for a maximum of 30 days for decision only to allow the applicant the opportunity to furnish new plats showing the following information:

1. Adequate parking for proposed use.
2. Adequate stacking areas and turn-around.
3. Developed recreation area.
4. Approximate limits of flood plain.
5. Screening and/or landscaping.
6. Rendering

Plats are to be reviewed by the Division of Land Use prior to rescheduling.

Mr. Smith stated that if the applicant can comply prior to the thirty (30) day period then the Board can make the decision on June 14th.

Mr. Long told Mr. Miller to have their engineer and the County staff work together and for the engineer to come in and meet with the Staff to furnish the Staff with the proper information, and, therefore, furnish the Board with the proper information to make a decision. The plats must be in at least 5 days prior to the hearing for the staff to review.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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KIMBER & ELINOR BOYER, app. under Sec. 30-6.6 of Ord. to permit enclosure of existing patio closer to rear property line than allowed in ordinance, 1800 Monza Road, Namey Subdivision, 31-3((1))46, Dranesville District (R-12.5), V-76-72

Mr. Boyer stated that he was testifing for himself before the Board.

Notices to property owners were in order. Contiguous owners were R. G. Hatfield, 1708 Monza Road, McLean and George Hall, 1653 Birch Road, McLean.

Mr. Boyer stated that their home did not have a dining room and they wished to enclose the patio structure in order to have a dining room. He stated he had occupied the house for six years and is for his own purposes and uses.

No opposition.

Mr. Boyer stated that he has a sanitary sewer easement running through his property and the location of the house prohibited him from building elsewhere on the lot. He submitted pictures for the Board to see of his present structure and the surrounding lot area.

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May 24, 1972
BOYER (continued)

In application No. V-76-72, application by Kimber H. & Elinor F. Boyer, under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of existing patio closer to rear property line than allowed, on property located at 1800 Monza Road, Namey Subd., also known as tax map 31-3((1))46, County of Fairfax, Virginia Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 0.4345 acres.
4. That compliance with all County Codes is required.
5. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
(a) unusual location of existing building.
(b) sanitary sewer runs across lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. Architecture and materials to be used in proposed addition are to be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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THOMAS & ELEANOR DENNIS, app. under Sec. 30-7.2.6.1.3 of Ordinance to permit private day care school of approximately 65 children, 2 to 7 years of age, 5 days per week, 49 5 Lincoln Avenue, Lincolnia Park, Section I, 72-3((1))2, Mason District (RE-0.5) S-77-72

Mr. Jerry Friedlander, attorney for the applicant, testified before the Board.

Notices to property owners were in order.

Contiguous owners were Leon M. Shanko, 4909 Lincoln Avenue, Alexandria and Rev. Harry T. Broome, Trustee for Lincolnia United Methodist Church.

Mr. Long asked first of all if this application had been reviewed by the Staff in compliance with the memorandum from the B.Z.A. requesting them to review all school application based on the proposed new school ordinance.

Mr. Reynolds stated that the Staff feels that this application meets all the criteria set forth in the new ordinance and the old ordinance.

Mr. Friedlanderstated that between this property and Little River Turnpike there is only a church. The property will be fenced. The sessions will be morning sessions and afternoon sessions. This will be a year around school. Any signs will be in accordance with the Fairfax County Sign Ordinance.The maximum number of children there at any one time will be 65. The only time the children will be outside is for one-half hour in the morning and one to two hours in the afternoon. As far as noise is concerned, it will be minimum. The nearest people will be people in the apartments behind this property. Next door lives the Cook for the school. During the previous years the Dennis's have lived at this address and there has been no traffic problem. It is a quiet residential neighborhood. The road is wide enough to park in front of the school building to let the children out and to pick them up. The Dennis's have a parking area and will encourage people to use it. The only changes in the looks of the residence will be minor interior ones. There are a lot of people in this area who will need to use this school.

Mr. Smith stated that the Health Department limits the number of children to 53.

Mr. Friedlander stated that when that survey was made they had not included one room. They had not included the garage and they are planning to convert the garage and that will give an additional fourteen children.

Mr. Long stated that the only thing the Board could base their decision on is what is in the file.

Mr. Friedlander stated that the families would provide their own transportation and no buses are contemplated. They wish their hours to be from 7:00 A.M. until 6:00 P.M. They plan to employ four teachers and three councellors.

In Opposition, Mr. George Cherokeefe, Chairman of the Lincolnia Methodist Church. spoke before the Board.
He stated that the Church owns the property adjacent to the use and has a parsonage on that property. They object to this use as it is a business use where now there are only single family residences. This street is inadequate for heavy traffic. He explained why, because of the location of the streets in the nearby area. He stated that he did not feel that this house would take care of that many children.

In Opposition, Mr. Houston, 5204 Cherokee Avenue, spoke before the Board. He stated that he represented Lincolnia Park Civic Association. He stated that he felt this case was similar to the one heard earlier in the day.

Mr. Smith told him that the two cases must be kept separate and not to refer to the other case. Mr. Houston cited the traffic problems and hazards as being his reason for objection. He stated that there was no need for this use in the neighborhood as the Church houses two day care facilities at the present time.

Mr. Long stated that this is a very small lot.

Mr. Houston stated that the Association recommends denial of this application. There was a meeting and they had 50 residents present and there was a unanimous consent to oppose this application.

In Rebuttal, Mr. Friedlander stated that the ordinance does permit this use in a residential community. The growth of this community is tremendous with 68 new townhouses and 360 apartment units to go in. Beauregard Street has a traffic control and is to be considered the focal point for the traffic from that area. He stated that he stood corrected about the parsonage next door. This has the appearance of a single family dwelling and this appearance will remain unchanged, in compliance with the ordinance.

Mr. Reynolds stated that he hoped that Mr. Friedlander and the Dennis's were aware that the disbursing of children on Lincoln Avenue would not be allowed. The parking would not be allowing anyplace expect on the premises of the use. He suggested that some provision be made on the site for disbursing children. He stated that he was concerned about the parking lot on the front of the property without providing adequate screening and landscapping.

Mr. Long stated that the Health Department would only allow 53 children.

Mr. Friedlander stated that the disbursing of children could be done on the premises with a circular driveway.

Mr. Kelley agreed that it was hard to envision 53 children on this small lot.

(Mr. Baker had to leave the meeting at this point)

Mr. Long moved that Application S-77-72 be deferred for a maximum of 30 days for decision only to allow the applicant to furnish new plats showing the following information:

1. Adequate building area for the proposed number of students.
2. Adequate parking and turn around.
3. Adequate landscaping.
4. Adequate developed recreation area.
5. Rendering of building.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Long added that he felt this should be reviewed by the guidelines of the new ordinance.

Mr. Smith told Mr. Friedlander that these plats must be in the office of Land Use Administration at least 5 working days prior to rescheduling before the Board.

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B. MARK FRIED, app. under Sec. 30-7.2.10.3.3 of Ord. to permit motel with 120 units, east side of Backlick Road directly across from intersection of Oriole Avenue, 90-2 ((1))25 C & D, Springfield District (C-D), S-79-72

Mr. Robert Lawrence, attorney for the applicant, spoke before Board.

Notices to property owners were in order. The contiguous owners were American Oil Company, Post Office Box 507, Baltimore, Maryland and Virginia A. Dodson, c/o James H. Waddell, 6801 Backlick Road, Springfield, Virginia.

Mr. Lawrence submitted more photographs to the Board showing the current property.

Mr. Lawrence then submitted rendering of the proposed motel for 102 units. He stated that this was not a modular unit, but masonry and brick. All of the setbacks meet the requirements.

Mr. Smith asked if this was an apartment shown on the plat for the manager.

Mr. Lawrence stated that it was, but it was just another motel unit. Mr. Smith stated that in that case it should be restated as another unit of the motel.

Mr. Lawrence stated that this only contains a motel unit for the manager and the office. There is a breezeway from the office all the way across to the other motel units.

Mr. Long asked about the landscaping and Mr. Lawrence stated that he had consulted with Mr. Garman the Landscape Architect and Mr. Garman had indicated that at the time of site plan approval he might want to make some changes in the landscape plan and would prefer to go through that at the time of site plan.

Mr. Long stated that he wished to know the size of the trees that they have shown on the landscape plan that is on the rendering.

Mr. Lawrence stated that he did not know the exact detail of the trees, but they would be from 12' to 14' as a minimum as approved by the Landscape Architect. He stated that he would like to point out the reference of the Planning Commission concerning the possibility of increasing the height of the building and moving the building back. He stated that the owners in consultation with the staff and architect have been advised that the present layout is the best type of unit for this location in order to give a minimum impact on the surrounding neighbors. If the building was moved back, then the parking would have to be moved around front. The objective was to have the parking in the rear to minimize the impact on the residential area.

Mr. Long stated that he was concerned about the lights from the cars when they park.

Mr. Lawrence stated that the lights would face the highway or the back of the motel. This property is immediately adjacent to Shirley Highway on the extreme rear boundary.

Mr. Barnes stated that he felt they were right to put the parking in the back.

Mr. Lawrance stated that he did not know the exact type of sign, but it will meet the county's sign requirements. It has not been determined whether or not this will be a franchise.

Mr. Smith asked if they realized that if this permit is granted based on these plats, there will not be a sign, without coming back and getting approval on the sign first.

Mr. Covington stated that the Code does not permit a free standing sign. It is in a CBD District.

Mrs. McEnearney spoke before the Board. She gave her address as 6649 Ridgeway Street Springfield, which is the subdivision immediately to the east of the proposed motel. She stated that she was not actually opposed to this use and her civic association does not oppose the granting of the Special Use Permit; however, it is a small piece of property, 2.888 acres, and the applicant proposes to build 102 units and they are concerned about how they build these units and she would like this Board to give serious consideration to the recommendations of the Planning Commission.

Mr. Smith read the recommendations from the Planning Commission stating:

"The Planning Commission on May 16, 1972, unanimously recommended to the Board of Zoning Appeals that the above subject application be approved.

Additionally, it was the sense of the Commission that the BZA might want to discuss with the applicant the possibility of moving the building further back from Backlick Road and an increase in the height of the building and that the County Landscape Architect be consulted on this case."

Mr. Smith stated that he felt that the lower the building, the less impact it would have on the surrounding area.

Mrs. McEnearney stated that the community realizes that this is not residential property, and in fact cannot remain residential. There is an application for a medical building on the southwest of Backlick and Oriole Avenue at this time. They feel that if this building went up instead of out, there would be more open space and more room for landscaping and it would not appear to be wall to wall concrete and this is the objective they have in mind when they recommend this.

Mr. Smith agreed that more landscaping is need in the commercial areas and the BZA has been in the position of asking for more landscaping for years. He stated that he felt that if they increased the height, they might be increasing the density and they did not want that.

Mrs. Peggy Jean Harris, 6816 Jerome Street, Springfield, Loisdale Estates, spoke before the Board. She stated that she was not objecting to this application. SHe asked if the Oriole Avenue cross-over would be built. That is what is concerning them.

Mr. Smith told here that there was no indication that there would be a cross-over.

Mrs. Harris stated that they were told it would be built. She asked if it would be part of the Northern Virginia Expressway.

Mr. Reynolds from Preliminary Engineering stated that he had no knowledge of an overpass or by-pass or extension of Oriole Avenue. There is nothing in the Staff Report about it and he stated that he had not seen any plan to shed any light on the subject. The Oriole Avenue cross-over that was proposed has been moved farther south, but it has not been determined where it will be exactly. This will not be done for three or four years.

She stated they had nine acres to the south of Loisdale Estates and they did not want to see the cross-over there.

Mr. Reynolds stated that it is still under study.

Mrs. Harris asked if it would be a part of the Northern Virginia Expressway.

Mr. Reynolds stated that he did not know for sure, but off-hand he would say no.

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B. MARK FRIED (continued)
May 24, 1972

In rebuttal, Mr. Lawrence stated that it was the recommendation of the people who have been retained to do this type of work as experts in the field, that there would be problems in setback should the building be built any higher. With regard to impact on the neighborhood, when this area was rezoned, it was proposed as an automobile agency. The landscaping is not a problem as they will implement whereever the County desires additional landscaping. He would have done so earlier if, in his consultations with the County Landscape Architect, they had asked him to.

Mrs. McEnearney stated that the rendering would be very attractive in reality if the trees really come through.

Mr. Lawrence stated that he felt this would be an improvement to the area as the Board could see from the pictures he submitted of the present condition.

Mr. Smith stated that they are concerned about how it will look after this construction and if it will conform to this proposal. He stated that he felt it was an excellent arrangement and he like the idea of the courts.

Mrs. McEnearney asked if she was correct in that the landscaping would be at least what is shown in the rendering.

Mr. Smith stated that that was correct, that they tie the granting of the permit to the plats and renderings in the file.

Mr. Lawrence stated that at the time of the rezoning, the Staff recommended a low rise. He stated that they had no objection to dedication.

Mr. Reynolds stated that the plats are correct as far as he is concerned.

Mr. Long stated that there was a very narrow opening for ingress and egress.

Mr. Reynolds stated that it was sufficient under the ordinance.

Mr. Long moved that Application S-79-72 be deferred for a maximum of 30 days to allow the applicant to submit plats to the Division of Land Use showing specific landscaping plans and to allow the staff the opportunity to review the parking and the landscaping.

Mr. Barnes seconded the motion.

Mr. Lawrence stated that he had worked with the Staff ever since he filed the application in terms of the full development and now they are being deferred for reasons beyond their control.

Mr. Reynolds stated that the Staff did review the plats and Mr. Lawrence himself has asked him several times what he could do if anything to be sure he had done everything he should to comply with what the Board and the County would want. Mr. Reynolds stated that he had told Mr. Lawrence that they agreed with the plat and he also knew that Mr. Lawrence had consulted with Mr. Garman, the Landscape Architect, and had agreed to comply with whatever they worked out.

The motion passed unanimously.

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SALVADORE GULLACE, app. under Sec. 30-6.6 of Ord. to allow construction of garage closer to side property line than allowed, 2416 Riviera Drive, Town and Country Gardens Subdivision, 38-3((20))65, Providence District (RE-0.5), V-78-72

Mr. Gullace testified before the Board.

Notices to property owners were in order. The contiguous owners were Mr. Lanseadel, 2412 Riveria Drive and Mr. Nelson, 9905 Montclair Street.

Mr. Gullace stated that there is 34' between his structure and the neighbors. He stated that a garage could not be constructed behind the house without the destruction of some huge trees and they would have to remove a part of a hill which would alter drainage for all the lots around, specifically #65,66 and 67.

He stated that homes one half block away are built with carports and garages situated closer to each other than his house would be to his neighbor's. He stated that this was for his own use and not for resale purposes.

The neighbor from the north, 2412 Riveira Drive spoke in opposition as she stated she had bought there specifically because of the distance between the houses. She stated she felt it would distract from the value of the property. She stated there would only be 31' between the properties.

In rebuttal Mr. Gullace stated that she was correct, it would only be 31' between houses. He stated that he felt it would not be in harmony with the neighborhood to build a garage in the back.

Mr. Gullace also stated that there was a 2' chimney at the end of the house that is causing him to go out farther.

In application No. V-78-72, application By Salvadore Gullace, under Section 30-6.6 of the Zoning Ordinance, to permit construction of garage closer to side property line than allowed on property located at 2416 Riviera Drive, also known as tax map 38-3((20))65, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of May, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 20,215 square feet.
4. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildinds involved:

(a) exceptional topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the saem is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. The architecture and materials to be used in proposed addition are to be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed with a 3 to 1 vote, Mr. Smith voting No and Mr. Baker not being present.

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May 24, 1972

T. G. KRUEGER, app. under Sec. 30-7.2.8.1.1 of Ord. to permit kennels for 50 dogs, 10030 Colvin Run Road, 18-2((1))19, 19A & 19B, Dranesville District (RE-1), S-80-72

Mr. Summerfield who represented the applicant came forward earlier in the hearing and asked that this case be taken up earlier and that it be deferred to another date.

The opposition came forward at that time represented by Mr. Henry Mackall and objected to a deferral.

Mr. Smith stated that in that case it would have to wait its turn on the Agenda.

At the time the item was called, it was asked that this case be withdrawn.

Mr. Long moved that this case be withdrawn with prejudice.

Mr. Barnes seconded the motion and the motion passed unanimously.

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DEFERRED CASES:

TEXACO, INC. app. under Sec. 30-7.2.10.2.1 of the Ord. to permit gasoline station, intersection of Telegraph Road and Highland Street, 82-3((4))1-A, Lee District (C-N), S-47-72 (Deferred from 4-26-72)

Mr. Smith stated that this case had been deferred for additional information.

Mr. Smith stated that let the record show that Mr. Hobson was present representing the applicant.

Mr. Long moved that this case, Application S-47-72, be deferred for a maximum of 60 days to allow the applicant to submit specific plans to the Division of Land Use Administration for their and the County Soils Scientist's review and approval for the protection of the adjoining properties from soil slippage.

The Director of County Development is to recommend to this Board a bond or insurance policy to be posted with Fairfax County to insure any construction for the protection of the adjoining property owners.

Mr. Barnes seconded the motion and the motion carried unanimously with the four members present. Mr. Baker was not present during this case.

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POWHATAN ASSOCIATES, app. under Sec. 30-7.2.6.1.8 of Ord. to permit addition to nursing home (Original permit issued 1962) 2100 North Powhatan Street, 41-1((1))62B, Powhatan Hills Subd., Dranesville District (R-10 & RE-1), S-16-72 (Deferred from May 17, 1972 for new plats -- decision only)

Mr. Long stated that in looking at the plat it wasn't exactly what he had in mind when he made his motion. He stated that at the time of the hearing the other plat was for such an intensive use, the impact would have been too great on the adjacent development. He stated that he did not feel that this plat presents the Board with sufficient information to give the Board enough information to make a decision. He stated that he felt the Board should have more complete information on the building, as far as deminsions were concerned, building area, lot coverage and the number of employees to be employed, and this all should be on the plat. In addition, he stated he would like to have the parking analysis. He stated he would like to keep the parking at a minimum to reduce the total lot coverage. After viewing the property, he would also like to have a landscape plan. The present development is attractive, he said, but he would like to see a plan for a continuance of that planned landscaping for the remainder of the property. This plat before the Board does not show an entrance on Witomico Street so this is in conformance with the Staff's request. The applicant should meet with Preliminary Engineering and the Zoning Administrator and go over in detail the plan. This meeting should also include the Landscape Architect. He stated that the Board cannot anticipate problems, we only react if it is not there. The plat does not comply with the intent of the motion of the last meeting on this case. The building area should not exceed 20% of the lot area and this should be shown on the plat.

Mr. Long made this his motion. Mr. Barnes seconded the motion. The motion passed unanimously.

Mr. Bruce Lambert, attorney for the applicant, was present. He stated that he thought he understood the resolution. He would have the architect call Mr. Covington the first thing tomorrow.

Mr. Smith stated that the Board's next meeting is June 14 and if at that time all of this information is made available to the Staff 7 days prior to the hearing, then the Board will at the June 14 meeting make a final decision on this application.

Mr. Robert Ambrogi, 6456 Orland Street came before the Board to state that the plan that is proposed for the nursing home has not been viewed by the citizens and he did not understand what was being presented. He stated he did have an opportunity to see the plan just yesterday.

Mr. Smith stated they would not have the opportunity to reply as the public hearing was completed and no further testimony on this application would be taken. They could come in and see the plats after they were submitted to the Staff and make written comments if they would like to do so.

Mr. Smith reminded the citizens that this was a lesser use and not a greater use. If the plats had been for a greater use, they would accept more testimony, but this is for a lesser use. The application was objected to because it was an extension of the use,he stated.

Mr. Covington and Mr. Reynolds stated they would meet with the citizens and explain the plan to them after it had been submitted.

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FRANCONIA MOOSE LODGE #646 -- Granted 11-10-70, granted 6 month extension to May 10, 1972.

Mr. Smith read a letter from them requesting another extension because of circumstances beyond their control. Their site plan was being processed.

Mr. Covington stated that he believed these people had done some work on this site.

Mr. Long moved that they file a new application.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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MOSS -- OUT OF TURN HEARING REQUEST -- Mr. Smith read a letter from Mr. Moss who stated that it was due to ignorance of the law that they had not applied sooner and they planned to begin operation June 19 and already had an agreement with the Arlington County REcreation Department.

Mr. Barnes moved that they take their regular turn as the plats were not proper.

Mr. Smith asked if the riding rink had to meet the 100' setback requirement; it is a structure.

Mr. Covington stated that they had made them set back in the past.

Mr. Long stated that if it was an existing structure then he felt it should be allowedto continue to remain.

Mr. Smith stated that if it is an existing structure, or existing stable, then he agreed with Mr. Long that this sheds a different light and is a rather unusual situation. The Board has in the past permitted them to be continued to be used for the same use it was because it was a nonconforming stable. The Board has done that. Under the Ordinance, it requires a 100' setback for a stable of any kind, so it is a nonconforming use and he stated that he did not see how we could make them move it. The Board does not vary it, but just allows them to continue to use it for the same use and it would not need a variance.

Mr. Long seconded the motion made previously and it passed unanimously.

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Mr. Smith read a letter from Mr. Szczepanski requesting an extension for an additional six months. He stated that because of lack of security in his job, he could not go ahead with the construction, but now that the situation has been clarified he could go ahead.

Mr. Long moved that the 6 month extension be granted.

Mr. Kelley seconded the motion.

The motion passed unanimously to grant the extension until December 1, 1972.

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VULCAN MATERIALS

Mr. Smith stated he had discussed this case with Mr. Pammel and the County Attorney and it was the consensus that the Board could not go beyond the date that has been set for this application because of the time element in the ordinance. It went back to Mr. Spence that they would not agree to any extension of time. The Board has no alternative but to hear that application on June 14, 1972.

Mr. Long stated that he felt it was unfair to the Board to make a decision on this case with no report from the Staff. The BZA had requested the Restoration Board for guidance last November and if the Board of Supervisors are going to continue to delay this, then the BZA should have some guidance in conducting the hearing. This use should come under the Restoration Board's supervision.

Mr. Smith stated that he felt it should only be granted for a minimum period of time, perhaps one year and then have them come back 90 days after the ordinance is passed.

Mr. Long asked that the Clerk write a memorandum to Dr. Kelley reminding him of the Board of Zoning Appeal's request. He stated that some guidance would be helpful and necessary. The BZA asked for this back in November or December.

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Mr. Long moved to adjourn. Mr. Barnes second the motion and it passed unanimously.

The meeting adjourned at 6:20 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

June 28, 1972
DATE APPROVED

A Special Meeting of the Board of Zoning Appeals Was Held on Wednesday, May 31, 1972, at 12:00 P.M. to view certain properties of cases pending before the Board of Zoning Appeals. Members Present: Richard Long, Vice-Chairman, George Barnes, and Loy P. Kelley.

Also present was the Clerk, Mrs. Jane Kelsey; The Acting Zoning Administrator, Wallace Covington; Steve Reynolds from Preliminary Engineering.

The first viewing was of Chess International, Inc. S-82-72 on Annandale Road. The Board toured the interior and exterior of the property. The Lodge was the location of the proposed chess and bridge games and in addition there was space on that floor for the dining room and bar room. Downstairs in the Lodge there is proposed a sauna, game rooms and exercise rooms. The pool area was viewed by the Board and the area for the parking was checked.

The Board recommended that this area be checked as to whether or not this parking area was in flood plain and if it would be permitted there.

The Board commented on the fact that the road leading down to the pool and tennis courts from the Main House was extremely steep and there was very poor site distance.

The area was covered with beautiful trees and very spacious grounds that would be left as is except for the area designated for parking and the circular drive around the property for ingress and egress.

The next viewing was of Pinewood Lawns Development Corp., V-72-72 on Orinda Court. The Board members viewed the exact location of the variance request. The area was torn up and in the development stage. The members commented that he needs to have a stonger justification for this variance request.

The next viewing was Texaco, Inc. at Highland Street and Telegraph Road, S-47-72 where they had previously had land slippage problems. The members expressed the view that if there was some way they could assure that there would be no slippage at all and no danger of any probably slippage, there would be no problem. If they comply with everything the County Soils Scientist wants, then the Board would see no problem with granting this use. As previously stated, they would have to provide adequate provisions for insurance or bonding of the property for the protection of adjoining property owners. There should be a specific plan drawn up for this problem of slippage and not just a general plan.

The next viewing was the Nelson property where there was a request for a variance.

Mr. Barnes stated that the topography is very bad. The back grade was very steep and it would be impossible to build in the back. There had been no objection from the neighbors. The Nelsons stated they had looked for a bigger house, but just could not find one within their means.

The next viewing was that of the Hayfield Farms Swim Club, Inc. , S-71-72, 7852 Hayfield Road, Hayfield Farms Subdivision. They had requested additions to their community swimming pool facility. It had been deferred for a landscaping plan and a sketch of the proposed addition.

The Board stated that if they made the addition conform with what they now had on the other side of the pool, that would be satisfactory, but they definitely needed to have more landscaping in the front area. The pool area was clean and there was no loudspeaker noise at all. The parking area seemed to be adequate.

The Board returned to the Massey Building and Mr. Kelley moved that the meeting adjourn at 4:45 P.M. Mr. Long seconded the motion and the meeting adjourned at 4:45 P.M.

By Jane C. Kelsey
Clerk

Richard L. Long
RICHARD LONG, Vice-Chairman

July 21, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, June 14, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present; Daniel Smith, Chairman; Richard Long, Vice-Chairman; George Barnes, Loy P. Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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HARRY C. BANFORD, app. under Sec. 30-6.6 of the Ordinance, to allow addition to dwelling closer to street property line than allowed, (29.16'), Lot 6A, Addition to Plymouth Haven, Block 6, Section 2, 1113 Potomac Lane, Mt. Vernon District, (R-12.5) 102-4 & 111-2((4)) (6) 6A, V-81-72

Mr. Banford testified before the Board.

Notices to property owners were in order. The contigous owners were Mr. Louise C. Mitchell, 1128 Priscilla Lane, Alexandria and Louis Niebur, 1111 Priscilla Lane, Alexandria.

Mr. Banford stated that his lot is like a peninsular. The shape is very unusual shaped and has three fronts and one rear, therefore they do not have a back yard as such. He has owned the lot for six years. This addition is for his family's own use and is not for resale purposes. He does plan to continue to live there.
He stated he planned to use the same type material of brick. He submitted photographs of the property and a written justification.
No opposition.

In application No. V-81-72, application by Harry C. Banford, under Section 30-6.6 of the Zoning Ordinance, to permit addition to dwelling closer to street property line than allowed, on property located at 1113 Potomac Lane, Mount Vernon District, also known as tax map 102-4 & 111-2 ((4)) (6) 6A, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals; and hearing held on June 14, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 18,614 square feet.
4. That compliance with all county codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and building involved;
1. exceptionally irregular shape of the lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. The architecture and materials used in proposed addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion. The motion passed unanimously.

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CHESS INTERNATIONAL, LTD, a Virginia Corp., app. under Sec. 30-7.2.5.1.4 of Ord. to permit establishment and operation of a private club for the mutual benefit of members and guests to promote the games of "chess" and "bridge" and to include tennis courts, swimming pool, sauna baths, club house, dining rooms, bar and conference rooms and other related facilities, 3450 Annandale Road, Providence District (R-12.5) 60-1((1)6, 7 8, 13, 14 & 15, S-82-72

Mr. William Hansbarger, attorney for the applicant, spoke before the Board.

Notices to property owners were in order. The contiguous owners were Ronald and Evelyn Brand, 3426 Annandale Road and Fairfax County Park Authority, P. O. Box 236.

Mr. Hansbarger stated that circumstances were such that he did not feel the case could go on today. He asked for deferral until the last meeting in July because of an article that had appeared in the newspaper with regard to one of the partners of this corporation. He stated that the article surprised him and he felt the case should not go on until this thing could be straightened out. The use has general acceptance in the area, but based on the fact that one of the incorporators used another name rather than the real name and the others went along with it, he was asked this Board to defer.

Mr. Smith stated that he felt that if it was formed under another name other than the real name of the incorporator, then it was not a proper application and this application would have to be withdrawn.

Mr. Zuck, 3646 Arnold Lane, who lives directly in back of this property testified before the Board, stating that he felt that this was an improper application and should be withdrawn or denied and not postponed. Then let the other incorporators come back with a properly formed corporation.

Mr. Long suggested that the attorney be given some time to work this thing out to help the people who have paid money to this group to come up with a workable solution.

Anotherlady spoke before the Board. She lives at 7641 Holmes Run Drive. She stated that they were urging denial at this time rather than postponing it.

Mr. Hansbarger stated that he was thinking of the people who have invested money in this operation.

Mrs. George Gaultney, 4440 Old Columbia Pike spoke before the Board. She stated that they had paid into this organization. That money was paid by check in the amount of $500 each and there were two checks. She stated that she felt the organization was a good one and hoped that they could salvage the remains of it and continue with the plan.

Mr. Kelley stated that he did not feel the Board could act on an illegal application.

Mr. Smith stated that this application could not be amended.

Mr. Long moved to defer this case until the first meeting in September for a full public hearing and have the Zoning Administrator determine if this is a proper application after it has been amended to include someone other than the man who fraudently placed his name on the corporation papers.

Mr. Barnes seconded the motion.

Mr. Smith stated that they could not straighten out an illegal corporation because it wasn't legal to begin with.

Mr. Long and Mr. Barnes voted for the motion with Mr. Kelley, Mr. Baker and Mr. Smith voting against. The motion failed.
Mr. Hansbarger suggested that it be withdrawn without prejudice.
Mr. Kelley moved that this application be withdrawn without prejudice at the request of the applicant's attorney.

Mr. Baker seconded the motion and the motion passed unanimously.

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Mr. Smith stated that the Board thanked the newspaper and the reporter for making this information public, otherwise they would not have known about it.

Mr. Baker so moved. Mr. Kelley seconded it and the motion passed unanimously and the Clerk was directed to write a letter to the newspaper and reporter from the Board expressing this view.

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PAUL L. BISHOP, app. under Sec. 30-6.6 of Ord., to permit erection of an addition to dwelling closer to side property line than allowed, Lot 30, Sec. 5, Woodlawn Terrace, 4808 Sprayer Street, Lee District, (R-12.5), 101-3((16))30, V-84-72

Mr. Bishop spoke before the Board.

Notices to property owners were in order. Mr. Louis Dorfam, 4806 Sprayer Street, Alexandria and E. L. Umbor, 4810 Sprayer Street were the contiguous property owners.

Mr. Bishop stated that because of the irregularity of his lot where the back is 95' and the front is 75' he needs this variance. He stated that while he has a lot of room on the lot, the architectural design of the house does not permit him to join in to the house except on one of the two sides. He stated that he needed 1 and 1/2 feet on one corner and 3 feet on the other corner, but he still is 25' from the person most affected for this addition. He has owned this property for two and one-half years and plans to continue to live there and make it his homefor his family. He plans to make the architecture of this addition compatible with the existing house and the rest of the neighborhood.

No opposition.

Mr. Long stated that he wanted to see a subdivision plan, because he felt that this house is part of a subdivision where all of the lots have a similar situation.

Mr. Smith stated that Mr. Bishop presented his case based on the narrowness of his lot and that this is the only reasonable place he could place the addition.

Mr. Smith stated that the Board is in receipt of a letter from the adjacent property owner stating his approval of this application.

Mr. Long stated that the only justification would be the location of the house.

In application No. V-84-72, application by Paul L. Bishop, under Section 30-6.6 of the Zoning Ordinance, to permit erection of an addition to dwelling closer to side property line than allowed on property located at 4808 Sprayer Street, Lee District, also known as tax map 101-3((16))30, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of June, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 12,273 square feet.
4. That compliance with all county codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and building involved:
(a) unusual condition of the location of existing building.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structures or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. The addition shall be similar to the existing dwelling in architecture and construction.

Mr. Barnes seconded the motion.

The motion passed unanimously.

HOLLIN MEADOWS SWIM & TENNIS CLUB, app. under Sec. 30-7.2.6.1.1 of Ord. for community swimming pool, tennis courts and other recreational facilities and permit lesser number of parking spaces than required, 2500 Woodlawn Trail, Hollin Hills Subd., Mt. Vernon District, (R-17), 93-3((1))6A, S-100-72

Mr. Mageoto, President of the Association, 7915 Candlewood Drive, spoke before the Board.

Mr. Archer, attorney for the applicant, also spoke before the Board.

They stated that the notice have been lost in transit.

Mr. Long moved that Application S-100-72 be rescheduled until July 12, 1972 and that the applicant present new plats to the staff for their review and approval prior to that date in compliance with the staff report.

Mr. Barnes seconded the motion and the motion passed unanimously.

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RAYMOND P. RYABIK, app. under Sec. 30-6.6 of the Ordinance, to permit erection of a garage closer to side property line than allowed, 10 feet from side line, Stonewall Manor Section 2, 8314 Stonewall Drive, Centreville District, (R-12.5) 39-3((16))323, V-85-72

Mr. Ryabik testified before the Board.

Notices to property owners were in order. Contiguous property owners were Mr. and Mrs. John O'Donald, 8312 Stonewall Drive, Vienna and Mr. Blankingship, 8316 Stonewall Drive, Vienna, Virginia.

Mr. Ryabik stated that the reason he needed this variance is because of the position of his house on the property. He could put it toward the back, but it would not set in with the architecture of the surrounding houses in the area. In addition putting the addition in the back would necessitate and contribute to an erosion problem. He stated that he needed the garage to be 14' because of an existing kitchen exit stoop which will necessitate having one step within the garage and will take away 11" of usable parking space. He stated that he was requesting a 2' variance and the structure would still be12.5' from his property line, at the closest point. He stated that he had owned this property for seven years and planned to continue to live there and does not plan to sale the property.

No opposition.

In application No. V-85-72, application by Raymond P. Ryabik, under Section 30-6.6.of.the Ord. to permit erection of a garage closer to side property line than allowed, on property located at 8314 Stonewall Drive, Centreville District, also known as tax map 39-3((16))323, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of June, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 10,566 square feet.
4. That compliance with all County Codes is required.
5. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
(a) exceptionally narrow lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials to be used in proposed addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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GLENN R. NOFFSINGER, T/A MOUNT VERNON ANIMAL HOSPITAL, app. under Sec. 30-7.2.10.5.2 of the Ord. to permit erection of an animal hospital, 8623 Richmond Highway, Mount Vernon District (C-G), 101-3((1))104, S-92-72

Mr. Tom Lawson, attorney for the applicant, testified before the Board.

Notices to property owners were in order. Contiguous owners were Mrs. Irene Pettitt, 8609 Richmond Highway, Alexandria and Curtis Corporation.

Mr. Lawson stated that the applicant feels that due to the fact that this is in a commercial zone, this use should not carry a definite limit of time on it.

Mr. Lawson submitted a letter from Mr. Monroe, Vice President of the National Bank of Fairfax stating that they would not be willing to grant a mortgage loan beyond the bounds of a special use permit time limit.

No opposition.

Mr. Long moved that the Board of Zoning Appeals release the time limit stipulated in the Use Permit granted to the applicant in Use Permit #S-41-72 which limit was for five years with three one year extension and that this be deleted from the Use Permit.
Mr. Barnes seconded the motion.
Mr. Long stated that the reason for this motion is because he was opposed to a time limit to a use permit. It is the BZA's requirement to stipulate conditions, but not the time limit.

Mr. Smith read into the record the letter from the National Bank of Fairfax.

The motion passed unanimously.

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DEFERRED CASES:

TEXACO, INC. app. under Sec. 30-7.2.10.2.5 of Ord. to permit design change in an existing service station under existing special use permit so as to include a drive-through car wash, 6543 Little River Turnpike, Hanna Park and Glendale Subd., 72-1((12))(11)A & 7 & 1, Mason District (C-N), S-54-72 (Deferred from May 10, 1972 fornew plats--decision only)

Mr. Smith stated that this case was deferred from May 10 to allow the applicant to submit new plats showing stacking lanes.

Mr. Smith stated that this is insufficient stacking lanes for a car wash. He reminded the Board that the Board denied a similar car wash down the street about one block.

Mr. Kelley stated that he was confused as to how they plan to tell a patron which stacking lane to get into and which would be first.

Mr. Calvert stated that it would be first come, first served.

Mr. Kelley stated that this still would create a traffic problem in the service road.

Mr. Smith asked if a person had to buy gas in order to get his car washed.

Mr. Calvert answered "No", but the car wash would be about 30 cents with gas and $1.50 without gas.

Mr. Long stated that he was not satisfied because if they were attracting additional business, then they would not have good traffic flow.

Mr. Calvert stated that their business was not up to what they expected it to be now. The car wash would only take approximately 2 minutes to wash, as it is entirely automatic.

Mr. Smith stated that he had hoped they would come back with a plan for the stacking lane on the adjoining property which Texaco owns already.

Mr. Long agreed that this is also what he had hoped for. Mr. Long stated that if the applicant wants the Board to make a decision based on this plat as it is presented the Board is prepared to do so, but if they would like to rework this plat utilizing the additional land area then the Board would give them that opportunity. He stated that he felt Texaco should meet with the County Staff and come up with an adequate plan. If it is necessary for the County Staff to go and take a look at this station, then they should do so.

Mr. Smith and Mr. Kelley spoke concerning the Texaco Station in Merrifield that has rental trailers, truck, etc. on it now and that this should not be and hoped that Mr. Calvert would see to it that these are removed.

Mr. Covington stated that this station was on industrial land.

Mr. Smith stated that it was under a use permit.

Mr. Covington stated that he went to Mr. Reynolds in Preliminary Engineering and Mr. Reynolds told him that it was not necessary that a site plan be required for this.

Mr. Long stated that he did not agree with Mr. Reynolds that a site plan would not be required for these trailers. He stated that he also felt that this was a decision for the Zoning Administrator to make and not just any member of the Staff.

Mr. Long stated that he was prepared to make a motion to deny this application unless the applicant wanted to submit a new plan.

Mr. Calvert stated that he could not make the decision personally, but he would like the opportunity to ask the management about this.

Mr. Long moved that S-54-72 be deferred until September 13, 1972 for decision only to allow the applicant

1. To furnish new plats showing the entire land area owned by Texaco used for the stacking lanes.
2. Showing both the existing and proposed uses.
3. Adequate stacking and parking lanes based on the proper utilization of the land area and the uses involved, the car wash and the gas station.
4. Zoning category.
5. Parking for the use.
6. Landscaping.

These plat must be in 5 days prior to the hearing in order for the staff to properly review them.

Mr. Barnes seconded the motion and the motion passed unanimously.

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CHARLES & LAURA HAAR, app. under Sec. 30-7.2.6.1.3 of Ord. to permit day care center, 40 children, ages 2-6, 5 days per week, 7:00 A.M. to 6:00 P.M., 9350 Burke Road, 78-2 & 78-4((1))Parcel 1, Springfield District (RE-0.5), S-64-72 (Deferred from May 10, 1972 for Staff Report -- For Decision Only)

Mr. Smith read Mr. Reynold's Staff Report on this case, requesting several things be done

Mr. Baker stated that he would be in favor of this application providing they could meet the requirements.

Mr. Reynolds had stated in his report that the property land area surpassed the gross minimum lot area requirement for 40 children according to the proposed ordinance regarding private schools.

Mr. Kelley moved that the following resolution be adopted. In application No. S-64-72 application by Charles K. and Laura Haar, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit day care center, 40 children, 5 days per week, on property located at 9350 Burke Road, Springfield District, also known as tax map 78-2 & 78-4 ((1)) parcel 1, County of Fairfax, Virginia.

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of June, 1972.

WHEREAS, the Board of Zoning Appeals has made the following finding s of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 1.535 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with All County Codes is required.
6. That property will be serviced by public water and sewer.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. That this permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of this Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property o f the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 40, ages 2 through 6.
7. The hours of operation shall be 7:00 A.M. to 6:00 P.M., 5 days per week, Monday through Friday, 9 months per year.
8. The recreational area shall be enclosed with a chain link fence in conformity with State and County codes and the type and amount of recreational facilities shall be as approved by the Director of County Development.
9. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Welfare and Institutions and the obtaining of a certificate of occupancy.

10. All buses or other vehicles used for transporting students shall comply with State and County standards in color and lighting requirements.
11. There shall be a minimum of nine (9) parking spaces.
12. The applicant shall dedicate 45' from the center line of the right-of-way for the full frontage of the property for the proposed widening of Burke Road.
13. Construction of road widening, curb, gutter and sidewalk to align with those road improvements provided in the Cardinal Estates Subdivision is required.
14. Landscaping,planting and screening shall be as approved by the Director of County Development.
15. This permit is granted for a period of 5 years with the Zoning Administrator being empowered to grant three (3) one (1) year extensions.

Mr. Baker seconded the motion.

The motion passed unanimously.

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YOUNG AMERICANS FOR FREEDOM, INC., app. under Sec. 30-7.2.5.1.4 of Ord. to allow office for mutual benefit association and proposed addition for printing facilities, 8700 Arlington Blvd., 49-3((1))24, Providence District (RE-1), S-66-72 (Deferred from May 17, 1972 for maximum of 30 days or when they get new plats in with additional information)

Mr. George Bennett, attorney for the applicant, 390 Maple Avenue, East, Vienna, Virginia, testified for the applicant before the Board.

The Board went over several items from the previous hearing to refresh their memory.

A letter was read from the Bruen Chapel United Methodist Church stating that they would neither register approval or disapproval of the use of the property by the Young Americans for Freedom.

In application No. S-66-72, application by Young Americans For Freedom, Inc. under Section 30-7.2.5.1.4 of Ord. to permit office for mutual benefit association on property located at 8700 Arlington Blvd, Providence District and proposed addition for printing facilities, also known as tax map 49-3((1))24, County of Fairfax, Virginia Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper posting of the property, letters to contiguous and nearby property owners, and a public hearing by the BZA held on the 14th day of June, 1972;

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Van Iden Zeiler, Tr.,
2. The applicant is the contract purchaser.
3. That the area of the lot is 3.128 acre.
4. That compliance with Site Plan Ord. is required.
5. That compliance with All County codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as conatined in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats and renderings submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator changes in signs, and changes in screening or fencing.

4. j This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. That the owner shall dedicate the required service drive along Route 50 and also dedicate to 30' from center line of the existing right-of-way along Cedar Lane for the full frontage of the property for future road widening.

7. The hours of operation shall be 9 A.M. to 6 P.M., 6 days per week, Monday through Saturday.

8. There shall be a minimum of 18 parking spaces.

9. That this site is to be used for office uses by the applicant only.

Mr. Baker seconded the motion.

Mr. Smith asked if this meant that the printing would be limited to that under office uses only.

Mr. Kelley stated that was correct.

The motion passed unanimously.

VULCAN MATERIALS CO., SUCCESSOR OF GRAHAM VIRGINIA QUARRIES, INC., app. under Sec. 30-712.1.

Mr. Gibson, attorney for the applicant, testified before the Board.

Mr. Smith stated that this hearing had been advertised, posted and all the interested parties notified. Everyone had been put on notice that this was to be the last deferral. There has been a request from the Board of Supervisors that we continue to defer this case, but the Board of Zoning Appeals is obligated under the Code of Virginia and Fairfax County to either grant or deny within a limited time. The application was filed under the existing ordinance and has to be heard under that ordinance.

Mr. Gibson stated his reasons for asking for a deferral. He stated that he knew there was a letter in the file written by Mr. Smith, the Chairman of the BZA, stating that it must not be deferred because the applicant would not consent to it. He stated that he did not know where that information came from, but as soon as he knew of the letter, he immediately drafted another letter to the Board stating that they did wish deferral. The Board of Supervisors has engaged consultants for a series of tests to determine the best method for this quarry operation.

Mr. Smith stated that Mr. Gibson's letter requesting deferral came after all the advertising and posting had been done. The Board of Zoning Appeals felt that the last deferral was the last legal deferral that could be made, therefore, they advised the Clerk to make all notifications.

Mr. Wallace Lynn, 10021 Ox Road, spoke before the Board against the operation.

Mr. Rosenblum, attorney for the Town of Occoquan, spoke before the Board.

Mr. Long stated that the Board had asked for a report from the Restoration Board and needed some input even to base a limited extension on. Up until this time there has been no public hearing, therefore, the BZA does not know what the opposition is and there has been no input from the staff.

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Mr. Long moved that the testimony of the applicant be 45 minutes and the testimony of the opposition be 45 minutes, as Mr. Smith suggested.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Gibson stated that most of the members of the BZA are familiar with the operation of the quarry and have seen it. Some of the members were present for thehearing at the last renewal hearing. He said he was not pretending that a stone quarry is an acceptable thing, but that this quarry is an essential part of the economy. A lot of people do not know all of the uses this rock is being used for. Practically every bit of rock that went into this County Tower came from this quarry. He stated that there are several people present at this hearing today who uses rock from this quarry and will speak to this. This quarry has been in operation since 1900 and has been operated by private individuals and at one time by the Army Corp of Engineers. It is economical that there be rock near its ultimate use. The quarry is operating under a lot of restrictions now. He stated that he knew the Restoration Board has come up with one proposed restriction that they cannot live with. That happened last week. The quarry does not employ a great number of people, only 50 or so. The truck drivers are independent. He stated that they were also restricted by State and Federal government.
Mr. Smith asked for some examples of how Federal government regulates quarrys.

Mr. Gibson stated that one of the ways is the safety regulations, the storage of explosives and the use of explosives. Every pound of explosives has to be accounted for under Federal regulations. Then there is the pollution restrictions that is both Federal and State restrictions.

Mr. Smith asked about the trucks and the bulldozers and asked if they were regulated by the State; the exhaust omissions, etc.

Mr. Gibson stated that they were not, that he knew of.

Mr. Gibson stated that they had just recently received a request from the Blue Plains Sewer Plant for 500,000 yards of concrete which will require 400,000 tons of rock for this improvement to the Blue Plains Sewer System. The County has been inspecting this quarry every month for the past three years and a report has been filed each month. There has only been one citation during this period and that occurred when the water froze on the protection devices. He stated that he had three expert witnesses but could not get them here in time as he felt this would be deferred. These witnesses would have shown a motion picture which was made in Northern Virginia on the many uses that this rock goes into.

Mr. Smith stated that there is no question as to the need of this rock.

Mr. Gibson stated that a lot of people do not know this.

Mr. Gibson asked at this time that two or three of the representatives that buy their rock be able to speak before the Board about their problems in getting rock. He stated that he did not feel the scarcity of this rock is appreciated.

Mr. Rainwater, 127 South Washington Street, spoke before the Board in favor of this application. He stated that he had lived in the Town of Occoquan for several years; he is in the concrete business and uses a good deal of stone in his business. He stated that he could see the problem from both sides. He stated that he feels that stone is an essential commodity in the construction business. He stated that his business likes to get stone from Occoquan because it is close and delivery prices are less. Culpepper is the next nearest place to get stone. Maryland is using all the stone that is produced there. He stated that in living in that Town since '65, he has seen dust and heard the rumbles of the blasts, and does not find it that objectionable. He stated that because of the atmospheric conditions, the dust was worse between 5:30 and 6:30 P.M. when the County has told the Quarry to blast. This has been determined by an expert in this field. That is why the Quarry had requested that these hours be varied to take advantage of the best atmospheric conditions. He stated that as a result of the discussions the people of the Town there was a Committee formed to come up with ideas to see if they could solve some of these problems before this hearing came up. He continued to discuss the merits of flexible blasting hours as it related both to dust and blasting effects.

Mr. Smith asked for the whistle was for which blows right before a blast. Mr. Rainwater stated that this is so the quarry employees can get clear of the blast area.

Mr. Rainnwater stated that they had made numerous recommendations regarding keeping the dust down. He stated that he felt the Quarry Company would try to do everything possible to comply and try to cooperate.

Mr. Smith stated that they had been in operation for several years and they have not taken any action previously except what the County has made them do.

Mr. Smith also stated to Mr. Rainwater that the quarry has a responsibility to the citizens around the quarry to do everything possible to reduce the impact on these people.

Mr. Gibson stated that there were others there to speak in favor of this operation.

Mr. Smith stated that what theothers would say would be repetitive. He asked that they stand and be recognized.

There were thirteen men who stood.

Mr. Jennings Jeffrey stated that Mr. Rainwater had stated the way they all felt about this operation.

Mr. Gibson stated that Mr. Rainwater had come to Vulcan on his own accord and was not sollicited by anyone.

The Board and Mr. Gibson continued to discuss the dust problem and the hours of operation.

Mr. Herbert Rosenblum, attorney for the Town of Occoquan, spoke before the Board. He stated that he felt that Mr. Gibson was saying that the Company could do no better than they were now doing. He submitted pictures to the Board on a slide on the dusty conditions that this use is causing. These pictures were taken from different angles and at different times, some were aerial photographs.

Mr. Rosenblum stated that the people of this town had had damage done to their homes, such as cracks and fissures in the walls and foundations. He stated that he could not believe that this was caused by old age. These houses are too old to settle that much.

Mr. Rosenblum stated that there are several things if this permit is granted, which they hope is not done, which they would like to ask.
1) They should stop within 750' of the road. They also think that 6,000 lbs. is a lot of dynamite to set off at any one time.
2) They suggest 3,000 lbs. only to be set off at any one time.

3) Restrictions with respect to what they pump into the river. They should not be allowed to pump nitrate and sludge into the river and this increases the algae growth.

4) There should be some kind and all kinds of dust controls used as this dust is a health hazard.

5) They have been blasting two to three times a week and even when they are not blasting, dust comes down off that hill and settles over the Town of Occoquan, because of the dump trucks, etc. These trucks also make a lot of noise as they do not have mufflers on them. Any permit issued should say that all operations stop at 6:00 or 7:00 P.M. and that means all operations including the trucks, which have been continuing past the deadline.

Mr. Lynn, 10021 Ox Road, spoke before the Board in opposition to this use. He stated that he lived in Fairfax County on 123 next to Vulcan and had lived there for 19 years. This was prior to Vulcan's quarry operations.

Mr. Lynn also showed the pictures to the Board on some of the quarry operations. He stated that they have also been hit by flying stone when they blast.

Mr. Lynn suggested they get a geological survey to help them determine another place to have a quarry operation other than right on the edge of a Town such as Occoquan.

Mrs. Martha Lynn, who owns Lynn Store in the Town of Occoquan, spoke before the Board in opposition to this application. She stated that there was no such committee that Mr. Rainwater had spoken of. There was a vote taken as to whether or not they wanted to have a committee and the vote was unanimously against a committee. There were four people from the business community to go over there and it was a volunteer thing. There were minutes taken of this meeting.

Mrs. June Randolph, from the Historical Commission of Occoquan, Inc., spoke in opposition to this use. She stated that this was an organization of seventy-five persons in Lorton, Woodbridge and Occoquan areas who are interested in retaining the historic area and preserving it.

In rebuttal, Mr. Royce Spence, partner to Mr. Gibson and attorney for the applicant, spoke before the Board. He stated that much was said about the water pollution in words and pictures and he wished to state that the full and complete answer to that is in the hands of the Staff. The Staff inquired of the State Health Department and the State Water Control Board and the State Water Control Board answered their inquiry by letter indicating that there is no adverse impact with regard to the water near this quarry.

With regard to the blasting effects on the dam. The inspection of that was made by Mr. Garza from the County Staff and there was no defects found whatsoever. The barge that was in the picture and showed the men dumping the contents overboard was not a responsibility of the quarry. This barge is owned by Potomac Sand and Gravel. Vulcan has no knowledge of it sinking and they do not know who shoveled the contents of that barge into the river.

Any water that is pumped from the quarry is inspected by the Health Department. This has been continually done and has been found to comply.

The restriction asking for 750' from a dwelling would leave perhaps three months operation left in the quarry itself. Vulcan feels that this is not realistic, nor is it based on experience in blasting or on the statistics of the U.S. Bureau of Mines.

There has only been one suit brought against Vulcan for damages to property. That was in 1961. Vulcan paid $3,000 in damages to a resident as a result of the man's stating that he had been run out of his home by the blasting. Vulcan stipulated in court that he sustained $3,000 worth of damages, but denied the fact there was any damage being done by blasting. The Court found that the man did leave the house as a result of the blasting and found that Vulcan should pay $3,000 in damages, but they did not find, nor have they found any damage to the house or to the other houses. He stated that Vulcan denies that rock of any size flys through the air as Mr. Lynn has testified.

Mr. Spence stated that they do not plan on going any deeper than they are right now.

Mr. Knowlton, Deputy Director of Zoning Administration, spoke before the Board. He stated that at the present time stone quarries are not under the present ordinance; however it has been reviewed at the request of the BZA by the Restoration Board. The County has now obtained the services of an engineering firm to review and evaluate these tests that the applicant has agreed to. Upon completion, the Staff and the Restoration Board should have enough information on which to evaluate this operation and these tests should be completed not less than 60 days from this date and the Restoration Board should be able to give the BZA some recommendation in less than 90 days. Therefore, it is the recommendation of the Restoration Board that in accordance with the Board of Supervisors recommendation and request that this extension should be held up and that no extension be granted beyond the period needed for the tests and adoption of the ordinance and that this case be deferred until then. The Restoration Board at its meeting of June 8, 1972, suggested that if the Board of Zoning Appeals grants this permit that it be granted with the following limitations:

1) All operations are to be set back from Route 123 a minimum of 150 feet.
2) No blasting is to occur at any time when the wind is from a direction within ninety degrees of true north.
3) No blasting shall occur except between the hours of 10 A.M. and noon.
4) At no time shall blasting produce a particule velocity greater than 1.5 inches per second as measured at the south end of the Route 123 bridge over the Occoquan Creek, and at the Lynn house (existing house on property known as Tax Map 112 ((1)) 7, and shall have a frequency not exceeding six cycles per second.
5) A bond shall be posted by the applicant in the amount of $10,000 per disturbed acre with the understanding that this bond will be adjusted following receipt, review and approval of a reasonable restoration plan for the site.
6) The ten conditions under which the quarry now operates, being those conditions stated previously in this report, shall also be made a part of this Special Use Permit, except as they are changed or modified by the five items above.

Mr. Smith asked Mr. Gibson if he would agree to an extension of the existing use permit for a period of 90 days with a reconsideration of all of the recommendations at the end of that time and at that time the Board could make it permanent.

Mr. Gibson stated that would be all right.

Mr. Smith read a portion of a resolution from Prince William County Board of Supervisors as follows:

"Prior to the reissue of the use permit for the quarry operated by Vulcan Materials Company directly across Occoquan Creek in Fairfax County from The Town of Occoquan; and

WHEREAS, the problems are substantial; and

WHEREAS, the citizens residing in The Town of Occoquan have solicited the support and assistance of the Prince William County Board of Supervisors in seeking relief from the situation and the Mayor of theTown has had substantial correspondence relating to the problem but without alleviating the problem; and

WHEREAS, the previous Prince William County Board of Supervisors believed the situation to be extremely detrimental to the safety and welfare of the citizens of the area involved;

BE IT THEREFORE RESOLVED that the Board of Supervisors of Prince William County does hereby support the Mayor and the citizens of Prince William County residing in the Town of Occoquan in their efforts to resolve the aforesaid problem; and

BE IT FURTHER RESOLVED that the present Board of Supervisors requests that a copy of the permit for this operation, the conditions of the permit, and the inspection reports be made available for review to the present Prince William County Board of Supervisors by the zoning or other offices of Fairfax County; and

BE IT FURTHER RESOLVED that the administration is directed to bring to the attention of the Fairfax County Board of Supervisors that the continued explosions which rock the Town of Occoquan according to Resolution No. 1 of February 25, 1971, may also endanger the dam on Occoquan Creek in which the County of Fairfax has a substantial investment and may well endanger life and property below the dam in both Fairfax and Prince William Counties; and

BE IT FURTHER RESOLVED that a copy of this resolution is to be forwarded to appropriate Water Authorities and the Fairfax Board of Supervisors for the purpose of making them aware of the seriousness of the problems created by the blasting by Vulcan Materials Company on the Fairfax side of Occoquan Creek opposite the Town of Occoquan which lies in Prince William County."

This resolution was carried by unanimous vote by the Board of Supervisors of Prince William County.

Mr. Long moved that application S-199-71 an application by Vulcan Materials Company to permit extension of quarry permit issued in 1956, extended October 1968 be granted with the following limitations:

1. This permit is extended for three months with the same conditions except where herein modified to allow the applicant to furnish the Board with a Restoration Plan and bond in the amount of $10,000 per acre.

2. The hours of operation shall be from 7:00 A.M. to 6:00 P.M.; all plant and mechanical operations shall cease at 6:00 P.M.

3. All blasting procedures, conditions and times of blasting to be approved by the Director of County Development prior to any blasting. The Director of County Development is to be notified prior to any blasting in sufficient time to allow him the opportunity to have inspectors on the site.

4. There shall not be any further quarry operation within 150' of Route 123.

5. All operations at this plant shall conform to the applicable performance standards detailed in Article V of the Fairfax County Zoning Ordinance.

Mr. Barnes seconded the motion.

The motion carried unanimously.

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CHESTER BARNES, et ux, app. under Sec. 30-7.2.6.1.3 of Ord. to permit nursery school, grades 1 & 2 of elementary and summer day camp, 3206 Glencarlyn Road, 6:30 A.M. to 6:00 P.M. 150 children, 61-2((5)) 3 & 4 and 51-4((8))A, Mason District (R-12.5), S-75-72 (Deferred from May 24, 1972 for additional information-- decision only)

Mr. Barnes read a letter from Mr. Clayton, Health Department, stating that the present building is limited to twenty children.

Mr. Miller, attorney for the applicant, stated that apparently the Health Department letter was written prior to review of the floor plans for the building that is planned. These plans gave a total of 3,000 square feet. The basement, the ground floor and the second level has met all the requirements.

Mr. Miller stated that this building's design is to be similar to a single family residence.

Mr. Miller stated that 150 children will only be there during peak periods such as before school and after school. During the day the maximum number of children will be 110. He stated that during summer months, they only expect to have 100 students.

Mr. Robert C. Failer, 6013 Lebanon Drive, spoke again in opposition to this case. He stated that he had lived there in a house adjacent to this one for 20 years. This is a very stable community. There are already day care facilities in four churches. He stated that he was concerned about the traffic situation. He was also concerned about the noise that will be generated. He stated that he was definitely against this commercial interprise in his neighborhood.

Mr. Miller stated that there was a Health Department contradiction.

Mr. Smith stated that that needed to be cleared up. One memo states 20 children and the other states 53, yet counsel for the applicant is stating that the Health Department has approved 150 children.

Mr. Long moved that Application S-75-72 be deferred for decision only for additional information from the Staff and the Health Department until June 21, 1972.

Mr. Baker seconded the motion.

Mr. Smith stated that there would be no additional testimony.

The motion carried unanimously.

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POWHATAN ASSOCIATES, app. under Sec. 30-7.2.6.1.8 of Ord. to permit addition to nursing home (Original permit issued 1962) 2100 N. Powhatan Street, 41-1((1))62B, Powhatan Hills Subd., Dranesville District (R-10 & RE-1), S-16-72 (Deferred from May 17, 1972 for new plats -- decision only)

Mr. Bruce Lambert, attorney for the applicant, testified before the Board.

Mr. Long asked if they intended to construct the improvements on Powhatan Street if the application is granted.

Mr. Lambert stated that he would construct whatever is required in Site Plan.

Mr. Long stated that Board wanted to be assured that they would not use Wiscomico Street.

Mr. Smith stated that it was his understanding that they would provide landscaping where they want 6' trees, etc.

Mr. Lambert stated that that was true.

Mr. Smith and the Board members read the letters that were directed to them from the citizens and these letters were made part of the record.

There were some questions from some of the citizens in the surrounding area. The Board members tried to answer these questions, but did not open the hearing.

Mr. Smith read the staff report about the hedge.

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POWHATAN NURSING (continued)
June 14, 1972

In application No. S-16-72, application by Powhatan Associates, under Sec. 30-7.2.6.1.8 of the Zoning Ordinance, to permit addition to nursing home, on property located at 2100 N. Powhatan Street, Dranesville District, also known as tax map 41-1((1))62B, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of June, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is M. Roy Nicholson, Trustee.
2. That the present zoning is R-10 and RE-1.
3. That the area of the lot is 7.664 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County and State Codes is required.
6. That a Special Use Permit was granted by the B.Z.A. on January 9, 1962.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY ANDTHE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of beds shall be 160.
7. The minimum number of parking spaces shall be 118.
(This number 7 was amended on June 28, 1972 to 89 parking spaces)
see resolution to allow this one
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions.
9. Landscaping, screening and planting shall be as approved by the Director of County Development and as set forth in the Staff Report and as shown on plats and renderings.
10. Dedicate and construct required improvements on Powhatan Street with no ingress and egress on Wicomico Street.
11. The applicant shall contribute the required pro-rata share per impervious acre for the site.

Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Smith read the Staff report since the motion referred to it. It stated:

"This office has reviewed the plan dated May 19, 1972, and would offer the following comments:

The proposed additional parking area along the south property line encroaches into the required setback area established by the Zoning Administrator's office. This setback line was established by allowing no parking closer to the south property line than any existing parking spaces.

A 20% maximum lot coverage by buildings is allowed and this office is in agreement with that figure shown on the above mentioned plan of 13.7%. Also, the parking tabulation is complete and should afford ample parking for all patrons.

The landscape plan has been reviewed by the landscape architect in this office and the plan is satisfactory, subject to the following comments:

(1) The white pines as shown on the plan should be a minimum of 6' in height and spaced a minimum of 5½' on center in staggered configuration.

(2) A 42' hedge or wall should be provided along the parking spaces along the south property line. These spaces are designated as numbers 27 through 58 on the subject plan.

(3) The pine planting on the subject plan should be continued around the west parking lot to further screen that lot from those residential units to the north in the Nantucket subdivision."

At the meeting of June 28, 1972, the Board made the following resolution regarding the above case which changed the parking requirement.

Mr. Long moved:

In application No. S-16-72, application by Powhatan Associates to permit addition to nursing home on property located at 2100 North Powhatan Street, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the Board of Zoning Appeals has made the following finding of facts:

1. The use permit was granted by the Board, June 19, 1972.

2. The concensus of this board was there be a minimum parking required or allowed for this application as set forth in motion adopted on May 24, 1972.
3. The required parking for this use is 90 spaces.
4. The permit granted set forth 118 parking spaces.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby amended as follows:
1. There be a maximum of 90 parking spaces.
2. The areas where the parking is deleted be utilized for landscaping as approved by the Division of Land Use Administration.

Mr. Barnes seconded this motion and it passed unanimously.

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H & F DEVELOPMENT CORP. (Request for substitution of name from H & F DEVELOPMENT CORP. & ROTH TWIN THEATRE TO H & F DEVELOPMENT CORP. & JERRY LEWIS CINEMA) Permit granted July 27, 1971.

Mr. Smith noticed that Mr. Aylor had not supplied a certificate of good standing from the State Corporation Commission on the new corporation and he suggested that this be deferred until Mr. Aylor could obtain this.

Mr. Baker so moved. Mr. Long seconded the motion and it passed unanimously.

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FRANCONIA MOOSE LODGE #646 -- Granted 11-10-70, granted 6 month extension to May 10, 1972.

There was a letter that was received from them stating that they had partially cleared the site and have done excavation and engineering on the site, therefore could the Board reconsider its motion and allow them to continue.

Mr. Smith asked if they had site plan approval.

Mr. Covington stated that they did not.

Mr. Smith stated that they had no authority to excavate without site plan approval or a clearing permit.

Mr. Baker moved that the Board reaffirm their previous position that these people must reapply.

Mr. Long seconded the motion and the motion passed unanimously.

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S. J. BELL, USE PERMIT S-218-70, Granted December 15, 1970 and extended until June 15, 1972 -- Requests another extension.

Mr. Hazel stated they were requesting this extension for 45 days to allow the final processing of site plan and building permit applications which have now been filed with Fairfax County. He stated as one of his reasons for delay as the backlog of pending site plan review matters and Fairfax County has advised Mr. Bell that Fairfax County authorities will require approximately 30-40 days to process and obtain approval of the subject site plan.

Mr. Smith stated that it looked as though the oil company was at fault and held them up.

Mr. Smith also stated that if the site plan had been in 6 months ago, then it would be different.

Mr. Long did not agree and felt that it was because the site plan was stuck in the Site Plan Office.

Mr. Long moved that the request be granted for the 45 day extension from the 15th of June, 1972.

Mr. Baker seconded the motion. The motion passed 4 to 1 with Mr. Smith voting No.

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OUT OF TURN HEARING REQUEST -- AMERICAN TRADING & PRODUCTION CORP., V-108-72. Scheduled for 7-12-72, requests hearing for June 28, 1972.

Mr. Smith read the request in a letter to the Board from Stephen L. Best, attorney for the applicant.

Mr. Kelley moved that they take their regular turn.

Mr. Baker seconded the motion and the motion carried unanimously.

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BERNARD M. FAGELSON & ROBERT L. TRAVERS, V-95-71; Granted June 22, 1971.a special use permit for an enclosed tennis court.

Mr. Fagelson stated that he wished this application extended for 6 month.

Mr. Baker moved that this be extended from June 22, 1972 six months.

Mr. Kelley seconded the motion and the motion passed unanimously.

Mr. Smith stated that the Clerk should notify the applicant of this andthat there would be no other extensions.

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SPRINGFIELD LEARNING CENTER, INC.

Mr. Smith read a letter asking for an out of turn hearing on this case as this was a special school for approximately 30 children, ages 10-14; 8:00 to 12:00 Noon and only for the summer.

Mr. Baker stated that under the circumstances he was willing to stay the extra time it would take to hear this case., and he so moved that this be placed on the Agenda for June 28, 1972.

Mr. Barnes seconded the motion and the motion passed unanimously.

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SWIM CLUB RESOLUTION PERTAINING TO LATE HOURS

Mr. Long moved that late parties for swim clubs be limited to six (6) per season, to be held only on Friday, Saturday and pre-holiday evenings, and they not extend beyond 12:00 Midnight. Any substantiated complaints will be justification for denying any further late parties during that year.

Mr. Baker seconded the motion.

The motion passed unanimously.

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SANDRA WARD -- SHOW-CAUSE HEARING -- (Deferred for 90 days to give applicant opportunity to conform with conditions of Special Use Permit)
Mrs. Kelsey stated that this 90 deferral was up and asked if it should be put on the Agenda.

Mr. Long moved that this be place on the Agenda for June 28 and the applicant be notified.

Mr. Barnes seconded the motion and the motion passed unanimously.

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By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

July 26, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, June 21, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present; Daniel Smith, Chairman; Richard Long, Vice-Chairman; George Barnes, Loy P. Kelley and Joseph Baker

The meeting was opened with a prayer by Mr. Barnes.

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DR. GEORGE E. CHAPMAN, JR., app. under Sec. 30-7.2.6.1.10 of the Ordinance, to permit dentist office, 12801 Melvue Court, Greenbrier Subd., Centreville District, 45-2 ((3))(30)22, (R-12.5), S-87-72

Mr. Ken Sanders, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Levitt & Sons, Inc. and Eugene Black, 12802 Madeley Court, Fairfax.

Mr. Sanders stated that there were quite a few people who were in favor and quite a few who were opposed to this application. He stated that he would like to give the Board a little background information. Dr. Chapman is presently a resident of Greenbrier Subdivision and he now lives in the interior of the subdivision and also has his office there. He has been practicing from this house for 4 and 1/2 years. He has purchased Lot 22 with the hope of moving only his office in that house and he also owns Lot 26 at the other end of this cul-de-sac where he hopes to move his home, thereby having a separate office from his home, but still living near enough for convenience. His practice would remain the same as most of his patients are living in the Greenbrier Subdivision now and can walk and their children can walk to the dentist office. It would have the same effect on the neighborhood as it does now.

Mr. Sanders stated that some time ago it was suggested in various discussions with the Greenbrier Civic Association that more professional offices were needed in this area. He submitted a letter that arose from those meetings on which these proposals were discussed.

Mr. Smith asked Mr. Sanders if they had considered it to be rezoned.

Mr. Sanders stated that Mrs. Pennino the Supervisor for that District did not think it advisable to rezone the property because that could lead to retail commercial uses with some types of undesirable uses. Unfortunately, the County was now given the power to do this and to have conditional zoning at the legislative meetings this year.

Mr. Smith read the letter from the Greenbriar Civic Association. This letter stated that the community was not against the use of these homes in Greenbriar for offices for the practice of medicine because there is a need for this type use, but in fairness to the Greenbriar Subdivision the area around these offices should not be reaoned. Anyone who wishes to have a doctor or dentist office should apply to the Board of Zoning Appeals.

Mr. Smith stated that the BZA could not approve a row of houses for the use of Doctors and Dentists, this would be in the nature of a rezoning.

Mr. Sanders stated that he was not applying for an entire row of houses; only one house.

Mr. Sanders stated that he submitted the letter only to show theBoard that the citizens in this area felt there was a need for this use and did want this use in the community. Mr. Sanders stated that he had submitted two sets of plats and submitted them both at the same time, as he wanted the Board to chose the parking plan that they desired. He stated that the garage could be used for patients parking as Dr. Chapman would be walking to work and would not need his car parked here.

Mr. Smith reminded Mr. Sanders that Dr. Chapman, under the ordinance, would be permitted another doctor or dentist to be in the same house and he could have two nurses or employees for each doctor, therefore, this would create a greater use and they would need more parking.

Mr. Sanders stated that he could not have more employees, as he would not be able to get more parking on the lot.

Mr. Long stated that there is a commercial shopping center being erected to the west of this site. Mr. Long asked how many entrances there were to this subdivision.

Mr. Sanders stated that there were two entrances.

Mr. Long stated that he thought it was said that this house fronted on Route 50, but it seemed to him that it was an interior lot.

Mr. Sanders stated that if you drive in from Route 50, the first house one sees is this house. There are model homes located right on Route 50, but in terms of access, this is a more desirable location from a planning point of view.

Mr. Long stated that in his opinion from a planning point of view, it is essential to maintain the residential character of the neighborhood and on Plat A, there are five parking spaces on the front that will detract from the neighborhood.

Mr. Smith stated thatthis type of use generates 5 to 6 times the amount of traffic that the normal residential use would generate.

Mr. Kelley asked why they did not rent some space in the shopping center down the road a very short distnace.

In favor of this use, Mrs. H. A. Bryant, 12803 Mantle Lane, Fairfax.
She stated that one of the reasons that she could see that the Doctor Chapman would not want to locate his office in the shopping center is because of the full glass windows which would not be appropriate for this type of use. These shopping center stores look like store front which is what they were designed for and just do not look dignified for a dentist's office. She stated that she is a resident and they do go to Dr. Chapman. She stated that she feels that having Dr. Chapman in the community is an asset to the community. She stated that she lived less than one mile from this site.

Another resident of Greenbriar Subdivision spoke before the Board. She stated that she lived at 4324 Mately Lane. She stated she was in favor of this use because of its convenience to the patients who live in Greenbriar. She said that her children ride their bikes to the Dentist's office. She stated that Dr. Chapman has been involved in the community affairs. She said she was against commercial zoning on Route 50.

Mr. Smith stated that if the BZA granted several houses use permit that were adjacent to each other, then they would be granting a rezoning which they were not empowered to do.

Mr. Smith also stated that he felt the size of the lot was a problem because of the parking aspect.

Mrs. Anderson, 12805 Melview Court, in Greenbrier Subdivision, spoke before the Board, in favor of this application. She stated that her husband was a doctor and is usingtheir home for his office.

Mrs. Reuben, 4403 Morlane Lane spoke before the BZA in favor of this application. She stated that if the BZA grants this application, they would not be granting a rezoning, because all of these houses would not have professional offices in them. At the present it is stated for the record that Dr. Chapman would be living in one of the houses on this street, the other lady who spoke stated that they live in their house and plan to have a doctor's office in there in addition, therefore, there would not be the entire eight houses left.

Mr. Victor Lohman, 12807 Madeley Court, spoke in opposition to this application. He presented a petition to the BZA from area residents against this.

This Petition which was signed by 36 people stated they were opposed to this application because the site is in a residential community and this is not a residential dwelling and the house in question is located in a cul-de-sac where several physicians have purchased houses and it is feared that the granting of this use permit will be followed by further, similar requests to change the residential use of the area, and there is not sufficient parking, and there is a shopping center with space available about 1 mile down the road on Route 50.

Mr. Akin, 4014 Middle Ridge Drive, four houses down from the proposed office, spoke in opposition to the application. He stated that he does not go to Dr. Chapman and he did not feel that dentist offices were very hard to reach from this location.

Mr. McCullough, 4006 Middle Ridge Drive, directly south of the proposed site spoke before the Board in opposition to this use. He stated that he feared this would set a precident for other cases such as this. He stated that there was a doctor's office in the shopping center down the road and did not see why Dr. Chapman could not have his dentist office there also.

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June 21, 1972
CHAPMAN (continued)

Mr. Ellis, 12802 Melvue Court, directly across the street spoke in opposition to this application. He stated that the traffic was the problem as far as they were concerned as they have two children and particularly they are concerned since there are four other residences on that street owned by doctors or dentists. He stated that they liked their location and would hate to have to sell.

Mr. Jerome McCullough, who lives directly behind this site spoke before the Board in opposition to this site. He spoke primarily on the notices.

Mr. Smith stated that the Chair had ruled that the notice were in order and the proper procedure had been used.

In rebuttal, Mr. Sanders stated that Dr. Chapman does not intend to upset the neighborhood. He stated that it was not fair to state that all of the houses on this street were sold to professional doctors or dentists. That is not the case. Four have been purchased by professionals, one is the site in question, one is the Doctor's home, and one is the lady's home who spoke and stated that her husband planned to open his doctor's office in their home and they would also live there. He stated that he did not think it was fair for the Board to state that all of these homes were going commercial, because that was not the case at all. He stated that this had been implied.

Mr. Smith stated that it was not his intention to imply that; it was a matter of discussion.

Mr. Long stated that because of the configuration of the lot the adequate parking would be hard to get.

Mr. Sanders stated that this is certainly not the same as zoning the land C-O, because if this were rezoned, a building could be constructed and an all glass and aluminum structure could be put there. In this application, we are talking about a residential looking house with shrubbery.

In application No. S-87-72, application by Dr. George E. Chapman, Jr., under Sec. 30-7.2.6.1.10 of the Zoning Ordinance, to permit dentist office on property located at 12801 Melvue Court, Centreville District, also known as tax map 45-2((3))(30)22, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous property and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of June, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 15,777 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

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LUTHER RICE COLLEGE CORP., app. under Sec. 30-7.2.6.1.3 of the Ordinance, to permit operation of college as chartered by Commonwealth of Virginia, located N.E. intersection of St. John's Drive and Franconia Road, Lee District (R-12.5), 81-4((1))pt. par. 15C, S-88-72

Rev. Bishop represented the applicant before the Board.

Notices to property owners were in order. Contiguous owners were Mr. and Mrs. Raymond Talbert, 5943 St. John Drive, Alexandria and Mr. and Mrs. N. N. McCarus, 6005 St. John Drive, Alexandria and Mrs. Milton Lee, Clerk, Franconia Baptist Church.

Rev. Bishop stated that this former application for a school was for the Franconia Baptist Church property, but this present application is specifically for the school itself and is owned by the college. He stated that they propose to only build one building at this time and for the purpose of the loan they have taken out 3 acres from the 32 acre parcel. The next building proposed will be the same type building.

Mr. Long asked if they planned to have a recreational facility.

Rev. Bishop stated that they did intend to have a recreational facility. He then submitted to the Board a picture showing a scheme of what they propose. He stated that they plan to have 127 students to begin with and eventually they would like to have 500. He stated that they had operated for 5 years. They are now operating in the Franconia Baptist Church.

No opposition.

Mr. Long stated that he would like to have some addition information. Since the Board in this case is dealing with a much larger site than usual, he would like a complete plan of the proposed buildings in order that they can make sure that the area is not development in a haphazard manner.

Mr. Long asked Mr. Reynolds what they had in the site plan as far as students were concerned. Mr. Long stated that Mr. Reynolds is in the Preliminary Engineering Branch of Design Review in the County Development Department of the County.
Mr. Reynolds stated that he did not know this. In the site plan they do not consider this aspect. They are concerned about the impact of the proposed rezoning in the area and the impact on Franconia Road and St. John Drive. They have requested the applicant to provide road improvements both on St. John Drive and to dedicate on St John Drive.

Mr. Kelley agreed that he would like to see a proposed plan for the entire 32 acres.

Mr. Smith read the original use permit where Luther Rice College was granted a Special Use Permit for 600 students.

Mr. Long pointed out that this permit was for the property owned by the Franconia Baptist Church.

Mr. Kelley moved that S-88-72 be deferred for the shortest period of time to give the Board a chance to study and meet with the Staff, for decision only.

Mr. Long seconded the motion. He then asked that the motion be amended to include that the applicant submit the following information to the Board.

1. Plat showing total property with existing improvements
2. Proposed future development with interior patterns of traffic, both vehicle and pedestrian.
3. Proposed recreational area.
4. Present and proposed number of students.
5. Teacher - student ratio.

He said they would give the applicant a maximum of 30 days to submit this information and these plans should be submitted to the staff five days prior to the hearing for review and approval.

The motion passed 3 to 2 with Mr. Smith and Mr. Baker voting No.

Mr. Baker stated that he was not in agreement with the motion because under the circumstances here it is entirely different from a school that is not existing. This school is existing and already has a use permit for 600 students.

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D. A. O'KEEFE, app. under Sec. 30-6.6 of the Ordinance, to permit erection of dwelling closer to side property lines than allowed under Ordinance, (7' variance on both sides to permit 25' wide dwelling), 3006 Dunbar Street, Mt. Vernon District, (R-12.5) 102-1((3))(2),30, V-86-72

Mr. Robert Wright, represented the applicant before the Board. He stated that he also had an interest in the property.

Notices to property owners were in order. Contiguous owners were Herman Lutz, 109 S. Fairfax Street, Alexandria, Lot 30, which adjoins the west side and on the east side is Land Mark Corp.

Mr. Wright stated that this subdivision was put on record and as the subdivision plan indicates the lots in the area are 35' lots and contain a little over 25,000 square feet which precludes under the setback requirements under the existing zoning development of these lots. This R-12.5 restriction was put on the lots after the subdivision went on record. He stated that the tax would be improved should this application be granted and a much better house could be built on the lot. There has never been a house on this property.

Mr. Smith asked if Mr. O'Keefe is going to reside there.

Mr. Wright stated that he was not. The home that is erected on this property will be for sale.

Mr. Smith asked how long this property has been under the ownership of this individual. Mr. Wright stated that Mr. Shephard had owned this property since 1968. Mr. O'Keefe purchased from Mr. Shephard.

Mr. Smith asked if the two lots to the side of this property are developed.

Mr. Wright stated that they were not.

Mr. Long stated that the Board would have to know that this situation existed prior to the adoption of the zoning ordinance.

Mr. Smith stated that the Board would also have to know who has owned this property and when the transfers were made.

Mr. P. H. Brown, President of the Gums Springs Civic Association, 2914 Dunbar Street, spoke before the Board in opposition to this application.

Mr. Brown stated that the applicant was in error as there has been three lot parcels under joint ownership over the past 10 years. There was a dwelling on theproperty but when the County passed the hygeine code it was condemned and torn down. There is water and sewer on the property and this served the previous owner. The lot parcels that were under joint ownership were 30, 31 and 32 towards the corner of Dunbar Street and the existing lot. The lot has changed ownership since the time the house was condemned. He stated that his main objection to this application is this is R-12.5 zoning and an absentee landowner wants to come into Gum Springs and says he wants to remedy the housing situation, but he is only seeking monetary goals. He has no personal interest in this house or in the black development of Gum Spgings. This parcel has been allowed to grow up in weeds and it is rat infested. He stated that they would not object to the builder building a house on the three lots and of a size and nature similar to that of the other houses on Dunbar Street. In the past other builders have come into Gum Springs and put up a cracker box type house and this is what they object to, he stated.

He showed the Board pictures of the other houses in the neighborhood to give them some idea of the type house they could consider pleasing to them.

Mr. Smith stated that if they had three lots they would not need a variance.

Mr. Brown stated that if the Board does grant this, it would be setting a precedent. for other landowners to come in and do this thing too.

Mr. Smith asked if Mr. Shephard had any interest in the other two lots adjacent to this.

Mr. Wright stated that to his knowledge she did not. He stated that this is a contract to purchase by O'Keefe and from Shepphard at this time. He stated that the record of the Shepphard is in Deed Book y9 and on page 438 and was in 1968.

Mr. Smith asked if O'Keefe has any interest in the other two lots.

Mr. Wright stated that he did not.

Mr. Brown stated that Weeks was the owner at the time the house was condemned and he thought that was in'50 or'51.

Mr. Brown stated that previously there had to be a 20' setback and then it was cut down to 10'. He stated that he did not want to see it cut down anymore.

Mr. Myer also spoke in opposition to this application.

In rebuttal, Mr. Wright stated that the property has been under the ownership of Shepphard since 1968 continuously and this is recorded in Deed Book Y9 and now O'Keefe plans to purchase this property. He stated that he felt that a new house would be an improvement over what is there now as the present houses were put in when substandard conditions were allowed in building and they plan to meet the county's minimum requirements for building standards and a 25' home has an advantage over an 18' home.

Mr. Long stated that he would be opposed to this type of development and what they should do would be to put all three lots together.

Mr. Baker stated that he felt the thing that would have to be determined would be when it changed ownership.

Mr. Barnes agreed.

Mr. Long moved that V-86-72 be deferred until June 28, 1972, for decision only to allow the applicant to submit a rendering of the proposed dwelling; and the applicant is to furnish the Zoning Administrator with the information to allow the Zoning Administrator to determine the time of the division of lots 30, 31 and 32, when the ownership transfers were made.

Mr. Wright asked for an explanation of the rendering.

Mr. Long stated that the rendering should show the plan for construction, the color and type and the way it will look.

Mr. Barnes seconded the motion and the motion passed unanimously.

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ALLAN H. GASNER, TRUSTEE FOR THE RICHARDS GROUP, app. under Sec. 30-7.2.6.1.1 of the Ordinance, to permit swimming pool in townhouse area, located on Burke Road, Heritage Square, Springfield District (RT-5), 78-4((1))Parcel 10 and 12, S-94-72

Notices to property owners were in order.

Robert Lawrence represented the applicants. He is attorney for the applicants.

Mr. Lawrence stated that this application is for a swimming pool in a townhouse development known as Heritage Square which has 100 townhouses on 31.7 acres. He stated that the exact shape of the pool has not yet been determined.

Mr. Lawrence then submitted another plat to the Board.

Mr. Long stated that the Board could not act on a set of plans that were incorrect. The Board now has two sets of plats, one of which has not been submitted to the Staff for review. One has a rectangular type pool and the other an L shaped pool.

Mr. Smith agreed that it was the policy of the Board that no substitute plats would be allowed at the time of the hearing as they had not been reviewed by the Staff and no report could have been made on the new plats.

Mr. Lawrence stated that this will be strictly a pedestrian oriented pool. This pool would be for the residents of this Heritage Square Townshouse area only.

Mr. Smith stated at at least 2 more parking spaces would have to be provided.

Mr. Baker stated that he too did not see how the Board could accept and hear a case based on substitute plats.

Mr. Lawrence stated that this plat was not intended to be a substitute plat. The plat they had given to the Board was only for additional information.

Mr. Long stated that the new plats was not certified.

Mr. Long then moved that Application S-94-72 be deferred for a maximum of 30 days to allow the applicant to submit plats conforming to the new "L" shaped pool and to show landscaping and fencing and adequate parking.
Mr. Barnes seconded the motion and the motion passed unanimously.

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BARBARA J. JONES & KUMJAI L. SMITH, app. under Sec. 30-2.2.2 of the Ordinance, to permit beauty shop in apartment, 6532 Lee Valley Drive, Apartment 101, Springfield District, (RM-2G), 90-1((1))44, S-95-72

Mr. Smith read a letter asking the Board to withdraw this case without prejudice as they had run into problems with this site and would be unable to continue with it.

Mr. Kelley so moved.

Mr. Baker seconded the motion and the motion passed unanimously, with the Board members present. (Mr. Long was out of the room at the time)

ARNOLD M. LERMAN, app. under Sec. 30-6.6 of the Ordinance, to permit erection of barn 35' from rear property line, 822 Leigh Mill Road, Dranesville District (RE-2), 13-1((1)) 86, V-93-72

Mr. Smith read a letter from the applicant's attorney which stated that several weeks the Board of Supervisors passed an emergency amendment allowing stables to carry the same standards as any other building as to setbacks in two acre subdivisions.

Mr. Covington stated that the applicant was advised that he would not need the variance because he felt it was within the adopted ordinance and the permit to built has been granted.

Mr. Long moved that V-93-72 be withdrawn without prejudice because the applicant has received a building permit for this barn in conformity with an emergency amendment passed by the Board of Supervisors.

Mr. Barnes seconded the motion and the motion passed unanimously.

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SNAPP CONSTRUCTION CORP., app. under Sec. 30-7.2.6.1.1 of the Ord. to permit swimming pool for townhouse development, proposed Hyson Lane extended, Pinewood Greens, Section 4, 49-2((1))104, Providence District (RT-10) S-91-72

Mr. Max Ratner represented the applicant.

He asked that the application be amended turning this use permit over to Max Ratner, Trustee instead of Snapp Construction Corp.

Mr. Smith asked for an action from Snapp Construction.

Mr. Eckley from Snapp Construction spoke before the Board. He stated that at the time they filed,the applicant was Snapp Construction Corp. and they did not contemplate that the property would be transferred for quite some time. He asked that the Board please amend the application.

The Board recessed to give the applicants an opportunity to write a letter to the Board formally asking for this transfer.

The Board reconvened and Mr. Smith read a letter from Snapp Construction Corp. asking that the application be amended to change the applicant to Max Ratner, Trustee.

Mr. Baker moved that this request be granted.

Mr. Long seconded the motion and the motion passed unanimously.

Mr. Ratner stated that this pool would be used for the residents in the Pinewood Greens Townhouses only. He stated that he would like theBoard to waive the parking and allow them to only have seven spaces for parking as most of the residents live within 900' of the pool and are within walking distance.

Mr. Ratner asked to submit another plat showing landscaping.

Mr. Smith asked if they had been reviewed by the Staff.

Mr. Ratner answered that they had not. He stated that they felt that special consideration should be given since they were not originally advised that they needed to have landscaping on the plats.

Mr. Francise of the Homeowners Association spoke in favor of the application with certain reservations. He stated that it was his understanding that the presently occupied dwellings will not bear any cost of building the recreational complex. The capital expenditure involved in constructing this will be borne by the 175 units to be built on lots 4 and 2A in the 18 acres recently rezoned.
Mr. Smith asked Mr. Ratner and Mr. Fitzgerald if this was correct. Mr. Ratner answered that that was correct and that the entire project has been approved by FHA and VA and the County Attorney has approved the declaration of covenants that apply to the first section and will apply to the second section. Mr. Ratner stated that this recreational facility will be turned over to these homeowners at no expense to them, but the homeowners will maintain the facility.

Mr. Long stated that he would like to defer this and allow the Staff to determine whether or not it is adequate.

Mr. Ratner stated that it was a statement of fact that the staff had reviewed the new plan and they have initialed it, so in essence they have reviewed them.

Mr. Reynolds from Preliminary Engineering stated that the Landscape Architect had reviewed the plan and agrees with the plan as revised.

Mr. Ratner stated that there were 90 homes at present and they plan to have 306 families there and they would all be members of the pool. The property has not yet been conveyed to the Homeowners Association.

Mr. Smith stated that when the Association does take ownership, they will have to come back before the Board.

In application No. S-91-72, application by MAX RATNER, TRUSTEE and Snapp Construction Corp. under Sec. 30-7.2.6.1.1 of the Zoning Ordinance, to permit swimming pool for townhouse development on property located at Section 4, Hyson Lane Extended, Pinewood Greens, also known as tax map 49-2((1))104, County of Fairfax, Mr. Baker moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of theFairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper postingof the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of June, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RT-10.
3. That the area of the lot is 3.4174 acres.
4. That compliance with all State and County Codes is required.
5. That compliance with Site Plan Ordinance is required.
6. That all units are within walking distance of the pool.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions oflaw:
1. That the applicant has presented testimony indicating compliance with Standards forSpecial Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be andthe same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, andis for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of theoperator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirementsof this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUAPNCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicicous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of thepermitted use.
6. The maximum number of memberships shall be 306, which shall be limited to residents of Pinewood Greens development.
7. The hours of operation shall be 9:00 A.M. to 9:00 P.M.
8. The pool area shall be enclosed with a chain link fence in conformity with County and State codes.
9. The pool area shall have a minimum of 7 parking spaces for cars and 75 parking spaces for bicycles.

10. Landscaping, screening and plating shall be as approved by the Director of County Development.
11. All loudspeakers, noise and lights shall be confined to the site and directed to the pool area. Should there be a time when an after hours pool party for the members is desired, permission must be granted by the Zoning Administrator and such parties shall be limited to six (6) per year.
12. There shall be no outside swim metes held at the subject site.

Mr. Long seconded the motion.

The motion passed unanimously.
(There was no opposition in this case)
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RALEIGH HILLS HOSPITAL, INC., app. under Sec. 30-7.2.5.1.2 of the Ordinance, to construct a 31 bed alcoholic rehab. hospital on 1.55 acres, rear portion of parcel, 1719 Chain Bridge Road, Dranesville District, (R-12.5), 30-3((1))rear portion of parcel 47, S-89-72

RALEIGH HILLS HOSPITAL, INC. AND JOHN F. HEATH, FLORENCE RUBENFELD & JUDITH C. SANDERS, app. under Sec. 30-6.6 of the Ordinance, to permit hospital closer to property lines than allowed, 1719 Chain Bridge Road, Dranesville District (R-12.5), 30-3((1))rear portion of parcel 47, V-90-72

Mr. Don Stevens, attorney for the applicant, spoke before the Board. He asked that the Board of Zoning Appeals allow him to withdrawn his applications without prejudice. This now is under the jurisdiction of the Board of Supervisors, but if they find they should need a slight variance they would like to be able to come back to the Board of Zoning Appeals and request it. He stated that he hoped it would not be necessary to ask for a variance since they have purchased some additional land for this hospital.

Mr. Long moved that Application S-89-72 and V-90-72 be withdrawn without prejudice at the request of the applicant. The applicant intends to persue the application for the use permit before the Board of Supervisors who now have jurisdiction in this matter.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Jergenson, 1555 Great Falls Street, spoke before the Board in opposition to this application. He stated that he questioned a point of order.

Mr. Smith stated that this application is no longer under the jurisdiction of the Board of Zoning Appeals and it was the BZA's understanding that the application or a new application would be filed with the proper governing body.

// DEFERRED CASES:

EDWARD & LOUISE NELSON, app. under Sec. 30-6.6 of Ord. to allow garage to be constructed within 2.3' of side property line, 6803 Dante Court, West Springfield Village, Sec. 3, 89-1((7))60, Springfield District (R-17), V-66-72 (Deferred from May 17, 1972 for viewing)

Mr. Smith stated that he believed that the Board had gone out and viewed this property.

In application Number V-66-72, application by Edward & Louise Nelson under Section 30-6.6 of the Zoning Ordinance, to permit gargge to be constructed within 2.3' of side property line, on property located at 6803 Dante Court, West Springfield Village, also known as tax map 89-1((7))60, County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of theproperty, letters to contiguous and nearby property owners, and ak public hearing by the Board of Zoning Appeals held on the 21st day of June, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17 and R-12.5.
3. That the area of the lot is 10,660 square feet.
4. That compliance with all county codes is required.
5. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
(a) exceptionally irregular shape of thelot,
(b) exceptionally narrow lot,
(c) exceptional topographic problems of the land, and
(d) unusual location of existing building on the lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structre indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant SHALL BE HIMSELF RESPONSIBLE FOR FULFILLING HIS OBLIGATION TO OBTAIN BUILDING PERMITS, CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES.

Mr.Barnes seconded the motion. The motion passed unanimously.

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HAYFIELD FARMS SWIM CLUB, INC., app. under Sec. 30-7.2.1.1 of the Ord. to permit additions to community swimming pool facility, 7852 Hayfield Road, Hayfield Farms Subd., 100-2 ((2))Parcel E, Lee District (R-12.5), S-71-72 (Deferred from May 17, 1972 for landscaping plan and sketch of proposed addition)

Mr. Smith stated that this was another site that the Board members had viewed.

In application No. S-71-72, application By Hayfield Farms Swim Club, Inc. under Sec. 30-7.2.6.1.1 of the Zoning Ord, to permit additions to community swimming pool facility, on property located at n.e. corner Valley View Drive and Franconia Road, also known as tax map 100-2((2))parcel E, County of Fairfax, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of May, 1972 and deferred until June 21, 1972;

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 4.32040 acres.
4. That compliance with all State and County codes is required.
5. That compliance with all SitePlan Ordinance requirements are required.
6. That Special Use Permit Number S-48-69, was granted by the BZA on March 11, 1969.
7. The BZA on June 23, 1970 discussed problems concerning the occupancy permit.
8. A Certificate of Occupancy issued after final inspection on April 9, 1971.

HAYFIELD FARMS SWIM CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit additions to community swimming pool facility, 7852 Hayfield Road, Hayfield Farms Subd., 100-2((2))Parcel E, Lee District (R-12.5) -- (Deferred from May 17, 1972 for landscaping plan and sketch of proposed addition)

(Resolution continued)

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. All conditions stipulated to in the original use permit shall remain the same.
7. The maximum number of family memberships shall remain the same.
8. The hours of operation shall remain the same.
9. Screening, planting and landscaping shall be as approved by the Director of County Development. This applies to any contiguous residential property where there is a need for screening and planting.
10. All lights, loudspeakers andnoise shall be directed onto the site and must be confined to said site.

Mr. Barnes seconded the motion. The motion passed unanimously.
A gentleman from 7805 Hayfield Road,spoke before the Board in opposition to this use, but Mr. Smith, the Chairman, told him that the public hearing was over at the previous hearing and this had been just for decision only. The hearing was in order. The notices to property owners were in order and the decision had been made.

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JOHN B. PIPER, app. under Sec. 30-7.2.9.1.7 of Ord. to permit residence to be used as real estate office 2100 Chain Bridge Road, Old Courthouse Subd., 39-1((3))58, Centreville District (RE-1) S-180-71 (Deferred from May 17, 1972 for 30 days for decision only for new plats giving additional information)

In application No. S-180-71, application by John B. Piper under Sec. 30-7.2.9.1.7 of the Zoning Ordinance, to permit residence to be used as a real estate office, on property located at 2100 Chain Bridge Road, also known as tax map 39-1((1))58, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of June, 1972 deferred from the 17th day of May, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 1 acre.
4. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the CERTIFICATE OF OCCUPANCY on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Compliance with Site Plan Ordiance shall apply to this use. The applicant shall be responsible for the service road, curb and gutter, sidewalks and storm sewer for the full frontage on Route 123.
7. Landscaping, screening and planting shall be as approved by the Director of County Development.
8. This permit is granted for a period of 5 years.

Mr. Baker seconded the motion.

Mr. Long asked Mr. Kelley if item 6 would preclude the applicant from entering into an agreement with the County on construction of the curb, gutter, etc.

Mr. Kelley stated that No, it doesn't preclude the applicant from entering into an agreement with the County regarding this.

The motion passed unanimously.

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PINEWOOD LAWNS DEV. CO. app. under Sec. 30-6.6 of Ord. to permit construction of multi-family dwelling with less than required side setback, 8409 through 8423 Orinda Court, Pinewood Lawns Subd., 100-4((1))8, Lee District (RM-2G), V-72-72 (Deferred from May 24, 1972 for viewing by Board members)

Mr. Smith stated that the application merits favorable consideration.

Mr. Long stated that the Board had viewed this property on May 31, 1972.

In application No. V-72-72, application by Pinewood Lawns Deve. Co. under Sec. 30-6.6 of the Zoning Ordinance, to permit construction of multi-family dwelling with less than required setback on property located at 8409 through 8423 Orinda Court, Pinewood Lawns Subd., also known as tax map 100-4((1))8, County of Fairfax, Virginia Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the BZA held on the 24th day of May, 1972 and deferred to June 21, 1972; and

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June 21, 1972
PINEWOOD LAWNS DEV. CO. (continued)

WHEREAS, the BZA has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RM-2G.
3. That the area of the lot is 25 acres of land.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:
(a) exceptional topographic problems (flood plain)

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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CHESTER BARNES -- REQUEST FOR NURSERY SCHOOL -- S-75-72;
Public Hearing held on May 24, 1972
Mr. Smith read the staff report from Preliminary Engineering.

He also read the memo from the Health Department. The report stated that there are 16,060 square feet of classroom area in the existing dwelling.

Mr. Smith asked how many students that would accomodate.

It was determined that it would accomodate 83 students. Mr. Smith asked how they proposed to put 150 students there.
Mr. Schultz, attorney for the applicant, stated that they had proposed to add an extra story for classroom area.

Mr. Schultz stated they did not plan to use the kitchen. They planned to have the food catered. They still wished to add the extra story on the house and have 150 children.

Mr. Alexandria Glioski spoke before the Board in opposition to this case. He complained that he thought this was only for decision only and no additional information was to be given through testimony and yet the Board was allowing Mr. Schultz to speak.

Mr. Smith stated that the Board was only questioning the applicant's attorney in order to clarify certain aspects of the application.

Mr. Smith then questioned Mr. Reynolds from Preliminary Engineering regarding who would be responsible for constructing curb and gutter and this type of thing. Mr. Smith stated that he felt this would be necessary. Another school at a different location a few weeks ago were required to dedicate and construct the curb, gutter and sidewalk.

Mr. Long stated that he felt that a complete Staff Report on this application would be necessary based on the new ordinance governing schools.

Mr. Barnes moved that this Case be deferred until June 28, 1972 for decision only.

Mr. Smith stated that no additional information would be needed.

Mr. Long seconded the motion.suggesting that the matter regarding the Staff Report be made a part of the motion.

Mr. Barnes accepted that.

The motion passed unanimously.

AFTER AGENDA ITEMS:
-- Minutes of the BZA -- Keeping current
Mr. Baker moved that arrangements be made so that Mrs. Kelsey, Clerk to the BZA, could have time to get the minutes typed and to the Board members every week.

Mr. Long stated that he felt this was important and he would second that motion. He stated that one of the reasons the Board is having some difficulties is that they do not have these minutes of the deferred items as soon as the deferred item comes up. He stated that it was impossible to digest that many minutes when the Board gets four meetings at a time.

Mr. Smith stated that it causes undue delay on the part of the applicant simply because the Board does not have the vital information to make thedecision.

Mr. Smith asked Mr. Long to accept as an amendment that the Zoning Administrator send copies of this resolution and this conversation to Mr. Yaremchuk, Director of County Development, with a copy to Mr. Pammel and Mr. Knowlton, Director and Deputy Director of Zoning Administration.
Mr. Baker accepted that as part of the resolution
Mr. Long accepted that as part of the resolution, as to second.

Mr. Smith stated that he felt if Mr. Yaremchuk was aware of the situation that exists he would make proper arrangements for someone to substitute for Mrs. Kelsey when she is on vacation.

Mr. Baker stated that Mrs. Kelsey's planned vacation should not be used to write these minutes.

Mr. Barnes asked Mrs. Kelsey if she could have these minutes typed in this length of time.

Mr. Kelsey stated that she did not see how she could under the present circumstances. She explained that on Thursday after the meeting, she has to do rush motions and answer telephone calls regarding both the past and next meetings. Then there are the memoranda to the Planning Commission twice a week, the advertising, notifying of applicants, but the main time is consumed with telephone calls regarding cases. She stated that she normally runs 10 days to 2 weeks behind and uses the one week of the month when there is no BZA meeting to catch up on the minutes. There are also many occasions when she stated that she worked overtime during the weekend and in the evenings to try to keep current with the minutes, especially when the BZA meetings are long or there are complicated cases where they cannot be easily synopsized and shortened and still get the meaning and all the facts into the minutes. She stated that she does not draft the minutes and then synopsize them, as there just isn't time for that. She types them directly into the minute book.

Mr. Long stated that he would second Mr. Baker's motion and would like to say that he felt that Mrs. Kelsey was doing an excellent job with the minutes and in her work, but they would like to have the minutes every week.

Mr. Smith stated that the fact that the Board had never said otherwise would indicate that Mrs. Kelsey is doing an excellent job and the Board should apologize for not telling her so. He stated that it was hard to get employees who would work as hard as Mrs. Kelsey and under the conditions that she is working under in the office she is in. There is no space and no privacy. She has to answer the telephone calls and try to type the minutes at the same time.

Mr. Kelley agreed and stated that he had just been in that office the previous day.

Mr. Barnes stated that he felt that Mrs. Kelsey should have a private office and just be responsible for handling the minutes. He stated that he felt that answering the telephone and giving out applications and things like that could be done by those other girls in the office. He stated that he knew those other girls up there could take the applications and he did not see why Mrs. Kelsey should have to do that and try to type the minutes at the same time...type of few lines, then answer the phone, then the same thing all over again. The minutes take a tremendous amount of time.

AFTER AGENDA ITEM (continued)
Minutes -- Keeping Current --(Continued)

Mr. Baker stated that he too felt that the Clerk should have a private office and he felt she could do three times as much work in the same amount of time. He stated he felt that where they think they are economizing they are doing the opposite.

Mr. Long stated that he felt it should be brought out that the Board is trying to cooperate with the County staff and a lot of times the motions necessitate action on the part of the Secretary and if she can't get the minutes typed for a couple of weeks it could damage the county and the applicant also.

The motion passed unanimously.

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Meeting Date for August

Mr. Baker moved that the first Wednesday in August be the Board's Meeting Date for that month since it was required that the BZA meet one time during August.

Mr. Barnes seconded the motion and it passed unanimously.

Therefore, August 2, 1972 would be the BZA's August meeting date.

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EPPERSON - Variance Request

Mr. Smith read a letter from Mr. Epperson stating that he had received a variance on July 22, 1969, then he received an extension on May 24, 1971. The variance expired and he reapplied and it was granted in July of 1971 and will expire in July of 1972. He now would like to request an extension of this last permit.

Mr. Baker so moved.

Mr. Long seconded the motion.

The motion passed unanimously.

It was noted from the previous granting of this variance that it was granted on August 3, 1971 instead of July, therefore the extension would run 180 days after August 3, 1972.

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McCormick Variance -- Mr. Smith read a letter from the applicant's attorney Douglass Mackall asking that the Board defer this until September. Mr. Smith stated that it was on the Agenda for June 28 and would have to be called at that time. He indicated that someone should be present because if there is opposition to the deferral, the applicant would have to argue the case.

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-- Special Use Permits --

Mr. Long moved that Mr. Smith, Chairman of the BZA, prepare a letter to be delivered to the Board of Supervisors recommending a re-evaluation of Section 30-7.2.6.1.10 and Section 30-2.2.2 of the Zoning Ordinance covering the General Practice of Medicine, Home Occupations and Home Professional Uses with specific recommendations for the limitation, proximity to a developed commercial shopping center and specific standards.

Mr. Barnes seconded the motion and the motion passed unanimously.

Mr. Baker stated that he felt one of the main reasons for practicing in the home should be need. He said he was thinking of a widow who operates a beauty shop and stays home with the children.

Mr. Smith stated that the BZA is also concerned about granting these uses in close proximity to shopping centers.

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Mr. Baker moved that the meeting adjourn. Mr. Long seconded and the meeting adjourned at 5:50 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
Daniel Smith
August 2, 1972 Approval Date

The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, June 28, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present; Daniel Smith, Chairman; Richard Long, Vice-Chairman; George Barnes, Ley Kelley and Joseph Baker

The meeting was opened with a prayer by Mr. Barnes.

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QUARLES ROBERTSON OIL, INC., app. under Sec. 30-7.2.10.3.1 of Ord. to permit service station, northwest intersection of Route 123 and Southern Railroad, 77-1((1))34, Springfield District (C-D), S-96-72

Grayson Hanes, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Mr. and Mrs. Thomas A. Sullivan, 3220 Norton Place, N.W., Washington, D. C. 20016 and Catholic Church, c/o Bishop of Richmond, P.O. Box 2G, Richmond, Virginia 23209. Another adjacent owner was Mr. and Mrs. Bennett Davis, 5607 Vogue Road, Fairfax Station, Virginia.

Mr. Hanes stated that the property is surrounded on two sides by the applicant's other property.

Mr. Hanes stated that this corporation has operated four service stations in Fairfax County for thirteen years. The property under consideration consists of a little over one acre. These people have a Shell franchise, but they own the entire site as well as the surrounding area and a shopping center is planned. They intend to construct a brick colonial station in keeping with the surrounding area of Fairfax Station. He stated that he had a rendering which shows three bays and they have tried to orient the station toward Ox Road or Route 123. The rendering shows a steeple in the background. The property itself is located in an area that was in the original Fairfax Master Plan in 1958 and amended in 1963. That plan as indicated shows this area for residential uses; however, in 1965 this property came before the Planning Commission and before the Board of Supervisors and was rezoned to a C-D use, so the comprehensive plan has been superceded by the fact that the Board of Supervisors has decided that this is a proper area for commercial uses. There is a Pohick Restudy which shows the property across the road in warehouse uses. (He pointed it out on the map) He stated that they have attempted to work with the landowners in the area, particularly those people who might be affected by this use and he stated that he had notified them of this application. There is a list of 35 people adjacent to this use who do not oppose this application. He stated that the Board would hear later that St. Mary's Church does oppose this. That is one property owner as opposed to 35 property owners who do not oppose. There was only one property owner in the area that was not notified and that was Eleanor Chesley. She was on vacation. He stated that he did not know if she opposed or not. He stated that they had met and spoke with the Catholic Church initially and they notified them that they would meet with them again if they so desired, but they have not heard from them. This site will be one without a free standing sign and they will abide by the Board's determination on this.

He stated that the Site Plan shows a service road which will be built and dedicated to the County. It is recognized by the applicants that this has been reviewed by the History Commission, but they do not know what the Commission considered. Along the north boundary of the property are a lot of high trees which they feel will provide a great deal of screening. The adjacent property of the church which touches this property is used for a cemetary. The applicant, in addition, will agree to put in additional screening. He stated that they were willing to meet with the History Commission and the people of St. Mary's to work out a plan that is suitable to all.

As far as traffic is concerned, he stated that there was some concern about site distance. (He shows the location on the map) He stated that they do not believe there is a site distance problem. The entrance is by way of a service drive. There may be a problem as far as the church's entrance is concerned, but theirs will not add to it. He stated that their engineers have done everything possible to orient this use toward Ox Road. The bays are facing in that direction and there are two pump islands and they are away from the Church.

He stated that the Staff Report talks about sewer and water not being available to the site. He told the Board that they could note from their material in front of them that there was a soils analysis done in 1965 which indicated that this soil is good for perking. There is no public water available and it has been preliminarily determined that a well could be put on the site without too much difficulty.

The Staff raised a question as to over-all development; the applicant's attorney stated that the Staff did not have the plan showing the overall development. They only had the site itself. This, he stated, was an oversite on their part. This is the first phase, but they do intend to develop the rest of the site.

He stated that the Staff also raised the question of a need for variances. As they see it there will be no need for a variance. This is next to land that is owned by the applicant.

He stated that he hoped the Board would keep in mind that this is not a rezoning. The rezoning has already been accomplished and service stations are a C-D use with a special use permit from this Board. The applicant realizes that this is next to an adjacent historical church and the majority of the people who live there 24 hours a day every day of the week are not opposed to this application. When the zoning case was presented in 1965, it was indicated that this site was planned to be used for a service station. Therefore, he stated, that he did not feel that anyone should be surprised.

Mr. Smith asked if this was in the statement of justification in the rezoning case.

Mr. Hanes stated that it was.

Mr. Long asked when the historical site was established.

Mr. Hanes stated that it was only suggested in the Pohick Restudy. He stated that he did not know whether or not it would be adopted.

Mr. Gilbert Knowlton, Deputy Director of Zoning Administration, stated that the Pohick Restudy is the study of the watershed area only and Route 123 is the ridge line.

Mr. Smith asked when the I-P that is adjacent to this was rezoned and if it is under the same ownership.

Mr. Hanes stated that it was under the same ownership.

Mr. Smith asked about the line drawn on the plan and asked what it was.

Mr. Hanes stated that it was only a lease line if they wish to lease it, but they do not intend to lease it.

Mr. Smith asked if they had any intention of deleting this from the other C-D zoned area.

Mr. Hanes stated that they did not. He stated that this could not be done without first coming back to this Board to gain variances. These applicants operate and own the stations in the County. He stated that the distributing center is on 29-211 and is a non-conforming use. They buy their petroleum from the tank farm in Springfield.

Mr. Long asked if the Planning Commission recommended approval of the original rezoning.

Mr. Hanes stated that the Planning Commission did recommend for this at that time.

Mr. Long asked that the file be checked out on the rezoning in 1965.

Mr. Kelley asked if they felt the well and the septic field would take care of the entire shopping center.

Mr. Hanes stated that there would have to be several septic fields for the shopping center. This would be an advantage, he stated, the open green space would be left.

OPPOSITION

Mr. Robert Gibson, 5009 Prestwick Drive, Fairfax, Virginia spoke before the Board in opposition to this use. He stated that he lived 2 to 3 miles from this site, but that he was representing St. Mary's Parish Counsel of which he is a member and also the Board of Directors of the Church which is made up of representatives of the parish committee. He stated that at the last meeting there was a general consensus of this Board that they should oppose this use. The date of the meeting was June 7, 1972. This Board consists of 16 people and the vote was unanimous with one exception. He submitted a Petition signed by 300 people who opposed this application giving their reason as lack of need; this is a historical area, and this use would destroy the natural beauty surround this church. He submitted pictures of the area showing a view of St. Mary's Church. He stated that it would also cause a traffic problem.

Mr. Smith asked that the Rezoning Statement of Justification be Put in the Record.

It reads as follows:

"This property lies at the nothwest intersection of Route 123 (Ox Road) and the Southern Railway in Fairfax Station, Centerville Magisterial District.

It consists of 7.07 acres and has 436 feet frontage on Route 123, 653 feet frontage on the Southern Railroad and 460 feet frontage on Route 762. The land lies fairly level with natural drainage to the railroad, It has been used in the past as farm land, but presently lies dormant and undeveloped. Its only building is an abandoned, old house.

Approximately 300 feet to the west of this property along the railroad lies land that is presently zoned IL, which in turn lies adjacent to other land presently zoned and in use as IL and CG. Land directly adjacent to the subject property to the east, south and west is presently vacant and undeveloped. Property directly adjacent to the north consists of three residential lots and a church (see below).

This general area of Fairfax County is exhibiting growth. Large subdivisions are planned to the North and West. One subdivision is now building to the West. One exists to the South. The County Airport is planned for a location not far to the Northwest. And, of course, the development of the Pohick Watershed because of the approved sewage bond will see this area change rapidly.

The only main road in this area is Route 123. It is the only road between Fairfax City and Occoquan. And the only community in this area is Fairfax Station. But, in spite of the existing and anticipated development; there are, for miles, no modern stores where people can even buy bread or a newspaper. On this main North-South route there exist only two service stations (both of the same company) for 15 miles.

This property seems to be in an ideal location, on the railroad and a major highway, for commercial and light industrial development to service the needs of the immediate area and Fairfax County.

It is my intent to develop the property fronting on the railroad for use as a railroad loading or unloading facility. A number of wholesale distributers have expressed interest. Warehousing is another possibility.

The remainder of the property would be developed along consumer service businesses such as a service station and retail stores.

I have worked in Fairfax Station and surrounding area since 1948, initialy in the lumbering business and more recently as a real estate broker. I know most of the people living in Fairfax Station and have specificly spoken to the following property owners in reference to this proposed rezoning: Father Harrison of St. Mary's Church - parcel 25, Mr. Bennett R. Davis - parcel 26 and 27, James R. Taylor - parcel 28, Mr. John Hamill - parcel 39, Mrs. Carter of the Fairfax Station Post Office and Miss Chesley - parcels 32 and 33.

Their response has been favorable and personally gratifying to me has been their faith in my plans for the development of this property.

In summation, I feel that the location of the property and the concurrance of the local citizenry are the two most important reasons which are indicative of the need and use of property allowed under the proposed rezoning."

Mr. Smith told him that he was sure they realized that there were other uses that could go in there by right, such as a drive-in restaurant, etc. These things could go in there without have to get a use permit and without having the conditions put on them that the Board of Zoning Appeals require, such as a specific architectural design, landscaping, and things of that nature.

Mr. Gibson stated that they realize that a mistake was made in 1965 which cannot be undone.

Mr. Smith stated that a service station was planned back in 1965.

In opposition Mrs. Paul E. Brown, widow of Judge Brown, spoke before the Board.

She stated that her husband the late Judge Brown is buried in the cemetary adjacent to the property in question. She had thought that this would be the best place because it was so beautiful and peaceful. She stated that she wasn't so contrary as to think that the owner of this property should not come out financially, but she did think that there were other things that could go in there that would be more appropriate, such as a florist, or a C&P Telephone building. These type things would not be open on Sunday during church services.

Mr. Smith stated that it was unfortunate, but true, that businesses are now staying open even on Sunday.

In opposition Mrs. Virginia McEnearney spoke before the Board.

She stated that this is a landmark of historic interest in Fairfax County and it should be taken into consideration. This land was rezoned contrary to the Master Plan. The plan calls for seven dwelling units per acre. She stated that she had reviewed the minutes of the rezoning and finds no real justification for the Board having rezoned this to C-D on this particular parcel. When this comes back to the Board, it is quite possible that they would downzone the entire parcel.

In Rebuttal Mr. Hanes stated that the Board should note that the file has a Petition in it from people in the surrounding area who expressed a favorable reaction to this application. These people were shown the plan that is now before the Board.

He stated that obviously there is a difference of opinion as to what zoning and planning is. As far as planning is concerned, you are talking about an overall land use and if there is a mistake in the plan, you come in for a rezoning. There are numerous C-D uses that apparently these people are not aware of that could have been put on that property with more of an impact than this service station with the type conditions this Board imposes.

Mr. Hanes then showed the Board pictures of the area as it is now and the type screening that would be left.

Mr. Smith stated that the BZA could stipulate hours of operation in order that the service station would not be in operation during church services.

Mr. Hanes stated that it seemed that most of these people were talking against the rezoning. He stated that his clients purchased this property and paid the price of zoned property and to think about a downzone would be grossly unfair.

Mr. Long asked the Engineer, Mr. Rust, 10523 Main Street in Fairfax, to tell the Board whether or not it would be possible to shift this station down and leave a good buffer zone.

Mr. Rust answered that it would be possible but it would create a financial hardship.

Mr. Long stated that he could see where there could be a valid objection to this use next to a cemetary.

Mr. Smith again stated that retail uses were allowed by right in a C-D zoned area.

Mr. Barnes asked if it would be possible to move the pump islands over on the other side away from the cemetary.

Mr. Rust stated that he did not know what affect that would have.

Mr. Long conferred with Mr. Rust and stated for the record that they were talking about a buffer strip in the area of 50' to 75'.

Mr. Kelley stated that he would like to go back to the question of moving the station back toward the railroad and put the retail shops in next to the church. He stated that the problem would still be there, but they might prefer retail shops to a gasoline station.

Mr. Rust stated that the entrances as they have shown them are more important to the service station than they are to the retail stores. They have a grade problem too and a problem due to the bridge that is down by the railroad. He stated that he felt it was better placed where it is.

Mr. Long asked if the architecture on this service station would be the same as on the remainder of the proposed shopping center.

Mr. Hanes stated that they would be willing to do that.

Mr. Smith stated that this is a commercial designed shopping center and the overall architecture would have to be compatible with all of the proposed structures in it. He stated that he was glad that they could move the station down closer to the railroad because he felt it would be more appropriate there. He stated that he realized that the applicant's have certain rights, but this Board has to justify locations as far as harmonious areas are concerned.

Mr. Hanes stated that his clients would be willing to do that.

Mr. Long moved that this case be deferred until afternoon in order that the Board might view the property during lunch.

Mr. Smith stated that he would like to get the Planning Commission memo and the History Commission's memo into the record.

The Planning Commission Memo stated:

"The Planning Commission on June 27, 1972, unanimously recommended to the Board of Zoning Appeals that the above subject application be denied.

The Commission noted the potential impact of the historic St. Mary's Church, the strong concern of the Church itself, and the opposition from the Fairfax County History Commission to this use permit.

The Commission also noted that from a planning standpoint that to issue this use permit would be an example of planning by use permit, that the move today is to incorporate service stations into designed shopping centers and that if you do start out with the corner as in this application and put the service station out there you are going to create an impact commercially in the rest of the area that shouldn't take place until there is a plan for the area.

As the Board of Zoning Appeals is aware the only plan applicable to this area is the old overall Fairfax County Plan which calls for low density, large lot residential uses, as are now developed throughout most of this area. This application, from a planning standpoint, is contrary to the adopted master plan for the area.

Therefore, for the above reasons and for the reasons spelled out in the staff report attached hereto, the Commission unanimously recommended to the Board of Zoning Appeals the denial of this application."

The memorandum from the History Commission dated June 9, 1972 stated:

"The History Commission reviewed S-96-72 on June 7, 1972, and passed a motion recommending that the permit be denied because the use adjacent to St. Mary's Church (site #99, Master Inventory) is inappropriate and would adversely affect the environment of the historic church."

Mr. Smith again pointed out that this Board has to take into consideration the zoning category of the zoned property and apparently it is unfortunate that there is not a Master Plan for the area, but again the C-D designed shopping center does permit service station as part of the overall plan and it is a desirable plan as long as it has no adverse impact on adjacent properties.

Mr. Smith accepted Mr. Long's motion to defer this case to the next hearing case this afternoon after they viewing the property.

Mr. Barnes seconded the motion.

The motion carried to recess the case until later in the afternoon after viewing the site.

After viewing this property the Board reconvened the hearing and made the following motion:

Mr. Long moved that this case be deferred until July 12, 1972 for decision as to whether to deny the application or request the applicant to amend the plats and reconsider the application.

At that time Mr. Kelley asked Mr. Hanes if it was their intent or the intent of Quarles Robertson Oil to put a fuel oil supply place there. Mr. Hanes told Mr. Kelley that they would like to but was not sure it was in the ordinance.

Mr. Covington stated that it was not in the ordinance.

Mr. Barnes seconded Mr. Long's motion and the motion passed unanimously.

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LANGLEY SCHOOL, app. under Sec. 30-7.2.6.1.3 of Ord. to transfer ownership to permit continued use of tennis court and parking area as previously used by past owner, 1417 Balls Hill Road, 30-1((11))1 & 2, Dranesville Dist. (R-12.5),S-97-72

Mr. Mark Friedlander, North 16th Street in Arlington, and attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were American Legion and Mr. Rice. This is also contiguous to the school property.

Mr. Friedlander stated that this is a non-profit school which has been in existance a quarter of a century and it has operated as a co-operative school for one-fourth century.

He stated that there are four outdoor tennis courts located next to the school. These tennis courts belong to the McLean Citizens Association and have belonged to them for fifteen years. He stated that Langley School has entered into a purchase agreement with the association and the courts will be operated by Langley School and maintained by them. The courts will still be available to the citizens of McLean. They are requesting that the use permit for these tennis courts continue in the exact same way as they have for the past 15 years, but just change the owner. The courts are all in existance and they do not plan anymore.

No opposition.

In application No. S-97-72, application by Langley School, under Sec. 30-7.2.6.1.3 of the Zoning Ordinance, to transfer ownership to permit continued use of tennis court and parking on property located at 1417 Balls Hill Road, Dranesville District, also known as tax map 30-1 ((11)) 1 & 2, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of June, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 58,662 square feet.
4. That compliance with all County Codes is required.
5. That S-83-71 and V-84-71, was granted on June 22, 1971 by the BZA.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance.

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NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. All limitations and conditions contained in S-83-71 and V-84-71 shall remain as originally set forth therein.

Mr. Baker seconded the motion and the motion passed unanimously.

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ORANGE HUNT SWIM CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit construction of tennis courts, south end of Bridlewood Drive, Orange Hunt Estates, 89-1((1))B-1, Springfield District (R-17), S-98-72

Mr. Forcier, member of the Board of Directors of the Orange Hunt Swim Club, testified before the Board.

Notices to property owners were in order.

The contiguous owners were Mr. Carlson, 6633 Renard Drive and Mr. Nichols and Mr. Walker Madison, 6635 Reynard Drive.

Mr. Forcier stated that this club was incorporated in April of 1967. They obtained the initial permit in October of 1967. He stated that they have 350 members which is the amount allowed under the use permit. They have added several improvements including an expensive eletronic security system. They also hold title to two acres of undeveloped land and they propose to extend the permit to allow them to construct three tennis courts. They do not plan to have lights. They plan no change in membership.

Mr. Smith read the Staff Memo which stated: "This use will be under site plan control. Some pedestrian access should be provided to the tennis courts from the existing parking lot. The 75' conservation easement was retained as a buffer strip; however, it is suggested that the north and south ends of the tennis courts be screened further by providing green canvas on the inside of the proposed 10' fence.

Mr. Forcier submitted pictures showing the location of the existing trees.

Mr. Smith stated that he needed some evergreens in there. He stated that the plats show no screening, but apparently they have some screening there.

There were five people in opposition.

Mr. DuFore, 8706 Fox Ridge Road, spoke in opposition to this case. He stated that he did not live near the property, but was one of the founders and the first President of the Club and had appeared before the Board in '67. He stated that they had a problem with the constitutionality of this proposal.

Mr. Smith stated that that was a civil matter and he suggested they resolve it.

Mr. DuFore asked if it was a matter for the Board if in fact the membership is not in favor of this.

Mr. Smith asked if he had signatures from the majority of the members indicating they are not in favor of it.

Mr. DuFore stated that he did not, but he had a count of the full membership and the count of those who voted in favor of this and he wished to point out that the full membership has not been canvassed.

Mr. Smith stated that this should have been resolved before coming here.

Mr. DuFore stated that these people do not have authority to speak for the majority of the people.

Mr. Smith stated that if he had facts to come before the Board showing the spokesman does not have authority to speak for the group then the Board would listen.

Mr. DuFore then went into the construction and drainage problems and stated that these people were going about it in the wrong manner and were using the wrong type of material to make a hill, or to use as fill.

Mr. Smith told him that in order to fill, they would have to have a permit to put it in and it is up to site plan to approve the fill. As far as the financial part of this plan, if the Club does not have the money then they can't develop even though they have obtained a use permit.

Mr. DuFore stated that there are no provisions in the by-laws for a tennis court and if the use permit is granted the BZA is contributing.

Mr. Detmiller, 6639 Reynolds Street, spoke in opposition. He stated that he was the property owner behind the property adjacent to the flood plain.

He stated that at the time he purchased his property and signed the contract in July of 1965 and moved in in December, 1966, he checked and was informed that the property in back of him was deeded to the Fairfax County Park Authority. He stated that he was also told that there would be no building on this property. At a later date in 1967, the Park Authority deeded the land back to the Orange Hunt Swim Club. This was done after he had purchased his property and also after the Orange Hunt Swim Club was formed. He stated that in the last couple of years the Club has been going downhill. He stated that he had been done to the parking lot numerous times to stop the kids from screaming and hollering and carrying on in the middle of the night. The Club may spend money for the inside of the Club, but very little is spent for the things it should be spent for. He had called the police several times. They do not have a gate to this parking lot, therefore, it is easily accessible to the teenagers to use at night for a gathering place. He stated that he had not reported it to the Zoning Administrator. He would like to have the pool hours restricted from 7:00 A.M. to 11:00 P.M. and there should also be some extra screening.

Mr. Dewey Carlson, 6633 Reynard Drive, a contiguous property owner, spoke in opposition to this use. He has lived at this property for 15 years and plans to continue to live there. He stated that previously they have used the street for a parking lot when there are special swim meets and other special activities. He stated that it was unfair to place the burden of this entire facility on 5 families. The buffer has been removed because of a sanitary sewer easement. They intend now to leave a buffer zone of trees that are hardwood, not evergreen and many of these will have to be taken down in order to construct the storm sewer which would take a 30' easement. This 30' easement will destroy the conservation easement.

Mr. Walker Madison, 6635 Reynard Drive spoke in opposition to this application. He stated that he appreciated the others problems as many of them were the same as his. They get litter in their yard and also he gets a path through his property from people using his property to get to the pool. He stated that he had brought this to the attention of the Club Director, but to no avail. In addition he has brought to their attention the traffic in the parking lot in the m iddle of the night. He has called the police. He has asked the Club to please put up a chain or something to keep these teenagers out of the parking lot in off-hours. He stated they said they would do something next week and this has continued for years. There is a screening fence, but it is about to fall down. The grass area in front of this has not been cut in quite sometime and the area is not properly maintained. Actually the grass adjacent to the parking lot is only cut once or twice a year. The general appearance of the area of this property is not consistant with the general character of the remainder of the neighborhood. It just isn't up to a good standard. He stated that he was one of the original owners and one of the original members. He stated that he had lived there since 1966.

Mr. Smith told these gentlemen that their complaints should have been brought to the attention of the Zoning Administrator.

Mr. Madison stated that he knew there was a chain available which costs 3.56 per foot which would alleviate the parking lot problem. The President of the Club informed me that it was available but it was expensive.

Mr. Madison also stated that he would like to suggest that the pool hours be limited at least not before 8:00 in the morning.

Mr. Smith stated that they always limit the hours.

Mr. Charles Helm, Bridlewood Drive, spoke in opposition to this case. He stated that he was on record with the State Highway Department as having had the stop sign put back up after teen agers had taken it down. This had happened several times. They also have parties where beer is available. He stated that he didn't feel this was right. The pool is operated about three months per year and they have been willing to put up with that, but the tennis courts will be operated 12 months per year and he didn't think they should have to put up with that.

In rebuttal Mr. Forcier stated the storm sewer is to be constructed under the tennis courts. This was their engineer's recommendation after viewing the site and studying the problem. It would be desirable from a cost standpoint to have this around the tennis courts though, but since he has suggested putting it under the courts, he was sure it would help the drainage problem. He stated that this would be a recreational use within walking distance of the neighborhood. The soil has been tested for compactability.

Mr. Long moved that Application S-98-72 be deferred for a maximum of 30 days for decision only to allow the applicant to submit new plats showing landscaping, adequate fencing, and adequate screening approved by the Director of County Development for the entire area. In addition the plat must show an adequate security gate to the entrance of Bridlewood Drive and this should be in to the Staff of Zoning Administration at least 5 days prior to the hearing.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Long stated that it was his intent for the Staff to review the entire site for landscaping and screening.

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WILLIAM & ANTONIA MORGAN, app. under Sec. 30-6.6 of Ord. to allow fence 6'8" high to remain, 2816 Gallows Road, 49-2((5))B, Avondale Subd., Providence District (RE-1), V-101-72

Dr. Morgan spoke before the Board.

Notices to property owners were in order.

There were two letters in the file recommending approval of this application. Mr. Smith read these letters. These letters were from Mr. & Mrs. Dunn, 2801 Gallows Rd. and Daniel F. Keay, Manager of the Merrifield Esso Center, Gallows Road and Lee Highway.
Dr. Morgan stated that he and his wife have lived in Fairfax County since 1950 and both practice in their home. They both are clinical and consulting psychologists. He stated that their major concern is the excessive noise which prevents them from conducting interviews with their clients. They have, therefore, erected a fence, 80 inches high, across a part of the front of their property and on the south side of their property which adjoins the property of Mr. Long, who stated at the time they put the fence up that he had no objection. They wish to retain the fence at a height of 80 inches instead of four feet. Their present 80" fence does not keep out all the noise but it does help considerably and permits them to continue to practice psychology and earn their living. They know that soon the road will be widened and the State will then take away from their front yard. They then will move the fence closer to the house. Adjoining their property to the north is a lot filled with heavy construction equipment. Adjoining to the rear is an area used for the collection and storage of trash and garbage. The huge, unsightly trucks and containers obscure their view, wake them early in the morning (sometimes 4:30) and pollute their lives with noise, fumes, and sometimes stench. Working conditions in their home, or living conditions are difficult but if the variance is granted they can continue to work and make a living. These cement blocks have been filled with cement in between them and would require a man of huge strength to push them over.

Mr. Smith stated that in order to construct a fence of this type, which is really a structure, he would have to have a building permit. There is no concrete to hold these blocks together and keep them from hurting someone.

Mr. Long stated that something like this happened in Reston where a fence fell in and injured a little girl and since that time the County has required that they be informed when a structure of this nature is going to be constructed and they be able to view the work.

Mr. Baker stated that if the State required the fence to be removed, then the State would replace it.

Mr. Smith told Mr. Morgan that he appreciated his problem, but he was not in compliance in other areas other than the height. The construction is not in compliance.

Mr. Smith read the report from the Zoning Administrator's office which stated:

"The existing cinder block "fence" is a nonstracity and must be removed. The blocks are not mortared and are stacked to great height. This "fence" is a hazard to children and should be removed immediately"

Mr. Smith then read a memo from Mr. Koneczny, Zoning Inspector, which stated:

"With reference to this case, I received a call from Mr. V. L. Thompson who lives in the second house from the wall location and has lived there for one year.

Mr. Thompson stated that he could not attend the meeting due to domestic problems, and would like to speak in opposition to the wall, due to the hazardous condition the wall has created. Mr. Thompson stated that on a number of occasions there has been close calls involving cars trying to get out to Gallows Road and that he has almost been hit as he tried to enter onto Gallows Road."

Mr. Barnes stated that he would suggest that Mr. Morgan dedicate 45' from the road and put in a permanent fence.

Mr. Smith told him that he would suggest their contacting Mr. Bowman, in Environmental Health regarding the garbage dump.

Mr. Morgan was told that he could build a fence 7' high in the rear, and 4' high in front as long as he builds it 7' high in the rear yard and gets a building permit from Mr. Bertoni in the County. The rear yard is from the front of the house back. He could call the Zoning Office for a more specific definition of front and back yard.

In application No. V-101-72, application by William & Antonia Morgan, under Sec. 30-6.6 of the Zoning Ordinance, to permit fence 6'8" high to remain on property located at 2816 Gallows Road, Avendale Subd., Providence District, also known as tax map 49-2 ((5)) B, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of June, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Antonia Bell Morgan.
2. That the present zoning is RE-1.
3. That the area of the lot is 19,968 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has not satisfied the Board that conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and building involved. NOW, THEREFORE, BE IT RESOLVED THAT THE SUBJECT APPLICATION IS HEREBY DENIED.

Mr. Long seconded the motion and the motion passed unanimously.

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MRS. R. L. McCORMICK, app. under Sec. 30-6.6 of Ord. to permit building closer to property line than allowed, 6418 Georgetown Pike, Dranesville District, 22-3 ((1)) 49 (RE-1), V-102-72

Mr. Douglass Mackall, attorney for the applicant, testified before the Board. He requested that this case be deferred until September 13, 1972 and the applicant had run into problems.

Mr. Barnes so moved that the request be granted.

Mr. Long seconded the motion. The motion passed unanimously.

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CONSTANCE & BERNARD KUHLA, app. under Sec. 30-6.6 of Ord. to permit erection of carport closer to front property line than allowed, 8309 Bucknell Drive, Dunn Loring Woods, Subd., 49-1 ((9)) (E) 7, Centreville District (R-12.5) V-103-72

Mr. Kuhla testified before the Board.

Notices to property owners were in order.

Mr. Kuhla stated that due to the angle that the house is sitting on the lot, it is impossible to put on the addition without being in violation. Had the house been built properly on the lot, a variance would not have been necessary. He plans to have the same architecture as is in the present dwelling and he plans to continue to reside there.

After the discussion with the Board members as to whether or not he could not in fact put this carport somewhere would it would not be in violation, the following resolution was passed.

In application No. V-103-72, application by Constance & Bernard Kuhla, under Section 30-6.6 of the Zoning Ordinance, to permit erection of carport closer to front property line than allowed, on property located at 8309 Bucknell Drive, Dunn Loring Woods Subd., also known as tax map 49-1 ((9)) (E) 7, Centreville District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of June, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area os the lot is 13,978 square feet.
4. That compliance with all county codes is required.
5. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
(a) unusual location of existing building.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

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KUHLA (continued)

3. Architecture and materials in proposed carport shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion and the motion passed unanimously.

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HENRY & HELEN MOSS, app. under Sec. 30-7.2.8.1.2 of Ord. to permit riding stable, 1033 Bellview Road, 20-1 & 20-3 ((3)) 63, Dranesville District (RE-2), S-104-72

Mr. Moss testified before the Board.

Notices to property owners were in order. The contiguous owners were Mr. Berry and Mr. Lucas.

Mr. Moss stated that they planned to have five horses. They have contracted to teach riding through the Arlington County Recreation Department and hope to start as soon as possible. They have five acres, but have permission to use the land adjacent to theirs which contains eleven acres, but the eleven acres will only be used for grazing of the horses and will not be used for the riding school itself. He and his wife plan to teach. They have worked with horses all their lives.

There was a letter in the file fromthe Health Department stating they were working out their plans to get the proper facilities.

They plan to have four children at first. The lessons will be from about 9:00 to 10:00 A.M. and from 11:30 to 12:30. They will have five children on Wednesday from these hours listed above. The parents come on Monday night. He stated that the 100 year flood plain does not affect them at all. The water goes east instead of west onto their property. There is a stable on the property. He received a building permit to build it. There is a house on the property, but it will have to be torn down and then they plan to build a new house. There is an insurance policy which is in the file for the Board to check.

Mr. Barnes went over this.

Mr. Moss stated that he goes over to the stable every morning before going to school and in the afternoon after school he goes back again and in addition the contiguous owner, Mr. Lucas, keeps an eye on them.

There were several letters in the file recommending their approval of this application

Mr. Smith stated that if this permit is granted they would not be able to sell either parcel and still be able to use this stable.

Mr. Moss stated that he was aware of this. (The Board recessed the hearing until the later part of the hearing)
No opposition.
The case was recalled and the following motion made:
In application No. S-104-72, application by Henry & Helen Moss, under Sec. 30-7.2.8.1.2 of the Zoning Ordinance, to permit riding stable on property located at 1033 Bellview Road, Dranesville District, also known as tax map 20-1 & 20-3 ((3))63, County of Fairfax
Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of June, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 5.5 acres of land.
4. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes of screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 8:00 A.M. to 8:00 P.M., 7 days per week.
7. The maximum number of horses maintained on the property shall be five.
8. Compliance with all Health Department regulations is required.
9. Mr. Moss shall maintain insurance in the amount of $25,000 bodily injury, $5,000 each person and $5,00 property damage for the benefit of people using the riding facilities.
10. All manure shall be stored on the site and disposed of as approved by the Fairfax County Health Department.
11. The ring shall be maintained in a dust free condition.
12. There shall be a minimum of eight parking spaces.
13. The entrance shall be as approved by the Division of Zoning Administration.

Mr. Barnes seconded this motion and the motion passed unanimously.

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JOHN P. SCHIED, app. under Sec. 30-6.6 of Ord. to allow storage shed to be constructed 25' from Gallows Road, 3446 Surrey Lane, Holmes Run Acres, 60-1 ((2)) 83, Providence District (R-12.5) V-105-72

Mr. Schied testified before the Board.

Notices to property owners were in order.

Mr. Schied testified that the storage shed would match the existing structure in architectural design and will be freestanding. The proposed location is the only suitable location for this building as the back of the lot is both steep and wooded. The front and side is all in restricted areas.

No opposition.

In application No. V-105-72, application by John P. Schied, under Section 30-6.6 of the Zoning Ordinance, to permit storage shed to be constructed 25' from Gallows Road, Providence District, on property located at 3446 Surrey Lane, Holmes Run Acres Subd., also known as tax map 60-1 ((2)) 83, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby prOperty owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of June, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owners of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 10,890 square feet.
4. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:
(a) exceptionally narrow lot
(b) exceptionally shallow lot

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. Architecture and materials to be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion and the motion passed unanimously.

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SHOW-CAUSE HEARING - To show cause why Mount Vernon Community Park and Playground Assoc. Inc., should not have their use permit revoked, Permit granted March 9, 1972, permitting two additional tennis courts within Mt. Vernon Park property, 8042 Fairfax Road, Mount Vernon District (R-12.5) 102-2 ((1))4, S-25-71

Mr. Covington stated that the Inspector who is familiar with this case and could give the Board the background is on leave as his house was completely flooded during the recent storm of Agnes.

Mr. John Harris the attorney represent the applicant testified before the Board. He stated that he had applied for a variance to the original special use permit and this will be heard by the Board at a future date.

Mr. Smith asked when he applied. Mr. Harris stated they applied just yesterday. The original special use permit required a 5' setback and when the builder built the courts he brought them within 1.8' from the adjoining property to correspond with the existing courts. The violation was issued by Mr. Barry and since that time they have worked things out with the man who originally complained who lives next door to these courts.

Mr. Long stated that the user permit should be amended.

Mr. Smith stated that this would have to be done someway other than by a variance. Mr. Smith stated they would have to establish the fact that this was not an intended situation. The Board does not have authority to vary conditions.

Mr. Long agreed and stated that is why he feels they will have to come back with a new application for the use permit to be amended.

Mr. Long moved that the show-cause hearing be deferred and that the Mount Vernon Park Assoc. Inc. apply under the use permit section of the ordinance and the variance section too if necessary to have the fence around the tennis courts brought into compliance, and this case should come up when the scheduled hearing on this application comes up.

Mr. Kelley seconded the motion.

Mr. Smith again stated that the Board has no authority to grant a variance.

The motion passed unanimously.

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DEFERRED CASES:

B.P. OIL CORP. & JOHN R. HANSON, TR. app. under Sec. 30-7.2.10.2.1 and Section 30-7.2.10.2.2 of Ordinance to permit gas pumps in conjunction with car wash, Maple Avenue at Vienna Line, 38-3 ((1)) part lot 44C, 7 & 115, Centreville District (C-N), S-224-72

The attorney for the applicant requested that this case be deferred until July 19, 1972.

Mr. Long moved that this case be deferred as requested and that it be rescheduled after the staff has a report from the Town of Vienna on the status of this permit in the Town of Vienna and that it be rescheduled for July 19, 1972 if they have this information.

Mr. Barnes seconded the motion and the motion passed unanimously.

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DECISION ONLY ON SHOW-CAUSE HEARING ON SANDRA WARD & CARROLL WARD, S-168-70 The Show-Cause Hearing Held March 15, 1972 and deferred to allow applicant to comply with resolution of original use permit S-168-70 to permit operation of riding school, 6718 Clifton Road, Centreville District (RE-1), Original Granting October 13, 1970

Mr. Keneczny, Zoning Inspector, reported to the Board on the status of this case. He stated that he had made a couple of inspections on the property of Mrs. Ward and this case has been very complicated. Mrs. Ward has gotten a permit from the State Highway Department and has gotten a contract from the contractor to do the work and as of this day it has not been done. The permit from the State Highway Department was obtained May 12, 1972. The Contractor was Proffitt Bros. Asphault & Paving Co.

Mr. Hansbarger, attorney for the applicant, stated that the contractor has given them a statement to the effect that he has not been able to get to this job, but arrangements have been made to conclude the work within 30 days. The Health Dept. which was the other item he handled himself. He stated that he had numerous correspondence which he submitted to the file to and from the Health Department which got them nowhere. Finally he went to see the Plumbing Inspector and has a decision from him that he will have in writing shortly, but does not have it today. Mr. Williams from that office stated that all they require would be a separate entrance to the bath and toilet facilities that now exist in the house and that several other item in that bathroom be changed.

Mr. Hansbarger stated that all other conditions have been met.

Mrs. Frederick Smith, who lives across the street from this property, 6627 Clifton Road, spoke in opposition to this application. She stated that before when the Board heard this case and deferred it to allow Mrs. Ward to do specific things, she was told that the barn would be leveled and bulldozed. This has not been done. They have put a fence around the property, but that is not satisfactory.

Mr. Long read a portion of the minutes of that meeting.

Mr. Long moved that the show-cause hearing of Sandra Ward be deferred for 60 days and that the Zoning Administrator should notify the BZA at that time if Mrs. Ward has obtained an occupancy permit and complied with the removal of the barn.

Mr. Barnes seconded the motion.

Mr. Smith stated that she should remove the barn, there is no question about that. He further stated that if Mrs. Ward had complied with the conditions of theuse permit a long time ago, the Board, she and the other interested citizens would not have had to go through all this.

The motion passed unanimously to defer 60 days as stated above.

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CHESTER BARNES, S-75-72 (Deferred from June 21, 1972 to June 28, 1972 for decision only -- no additional information from the applicant was needed - Mr. Long had asked that the Staff report on this case as it relates to the new proposed ordinance governing schools.

Mr. Smith read the Staff Report from Preliminary Engineering stating:

"1. The parking area appears to be adequate; however, this determination would have to be made by the BZA taking into consideration the proposed number of faculty.

2. The stacking area or turn-around area is adequate for the on-site dispersing of students to the school.

3. The developer's recreation area appears adequate.

4. The limits of the flood plain are within the existing storm sewer easement as shown on the plat submitted.

5. Theproposed and existing landscaping shown is satisfactory.

6. The rendering submitted appears to be satisfactory.

7. According to the proposed ordinance, 150 students should be located on a collector street. Glencarlyn Road is a collector street with a proposed right-of-way of 60 feet. It is suggested that theowner dedicate to 30' from the centerline of the existing right-of-way for the full frontage of the property. Construction of road widening will be required under site plan control.

8. Also, the proposed ordinance would require a gross lot area of 101,000 sq. feet for 150 students. It is noted that the subject school is proposed to be located on a lot with a gross area of 97,929 sq. ft."

Mr. Smith stated that the Board had ascertained that the existing house could accomodate approximately 83 students.

Mr. Long stated that the Planning Commission has not been hearing these applications, and if we go back to the motion the Board made in April, 1972, it is difficult to arrive at a decision. Mr. Kelley and Mr. Long stated they had viewed the site and could not support the application as the site is a narrow site.

Mr. Smith agreed that 150 would be too many, but 83 would be in compliance with the new proposed ordinance.

In application No. S-75-72, application by Chester Barnes, under Sec. 30-7.2.6.1.3 of the Zoning Ordinance, to permit nursery school, 3206 Glen Carlyn Road, also known as tax map 61-2 ((5)) 3 & 4, & 51-4 ((8)) A, County of Fairfax, Mr. Barnes moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th day of June, 1972; and having been deferred on two different hearings
WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the present zoning is R-12.5
2. That the area of the lot is 97,929 square feet.
3. That compliance with Site Plan Ordinance is required.
4. That compliance with all State and County codes is required.
5. That the hours of operation shall be 6 A.M. to 6:30 P.M.
6. The maximum number of students shall be 80.
7. The owner of the subject property is The Colonade Corp.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts ascertained in Sec. 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation shall be from 6 A.M. to 6:30 P.M.
7. The maximum number of students shall be 80.
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department and the State Department of Welfare and Institutions.
9. The recreational area shall be enclosed with a chain link fence in conformity with State and County Codes.

Mr. Baker seconded the motion and the motion passed 3 to 2 with Mr. Kelley and Mr. Long voting No.

Mr. Robert Faylor, a contiguous property owners, asked to speak before the Board on this case. He stated that he wanted the record to show that he was not granted an opportunity to be heard and the applicant was.

Mr. Smith told Mr. Faylor that the applicant was only present in order to answer any questions the Board members might have and this was for decision only. The public hearing had already been held and closed.

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B. MARK FRIED, app. under Sec. 30-7.2.10.3.3 of Ord. to permit motel with 120 units, east side of Backlick Road directly across from intersection of Oriole Avenue, 90-2 ((1)) 25 C & D, Springfield District (C-D), S-79-72 (Deferred from May 24, 1972, for 30 days to allow applicant to submit plans showing specific landscaping and to allow staff to review the parking and landscaping)

Mr. Lawrence, attorney for the applicant, stated that he wished to point out one error that the engineer had made and they had just found. The pool fence was supposed to have been around only the apron of the pool, but it is shown around the grass area. It is also supposed to have been a 3' fence.

Mr. Long asked if the pool would be limited to the people who would be staying at the motel.

Mr. Lawrence stated that that was correct.

Mr. Smith stated that what they show on the plat is more than the requirement. They can put that if they want to, but only a 3' fence is required around the pool itself.

Mr. Covington explained that any pool on a lot in addition to a commercial use;if this pool is less than one acre, has to have a fence of 3'; but, if it is an acre or greater no fence is required. He stated that the reason behind that is the greater density involved.

In application No. S-79-72, application by B. Mark Fried, under Sec. 30-7.2.10.3.3 of the Zoning Ordinance, to permit motel with 120 units on property located at east side of Backlick Road near Oriole Avenue, also known as tax map 90-2 ((1)) 25 C & D, County of Fairfax, Mr. Kelley moved that the BZA adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of May, 1972 and deferred to 28th day of June, 1972 for decision.

WHEREAS, the Board of Zoning Appeals has made the follow ing findings of fact:
1. That the owner of the subject property is Allen H. Gasner & B. Mark Fried.
2. That the present zoning is C-D.
3. That the area of the lot is 102,443 square feet.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with All County Codes is required.
6. That on May 16, 1972, the Planning Commission unanimously recommended to the BZA approval of this application.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance); and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildingsand uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting doesnot constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES ANDTHIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occuapncy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. There shall be a minimum of 123 parking spaces.

7. There shall be a maximum of 120 units.

8. Landscaping, screening and planting shall be as approved by the Director of County Development.

9. The owner shall dedicate for future road widening to the satisfaction of the Director of County Development.

10. All signs shall conform to the Fairfax County Sign Ordinance.
11. Hours of pool operation shall be 9:00 A.M. to 9:00 P.M.

12. Lights, noise and loudspeakers for pool shall be confined to site.
13. There shall be no swim metes.
14. The entire pool area shall be enclosed with a chain link fence in conformity with County and State Codes.

Mr. Baker seconded the motion and the motion passed unanimously.

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POWHATAN NURSING HOME, S-16-72 -- REVISION OF PARKING REQUIREMENTS (SEE ORIGINAL MOTION PASSED JUNE 14, 1972, PAGE 199, MINUTE BOOK NO.16)

Mr. Long moved the following resolution be adopted by the BZA.

In application No. S-16-72, application by Powhatan Associates to permit addition to nursing home on property located at 2100 N. Powhatan Street, Mr. Long moved that the BZA adopt the following resolution:

WHEREAS, the Board of Zoning Appeals has made the following findings of facts:

1. The use permit was granted by the Board, June 19, 1972.
2. The concensus of this Board was there be a minimum parking required or allowed for this application as set forth in motion adopted on May 24, 1972.
3. The required parking for this use is 90 spaces.
4. The permit granted set forth 118 parking spaces.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby amended as follows:
1. There be a maximum of 90 parking spaces.
2. The areas where the parking is deleted by utilized for landscaping as approved by the Division of Land Use Administration.

Mr. Baker seconded the motion and the motion passed unanimously.

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THOMAS J. & ELEANOR DENNIS, app. under Sec. 30-7.2.6.1.3 of Ord. to permit private day care school of approximately 65 children, 2 to 7 years of age, 5 days per week, 4905 Lincoln Avenue, Lincolnia Park, Section I, 72-3 ((1)) 2, Mason District (RE-0.5) S-77-72 (Deferred from May 24, 1972, for 30 days to allow applicant to furnish new plats showing (1) Adequate building area for proposed number of students (2) Adequate parking and turn around (3) Adequate landscaping (4) Adequate developed recreation area and (5) Rendering of building

Mr. Smith read the Staff report which stated:

"1. The subject is not a certified plat.
2. The proposed cedar trees along the north and south property line should be a minimum 6' in height and should extend to within 15' of Lincoln Avenue.
3. No provision has been shown for road improvements along Lincoln Avenue.
4. The number of recreational facilities have not been shown.
5. A parking tabulation should be provided showing the required number of parking spaces and the parking spaces provided. Also, the tabulation should show how the required parking was established.
6. The rendering required by the Board was not submitted for review.
7. The total lot size is 31,234 square feet. The proposed Private School Ordinance would require a minimum of 52,000 square feet gross lot area for 65 students.
8. Lincoln Avenue, being a local thoroughfare, would be appropriate for a school of 65 children according to the proposed ordinance.
9. The turnaround area for dispersing of students should not interfere with the access to the parking lot.
10. This use will be under site plan control.
11. All proposed parking areas and travel lanes should be surfaced with a dustless surface."

Mr. Jerry Friedlander, attorney for the applicant, spoke before the Board. He stated that after reviewing of the figures they had determined their mistake and there is space for 54 students. There will be no changes to the outside of the building, therefore, they didn't feel it necessary to do a rendering. As far as the tabulation for parking, they were unaware that there was a question. He stated that he talked with Mr. Garman in the Site Plan Office and Mr. Garman stated that all he wanted to do was go out and look at the property. He did this and came back and stated "No problem". He stated that if all the information was not there, it was his fault and not the application and would the Board please defer this case until he could get the proper information.

Mr. Barnes moved that this case be deferred 45 days, maximum, in order for the applicant to get all the necessary information to the Board. It must be in at least 5 days prior to the hearing.

Mr. Kelley seconded the motion. The motion passed unanimously.

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June 28, 1972

ALLAN H. GASNER, TR., FOR THE RICHARDS GROUP, app. under Sec. 30-7.2.6.1.1 of Ord. to permit swimming pool in townhouse area, located on Burke Road, Heritage Square, Springfield District (RT-5) 78-4 ((1)) Parcel 10 and 12, S-94-72 (Deferred from June 21, 1972 to conform with new "L" shaped pool (2) proposed landscaping and fencing and (3) Adequate parking. There were to be submitted to the Staff for review five days prior to the hearing date.

The Board members looked over the new plats and made the following resolution:

In application No. S-94-72, application by Allan H. Gasner, Trustee for the Richards Group, under Sec. 30-7.2.6.1.1 of the Zoning Ordinance, to permit swimming pool in townhouse area, Heritage Square, Springfield District, on property located at Burke Road, also known as tax map 78-4 ((1)) parcel 10 and 12, County of Fairfax Mr. Kelley moved that the BZA adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the BZA held on the 21st day of June, 1972 and deferred to June 28, 1972 for decision,

WHEREAS, the BZA has made the following findings of fact:

1. That the owner of the subject property is The Richards Group, Inc.
2. That the present zoning is RT-5.
3. That the area of the lot is 4.167 acres.
4. That compliance with all State and County Codes is required.
5. That compliance with Site Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that the subject application be and the same is hereby GRANTED with the following LIMITATIONS:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of theSpecial Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupqncy on theproperty of the use and be made available to all Departments of the County of Fairfax during the hours of operation of thepermitted use.
6. The maximum number of memberships shall be 100, which shall be limited to residents of Heritage Square.
7. The hours of operation shall be from 9:00 A.M. to 9:00 P.M.
8. The entire pool area shall be enclosed with a chain link fence in conformity with State and County Codes and as approved by Director of County.
9. There shall be a minimum of 3 parking spaces for emergency and pool employees and there shall be 30 parking spaces for bicycles.
10. Landscaping, and planting shall be as approved by the Director of County Development.
11. All loudspeakers, noise and lights shall be confined to the Site and directed to the pool area. Should there be a time when an after hours pool party for the members is desired, permission must be granted by the Zoning Administrator, and such parties shall be limited to six per year.

Mr. Baker seconded the motion and the motion passed unanimously.

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D. A. O'KEEFE, app. under Sec. 30-6.6 of Ord. to permit erection of dwelling closer to side property lines than allowed under Ordinance (7 foot variance on both sides to permit 25 foot wide dwelling), 3006 Dunbar Street, Mount Vernon District (R-12.5) 102-1 ((3)) (2) 30, V-86-72 (Deferred from June 21 for reasons stated in the motion -- rundown on record owners and rendering of proposed house)

Mr. Wright, agent for the applicant, testified before the Board. He stated that the rendering was not there as the builder had been present earlier in the afternoon, but had left.

The rundown of the record owners was in the file. Mr. Covington stated that this had been checked.

Mr. Wright stated that he felt the builder could best explain the rendering and that is why he asked him to be present.

Mr. Kelley stated that one of the main reasons for deferral was the fact that the Board wanted to see what is going in there and this is the main thing that concerns the neighbors.

Mr. Kelley stated that the Board should again defer this case and give the applicant an opportunity to bring in the rendering and he so moved.

Mr. Smith stated that the Board could make the decision on July 26, 1972.

Mr. Baker seconded the motion.

Mr. T. H. Brown, one of the adjacent property owners, spoke before the Board. He stated that there is no house on the lot adjacent to this property in question and it could be obtained and he would no longer need a variance.

Mr. Brown stated they were opposed to outside developers coming in and making a big profit at the expense of their neighborhood.

The motion passed unanimously with the members present. Mr. Long was out of the room.

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HOLLIN MEADOWS SWIM & TENNIS CLUB, INC.

Mr. Smith read a letter from them requesting that this case be rescheduled for mid-August as they had not yet worked out all their problems.

Mr. Covington stated that they could not meet an agreement in that neighborhood. They have had a meeting and he was present along with Mr. Garza from the Technical Branch of Zoning Administration and they went over some additional plans and made some additional suggestions as to what they could and should do.

Mr. Smith asked if any safety factors were involved.

Mr. Covington stated that there were no safety factors involved.

Mr. Barnes so moved that the request for deferral be granted.

Mr. Kelley seconded the motion.

Mr. Smith stated that this could be deferred providing that they renotify the adjacent property owners and that the property be reposted.

Mr. Smith stated that if the applicants do not persue this at the first meeting of September, then the Board will revoke the permit and prosecute.

It was suggested that that be added to the motion. Mr. Kelley accepted it as to his second and Mr. Barnes accepted this.

The motion passed unanimously.

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HAYFIELD FARMS SWIM CLUB

Mr. Covington stated that he had contacted this club and appraised him of the complaints that had been received and informed him that the pool hours were from 9:00 A.M. to 9:00 P.M. and they will have to adhere to this. They had an after hours pool party on June 10 without permission, but they did not know they had to get permission, but they do know it now.

TYSON's BRIAR, T/A CARDINAL

Mr. Smith read a letter from them asking that they be allowed to reduce the number of parking spaces in order to add tennis courts. They have a membership of 750 families.

Mr. Smith stated that their use permit is only for 600 families.

Mr. Smith also stated that they would have to increase the parking.

Mr. Covington stated that they could not increase it because they did not have enough land.

It was the Board's determination that there should be no reduction in parking spaces.

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OUT OF TURN HEARING REQUEST -- SPRINGWOOD LEARNING CENTER, INC., app. under Sec. 30-7.2.6.1.3 of Ord. to permit Special School, approximately 30 children, ages 10-14, from 8:00 A.M. to 12:00 Noon, 2036 Westmoreland Street, Chesterbrook Presbyterian Church, 40-2 ((1)) 26, Dranesville District (RE-1), S-114-72

Mr. Goodman, attorney for the applicant, 1606 Washington Plaza, Reston, Virginia, testified before the Board.

Notices to property owners were in order. The contiguous owners were William McKay and Jack Torregrossa.

Mr. Goodman stated that this school is designed to serve approximately thirty children ages 10-14 who are making less than normal progress in regular school and will constitute a part of the doctoral thesis of its administrator, Jewell K. Keroher, a principal in the Fairfax County school system. The program will only run from July 5, until August 11, 1972 on a half-day basis and will be located on the top floor of the school building of the Chesterbrook Presbyterian Church.

No opposition.

In application No. S-114-72, application by Springwood Learning Center, Inc. under Section 30-7.2.6.1.3 of Ord. to permit special school from July 1 to August 31, 1972 for thirty children, on property located at 2036 Westmoreland Street, also known as tax map 40-2 ((1)) 26, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, the proper notice has been made to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th of June, 1972; and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Chesterbrook Presbyterian Church.
2. That the present zoning is RE-1.
3. That the area of the lot is 9.36 acres.
4. That compliance with County and State Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Hours of operation shall be from 8:00 A.M. to 12:00 Noon, 5 days per week, ages 10-14.
7. The maximum number of children shall be 30.
8. This application is granted for the period of July 1, 1972 through August 31, 1972.

Mr. Baker seconded the motion and the motion passed unanimously.

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By Jane Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

September 13, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, July 12, 1972, at 10:00 A.M. in the Board Room of the Massey Building; Members Present; Daniel Smith, Chairman; Richard Long, Vice-Chairman; George Barnes, Loy Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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NATIONAL EVANGELICAL FREE CHURCH, (amended to include -- SHELL McDONALD, INC.) app. under Sec. 30-7.2.6.1.3 of Ord. to permit day care center, 60 children, 2 to 6rs. old, hours of operation 7 a.m. to 6 p.m., 5 days a week, Mason District, 3901 Gallows Road (R-12.5) 60-3 ((24))9A, 10, S-106-72

Mrs. Shell testified before the Board.

Notices to property owners were in order. The contiguous owners were Mr. Young, 3815 Kendale Road and Mr. Kelley, 3839 Longstreet Court.

Mrs. Shell stated that they plan to have a learning session in the morning from 9:00 a.m. to 12:00 Noon; organized play, hot lunches and snacks during the day. They plan to have the lunches catered. They plan to be in the existing building. Later on they would like to move into the new proposed building. She stated that she is the operator of the school. The inspection stated that they could only have 44 in the building. They plan to have four instructors, one for each ten children. All the teachers will be licensed. They have a lease for a period of one year. Shell McDonald who will be operating the school was incorporated in 1969. They have been operating at the Heritage Shopping Center, but she stated that they had to bus the children to a recreational area. Here they plan to put in their own play equipment.

Mr. Smith stated that since the church was only the sponsor, the application should be amended to include Shell McDonald, Inc.

This was done.by a motion by Mr. Baker, seconded by Mr. Long and the motion passed unanimously.

In opposition, Mr. Harold G. Kelley, 3839 Longstreet Court, spoke before the Board. He stated that he was immediately adjacent to this property and he and some of his neighbors were joining together and were prepared to submit a formal Petition requesting the Board deny this use. He stated that in summary their opposition was that they feel this will disturb the tranquility of their neighborhood as it is a commercial use and operated by someone other than the church. Another problem will be the traffic impact. This in turn will increase the atmospheric pollution. This will be a hazard to the elementary public school children because of the increased traffic. They feel that even though she is only asking for 60 children at this time, the enrollment will be tripled when the new church is finished. They feel it will devalue real estate in the area of this school. The new recreational area will attract children from the surrounding area. In addition, it will be a danger to the children who attend this school, as there will be construction going on around the school because of the new proposed church.

Mr. Harold Kelley read a resolution passed by the Broyhill Citizens Association.opposing this application.

Mr. Smith asked if the association voted on this or the executive committee.

Mr. Harold Kelley stated that the executive committee voted on it. There were eight people present.

Mr. Smith stated that the Board of Zoning Appeals have encouraged this type of use in churches, instead of using another building. All the churches seem to be underused. He stated that he was surprised at the opposition to this use as usually there is no opposition as long as the school is in the church. Mr. Smith reminded Mr. Harold Kelley that this use is allowed in a residential zone and is allowed in residential houses.

In suppert of this application, Rev. Paul spoke before the Board. He stated that it was his original intent that by granting this corporation permission to have this use in their church would be of benefit to the entire community as they did see a need for this in their church and in their community. There are quite a few evening function of the church and this would generate no more traffic than that does. These evening functions of the church have not created a traffic problem. Recently Gallows has been widened to four lanes and they have had no need for police officers to be at the entrance to direct traffic. He stated that they did not wish or intend to cause problems to the neighbors.

Mr. Long moved that this application, S-106-72 be deferred for decision only to allow the applicant to furnish new plats showing fenced recreation area, 2. Recreation equipment 3. screening and landscaping 4 adequate turn around for busses and these plats are to be reviewed and approved by the Division of Zoning Administration five days prior to hearing.

Mr. Kelley seconded the motion and the motion passed unanimously.

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A. G. VAN METRE ASSOCIATION, INC. (AMENDED TO BLAKEVIEW HOMEOWNERS ASSOC.), app. under Sec. 30-7.2.6.1.1 of the Ordinance, to permit swimming pool in townhouse development, located at Lindenbrook and Mission Square Drive, Providence District (RT-10), 48-3 ((27)) pt lot B, S-107-72

Mr. John Aylor, attorney for the applicant, 4017 Chain Bridge Road, testified before the Board.

Notices to property owners were in order. The contiguous owners were Jeannette Sweeney Post Office Box 404, Fairfax and Bernard Heith, 6629 Haycock Road, Falls Church.

Mr. Aylor stated that this property is zoned RTC-10. It was owned by A.G. Van Metre the corporation that is building the townhouses at the time the application was filed but it is now owned by Blakeview Homeowners Association. It is in the Agreement that A.G. Van Metre will bear the cost of the building of this pool at no cost to the homeowners. He submitted a certificate of good standing for the Blakeview Homeowners Association in case the Board wished to amend the application.

Mr. Kelley so moved, Mr. Long seconded the motion and the motion passed unanimously.

Mr. Aylor stated that the builder would build 85 homes in this development and this pool would only be used for families that would be using this pool who lived in this development. Mr. Murphy from Urban Engineering spoke before the Board regarding the size of the bath house, etc.

Mr. Long suggested that they put in bike racks and Mr. Aylor stated that that could be done.

No opposition.

Mr. Long moved that application S-107-72, be deferred for decision only to allow the applicant to furnish new plats showing topography which should show the difference between the proposed elevation of the pool and the surrounding areas; landscaping and screening; the size of the pool, training pool and main pool; 25 bike racks and three parking spaces; pedestrian walkways to and from the pool; description and rendering of the building. These plats must be reviewed by the staff five days prior to the hearing of July 26, 1972.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Long asked the type of materials to be used in the bath house.

The engineer, Mr. Murphy, stated that the material would be stucco, the same as is in the townhouses. The design would also be compatible with the townhouses.

Mr. Aylor stated that this pool was centrally located in the center of the development for the convenience of all of the occupants of the townhouses and in addition to afford maximum privacy within the community.

ROLLING VALLEY SWIM CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord., to permit basketball backboard on edge of present parking lot in conjunction with pool use, 7019 Ashbury Drive, Rolling Valley Subd., (R-12.5), Springfield District, 89-3 ((5)) 416A, S-99-72

Mr. Harold Miller, attorney for the applicant, 5600 Columbia Pike, Bailey's Crossroads, Virginia, testified before the Board.

Notices to property owners were in order. The contiguous owners were Mr. Kullstam, 7105 Hadlow Drive, Springfield and Mr. McCabe, 7202 Hadlow Drive, Springfield.

Mr. Smith read the staff report regarding the parking area. Mr. Miller stated that rarely is over 50% of the parking spaces used because many of the residents walk to the pool and should there come an occasion when there is a swim mete and all the spaces would be needed, they would agree as part of this permit that this area would then be used for parking.

Mr. Miller also stated that the neighboring home, the one that is now complaining, had a backboard up earlier and the association felt that there would be no objection. There is a stockade fence and cedar trees planted there, therefore, there is adequate screening and in addition there are no lights so this is only used in daylight hours. He estimated that there is about 70' to the neighbor's house from this backboard. Mr. Miller stated that there is a need for this type recreation for this community. It is good for the children to get rid of their excess energy in such a constructive manner. These backboard are parellel to each other and is only used for "shots" and could not be used for contest games.

Mr. Smith asked Mr. Covington if there had been any complaints about this basketball backboard.

Mr. Covington stated that there had been several complaints from the adjoining property owner. The association erected it, then they took it down until they could get permission from the Board.

Mr. Smith asked if the association could find a more suitable location.

Mr. Miller stated that there is only one other location and that is where the association is planning to come in and and for permission to construct tennis courts.

Lt. Col. Ching, 7013 Hadlow Drive, spoke in favor of this application. He stated that he is presently the President of the Board of Directors.

Lt. Hatchel, 7201 Hadlow Drive, spoke in opposition to this use. He stated that he lives directly across from the subject basketball backboard. He stated that he has several reasons why he objects to this use. He feels they are an eyesore to the community. They are painted red and white. He stated that he also feels they are a hazard to the children who use them because of the curb which is in front of them. He feels that the association should have consulted him prior to putting these backboards up. These board cause excess noise from the children, who also use profane language. He stated that sometimes the children who are old enough to drive a car will drive their car into the lot and shine their lights so they can continue to play basketball even after dark.

Mr. Miller stated that these backboards were put up, then when the committee discovered that they were in violation to the use permit, they were removed. This spring the boys who were fixing the pool in preparation for the season inadvertently put them back up, but just as soon as the committee found out about it they were removed. They were only up a few days.

Mr. Smith asked if they could put these backboard up farther toward the pool area.

Mr. Miller stated that they probably could, but then they would be utilizing parking spaces that were the most used.

Mr. Miller stated that the backboards were painted red and white for safety.

Mr. Smith stated they would just have to barricade some of the parking spaces up toward the pool.

Mr. Long agreed.

Mr. Kelley moved that Application S-99-72 be deferred to July 26, 1972 for decision only to allow the applicant to furnish new plats showing 1. a more appropriate and safer location and 2. adequate landscaping and screening to protect adjoining properties and these plats should be in 5 days prior to the hearing date for review and approval for the Zoning Administrator.

Mr. Baker seconded the motion and the motion passed unanimously.

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AMERICAN TRADING AND PRODUCTION CORP. app. under Sec. 30-6.5 of the Ordinance, appeal from Zoning Administrator's interpretation of Sec. 30-3.1.4 or, alternatively, variance from interpretation with respect to ruling that slope referred to in this section cannot be man-made, 6001 Arlington Blvd., Mason District (RM-2M), V-108-72, 51-4 ((1)) 14

Mr. Stephen L. Best, attorney for the applicant, 4069 Chain Bridge Road, Fairfax, testified before the Board.

Notices to contiguous property owners were in order. The contiguous owners were Mr. and Mrs. Wilson, 5971 Jan Mar Drive, and Paul E. Brockert, 5974 Jan Mar Drive.

Mr. Best stated that there are a number of factors involved which occurred prior to the ruling of Mr. Covington because there has been several interpretations to this.

Mr. Smith stated that the argument here would have to be pertaining to Mr. Covington's ruling. He stated that if he was requesting this for a specific location then it should have been under Section 30-6.6 as a variance from the ordinance, but if this is an appeal from the Zoning Administrator's decision, then this is what the Board should stick to and not go into the specific case, but that part of the ordinance that pertains to this.

Mr. Best stated that the first building is located near Route 50 and the second building is under construction and the third building is identical in configuration to the first building. The slope is also identical or substantially identical to the first building. At the beginning of this project, they were required to submit a Master Plan showing the complete development of the property. They were then advised toshow the additional story and make specific reference to the section 30-3.1.4. This was done and approved by the County and the first building was constructed. On the second building there is an additional story although the shape is different and again reference was made to Section 30-3.1.4. When the time came to submit a site plan for the third building a single site plan was submitted and the reference to Section 30-3.1.4 was again made and they were set up and ready to begin construction when they were advised at that point that there has to be a one to five slope in effect. They were told by the man reviewing this site plan that they had to measure the slope over the longest part of the building which was 250' which meant they had to have a slope of between 50' and 60' and there is no property ever developed where the ground level on the 1st level is 6 stories below the other level on the other side of the building. At that point they were told to see Mr. Covington who stated that the slope could not be along the longest part of the building, but in the direction of the slope one is concerned with, which in most cases is the width; however, he felt this slope could not be manmade but a natural slope, that the grade had to be there initially. This was, of course, the first time they had faced that problem and this is the interpretation that they are addressing themselves to. There is no reference in the ordinance to natural or manmade. He stated that he felt everybody would agree that it is very unusual to construct a building without changing grade. The problem is that there are two ground levels here. The front is one story higher than the rear ground level. He stated that he agreed with Mr. Covington to the extent that the overall natural slope should not be tampered with. There is a 20' overall slope and it would be improper to raise the higher level or to lower the lowest level because one would have created a problem for the adjacent landowner. He stated that he would point out that the height of the building has to be the same. This verbage is designed for the adjacent landowner. Therefore, they are asking that they be allowed to building the third building the same as they built the first building. The area where the floor is located is completely surrounded by their property. In addition, there is a letter in the file from one of the adjacent property owners stating that he would give his consent for approval of this application. The property to the south of this building is owned by the owner here and is zoned for single family residential and to the right the property there is owned by the Fairfax County School Board and is a school. If they have to go back and redesign the entire building, it would take several months and it would very definitely be a hardship.

Mr. Smith stated that for a variance under the hardship clause of the ordinance, he would have to refile under Section 30-6.6.

Mr. Best stated that they have commitments that expire July 31st.

Mr. Smith read a letter from Mr. Covington, Acting Zoning Administrator.

"With reference to Stephen L. Best's request for an interpretation of Section 30-3.1.4 Building on Slopes. The section states "A building on a lot with an average slope of more than one foot of rise or fall in five feet of the length of that part of the lot to be occupied by the building may be erected with one story on the downhill side in addition to the number of stories in height permitted in the district but within the height limit in feet that is prescribed for the district". This section permits the addition of one floor providing there is one foot of rise or fall in five foot of length of that part of the lot to be occupied by the building, this length should be measured parallel to the rise or fall. This should be the natural terrain and not man made rise or fall. I feel that this section was created to aid in the development of land because of extreme variance in terrain."

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AMERICAN TRADING & PRODUCTION (continued)
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Mr. Sanders, Landscape Architect and Planner, 7921 Drive, Bethesda, Maryland spoke before the Board. He stated that he designed and planned this project. The original master plan included all three buildings and was completed in 1967 and submitted to the planning staff to review and the County approved it. It also went to the Board of Supervisors for approval. The property slopes down from Route 50 toward the north and towards the south, it drops off in a steady slope. They envisoned a drop off of one story on the first building, and the second building would drop off another story and the third building which is toward the south of the property would drop off another story.

Mr. Smith stated that what he was talking about now is specifics about a particular case and what the Board is being asked to do is determine an interpretation of the zoning ordinance, and this is done without using specifics.

Mr. Long stated that he would still like to hear Mr. Sanders' comments.
He stated that he was asking for a professional opinion as to the definition between natural and unnatural.

Mr. Sanders stated that in a project of this size, a new highway had to be built from the south corner up to Route 50; that changed the grade considerably between buildings number two and three; another requirement of the drainage division of the county was that the water has to go the way the natural drainage leads it, so you cannot change the direction of the flow of the water. In grading for these three large buildings, it is necessary to maintain that drainage pattern. In figuring the fall for each building you take the overall diminsions from the ceiling to the floor and it does fall something like 9 feet, which is the amount that it takes to provide for one extra story, so that if you bring that grade together across the building; instead of lengthwise down the building, you would have a 5 to 1 slope.

So, the factor of the grade and the ground and to make that useful for each building, you have to consider the fall. Now, there are only 9 units within the terrace floor of this third building and the rest of the area is not surfaced, so you have only about one-fourth of the building exposed. Now apply that 5 to 1 rule, we have it at the tail of the building itself. You can see on the grading plan how the grade drops near the swimming pool so it would be arbitrary to make a rule that you have to have a certain drop from a certain point to another point. It means if we had a 1 to 5 slope, we would have to have a 50' drop which would not be practical at all. It would permit you to design a building to accomodate the different changes in grades that you are restricted to.

Mr. Long asked how much they were filling in front of the building.

Mr. Sanders stated that that was pretty much to grade. (He shows the Board on the plan)

Mr. Covington stated that he felt that if the Board was going to consider the specific merits of the case, that the engineer from the County should be present.

Mr. Long stated that he asked to talk with this gentleman because if he is filling in front of his property 8' because of some County requirement, it is essential that the Board understands the difference between man-made and natural terrain. The County controls South Manchester Street and the builder has no control over it and if he is filling from 58 to 266, approximately 8', so then is the Board to consider that natural grade.

Mr. Long stated that it was his interpretation of the ordinance that this could be either man-made or natural. In this case it is the County criteria which causes the builder to have this grade.

Mr. Smith disagreed.

There was no opposition to this case.

Mr. Covington stated that he based this rule not on a specific building or land development, but stricly on the ordinance as it reads.

Mr. Smith stated that the Board should consider this only under the ordinance.

Mr. Smith stated that if the applicant wants to apply for a variance under Section 30-6.6 of the ordinance he could do so, but he did not know what the hardship would be.

Mr. Long stated that he would like to hear from Mr. Curtin from Plan Review Branch.

Mr. Baker stated that he felt this case deserved some merit.

Mr. Smith stated that the Board either had to uphold the decision of the Zoning Administrator or disagree with him.

Mr. Barnes stated that some consideration has to be given to what is required by the County and how that affected the grade.

The hearing recessed.

Mr. Covington stated that the elevation should be natural elevation.

Mr. Curtin, 3505 Aston Street, County Engineer in the Planning Review Branch, spoke before the Board.

Mr. Smith stated to Mr. Curtin that this is a hearing on an interpretation of the ordinance and in the original hearing earlier today, the Board did get into some of the development of this project which was really unfortunate to some degree because the request is for an interpretation of the ordinance based on the Zoning Administrator's decision, but there was a request that the Engineer who worked on this project be present and testify.

Mr. Long stated that his concern and the reason he wanted Mr. Curtin to be present was he wanted a definition of natural and man-made slope. If you comply with the standards for streets, entrances, etc., then this causes problems of development and changes the slope, but with no fault to the developer.

Mr. Curtin stated that the situation is the building height is measured at the front of the building and the ordinance says that the slope where the building is to occupy is to mean the area to be covered by the building and not the entire parcel of land. There is only a difference of 2' from front to back of the building which is 170' long.

Mr. Long asked him what about if the developer is required to fill 10' to 12' to establish a road grade, what then?

Mr. Curtin stated that he was saying that the difference in the natural terrain is 2' from front to back and this is natural terrain.

Mr. Long asked who created the situation and if it was the County.

Mr. Curtin stated that in determining the height, he felt that they have to consider the natural slope on that part of the tract occupied by the building and the elevation at the road should not enter into it.

Mr. Curtin stated that perhaps it wasn't a necessity to build the road 8' above natural grade, that is a possiblility.

Mr. Smith stated that again we are getting into specifics.

Mr. Long stated that they had to if the County is going to require a man to fill 8' to build a road.

Mr. Long moved that this case be deferred to July 19, for decision only.

Mr. Barnes seconded the motion and the motion passed unanimously.

Mr. Best stated that he wanted to make it clear that his application was intended to ask for an appeal or as an alternative a variance and there was no question as to whether or not this was a proper application at the time it was filed. It was discussed with the County Staff.

Mr. Smith stated that his request was for an appeal from the decision of the Zoning Administrator and this is what the Board heard. He stated that Mr. Best would have to file a separate application if he wished to request a variance. He stated that the Board could not grant a variance at the same time that they were hearing the appeal.

Mr. Best stated that he has this afternoon during the recess filed an application for a variance and would like to request a early hearing of that application because they were under a hardship due to contract expiration.

Mr. Barnes so moved that the early hearing be granted.

Mr. Kelley seconded the motion and the motion passed unanimously.

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FAIRFAX COUNTY WATER AUTHORITY, app. under Section 30-7.2.2.1.5 of the Ordinance, to permit addition to one 5,000 gallon capacity water storage tank, 6038 Chapman Road, Hallowing Point River Estates, 122 ((2)) 19, Mt. Vernon District (RE-2), S-109-72

Mr. Bicksler testified before the Board.

Notices to property owners were in order.

The contiguous owners were Edward S. Kid, Jr. and John M. White.

Mr. Bicksler stated that this wouldprovide additional water storage. They would put a brick fence in front of it. The purpose of this tank is just to meet the demands for the area. He stated that the hookup charges help pay for this facility and other facilities.

Mr. Long asked if the landscaping that is shown on the plan is what they intend to do.

Mr. Bicksler stated that they had not planned to add landscaping as they did not feel it was necessary as this site sets back in the woods.

Mr. Smith asked how far this site was from the nearest residence.

Mr. Bicksler stated that a new house was going up across the street and there are lots that could be built on that are right adjacent to this site.

There was no opposition to this application.

Mr. Long stated that he felt landscaping would be necessary.

In application No. S-109-72, application by Fairfax County Water Authority under Sec. 30-7.2.2.1.5 of the Zoning Ordinance, to permit addition of 5,000 gallon capacity storage tank on property located at 6038 Chapman Road, Hallowing Point River Estates, also known as tax map 122 ((2)) 19, Mount Vernon District, County of Fairfax, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of July, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 37,500 square feet.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County Codes is required.
6. There is an existing Use Permit on this property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions oflaw:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening and fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN

CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping shall be as approved by the Division of Zoning Administration.

Mr. Barnes seconded the motion and the motion passed unanimously.

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TENNIS WORLD, INC. (Filed under Hugh Hammond, Trustee, but amended to Tennis World, Inc.) app. under Sec. 30-7.2.10.5.6 of Ordinance, to permit rigid structure for six enclosed tennis courts, located on Audubon Avenue (formerly Ladson Lane) adj. Audubon Trailer Park, (C-G), Lee District, 101-2 ((1)) 14, S-113-72

Mr. Bernard Fagelson, attorney for the applicant, testified before the Board.

Notices to the property owners were in order. The contiguous owners were Mr. Herman and Mr. Faigen.

Mr. Fagelson stated that Mr. Hammond was Trustee to a corporation that was being formed and they would like to amend the application to Tennis World, Inc.

They did not have the certificate of good standing.

Mr. Long stated that he had no objection to hearing the application, but no decision could be made until they received the certificate of good standing.

Mr. Smith asked the Board if there was any objection to the substitution of Tennis World, INc. There was no objection to this.

Mr. Fagelson stated that this application is for a rigid structure to enclose six tennis courts under the present ordinance as a game of skill. Approximately one year ago the Board granted a use permit and variance which would have permitted four tennis courts and structure in the back portion of the lot with the understanding that the front portion of the lot would have a convenience store and a gasoline station with access between the two. At that time the Board indicated that they felt that that particular type of development left something to be desired. Therefore, they were happy to be able to come back and ask for this permit using the entire property and there will be no commercial activity except the six tennis courts. The structure will be masonry about the same as before.

Mr. Long asked for a sketch of what they were going to construct so the Board would know what they would look like.

There was no opposition to the application.

Mr. Long moved that Application S-113-72 be deferred for 2 weeks until July 26, 1972 to allow the applicant the opportunity to furnish new plats showing:

1. Landscaping and screening plan with approximately 38 parking spaces.
2. Proposed road widening and construction.
3. Pictures of exterior of similar building.
4. Review and approval of the plans by the Division of Zoning Administration 5 days prior to July 26, 1972.

Mr. Kelley seconded the motion and the motion passed unanimously.

Mr. Smith read the memorandum from the Planning Commission regarding this application stating their recommendation for approval.

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RUTHERFORD AREA SWIMMING CLUB CORP., app. under Sec. 30-7.2.6.1.1 of the Ordinance, to permit increase of pool membership from 300 to 400, located on Marley Road at Kristin Lane, Annandale District (R-17) 69-2 ((10)) Parcel A, S-112-72

Mr. William Matthews from the Engineering firm of Matthews and Wheatley, testified before the Board.

He stated that he was a member of the Board of Directors for this pool and in addition there is present Mr. Jack Mete the President of the Board of Directors.

Notices to property owners were in order. The contiguous owners were Richard C. Sullivan, 9227 Kristin Lane and Mr. Reading of Kristin Lane.

Mr. Matthews stated that they were requesting additional membership and they felt they would like to ask for 100 extra members at this time, but they did not plan to increase that many this year, but they felt this would save them having to come back before the Board again. At the present time they have a waiting list of from 10 to 15 families. He showed the Board some additional pictures of the area. He stated that they had 100 parking spaces shown on the as-built and they are now planning to pave the parking lot and they would put the additional screening along the sidewalk. He stated that they felt that this increase in membership would not create a traffic problem.

Mr. Mays from the Zoning Inspector's Office stated that he had a call from a Mr. Coulter and he also wrote this in memo form stating that there was certainly a drainage problem because of the drainage ditch.

Mr. Smith stated that this should be investigated.

Mr. Matthews did not know of this problem.

There was no other opposition to this application.

In application No. S-112-72, application by Rutherford Area Swimming Club Corp. under Sec. 30-7.2.6.1.1, of the Zoning Ordinance, to permit increase of pool membership from 300 to 400, on property located at Marley Road, at Kristin Lane, Annandale Dist. also known as tax map 69-2((10)) parcel A Co. of Fairfax, I move that the Board of Zoning Appeals adopt the following resolution:

Whereas, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

Whereas, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of July, 1972.

Whereas, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 2.1250 ac.
4. BZA granted S.U. permit on 4-28-64, (occupancy issued 5-13-71)
5. That compliance w/site plan ord. is req.
6. That compliance w/site all county codes is req,

And, whereas, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance); and

Now, Therefore, Be it resolved, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without futher action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the building and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along wiht the Certificate of Occupancy on the property of the use and be made availbale to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of memberships shall be 400.

7. Hours of operation shall be 9 A.M. to 9 P.M.

8. All loudspeakers, noise and lights shall be directed onto the pool site. Should there be a request for an after hours party, permission must be granted by the Zoning Administrator and such parties shall be limited to 6 such parties per year.

9. 100 parking spaces shall be provided, and all parking confined to premises.

10. All limitations and conditions set forth in original permit shall remain in effect.

Mr. Baker seconded the motion and the motion passed unanimously.

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EUGENE H. DOEBLER & N. WAYNE QUARLES, app. under Sec. 30-7.2.8.1.1 of the Ord. to permit boarding kennel for dogs and cats, 11025 Oakton Road, Centreville District (RE-1), 47-3 ((1))53, S-111-72

Mr. Eugene Doebler testified before the Board.

Notices to property owners were in order. The contiguous owners are Mr. & Mrs. George Baker, Lot 4, Box 271, Baltimore, Md. and Mr. and Mrs. Pearson, 11033 Oakton Road.
Mr. Doebler testified that Mr. and Mrs. Bradbury are the present owners of the property and that Mrs. Bradbury was present to state that she was in favor of this application being granted. He presented the contract to purchase to the Board.

Mr. Doebler stated that they wish to have a place to show and train dogs and cats and to do some selective boarding of these animals. The latter is to help defray the cost of the shows. This will be under the ACC. It will be operated by both the applicants. In the submission papers for the file he had included a detailed design of the kennels and explained the way the noise would be detered and how the security fences would be created to safeguard the escape of any of the dogs. He then gave the qualifications of he, his partner and Mrs. Margaret Phillips. Mrs. Phillips would be training the animals also. Sue Love would also be working there as a show judge and consultant. The maximum number of animals would be 78 and the dogs and cats would be separated.

In favor of this application Mrs. Iller, 11017 Oakton Road, the next door neighbor to this property spoke in regard to the application. She stated that she had lived there for some time during the previous operation and had no objections.

In opposition to this use Mr. George Baker, 5919 Gales Lane, Columbia, Maryland spoke before the Board. He stated that he owned the property immediately adjacent to this site and they rent to Mrs. Iller. He stated that they opposed the operation originally and now they wish to have more animals, they oppose it more than ever. He stated he had owned the property for eleven years and feels the operation has been a nuisance. They hope to build on this property when they retire. He stated that he felt there would be a problem with traffic at the entrance. He also objected to the smell and to the noise.

Mr. Doebler stated in rebuttal that Mr. Baker's piece of property is only 50' wide and if he wants to build on the property he will have to build a 15' house. When he first appeared in opposition to the present operation, he stated at that time that he was planning to build and that was in 1958 and this is 1972 and he still hasn't begun to build.

Mr. Smith stated that the Planning Commission heard this application and recommended their unanimous approval. He read the memorandum from the Planning Commission.

Mr. Long moved that this application S-111-72 be deferred until July 26 for decision only in order for the applicant to have the opportunity to show adequate screening and landscaping and approximately 8 to 10 parking spaces (2) dustless surface provided for the driveway (3) Letter from present owner agreeing to the issuance of this use permit application (4) Review and approval of the plan by the Division of LandUse Administration prior to July 26, 1972.

Mr. Barnes seconded the motion and the motion passed unanimously.

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FOX HUNT SWIM CLUB, INC., app. under Sec. 30-7.2.6.1.1 of the Ord., to permit community swim club and tennis club, located at the end of Spaniel Road, Orange Hunt Estates, (R-17) 88-4 ((2)) Parcel D, S-110-72, Springfield District

Lt. Col. Burnedette, Conservation Drive, spoke before the Board. He stated that he was President of the Fox Hunt Swim Club.

Notices to the property owners was in order. The contiguous owners were Middlerun Land Corporation and Levitt Corporation.

He stated that this land was conveyed to them from the Park Authority on the 13th day of April, 1972.

Mr. Covington, Zoning Administrator, read the staff comments on this case which stated:

"This use will be under site plan control. When this subdivision was recorded this property was to be conveyed to the Fairfax County Park Authority. It is also noted that the facilities on this site may or may not be provided prior to the occupancy of the adjacent lots and, therefore, there may be a question as to how the future abutting owners may react to this facility."

Mr. Smith stated that if the land had not yet been sold, then the homeowners would know the pool was there.

Mr. Reynolds stated that there have been cases where the Board grants the use permit then before the site is cleared and construction begins, people buy homes, then they find out that there is a swimming pool or some other use is going in where they thought there would be a park.

Mr. Burnedette stated that the houses have not been built and none are occupied and he did not believe there have been any contracts entered into by persons who wish to purchase houses.

He stated that they propose to have 350 members in the Orange Hunt area and 90 parking spaces, with bike racks for 50 bikes. No houses will be any further than 1/4 mile.

Mr. Long stated that he felt this is the first time this type thing has come up with the Park Authority. The land was probably given to the Park Authority under the Cluster Zoning concept and everybody in the subdivision had the right to use this land. The Park Authority has some responsibility to protect the owner's interest.

Mr. Smith stated that it has happened before. He stated that it appears to him that it follows the cluster concept for open space

Mr. Long stated that once the land goes public then it is publich and the Park Authority would be critized by the people in the area. He would object to that.

Mr. Smith stated that he understood what he meant, because if someone purchased the lot adjacent to this site and assumed it was open space, then found that the Park Authority had sold it, there could be a problem.

Mr. Burnedette stated that he believed the Park Authority had been asked to hold this property in trust until an appropriate use could be made of it by the Association when the Association was formed.

Mr. Smith stated that the Board was concerned about this situation.

Mr. Jack Mays, Zoning Inspector who worked on these cases, stated that he had checked this out and it was conveyed to the Park Authority and as it was explained to him by the Park Authority, they acted as a holding organization, thereafter transferring it back to a group at no cost to that group, or at least a nominal cost. It depends on individual circumstances as to what exactly might be done. In this case it was conveyed to the Park Authority as a matter of convenience until such time as it was appropriate to transfer it back to the Homeowners Association which then takes on the responsibility for the maintainance of this land.

Mr. Long asked if they planned to have lights on the tennis courts.

Mr. Burnedette stated that they did not.

Mr. Smith stated that should they ever decide to have lights they would have to come back before theBoard.

Mr. Kelley stated that it looked as though the community center was planned to be 12' off the property line and he felt it should be 25'.

Mr. Smith agreed and stated that no matter what the zone, the Board could require a greater setback.

Mr. David Whitestone spoke before the Board. He stated that he had entered into a contract in January of this year for Lot 143 adjacent to the property in question and he would like to support the development of this swimming club, but he would like to have some stipulations included to see to it that the Club preserved the trees and that they would be required to construct a privacy fence and that they keep the area in good repair.

In application No. S-110-72, application by Fox Hunt Swim Club, Inc. under Sec. 30-7.2.6.1.1, of the Zoning Ordinance, to permit community swim club and tennis club, on property located at end of Spaniel Rd., Orange Hunt Estates, also known as tax map 88-4((2)) Par. D Co. of Fairfax Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisment in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of July 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 134,052 sq. ft.
4. That compliance with site plan ord. is req.
5. That compliance with all County codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance and

NOW, THEREFORE, BE IT RESOLVED, THAT THE SUBJECT APplication be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
*6. The maximum number of memberships shall be 350, which ~~shall be~~ residents ~~from the Orange Hunt Estates area~~.
7. The hours of operation shall be 9 A.M. to 9 P.M.
8. There shall be a minimum of 90 parking spaces provided and a minimum of 30 parking spaces for bicycles.
9. The entire area shall be enclosed with a chain link fence as approved by the Director of County Development.
10. Landscaping, planting and screening shall be as approved by the Director of County Development.
11. All lights and noise shall be directed onto site and must be confined to said site.
12. Should the members desire an after hours party, permission must first be granted by the Zoning Administrator and such parties shall be limited to six per year.

The motion was seconded by Mr. Baker and passed unanimously.

* Amended July 24, 1974 to read "... which residents shall be within a 2 mile radius of the pool itself."

AFTER AGENDA ITEMS:

C & P TELEPHONE CO. ON BURGUNDY ROAD. Mr. Smith read a letter from Randolph W. Church, Jr., attorney for the applicant, which stated that this case was scheduled to come up on July 19, 1972, but he was scheduled for a trial in the Circuit Court of Fairfax County, therefore, would like the Board to resolve to intend to defer this case in order that he might advise all the people that he had already advised of the hearing. It would save them the trouble of having to be here and he would certainly appreciate the consideration.

Mr. Kelley so moved. Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Smith after consulting with the Clerk stated that the next available date would be August 2, 1972 and Mr. Church would have to so notify all interested property owners. The case is on the Agenda and would be called on the 19th, then it could be formally deferred. Hopefully, there would be no opposition to this.

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QUARLES ROBERTSON OIL, INC.

The County Attorney Lang Keith, spoke before the Board. He stated that on Monday of this week the Board of Supervisors placed St. Mary's Church into a historic district for a one-fourth mile from the property line that fronts on 123 which includes the property in question today before this Board. He stated that he believed that now before the Board could grant the permit, they would have to consider it under Sec. 30-2A.6 which reads, "...No use permitted by right or by the board of zoning appeals shall be permitted where the operational characteristics of the use would tend to destroy or encroach upon the historic character of the district as established and specifically recorded in the recommendations made pursuant to section 30-2A,4-c and adopted pursuant to section 30-2A.5, hereinabove, where such decision is made by the board of supervisors after consultation with the architectural review board." He stated that this section is a little confusing because it talks about the BZA special use permit and in another section talks about the rule of the Zoning Administrator. Before an applicant can build anything in a historic district he has to go before the architectural review board for the review of the building and the Board of Supervisors also has to review his plans before he can actually put anything on the ground. The historic district was adopted on an emergency basis which means that it is effective for only 60 days and will come back before the Board of Supervisors on September 11 for consideration for putting this into a permanent historic district. He stated that it would be his view that the Board of Zoning Appeals would be within its right to grant the permit as long as they considered the character of the use under the historic district, but the applicant now has to go through the second step of the process to get a building permit in a historic district.

Mr. Smith stated that the Board of Zoning Appeals has to make a decision within 30 days.

Mr. Hanes, attorney for the applicant, stated that it has been two weeks since the application was heard. This application has already been through everybody that he knew of. They agreed at the last meeting to prepare a plan and move the gasoline station down to the rear of the lot and he has prepared that plan if the Board would like to see it. They also agreed that in order to help the Church they would go before the architectural review board and the history commission and they also agreed not to operate during the church services, or not at all on Sunday. Mr. Hanes stated that as he understands it the only question is does the adoption of the historic district have any effect upon the BZA's acting on the use permit being requested. Is there any further criteria that you have to consider -- Mr. Hanes stated that he did not agree with the interpretation of the County Attorney because if you read that entire section all that is intended to do is to state that any use that can go in that area by right or by use permit will now have to go before the architectural board and the Board of Supervisors for review of the plans and they had already agreed to do that. Mr. Hanes then read Section 30-2A.4(c).

Mr. Hanes stated that he knew he was not allowed to file new plats until the Board decided on this date whether to deny the application or to allow the applicant to submit new plats. He stated that they did have have an architectural rendering yet.

Mr. Hanes stated that he wished to clear up one point though. At the last meeting Mr. Kelley had asked him if they intended to have a fuel oil storage tank area in the industrial park of the area and he had told him they wished to if the ordinance allowed it, then Mr. Covington had stated that it was not allowed. The applicants do not agree with Mr. Covington's ruling on that.

Mr. Covington stated that the only case where storage and distribution is allowed is by use permit from the Board of Supervisors as that is the way it has been treated in the past, in an I-G and in I-P.

Mr. Smith stated that this is fuel oil distribution.

Mr. Covington stated that if the fuel oil tanks are underground it is permitted in C-G, but it is not outlined in I-P, so if it doesn't say you can, you can't.

Mr. Hanes stated that this is not under consideration in this application.

Mr. Long stated that the intend of his motion regarding this case that the Board would either on this date deny the application or decide whether to request the application to come in with new plats. The plats submitted today would not suffice. He stated that he felt the applicant should show a rendering of the proposed facade and the entire development plan, the landscaping plan and provisions for the screening from the commercial use and the church. He stated that in all C-D zones the Board has controlled the entrances and traffic patterns for service stations and asked for an entire development plan. In addition, the BZA has always asked for a rendering showing the type of facade and the materials to be used in the structure.

Mr. Smith asked Mr. Hanes if he was prepared to provide the Board with this information.

Mr. Hanes stated that this does get into some money.

Mr. Smith stated that the Board was not prepared to make a decision atthis time, pro or con.

Mr. Long asked Mr. Rust, the applicant's engineer, if they had moved the station as close to the railroad as possible in the plat they had today.

Mr. Rust stated that they had.

(The Board looks at the plat with the station near the railroad)

Mr. Long stated that his concern at the last meeting was for the buffer zone. It was buffered better with the station next to the church.

Mr. Smith stated that he agreed that the first location was better.

Mr. Baker stated that he too agreed that if it has to go anyplace, the first place would be the best. There would be more control over the use there.

Mr. Smith asked if either place was acceptable to the Board.

Mr. Baker stated that when the Board viewed this property in question at the previous meeting he had talked with the Priest and the people down there did not understand that the gasoline station would be better controlled at the first location, than if the BZA had them move it down next to the railroad and then a McDonald's went in right next to the church by right. He stated that he felt that it was his impression that the people from the church was reconsidering and were going to come back to the original plan.

Mr. Hanes stated that he agreed that under the BZA, they had the right to put conditions on the use which would not be put on a use by right, except now that the area was under a historic district.

Mr. Long stated that that is why he did not ask for plats at the previous meeting. He stated that he did not know whether the Board wanted it to go in at all.

Mr. Long moved that Application S-96-72 be deferred for decision only to allow the applicant to furnish new plats showing the following information:

1. A minimum 50' buffer strip to be undisturbed adjoining St. Mary's Church property, adequately landscaped.
2. A brick colonial design station, three (3) bay, rear entrance adequately landscaped in the rear.
3. A complete development plan showing future buildings with brick colonial design, facades compatible with facade of gasoline station.
4. General landscaping plan.
5. No free standing sign for this use.
6. A single entrance to the property from U.S. Route 123.
7. Statement limiting use of hours of operation compatible with church activities.
8. Lighting plan.
9. Plan to be in compliance with new BZA policy.

Mr. Kelley seconded the motion and the motion passed unanimously.

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Mr. John Aylor, attorney for the applicants, sent a letter to the Board requesting the BZA to grant an extension to the use permit granted July 13, 1972 for 6 months.

Mr. Baker so moved.

Mr. Barnes seconded the motion and the motion passed unanimously.

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B.P. OIL & JOHN L.HANSON

Mr. Smith read a letter from the Town of Vienna regarding the above application. They also read a letter from the Zoning Administrator of the Town of Vienna.

Mr. Smith stated that he felt this was sufficient information on which to base a decision when this case comes up on the 19th.

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The hearing adjourned at 5:45 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

Approved: September 13, 1972
DATE

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, July 19, 1972, at 10:00 A.M. in the Board Room Of The Massey Building; Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman; George Barnes, Loy Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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HOLSINGER, SHEILA M. (Amended to include HARRY F. HOLSINGER), app. under Sec. 30-7.2.6.1.3 of Ord. to allow use of lower level for one Montessori Class, 3501 Epsilon Place, Holmes Run Heights Subd., 59-4 ((9)) 46, Annandale District (RE-0.5), S-115-72

Mr. Douglas Walker, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous property owners were Mr. Fields on Lot 41 and Mr. Holseton on Lot 45 and Mr. Wendell on Lot 38.

Mr. Walker stated that Mrs. Holsinger is seeking to conduct one Montessori Class for 19 children of pre-school age. Ages 3-6. Hours of operation would be from 9 a.m. to 12 noon with children ages 5 or over staying until 2 p.m. The latter group would not consist of more than 4 or 5 children. Monday thru Friday and during the 9 to 12 time period all children would be confined to the lower level of split level home in a class room situation. The bulk of the children would leave at 12 noon with the older children over 5 years of age remaining until 2 p.m. There would be a play time required between 12 and 2 o'clock for the remainder of the children. The children would provide their own lunches with Mrs. Holsinger providing the milk. Mrs. Holsinger would be the teacher with one aide assisting her. There would be no PTA Meetings as such conducted at the residence. Such meetings would be held at such places as George Mason College and a library or a nearby church. The home is located at the end off a cul-de-sac and it is well screened from surrounding neighbors by shrubs and trees. The Holsingers have lived here for 7 years and plan to continue to do so. Mrs. Holsinger has tried to locate somewhere else such as a church but there was none available. The only problem that exists is the parking requirements. The Holsingers were not aware of certain restrictions on the location of the parking area. The Holsingers have provided for a turnaround area where the children would be off loaded in the morning with the teacher and the aid escorting the children from the turn around area to the house. The plat shows 2 parking spaces which is in the 50' setback area. There would be no buses used. The site is on public water and sewer.

Mr. Smith stated that t here were three letters in the file from contiguous property owners giving their support to the application.

Mr. Long inquired about the recreation area.

Mr. Walker stated that there would only be 4 or 5 children staying over all day and they would be closely supervised. The morning children would not be going outside. The entire backyard is fenced. There is no recreational equipment except one swing.

Mr. Long moved that Application S-115-72 be deferred for a maximum of 60 days to allow the applicant to furnish new plats showing: (1) Two additional parking spaces for this use, and (2) the fenced recreational area. These plats must be submitted at least five working days prior to the hearing. In addition the Board will need a copy of the report from the Health Department concerning this use.

Mr. Barnes seconded the motion and the motion passed unanimously.

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FRANCONIA MOOSE LODGE #646, app. under Sec 30-7.2.5.1.4. of Ord. to permit fraternal lodge, Loyal Order of Moose, 7701 Beulah Rd., 99-2 ((1)) 49&50 Lee District (RE-1) Granted Nov. 11, 1970 and granted 6 mo. extension to May 10, 1972. (Ori. Permit No. S-155-70, Expired) S-116-72

Notices to property owners were in order. The contiguous owners were Harvey Baggett, 7625 Beulah Street, Alexandria and Hill Top Sand and Gravel, 7950 Telegraph Road, Alexandria.

Mr. Richard Lewis testified before the Board. He is an attorney in Fairfax City representing the applicant.

He stated that the engineer who had been working on these plans previously was changed and a new engineer was hired. They had had some problems with the requirements of Fairfax County's Design Review Staff who had decided off-site grading easements would be required. Representatives from the Lodge contacted the property owners involved and did

FRANCONIA MOOSE LODGE #646 (continued)

not find any cooperation with these property owners. These problems were eventually alleviated. A previous easement that was granted on this property to the Virginia Concrete Company was for access in connection with gravel excavation on this property and of long standing. The County initially required that this be released and during the discussions they were told that it would not be necessary, then right before they submitted their site plan they were told it would again be necessary. These are some of the problems that this Lodge has faced that has caused them to take this long in getting started. The site plan is in the final stages, but there is some redrafting to be done. They feel the approval will be obtained in the near future. Their members is now 70 in good standing. This has dropped off considerably from the 100 they had when this first begin over a year ago and it is probably because of the delays in getting this Lodge in operation. Therefore, they feel it is urgent to get started as soon as possible, before they loose more members. They plan to use a steel prefab building of a Butler type 50' by 80'.

Mr. Kelley stated that he noticed that the original use permit was granted November 11, 1970 and then they were granted a 6 month extension to May 10, 1972.

Mr. Lewis stated that that was correct, but they could not begin operation during that time frame for the reasons mentioned above and this Board required them to come back with a new application.

They plan to have 138 parking spaces. They hope to save as many trees as possible for screening purposes.

Mr. Smith read a letter regarding this application from seven of the neighbors who expressed objections to this use.

Mr. Smith stated that the biggest problems with this type use seems to be the noise.

Mr. Lewis stated as the Board could see from the plans, they do plan to have proper screening and plantings to help alleviate these problems.

Mr. Smith told Mr. Lewis that the Certificate of Good Standing would have to be mailed to the Clerk before she would mail out the Special Use Permit resolution.,

In application No. S-116-72, application by Franconia Moose Lodge #646 under Sec 30-7.2.5 1.4, of the Zoning Ordinance, to permit construction of fraternal Loyal Order of Moose, on property located at Lodge Bldg., 7701 Beulah Rd., Lee District, also known as tax map 99-2((1)) 49 & 50, Co. of Fairfax, Mr. Kelley that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of July 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 6.461359 Ac.
4. That original Permit No. S-155-70, was granted Nov 11, 1970, has expired 6 mo ext granted to May 10, 1972.
5. Complianne w/ site plan ord is required.
6. Compliance w/ all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance/

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted/denied with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this year unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Maximum number of family members shall be 414.

7. All conditions and limitations imposed on the original use permit shall remain in effect. They are as follows:

1. This approval is granted to the applicant only and is not transferable without further action of this Board and is for the location indicated in this application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board.

4. The building shall be constructed with metal exterior and a stone front.

5. The hours of operation shall be from 4:30 pm to 12:00 a.m. Monday thru Thursday and 12:00 P.M. to 1:00 a.m. Friday and Saturday and 12:00 p.m. to 12:00 a.m. Sunday.

6. The lodge facilities shall not be leased or used for any outside activities other than Little League and local civic activities.

7. All noise and lighting shall be confined to the premises.

8. Where natural screening is non-existing or is removed 2" hardwood trees shall be planted 40' on center completely around the property within the setback area. A standard Fairfax County stockade fence shall be erected 12 ft. inside the property line to protect adjacent dwellings from car lights.

9. A deceleration and acceleration lane shall be located and constructed at the entrance in a manner as approved by the Division of Land Use Administration.

10. The membership shall not exceed 200 family members with parking spaces. (This has been superceded

11. The pool and bath house and Little League ball field are not part of this use by No. 6, above) permit.

12. A 25 ft. strip along Beulah Road shall be dedicated to public street purposes.

8. 138 parking spaces shall be provided.

9. Landscaping, screening and planting shall be as approved by the Director of County Development.

10. All loudspeakers, noise and lights shall be directed onto site.

11. Hours of operation shall be 9:00 A.M. to 12:00 Midnight.

Mr. Baker seconded the motion and the motion passed unanimously.

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CHANTILLY NATIONAL GOLF & COUNTRY CLUB, app. under Sec. 30-7.2.6.1.1 of Ord. to permit improvements to Club House facilities by remodeling and building a new golf cart and equipment shed, 14901 Braddock Road, 43-4 ((1)) 4, Centreville District (RE-1), S-117-72

Mr. Wesley Cooper, attorney for the applicant, testified before the Board.

Notices to the property owners were in order.

Mr. Cooper stated that this equipment shed will be cinderblock construction and this is the only addition that is proposed. The shed will be 30' x 100'. The Club now has around 500 families who are golf club members and around 400 social members making a total of 900. There are only three buildings on the 214 acres. Once this is constructed there will only be three buildings, as there is one to be torn down. There are over 200 acres therefore, they have plenty of space.

Mr. Long stated they would have to show all buildings and all deminsions and setbacks.

Mr. Covington stated that they would be talking about an extreme expense. This is not a primary facility and does not expand the use in any way.

Mr. Smith stated that the Board had to be consistant.

Mr. Kelley stated that he did not feel that a golf hole would be considered a structure and therefore would not have to be noted on the plat.

Mr. Covington stated that this would be like asking the Fairfax Country Club to come back in with a new plat for the entire area when they wish to put on a canopy.

Mr. Baker stated that there are times when he feels that the Board should give a little.

Mr. Kelley stated that he agreed and this morning when the question came up about having everything on the plat, they were discussing building structures.

Mr. Long agreed and stated that he felt this was a complete plan and that the Board does have enough information to make a decision.

Mr. Kelley stated that here we are talking about an entirely different thing. This morning the Board was considering an intensive use on 32 acres and a primary use, but now it is not a primary use and is on 214 acres.

Mr. Smith stated that he had been given a directive by the Board that all these applications had to have a complete plat of the entire operation, therefore, he felt they should be consistent.

Mr. Long stated that under those circumstances, these plans would have to meet all standards that the Board had set forth, therefore, he moved that this case be deferred for decision only for a maximum of60 days to allow the applicant the opportunity to revise the plat and show the building dimensions and setbacks and the number of parking spaces provided/

Mr. Barnes seconded the motion and the motion passed unanimously.

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AMERICAN TRAILER CO., app. under Sec. 30-7.2.10.5.4 of the Ordinance to allow construction of temporary trailer sales building, 9704 Richmond Highway, 101-2 ((6)) part of lot 516, Oak Grove Trailer Park (formerly Evergreen Park) Lee District (C-G), S-118-72

Mr. Donald Boyd,4649 23rd Road, North, Arlington, Virginia, represented the applicant and testified before the Board.

Notices to property owners were in order.

Mr. Smith asked if this company was incorporated.

Mr. Boyd stated that it was. Mr. Smith told him that it would have to have a Certificate of Good Standing from the State Corporation Commission.

Mr. Long stated that he would moved that the application be heard and deferred for decision only until they could furnish the Certificate of Good Standing.

Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Boyd stated that they are at present in operation and represent Air Stream who in order to retain their franchise have requested them to put up a sales facility. They have no objection, but the State Highway Department have clearly stated that they plan changes along Route 1. They are not certain they could effectively sell trailers if the Highway is changed because of the access. This access might be changes and they would not have ingress and egress to get the trailers in and off the lot. He submitted a picture of what the building will look like after it is constructed. He stated that it would be a temporary building. It will be easy to disassemble and take off the lot in the event the Highway Department comes in and does not give them ingress and egress from the highway. They have an existing sales lot now, but it is not adequate for this type use. The size of the building is proposed to be 40' x 60'. All of this property which consists of three lots are not used for the display of trailers, the remainder of the area is used for a mobil home park. They are fast converting this park into a travel trailer park. He stated that he had submitted a plat that shows the proposed widening of Route.1. But it is indicated that this is not complete, the Highway Department has not made their mind up yet, so there is no way we can know what they are going to do. They can see no reason to coming in with a finished thing and then having to do it all over again.

Mr. Smith stated that since the American Trailer Company owns the three lots and they propose to improve the site, he would certainly be reluctant to grant this if it were not under Site Plan.

Mr. Smith stated that they were asking for a temporary use, but it could be permanent.

Mr. Boyd stated that it was not permanent.

Mr. Baker stated that the Highway Department has been going to do something for ten years.

Mr. Covington stated that the Board could limit the time.

Mr. Smith stated that apparently they were trying to circumvent the site plan by applying for a special use permit on a temporary basis.

Mr. Covington stated that this is a non-conforming use and this would bring the whole facility back into conformity.

Mr. Boyd in answer to Mr. Barnes question stated that this building would cost something like $30,000 and that include plate glass all around three sides. The back is open and they could move it whenever they no longer needed it or if things did not work out with the road. He stated that they were gradually changing their mobil home park into a travel trailer park.

Mr. Smith stated that there was more of a hazard in this travel trailer park use than a mobil home park because the travel trailer move more often.

Mr. Smith stated that Potomac Bank was granted a temporary use permit in Centreville eleven years ago and it is still there.

Mr. Kelley moved that this case be deferred until such time as the Chairman has time to evaluate the ordinance on this case and it should be no longer than 30 days.

Mr. Baker seconded the motion; the motion passed unanimously.

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BROTHERS, CLARENCE A & DOROTHY L., app. under Sec. 30-6.6 of Ord. to permit use of lot with less frontage than allowed by Ordinance 140.17' east of Great Falls Street on Haycock Road, 40-4 ((29)) Outlot A, Dranesville District (R-10), V-119-72

Mr. Gerald Williams, North Uhle Street, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Howard M. Kidwell 6722 Haycock Road, Falls Church and Mr. and Mrs. Edwin Buttery, 6801 Morton Drive.

Mr. Williams submitted to the Board copies of the Deed of Dedication.

Mr. Smith asked if these people own Lots 1, 2, 3 and Outlot A and if this is a resubdivision.

Mr. Williams stated that this is not a resubdivision. It was put on record in 1967. He stated that they did own other property at the time of the subdivision, but it was not contiguous with this property.

Mr. Smith stated that at the time of the resubdivision, the applicant agreed to have this converted to an outlot so they were aware that they could not build on it.

Mr. Williams admitted that this was true. He stated that they did own Lots 1, 2 and 3 and Outlot A at the time of the subdivision.

Mr. Smith stated that in that case they created their own hardship.

Mr. Williams stated that they had had to dedicate quite a bit of property for the widening of Great Falls Street and 21' for the widening of Haycock Street. The overall size of the original lot contained sufficient lot frontage to build on it, but because of the widening of these streets they now did not have enough frontage.

Mr. Smith asked how the development of Haycock Street would have any affect on this frontage of the building setback line.

Mr. Williams stated that it would have nothing to do with it, but the development of Great Falls Street indirectly affects the frontage of Outlot A.

Mr. Smith told Mr. Williams that he was sure they realized that at the time of the subdivision approval they were granted three lots of less than 10,000 square feet and it takes into consideration some of the dedication and also the restriction of Outlot A. Therefore, Mr. Smith told Mr. Williams, that the applicant created the hardship, if there is one.

Mr. Williams stated that the applicants did sign and put the dedication on record, but he did not believe that they created the hardship. They did not want to dedicate 16' to widen Great Falls Street. They would have had sufficient frontage if they had only to dedicate 8'.

Mr. Smith stated that at the time of the subdivision, they agreed not to construct a house on Outlot A.

Mr. Williams stated that they felt they would only have to apply to this Board to obtain a variance.

Mr. Smith told him that they were asking the Board not only to grant a variance to the ordinance, but a variance to the agreement.

Mr. Williams stated that they were asking the Board to consider the hardship in the dedication of Great Falls Street.

Mr. Kelley asked when this street was dedicated.

Mr. Williams stated it was June 9, 1967.

Mr. Kelley said that that was after they purchased the property and signed over the dedication.

Mr. Williams stated that that was correct.

Mr. Smith stated that they needed this 10,700 square feet to justify the three lots that they have. The minimum requirement is 8,400 square feet. The overall lots have to average out to 10,000 square, so they have less than the 10,000 square feet in the existing three lots.

Mr. Kelley stated that his point is that the requirement of Fairfax County Zoning Ordinance didn't permit a building prior to this and he did not see how the Board could grant this, particularly since the applicants were aware of the situation when they purchased the property.

Mr. Williams stated that the property was purchased in 1958; they went to divide it into lots in 1966; the deed of dedication was dated February, 1967; County approval was June, 1967 and at that time in 1967, they learned that they were required to dedicate a number of feet in order to widen the streets.

Mr. Long agreed that he did not see how the Board could grant this variance as it would have to have been done at the time they subdivided the property. He stated that everybody who subdivides has to dedicate land for road widening. Every developer could come in and ask for a variance everytime there was a subdivision if the Board granted this variance.

In application No. V-119-72, application by Clarence A. & Dorothy L. Brothers, under Section 30-6.6 of the Zoning Ordinance, to permit use of lot with less frontage than allowed by ordinance, on property located at Haycock Rd., Falls Church, Va., also known as tax map 40-4((29)) Outlot A, Dranesville District, County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been property filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, the following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of July, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 10,147 sq. ft. of land.
4. Recorded frontage is 70 feet.
5. Proposed frontage is 62 feet.
6. The lot is an outlot created by the owner at the time of subdivision.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

(a) exceptionally irregular shape of the lot,
(b) exceptionally narrow lot,
(c) exceptionally shallow lot,
(d) exceptional topographic problems of the land,
(e) unusual condition of the location of existing buildings,

1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and,

2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion and the motion passed 4 to 1; Mr. Baker voting No.

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THE CHESAPEAKE & POTOMAC TELEPHONE COMPANY OF VIRGINIA, app. under Sec. 30-7.2.2.1.4 of Ord. to permit expansion of existing dial center and plant test desk; south side of Burgundy Road, east of Chapin Ave. Lee 82-2 & 83-1, ((1)) Lot 50, S-120-72

The case was brought up at the hearing of July 12, 1972 and a resolution passed stating the Board's intent to defer.

There was no opposition to this deferral.

Mr. Thomas Cawley, an associate in the firm McCandlish, Lillard & Marsh, 4069 Chain Bridge Road, represented the applicant. Mr. Church is the attorney of record, but he was in a trial and could not be present.

Mr. Kelley moved that this case be deferred until August 2, 1972.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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DEFERRED CASES:

TEXACO, INC., app. under Sec. 30-7.2.10.2.1 of Ord. to permit gasoline station, intersection of Telegraph Road and Highland Street, 82-3 ((4)) 1-A, Lee District, (C-N), S-47-72 (Deferred from May 24, 1972 for 60 days)

Mr. Smith read a letter from Mr. Hobson, attorney for the applicant, stating that they had submitted plans and soils tests for the retaining wall at the subject site and were awaiting an answer from the County. He asked for a 60 day deferral.

Mr. Barnes so moved that his request be granted.

Mr. Baker seconded the motion.

The motion passed unanimously to defer this case for 60 days or approximately September 20, 1972 for the additional information necessary to make a decision. This is for a decision only.

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AMERICAN TRADING & PRODUCTION CORP., app. under Sec. 30-6.5 of Zoning Ordinance, Appeal from Zoning Administrator's interpretation with respect to his interpretation of Section 30-3.1.4 or, alternatively, variance from interpretation with respect to ruling that slope referred to in this section cannot be man-made, 6001 Arlington Blvd., Mason District, (RM-2M), V-108-72, 51-4 ((1)) 14 (Deferred from July 12, 1972, for decision only)

Mr. Long suggested that this again be deferred until the next meeting of July 26, 1972, for decision only as he needed additional time to consider this.

Mr. Baker seconded the motion and the motion passed unanimously.

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B.P. OIL CORP. & JOHN R. HANSON, TRUSTEE, app. under Sec. 30-7.2.10.2.1 of Ordinance to permit operation of gas pumps in conjunction with car wash facility. Car wash to be located in Town of Vienna, gas pumps in Fairfax County, Maple Avenue at Vienna Line, 38-3 ((1)) part of 44C & 115, (C-N), S-224-71 (Deferred for six months to allow applicant to apply before Town of Vienna and deferred again on June 28 to allow applicant to get statement from Town of Vienna regarding the applicantion's status in Town of Vienna)

Mr. Gary Davis, representing the applicant, appeared before the Board. He stated that Mr. Farley had prior commitments and could not wait until this case came up since it was so late in the afternoon and they had not anticipated that it would be this late, he requested that the case be deferred until September 13, 1972.

Mr. Baker moved that the request be granted.

Mr. Smith stated that it was his understanding that no part of the facility would be in the Town of Vienna.

Mr. Davis stated that he had spoken to the engineer about removing the vacuum pumps from the Town of Vienna. That will be the last thing that is in the Town of Vienna except the driveway.

Mr. Smith stated that if any part of this facility is in the Town of Vienna, the Board has no authority to grant this use. If the applicant is screening for the use in the Town of Vienna, that still is land under their jurisdiction. Mr. Smith stated that to have a driveway in the Town of Vienna it would still require a site plan.

Mr. Davis stated that he was under the impression that they could get that.

Mr. Smith asked that he get a letter from the Town of Vienna stating that.

Mr. Smith then read a letter from the Town of Vienna dated July 3 and another dated May 19.

Mr. Barnes moved that the request for deferral be granted. Mr. Baker seconded the motion. Mr. Smith stated that this would be the last extension to be granted. He stated that it seemed to him to be over development of this small parcel of land.

The motion passed unanimously.

Mr. Smith stated that since he had stated that they were having the plats redone, it would be necessary to have them in to the Staff 5 working days prior to the hearing.

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WOODLAKE TOWERS, S-125-72

Mr. Smith read a letter from Mr. Stephen L. Best, attorney for Woodlake Towers, requesting that a dentist office be allowed in the apartment complex on the first floor since the Board had once granted a Doctor's office on that floor of the same building. Mr. Best stated that he felt there was no substantial difference between the two uses and this should be allowed. It would be to serve the people who live in the apartment complex and they would comply with the other regulations, such as 'no sign', and 'no outside entrance', etc.

Mr. Covington in answer to Mr. Smith inquiry as to his opinion, stated that he was not sure that it was one of the things the ordinance states as uses permited.

Mr. Smith stated that they would abide by his decision on this.

Mr. Covington stated that that would have to be his decision as he read the ordinance.

Mr. Smith stated that the Clerk should so notify the applicant.

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LOYAL ORDER OF THE MOOSE

Mr. Smith read a letter from the above applicants requesting that they be allowed to erect a security fence around the property which is located at Bailey's Crossroads.

Mr. Smith stated that apparently they would need a variance for this to be done.

Mr. Kelley stated that where they need a variance they should apply for it, otherwise erect it by right.

Mr. Covington stated that anybody could construct and erect a fence, but if there is an impact upon that community and the use is under a use permit that it would be his suggestion that they come back before the Board. The Board might wish to stipulate the type of fence that could be erected even if they could erect it within the setback and do it by right. The Board has that authority in this case, since this is under use permit.

Mr. Smith stated then they (applicant) should erect a fence indicating the type of material they wish to use. They would need a use permit.

Mr. Smith stated they would also need a variance if they could not meet the setback.

Mr. Smith stated that the applicant should be so notified that they should come in before the Board to have their use permit amended and also file an application for a variance, if one is needed.

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VETERANS OF FOREIGN WARS -- S-120-69
1051 Spring Hill Road, Dranesville District

The Board granted this use permit in July of 1969 and it has to be renewed every three years by the Board of Zoning Appeals.

Mr. Long stated that they refer to the minutes of the Board of Zoning Appeals.

Mr. Covington stated that they had never gotten an occupancy permit.

Mr. Smith stated that the letter from them states that they want a site plan waiver and the Board of Zoning Appeals has no authority to grant that. The Board of Supervisors waives site plans.

Mr. Long stated that as he recalled there were quite a few objections to this use when it first went in.

Mr. Smith read the letter from Mr. Dorsey W. Fowler, Adjutant, Post 8241, VFW of the U.S. Inc. which stated:

"Request site plan waiver in regard to your letter dated June 15, 1971, item (2) (that brush be cleared from the fence to the South for a distance of 20' to improve sight distance at the entrance) due to fact, as attached picture indicates, brush is on property of neighbor and we most likely would not be allowed to remove it."

Mr. Smith stated that it did not sound like they had even investigated the possibility.

Mr. Vernon Long, Chief of Inspections Branch, stated that he had been out to the property and had taken some picture. He submitted them to the Board.

Mr. Smith stated that without another public hearing, the Board should not change any of the conditions.

VETERANS OF FOREIGN WARS, S-120-69

Mr. Covington stated that their present use permit would expire the 21st of July.

Mr. Smith stated that they should get a new application in prior to the expiration of this one.

Mr. Covington stated that one of the representatives came to his office and presented him with an application for a new use permit, but last year in the discussion concerning this, the Board said they did not have to come back and get a new use permit.

Mr. Long stated that they would have to come back if the original use permit stated they had to come back. At the hearing the Board could give a use permit for a longer period of time.

Mr. Smith stated that they had never had a valid use permit for the three years they have been operating of this site.

Mr. Long stated that the Zoning Administrator would have to determine whether or not they have complied with the motion of the original use permit and if it is permitted in that motion, we can extend it without a new application.

Mr. Smith stated that there has to be some way found to see that these people who have use permits comply with the conditions that the Board sets forth. They should not be allowed to establish a use until they have complied.

Mr. Covington stated that the Board has just asked for one full time inspector if this is what they want done, just to handle BZA matters.

Mr. Smith stated that he was aware of that. He had brought this to the Board of Supervisors attention, but they have not seen fit to do anything about it.

Mr. Long stated that he felt the County has some responsibility to see that the things the Board grants and the conditions set forth are carried out.

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SPRINGWOOD LEARNING CENTER, S-114-72

Mr. Smith read a letter from Mr. Goodman, attorney for the applicant, requesting that their use permit be extended for an indefinite period under the supervision of Mr. Robert C. McIntyre of Children's Achievement Center, Inc.

Mr. Long stated that at the time of the hearing they only wanted a 6 week period for the use permit and in order to have a permanent school they would have to reapply with a new application as the Board didn't go into the full details and specifics as they usually do with a permanent school. He so moved that they be required to come back for a new use permit.

Mr. Baker seconded the motion and the motion passed unanimously.

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The hearing adjourned at 3:45 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

SEPTEMBER 13, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, July 26, 1972, at 10:00 A.M. in the Board Room Of The Massey Building; Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman; George Barnes, Loy Kelley and Joseph Baker.

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The meeting was opened with a prayer by Mr. Barnes

The minutes were approved for June 14, 1972.

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MAY LIN ROSCOE, app. under Sec. 30-6.6 of the Ord. to permit erection of dwelling closer to Lee Avenue than allowed, Lot 63 and 66A, Section 2, Wellington Subd., Mt. Vernon District, (RE-0.5), 102-2 ((17)) 63 & 66A, V-121-72 (7910 W. Boulevard Drive)

Mr. Charles Majer, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Mr. and Mrs. Thomas Clifton, 7920 W. Boulevard Drive, Alexandria and Andrew Nelson, 7908 W. Boulevard Drive, Alexandria, Fairfax County.

Mr. Majer stated that the 10' variance was required because of the tri-shaped lot. The home uses up most of the buildable area and in order to accomodate the home, a small projection on the southwest corner is going to project about 10' into the setback area. The alternative is to conform the home to that diagonal line. The area is flat and there are few trees on this parcel. There are no homes in the immediate area immediately adjoining this property on either the southerly or easterly side. The visual impact will be zero if it is permitted.

In application No. V-121-72, application by Maylin Roscoe, under Section 30-6-6 of the Zoning Ordinance, to permit erection of dwelling closer to Lee Ave. than allowed, on property located at and also known as tax map 102-2((17)) Lts 63 & 66A, Sec 2, County of Fairfax, Virginia Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of July, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Maylin Roscoe.
2. That the present zoning is RE-05.
3. That the area of the lot is 25,144 Ac.
4. That compliance with all county codes is required.
5. That this request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

(a) exceptionally irregular shape of the lot,
(b) unusual location of lot between 2 streets

1. That the Board has found that non-compliance was the result of an error in the building subsequent to the issuance of a building permit, and,

2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted.

1. This approval is granted for the location and the specific structure of structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, The applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

Mr. Long was out of the room.

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LEE & BEVERLY MORRISON, app. under Sec. 30-6.6. of Ord., tp permit erection of carport closer to side property line than allowed, Lot 21, Sec. 3, 2313 Wilkinson Place, Mt. Vernon Dist. (R-17) 102-1((26))21, V-122-72

Mr. Hardbower, 522 Landgrave Lane, Springfield, Virginia, registered agent for the applicant, testified before the Board. He stated that he was the general contractor. The applicants have owned the property for eight years, he stated.

Notices to the property owners had not been received, nor did the agent nor the applicants have them.

Mr. Barnes moved that this case be deferred until September 13, 1972, for lack of proper notification and the applicant after having obtained the date and time of the meeting should then notify at least five people, two of which must be contiguous property owners. Since he had notified the contiguous property owners already, Mr. Barnes stressed that these people would have to be renotified.

DEFERRED CASES:

ORANGE HUNT SWIM CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit construction of tennis courts, south end of Bridlewood Drive, Orange Hunt Estates, 89-1 ((1)) B-1, Springfield District (C-D), S-96-72 (Deferred from June 28, 1972, for maximum of 30 days for additional information and for decision only)

The applicants had submitted the proper information needed by the Board, which was: New plats showing landscaping, adequate fencing and screening as approved by County Development for the entire parcel of land, including the present swim club; and showing an adequate security gate to the entrance of Bridlewood Drive; and for a review by the Zoning Administrator for compliance of conditions of the original use permit.

Plats were to be in five working days prior to hearing of July 26, 1972.

Mr. Smith noted for the record two sets of documents. One was received from the applicant's agents stating that there is a vocal minority in opposition to the proposal before the Board who are engaging in a "survey" the results of which may indicate a desire on the part of the membership not to build tennis courts. The applicant's agent submitted documents which he stated would prove that the true feeling of the members was for this application to be granted. (1) Survey taken in September, 1971 by the Swim Club Board of Directors to assess the interest of the membership in tennis courts (2) the tabulated results of that survey (91% response; 80% in favor; 20% against) (3) a letter to all members dated January 4, 1972, announcing a meeting to be held on January 25, at which a proposal to build tennis courts would be voted upon (4) the resolution passed at that meeting and the vote (64 for; 34 against) (5) a letter dated June 4, 1972, to all members announcing a meeting to be held June 26 to determine whether the membership still wants tennis courts at an increased price (6) the resolution passed at that meeting and the vote(96 for; 84 against)

Mr. Smith then noted for the record a letter from Mr. Elmore G. Dufour, former President of the Orange Hunt Swim Club and the initial President of that club, 8706 Foxridge Road Springfield, Virginia. Mr. Dufour stated that the majority of the members do not support this action. He attached a list of signatures of the members to support this position. They had canvassed the area in a house to house survey giving the members a letter explaining the problem areas. The letter was developed and signed by former board members of the swim club to include 3 past presidents (since 1967) Mr. Dufour stated in his letter that 97 requested the tennis court matter be referred back to the board for selection of an unbiased committee to study the entire proposal and resubmit to the membership in some detail. 81 was opposed to the tennis courts altogether and 64 were in favor of the tennis courts. He submitted signatures to support his position.

He stated that of the 307 ballots, 242 voted, approximately 53 declined to vote and approximately 12 were absent from their homes, probably on vacation.

Mr. Covington stated that there was a certificate of occupancy in the file.

Mr. Smith stated that the disagreement with the membership and the board of directors or the majority and minority of the members would have to be resolved by the group. The Board of Zoning Appeals has no jurisdiction over that.

The Board is in receipt of documents showing two different occasions where the membership voted on this application and the majority were in favor of it. He stated that at the previous hearing even the opposition stated that there had been two scheduled meetings of this association prior to the submission of this application and that the majority of those present did support the application and that this was in accordance with the by-laws that the majority ruled.

Mr. Dufour stated that Mr. Smith had asked for signatures and he did not have them at the hearing previously.

Mr. Smith stated that at the time at the previous hearing when Mr. Dufour came forward and stated that the application was improper, that he had asked Mr. Dufour if he had signatures to back up his statement, but he did not tell him to go out and get them. This is after the fact. The public hearing has been held and to the best knowledge of the Board and according to the statements of the applicant and the opposition, the application was submitted according to a majority vote of the members of the association at a public hearing. The Board cannot research every case to determine this. They had to take the applicant's word. The Board does ask for a Certificate of Good Standing from the State Corporation Commission. This is an internal thing and must be resolved at the Club level.

Mr. Dufour asked if they could possibly defer this case.

Mr. Smith stated that the Code of Virginia limits the time the Board can defer a case.

In application No. S-96-72, application by Orange Hunt Swim Club, Inc. under Sec. 30-7.2.6.1.1., of the Zoning Ordinance, to permit tennis court construction, on property located at South end of Bridlewood Drive, also known as tax map 89-1 ((1)) B-1, Co. of Fairfax, (I)move that the Board of Zoning Appeals adopt the following resolution:
/Mr. Kelley

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of July 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 6.9Ac.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all county codes is required.
6. That Special Use Permit #713-67, was granted October 24, 1967.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R. Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance/; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the building and uses indicated on plats* submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this

county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping, screening and planting shall be as approved by Director of County Development.

7. All conditions and limitations setforth in original permit shall remain in effect.

8. Hours of operation of the tennis courts shall be 9 A.M. to 9P.M.

* Plats submitted with this application included a Security Gate (2 posts set in concrete, metal bar or chain with reflectors as approved by Director of County Development.

Mr. Baker seconded the motion.

The motion passed with the members present. (Mr. Long was not present.)

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D. A. O'Keefe, app. under Sec. 30-6.6 of Ord. to permit erection of dwelling closer to side property lines than allowed under Ordiance, (7 feet variance on both sides to permit 25' wide dwelling) 3006 Dunbar Street, Mt. Vernon District (R-12.5) 102-1((3))(2), 30, V-86-72 (Deferred from June 21 and June 28 for rendering and run-down on record owners) and decision only)

Mr. Smith read the correspondence from the Board of Supervisors relative to this case which stated that Supervisor Harris had moved that ... " As a matter of County policy, the Board of Zoning Appeals be urged not to grant a variance such as this one where it would facilitate development on a lot much smaller than the minimum lot size called for in the district in which it is located." This motion carried unanimously by the seven members present.

Mr. Knowlton, Zoning Administrator, stated in a memo to the BZA that "To amplify the action of the Supervisors, let me point out that this is only one lot in a subdivision of many lot of generally the same size. Section 15.1-495 of the State Code specifically forbides this by stating, "NO VARIANCE SHALL BE AUTHORIZED UNLESS THE BOARD FINDS THAT THE CONDITION OR SITUATION OF THE PROPERTY CONCERNED OR THE INTEDED USE OF THE PROPERTY IS NOT SO GENERAL OR RECURRING A NATURE AS TO MAKE REASONABLY PRACTICABLE THE FORMULATION OF A GENERAL REGULATION TO BE ADOPTED AS AN AMENDMENT TO THE ORDINANCE." Our own Zoning Ordinance contains similar wording which reads, "NO VARIANCE ... SHALL BE AUTHORIZED BY THE BOARD OF ZONING APPEALS EXCEPT... (where)... SUCH CIRCUMSTANCES OR CONDITIONS ARE SUCH AS DO NOT APPLY GENERALLY TO LAND AND BUILDINGS..."

Mr. Smith asked the Staff if the rendering had been submitted. Mrs. Kelsey and Mr. Reynolds stated that it had not. Mr. Covington stated that he did have the run down as far as the owner of the property.

Mr. Smith stated that he had some questions about this application. This is quite a variance, he stated.

Mr. Kelley agreed that it was not a minimum variance.

In application No. V-86-72, application by D.A. O'Keefe under Section 30-6.6 of the Zoning Ordinance, to permit erection of a dwelling closer to side property line than allowed, on property located at lot 3006 Dunbar Street, Mt. Vernon District, also known as tax map 102-1((3)) 30, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letter to contiguos and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of June 1972, deferred to the 28th of June, 1972 deferred to July 26, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 5.075 square feet.
4. The applicant has not furnished BZA with information requested in previous hearings on 6-21-72 and 6-28-72.

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AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land.

NOW THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr Baker seconded the motion and the motion passed unanimously with the members present.

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Mr. Long arrived at the meeting and apologized for being late.

LUTHER RICE COLLEGE CORP., app under Sec. 30-7.2.6.1.3 of Ord. to permit operation of college as chartered by Commonwealth of Virginia, located N.E. intersection of St. John's Drive and Franconia Road, Lee District, (R-12.5) 81-4((1)) pt parcel 15C, S-88-82, (Deferred from June 21, 1972 for additional information) and decision only).

Mr. Smith stated that this college has a use permit for 600 students now and has been in existence for a number of years.

Mr. Long after looking at the new plats stated that the plan complied with the intent of his motion at the previous hearing. He stated that it is not up to the present standards that the Board now has adopted, but it does comply with the standards that existed at the time of this public hearing.

Mr. Smith stated that this use permit should be granted for the entire 32 acres.

Mr. Long agreed.

In application No. S-88-72, application by Luther Rice College Corp. under Sec. 30-7.26.1.3., of the Zoning Ordinance, to permit addition to college chartered by Commonwealth of Virginia, on property located at St. John's Drive and Franconia Road Lee District, also known as tax map 81-4((1)) pt. parcel, County of Fairfax, I move that the Board of Zoning Appeals adopt the following resolution: (Mr. Long)

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 21st day of June, 1972 and deferred to July 26, 1972 for decision only.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the ownerof the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 30.8 acres.
4. That compliance with all state and county codes is required.
5. That Special Use Permit #768-68, was granted by the BZA on January 23, 1968.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance/Standards for Special Use Permit Uses inC or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance), and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless contruction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping, screening and planting shall be as approved by the Director of County Development.

7. Future Development Plans shall take into consideration the Staff Comments: "This office has reviewed the new plat submitted by the applicant showing the future overall layout of the entire school property and would offer the following comments:

This proposed site and construction will be under site plan control.

The plan shows proposed streets, parking lots, and walkways; however, it is suggested that an overall study of the entire tract be made by the applicant in order to determine the number of vehicular trips per day that will be generated by this site and how that traffic will be channelized to achieve a proper and even flow of vehicles.

It is also noted that no parking tabulation is shown. The parking areas appear insufficent for the future needs of the school in that many buildings and uses have little or no nearby parking. For example, the proposed amphitheater has no provision for parking as does the proposed chapel and auditorium.

The recreational fields are proposed to be in the area designated for the future extension of South Van Dorn Street. The type of playing fields should be shown and some provison should be made to reserve area for the relocation of these "playing fields" at such time as South Van Dorn Street is constructed. Some provision should possibly be made for the dedication of the extension of South Van Dorn Street at some stage of the overall development. A rezoning plan has been submitted for "New Franconia" sudivision to the south. The applicants for that rezoning have stated their intention to construct the extension of South Van Dorn Street. Although no limits of construction have been established.

Building setbacks should be shown on the plan submitted showing all proposed buildings in compliance with Fairfax County Zoning Ordinance.

Future street construction should be shown on St. John's Street and Franconia Road in compliance with existing County and State requirements." Mr. Barnes seconded the motion and the motion passed unanimously.

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BLAKEVIEW HOMEOWNERS ASSOC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit swimming pool in townhouse development, located at Lindenbrook and Mission Square Drive, Providence District (RT-10) 48-3((27)) pt. B, S-107-72 (Deferred from July 12, 1972 for additional information -- see file copy of resolution) decision only) Application by A. G. Van Metre and Associates.

The applicants had submitted plats to the Division of Zoning Administration and to Mr. Reynolds in Preliminary Engineering and the plats had been approved by them.

The Board commented on the fine job that had been done on these plats.

Mr. Fuehrer from the office of A.G. Van Metre, Inc., came before the Board and submitted for the Board'sapproval a rendering of the bathhouse. The rendering was constructed of a very attractive stucco type material, the same material as the townhouses.

-- Application submitted by A. G. Van Metre,and Associates, Inc. --

In application No. S-107-72, application by Blake View Homes Owner Assoc. under Sec. 30-7.2 .6.1.1, of the Zoning Ordinance, to permit swimming pool in townhouse development, on property located at Lindenbrook and Mission Square Drive, Providence District, also known as tax map 48-3((27)) pt. B, Co. of Fairfax, I move that the Board of Zoning Appeals adopt the following resolution: /Mr. Long)

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of July, 1972 and granted on July 26, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RT-10.
3. That the area of the lot is 0.35068 acres.
4. That compliance with site plan is required.
5. That compliance with all State and County Codes is required.

AND, WHEREAS, THE Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance and.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of membership shall be 85, which shall be limited to the development itself.
7. The hours of operation shall be 9:00 A.M. to 9:00 P.M.
8. There shall be a minimum of three reserved parking spaces and 25 bicycle racks.
9. The pool area shall be enclosed with a chain link fence as approved by the Director of County Development.
10. Landscaping, planting and screening shall be as approved by the Director of County Development, sufficient to screen the pool site from the residential units.
11. All lights and noise shall be directed onto the side and must be confined to said site.
12. Should the members desire an after hours pool party permission must first be granted by the Zoning Administrator and such parties shall be limited to six per season.

Mr. Barnes seconded the motion.
The Motion passed unanimously.

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ROLLING VALLEY SWIM CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit basketball backboard on edge of present parking lot in conjunction with pool use, 7019 Ashbury Drive Rolling Valley Subdivision, (R-12.5) Springfield District, 89-3((5))416A, S-99-72(Def.from July 12, 1972 for decision only and additional info).

Mr. Smith read a letter from the Club requesting that this case be withdrawn.

Mr. Long moved that application S-99-72, Rolling Valley Swim Club, Inc., be withdrawn without prejudice.

Mr. Kelley seconded the motion and the motion passed unanimously.

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TENNIS WORLD, INC., app. under Sec. 30-7.2.10.5.6. of the Ord. to permit rigid structure for six enclosed tennis courts, located on Audubon Avenue (formerly Ladson Lane) adj. to Audubon Trailer Park, (C-G), Lee District, 101-2((1))14, S-113-72 (Deferred from July 12, 1972 for addition information, see resolution in file -- for decision only).

Mr. Smith reads the comments from the staff regarding this application.

New plats had been submitted and reviewed by the staff and in addition there was a rendering in the file.

In application No. S-113-72, application by Tennis World Inc. under Sec. 30-7.2.10.5.6., of the Zoning Ordinance, to permit rigid structure for six tennis courts, on property located at Audubon Avenue (formerly Ladson Lane), also known as tax map 101-2((1))14 Co. of Fairfax I move that the Board of Zoning Appeals adopt the following resolution:
/(Mr. Kelley)

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisment in a local newspaper, posting of the property, letter to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of July, 1972 and decision deferred to July 26, 1972.

WHEREAS, th Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Bernard M. Fagelson & Robert L. Travers.
2. That the present zoning is C-G.
3. That the are of the lot is 2.935 acres.
4. That compliance with site plan ordinance is required.
5. That compliance with all County Codes is required.
6. That V-95-71, was granted by the BZA on June 22, 1971.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance); and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The applicant shall dedicate 30' from centerline of the right of way for future road widening and construct road widening, curb and gutter, and sidewalk.
7. Landscaping, screening and planting shall be as approved by the Director of County Development.

Mr. Long seconded the motion and the motion passed unanimously.

Mr. Hugh Hammond requested that a copy of the resolution be sent directly to him at 6409 Potomac Avenue, Alexandria, Virginia 22307.

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EUGENE H. DOEBLER & N. WAYNE QUARLES, app. under Sec. 30-7.2.8.1.1 of the Ord. to permit boarding kennel for dogs and cats, 11025 Oakton Road, Centreville District (RE-1), 47-3((1))53, S-111-72 (Deferred from July 12, 1972 for decision only and additional information).

The proper information was in the file that the Board had requested of the applicants, such as the new plats showing landscaping, etc. There was also a letter in the file from the owners of the property stating their approval of this application.

In application No. S-111-72, application by Eugene H. Doebler & N. Wayne Quarles under Sec. 30-7.2.8.1.1, of the Zoning Ordinance, to permit boarding kennel for dogs and cats, on property located at 11025 Oakton Road = Centreville District, also known as tax map 47-3-((1))53 Co. of Fairfax, I move that the Board of Zoning Appeals adopt the following resolution:
(Mr. Long)

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

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WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letter to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of July, 1972 and deferred to July 26, 1972 for decision.

WHEREAS, th Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Mr. & Mrs. Bradbury, the applicant is contract purchaser.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.972 acres.
4. Planning commission recommended approval of application at its regular meeting on July 17, 1972.

AND, WHEREAS, The Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby, granted with the following limitations:
1. This approcal is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings, landscaping and uses indicated on plats submitted with this application, Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit, shall be cause for this permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. 6' Chain Link fence;
Landscaping and screening, driveway paving shall be provided and approved by the Division of Zoning Administration.

Mr. Barnes seconded the motion and the motion passed unanimously.

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NATIONAL EVANGELICAL FREE CHURCH AND SHELL MCDONALD, INC., app. under Sec. 30-7.2.6.1.3. of Ord. to permit day care center, 60 children, 2 to 6 years, 7 a.m. to 6 p.m., 5 days per week, Mason District, 3901 Gallows Road, (R-12.5) 60-3((24))9A, S-106-72 (Deferred from July 12, 1972, to allow applicant to furnish additional information)

The Board discussed the new plats that had been submitted and reviewed by the staff and found that they were in order. The applicant had moved the recreation area slightly at the suggestion of Preliminary Engineering to take advantage of the shade trees, both for shade and screening.

In application No. S-106-72, application by National Evangelical Free Church and Shell McDonald Inc. under Sec. 30-7.2.6.1.3, of the Zoning Ordinance, to permit day care center 60 children, 2 to 6 years old, on property located a 3901 Gallows Road, Mason District, also known as tax map 60-3((24))9A, 10, Co. of Fairfax, I move that the Board of Zoning Appeals adopt the following resolution: / (Mr. Kelley)

WHEREAS, The captioned application has been properly filed in accordance with the requirement of all appliacable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 12th day of July, 1972 and deferred to July 26, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is applicant.

2. That the present zoning is R-12.5.
3. That the area of the lot is 4.78143 acres.
4. That compliance with site plan ordinance is required.
5. That compliance with all county ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained Sec, 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 60, ages 2 to 6 years old.
7. The hours of operation shall be 7 A.M. to 6 P.M., 5 days a week.
8. The operation shall be subject to compliance with the inspection report, requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions, and obtaining a Certificate of Occupancy.
9. The recreational area shall be enclosed with a chain link fence in conformity with state and county codes. Outdoor recreation facilities shall be as approved by Director of County Development.
10. All buses and/or other vehicles used for transporting students shall comply with Fairfax County and State School Board in color and light requirements.
11. The designated parking spaces as shown on plats are adequate.
12. The operation of the school shall not commence until such time as the structures shown on the plats are completed.
13. Landscaping, screening and planting shall be approved by the Director of County Development.
14. That access to and from the school be restricted to the Gallows Road entrance.

Mr. Baker seconded the motion and the motion passed unanimously.

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AMERICAN TRADING & PRODUCTION CORP., app. under Sec. 30-6.5 of Zoning Ordinance, Appeal from Zoning Administrator's interpretation with respect to his interpretation of Section 30-3.1.4 or, alternatively, variance from interpretation with respect to ruling that slope referred to in this section cannot be man-made, 6001 Arlington Blvd., Mason District, (RM-2M), V-108-72, 51-4((1))14.

Mr. Smith stated that the only decision that had to be made on this is whether or not to uphold the Zoning Administrator's decision.

Mr. Long stated that because the County does impose standards and specifications upon builders as to roads, etc. that from a practical standpoint, the interpretation that the slope has to be natural would be unreasonable. He stated that he realized that there are a lot of gray areas, but he felt there was enough precedent set in the past to justify that the Board rule that the slope could be manmade.

Mr. Smith stated that the ordinance reads"... that part of the lot to be occupied by the building..."

Mr. Smith stated that you have to take the grade as it existed before any site work was done.

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Mr. Barnes stated that he felt that way too and felt the ordinance should be changed.

Mr. Smith stated that this hearing is to determine whether the Board agrees or disagrees with the Zoning Administrator.

Mr. Curtin has indicated that he was only upholding the ordinance.

Mr. Barnes stated that he feels the way Mr. Long does regarding this case.

Mr. Smith stated that the ordinance was designed to take care of unusual or steep grades.

Mr Long stated that there is no way you can get the road in there without cutting 15' in front of the property.

Mr. Kelley stated that the ordinance doesn't state that the finished grade is the pay-off on this thing. He stated that the ordinance doesn't say existing grade or prior grade.

Mr. Smith stated that if the Board allows this, they are just allowing an extra story on the building. There have been other cases similar to this and the Board has upheld the Zoning Administrator's decision. If there is a topography problem, that is a different situation, but will require different application.

Mr. Long moved that in Section 30-3.1.4 that the slope be determined from the finished grade.

Mr. Smith stated that that was not the question. The question is whether or not to uphold the Zoning Administrator's decision.

Mr. Long stated that then he would move that the decision of the Zoning Administrator not be upheld and that Section 30-3.1.4 of the Ordinance be interpreted to mean that the average slope of more than 1' of rise or fall and that part of the lot to be occupied by the building be determined from the finished grade.

Mr. Kelley seconded the motion.

Mr Barnes stated that his feelings were like Mr. Long's and Mr. Kelley's on this, but he would like to see a motion on this case to uphold the Zoning Administrator's decision.

Mr. Baker seconded the motion.

Mr. Smith asked him if Mr. Barnes was substituting a motion. Mr. Barnes stated that he was.

The motion carried 3 to 2 with Mr. Long and Mr. Kelley voting No.

Mr. Barnes stated that he wished to add that that part of the ordinance be changed as to Mr. Long's motion.

Mr. Long stated that generally speaking the County has not been interpreting the ordinance this way. If one went back and looked at the majority of the buildings, the height has been checked against the finished grade, not the original grade.

The Board voted on the substitute motion and the vote was 3 to 2 with Mr. Long and Mr. Kelley voting no.

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AFTER AGENDA ITEMS

WOOLAKE TOWERS - REQUEST FOR DENTIST'S OFFICE IN APARTMENT BUILDING.

Mr. Smith read a letter from Mr. Best concerning this case. At the previous meeting it was decided, based on the Zoning Administrator's decision, that a dentist office would not be allowed on the first floor of Woodlake Towers as it was not included in that paragraph of the ordinance which sets forth the uses that can be there.

Mr. Best's letter stated again that this use or a use of a doctor's office had been allowed in this building previously by this Board.

Mr. Covington stated that he did not see where a doctor's office is similar to any of the uses in that paragraph unless it would be similar to the drug facility. He agreed that the Board had done it before, but not based on a decision of his.

Mr. Smith stated that he would abide by the decision of the Zoning Administrator.

Mr. Covington stated that the Board had set a precedent.

Mr. Baker stated that if the Board of Supervisors wants this use in there, they should amend the ordinance to include Doctors and Dentists as it is an appropriate use for the bottom floor of such a large apartment building and he stated that he suspected that if you took a broad interpretation it could be permitted.

Mr. Smith stated that he was going to abide by the decision of the Zoning Administrator.

Mr. Covington stated that it would be difficult for a CRM-H dwelling to take on the appearance of a single family dwelling.

Mr. Smith asked the Board if they wanted to make a formal motion or were they in agreement with Mr. Covington's decision on this.

There was no comment from the Board.

Mr. Smith stated that the Clerk should write a letter to Mr. Best stating that this use was not permitted and the decision was based on the decision of the Zoning Administrator and the previous decision to allow it was based on the decision of a previous Zoning Administrator.

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Mr. Long moved that Mr. Smith write a letter to the Chairman of the Board of Supervisors requesting that the Board of Supervisors give consideration to amending Section 30-3.1.4 of the Zoning Ordinance to allow the Zoning Administrator the authority to determine the height of a building from the average slope of the finished grade of that part of the property occupied by the building when the finished grade is not a self-imposed hardship to achieve a greater height than that allowed by the Ordinance.

Mr. Barnes seconded the motion and the motion passed 4 to 1 with Mr. Smith voting "No". Mr. Smith stated that he would write the letter. He stated that he felt this would open up real problems.

Mr. Long stated that when the letter is written that Mr. Smith should give consideration to the fact that under the present ruling where the County is requiring a developer to regrade considerable on the property, it then imposes a hardship on the developer.

Mr. Smith stated that as he sees it, it just gives them an extra story.

Mr. Long stated that he would like to see the ordinance further changed where the Zoning Administrator could have the authority to grant variances for building setbacks where it is aminor error of less than 1' and does not impose an unreasonable hardship on the adjacent property.

Mr. Smith stated that the Board of Supervisors would be the only Board that could give that authority to the Zoning Administrator.

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Mr. Long moved that the by-laws be amended to include in an application for a Special Use Permit "Where an existing use is on the property, the applicant should be required to furnish the Board, along with the application, a copy of their certificate of occupancy.

Mr. Kelley seconded the motion and the motion passed unanimously.

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VULCAN MATERIALS -- OCCOQUAN QUARRY at the Occoquan Quarry (Vulcan Materials)

The Zoning Administrator informed the Board that there was a routine blast scheduled for 3:05 P.M. and the County and other specialists had their equipment there to test vibrations, noise, dust, etc. and the Board members were welcome to visit if they wished.

The Board of Zoning Appeals then recessed to visit Vulcan Materials quarrying operation at Occoquan, Virginia.

The Board members and some members of the County staff went to the top of the highest point on this property and the Zoning Administrator and other staff members went across the street to the Town of Occoquan. The Zoning Administrator had a seismicgraph with him to test the vibrations in the Town of Occoquan.

There was 6,000 pounds of explosive materials used in this blast in which there were 10 delays of 600 pounds each.

The Foreman who was showing the Board around stated that the size of the shot didn't have anything to do with the amount of vibrations.

There was a two minute warning. The members stated that they must have cut the sound down considerably as it was not objectionable from the top of the hill.

The Foreman stated that in the past they have been restricted to shoot from 4:00 P.M. to 6:00 P.M. and they have to blast at that time no matter what the weather conditions are and which way the wind is blowing. Now with the flexible blasting times, they could wait until a more favorable time, or if the atmospheric conditions are not suitable.

At the time of the blast there was no noticable vibrations at the top of the hill. There was a tremendous amount of dust. They were blasting the side of one of the hills in what they called a "Wall" shot, at a depth of 45' to 50'. The weather was clear and hot, the wind was from the northwest. Part of the stone went backward on the hill and the other went down into the pit. The rocks were not thrown a great distance. Due to the direction of the wind the dust stayed approximately parellel to the blast area, not going toward the Town. The dust was of a sufficient amount that one could not see through it. After about 5 minutes the dust settled and the Board members went back down the hill. There was no dust down at that area of the Vulcan office.

Mr. Covington came back from the Town with the report that the meter had shown .4 gain; there were no noticable vibrations.

The Board also checked the water in the Occuquan River. There was some muddy water, but it was determined that this muddy water was coming from the Water Company's draining their tanks.

The Board returned to the County Office building and adjourned at 4:15 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith, Chairman

September 13, 1972
Date approved

The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, August 2, 1972, at 10:00 A.M. in the Board Room of the Massey Building: Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman; Loy F. Kelley, and Joseph Baker.

The meeting was opened with a prayer by Mr. Long.

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DENNIS F. THURMAN, app. under Sec. 30-6.6 of the Ord. to permit lot with less frontage at building setback line and to permit erection of dwelling 28.5' from 30' right-of-way, Outlot A, Hideway Hill Subd., Providence District, 48-4 ((14)) Outlot A, Providence District, V-123-72

Mr. Dennis Thurman, 8815 Arlington Boulevard, Fairfax, testified before the Board.

Notices to property owners were in order. The contiguous owners were Robert J. Sheaffer, 2865 Hideway Road, Fairfax and Michael Barker, Lot 2, Hideaway Road, Fairfax.

Mr. Thurman stated that the access right-of-way serves only one single family residence and will never be widened by the State as it has no connection to any other property. The entire surrounding area is developed into single family residences.

Mr. Kelley stated that he noticed on the plat that the notation says that no building permit for a dwelling would be issued as the same does not meet the requirements of Fairfax County. He asked Mr. Thurman how long he had owned the property.

Mr. Thurman stated that he had owned the property for approximately two years and used to own three acres in there, but it has been subdivided.

Mr. Thurman stated that Parcel 2 has a structure on it that has been there twenty years.

Mr. Smith stated that there was a variance granted for Lots 5 and 6 in 1970 and he stated that he wished to know whether or not this was an outlot at that time.

Mr. Covington stated that apparently it was.

Mr. Thurman stated that the right-of-way access immediately adjacent to this property has been there for many years.

Mr. Smith then asked Mr. Thurman if he agreed to the restriction when the property was subdivided.

Mr. Thurman stated that the house as he proposes it will be much more acceptable than one sitting lengthwise to the street.

Mr. Long asked Mr. Reynolds if he had reviewed this file and if he felt that the 30' access road could be developed sometime in the future.

Mr. Reynolds stated that he had reviewed the file and had noted "no comments", but he did not feel that this access right-of-way would be developed sometime in the future. Mr. Reynolds stated that this restriction was put on the lot because it does not meet the minimum frontage requirements on Hideaway Road. This is not a principal access road.

Mr. Smith stated that it seemed to him that the applicant would need two variances, one for less frontage at the building setback line and the second from the right-of-way itself.

Mr. Kelley again asked Mr. Thurman if he was aware of this restriction at the time he purchased the land and at the time he had it subdivided.

Mr. Thurman stated that he was aware of it he supposed, but his engineer handled all this. He stated that the house as proposed would be an asset to the neighborhood and the neighbors have no objection to it and he did not see any sense to leaving the lot unused.

Mr. Reynolds stated in answer to Mr. Smith's question that a restriction could be lifted when the lot is brought into compliance with the code in question. He stated that he did not know if the Board of Zoning Appeals did grant this variance if that would lift the restriction or if it would then comply with the Zoning Ordinance.

Mr. Smith stated that the applicant did subdivide the parcel of land and agreed to this restriction at the time of the recordation of the subdivision itself. Should the Board grant this they would be giving a lot that is not allowed under the ordinance and the Board should have been made aware of this at that time, if there was to be a request for another variance.

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In application No. V-123-72, application by Dennis F. Thurman under Section 30-6.6 of the Zoning Ordinance, to permit lot with less frontage at S/B line and permit erection of building 28.5' fr. R/W on property located at Outlot A, Hideway Hill S/D, Providence District, also known as tax map 48-4((14)) Outlot A. County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letter to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 2nd day of August, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 20,215 square feet.
4. The BZA on 7-14-70 granted a variance on lot #5 and lot #6 to allow front yards of 15'.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFOR BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Kelley seconded the motion and the motion passed unanimously.

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AMERICAN TRADING AND PRODUCTION CORPORATION, app. under Section 30-6.6 of the Ordinance for variance from Section 30-3.1.4 to permit an additional story on the downhill side of Woodlake Towers Building, 6001 Arlington Blvd., 51-4 ((1)) 14, Mason District (RM-2M), V-130-72, (out of turn hearing granted July 19, 1972)

Mr. Stephen L. Best, attorney for the applicant, testified before the Board.

Notices to property owners were in order.

The contiguous owners were Mr. Bingham, 6006 Jan Mar Drive and Mr. Brockert, 5974 Jan Mar Drive.

Mr. Smith asked Mr. Best what the highest point of the first building is.

Mr. Best answered that he thought it was 88', it is 10 stories or 9 stories with the additional story at the terrace which covers 2 and 1/2 of four sides. The second building is under construction and it is approved for ten stories which includes the additional story.

Mr. Reynolds, from Preliminary Engineering, stated as far as they were concerned it is a 9 story building.

Mr. Barry, from the Zoning Inspections Office, stated to the Board that there had been no occupancy permit issued for this building.

Mr. Smith stated that there had been a swimming pool which is under a special use permit put in and he was very concerned about this.

Mr. Best stated that that may have been because of the highway work which had not been completed. A temporary permit had been granted, but no final can be granted until all that highway work has been completed and it is still underway.

Mr. Covington stated that the interpretation was made as it was because the ordinance reads 'the area where the building sits'.

Mr. Best stated that this question came up when the plans for the three buildings were being made and the engineer met with Mr. Chilton from Design Review and they had proposed an extra story. Mr. Chilton asked the basis for this additional story and they used the section of the ordinance that has been in question, Section 30-3.1.4. Mr. Chilton

suggested to the engineer that a specific item be put on the site plan relating to this section. This was done and the plan was approved and based on this section. The buildings were designed. The second building was the same and they resolved the question of the extra story the same way. Then they got to the third building and it was presented in the same way and they were all ready to proceed, but they then had another member of the Design Review staff and he interpreted that section differently, then they consulted with Mr. Covington, the Zoning Administrator, and Mr. Covington agreed with the Design Review staff and now they are in a position where they want to build the same type building as they designed originally and they have the same conditions and the same slope and they are not able to and this presents a great hardship on the applicants. From a planning standpoint, this is a very desirable building. The total slope is 20' and what they are doing is increasing the slope in the area of the building from 4' to 9' to accomodate two levels which is exactly the same as the original buildings. This puts the parking at the lower level in the front of the building. This building will continue the same harmony as the other two buildings. They are not asking for a height variance.

Mr. Smith stated that it was his belief that the BZA does not have the authority to change the height of the building or the number of stories in a zoned district. He stated that if there was a hardship, he had better tell the Board what that hardship is.

Mr. Best stated that the hardship could not be more substantial and has been brought about because the County has changed its mind as to the interpretation of the ordinance in mid-stream, after they have built two building and the other has been planned and designed. These buildings were designed on the basis of the County's interpretation originally. Basically, they designed the buildings to conform with the County's interpretation of this section. This original plan which was approved showed the three buildings and the roadways. They had every reason to believe that the Planning Staff would be consistent, since it had been approved twice before. They plan to begin construction as soon as possible and this means a major revision in the plans and the architecture of the building. This would take three or four months and an expense of about $100,000 and it also means a building that is not in harmony with what now exists.

Mr. Smith told Mr. Best that the Board could not consider financial hardship.

Mr. Best stated that there is also a hardship on all the people who live in the area that would have to continue to put up with all this construction for a longer period of time. He asked if the County did not have some responsibility for their mistakes if this original interpretation was a mistake.

Mr. Long stated that he would like to have the engineer who made the interpretation this last time come before the Board as the problem is where you determine the height of the building from, finished or original grade.

Mr. Covington stated that he certainly did think that the Board is obligated to give the applicant some consideration. The County has, in fact, changed their pattern in midstream and they (the applicant) had based their planning on the original interpretation, whether it be wrong or right. It is a hardship on the continuity of the development and to the applicant as developers.

Mr. Best stated that there is a letter in the file from Mr. Brockert who states that he has no objection to this granting.

Mr. Long stated that that building is the same as the Massey Building.

Mr. Curtin from Design Review testified before the Board.

Mr. Smith explained to Mr. Curtin the problem that the Board was having in determining whether to grant or deny this request.

Mr. Long stated that his question is whether you determine the height of the building from the finished grade and if so would he still be in violation.

Mr. Curtin stated that the applicant would have 9 stories in the front and 10 stories in the back.

Mr. Long again asked if they determined the hight from the finished grade. He stated he would like an answer as to the compliance with the building with the height requirement measuring from the finished grade. Mr. Curtin stated that he could have to check the file to see what they did.

The hearing on this case recessed.

The Board reconvened the hearing on this case later in the afternoon and Mr. Curtin came forward to testify as to his findings.

Mr. Curtin stated there was really no difference in the terrain in the area where the third building is and the other two.

Mr. Long asked if the situation surrounding those buildings is similar to the Massey Building here.

Mr. Curtin stated that that was correct.

Mr. Long asked if you determine the height of the building using the finished grade would it meet the height limit.

Mr. Curtin stated that he did not question the height of the building. The ordinance says 9 stories and that is what he questions since they wish to put 10.

Mr. Long asked him if he agreed that the applicant could have as many stories underground as he liked and they would not be considered stories.

Mr. Curtin stated that that was true.

In application No. V-130-72, application by American Trading and Production Corp., under Section 30-6.6 of the Zoning Ordinance, to permit an additional story on the downhill side of Woodlake Towers Bldg, on property location at 6001 Arlington Blvd., also known as tax map 51-4((1))14, County of Fairfax, Virginia, Mr, Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordnace with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertizement in a local newspaper, posting of the property, letter to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 2nd day of August, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RM-2M.
3. That the area of the lot is 7.466 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all county codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. That landscaping, screening and planting shall be as approved by the Director of County Development.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion. The motion passed 3 to 1, with Mr. Smith voting No.

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August 2, 1972
MYRNO MAYS

MYRNO MAYS, app. under Sec. 30-7.2.6.1.7 of Ord, to permit antique shop in home, 8732 Glenbrook Place, Pine Ridge Subd. 59-3((6))22, Providence District(RE-1) S-2-72.

Mrs. Mays testified before the Board representing herself.

Mrs. Mays stated that she would like to ask for a deferral until the middle of October in order that she might try to work out the problems and to give the neighbors time to think this through as they feel it would be setting a precedent.

Mr. Smith stated that there already is a private school or two in the area and this would not be setting a precedent.

Mr. Smith read a letter from Mr. Joseph E. Himes, President of the Pine Ridge Civic Association 3731 Prosperity Avenue, Fairfax, requesting that this case be deferred.

Mr. Baker moved that this case be deferred until October 25, 1972.

Mr. Kelley seconded the motion and the motion passed unanimously.

Mr. Smith stated that the Clerk would notify the applicant of the time of this hearing and the applicant should renotify all of the property owners that she notified this time including both contiguous owners.

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PRESLEY DEV.CO.EAST, INC., app. under Sec. 30-6.6 of Ord. to permit increase in the required front setback or vary width at existing setback line. Lit Walton Court., Tysons Woods Subd. Section One, 39-1 & 39-3 Outlot B & C, (R-10), V-126-72.

Mr. Randolph Church, 4069 Chain Bridge Road, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Arlington Trust Company, P.O.Box 509 and Harry S. Littman and Harry Warsham.

Mr. Church stated to the Board that this involves two lots, both of which is almost double the average lot size for this size subdivision. Mr. Church submitted to the Board plats which he stated that he had colored in yellow with a heavy brown line which represents the limits of the flood plain area. The propertyto the north lies across Wolftrap Run and it would be impossible to assemble any property over there because it lies in flood plain. The property to the west lies in the Town of Vienna and is in an industrial zone. Because of the outline of the property which is in flood plain and because of the location on the other side of the property, the property in question has to be developed with a cul-de-sac arrangement. It is impossible to put in through streets through flood plain or through the Town of Vienna. The ordinance has been interpreted to determine the width of the lot to be measured at a point parallel to the abutting street. This is not the normal case because you are not on a straight street. He stated that they were then asking the Board to allow them to increase the building restriction line to the point shown on the plat so the width measured as projected back would meet the required width. If you increase the building restriction line back as shown on the plat that has been submitted and place the houses behind that point and not allow houses before that point, it could have a lot that has sufficient width and that is what they are asking to do. He stated that they wished to take care of this problem prior to selling any of the houses. He stated that he felt this would increase and enhance the character of the neighborhood because they will be moving the houses further from the street.

Mr. Smith stated that there had been no variances in this subdivision previously.

Mr. Church confirmed this. He stated that they were presently framing the houses that surround these lots. There are no occupied houses. They are not in a cluster zone, if they were they could do this by right. He stated that this is a recorded subdivision Mr. Church stated.

Mr. Smith stated that it was his understanding then that they do exceed the area requirement for the zone and they can meet the building setback line by moving the houses back.

There was no opposition.

Mr. Long stated that he would like to have Mr. Reynolds comment. He stated that he had no objection to this but he would like to have Mr. Reynolds comment.

The hearing recessed this case temporarily until Mr. Reynolds could come down and comment on this case.
At a later time the hearing reconvened on this case.
Mr. Reynolds stated that he believed the plat had been recorded and the subdivision is being developed under the conventional rather than cluster zoning and he did not believe that under conventional zoning they would have allowed this approach to pipe-stemming these lots. The Preliminary Engineering Staff did not realize that the builder intended to build on these lots

Mr. Long asked if he could have developed one conventional lot where he now is planning two.

Mr. Reynolds stated that without further study he could not say.

Mr. Long moved that this case be deferred until September 13, 1972 to allow Mr. Reynolds from Preliminary Engineering to determine whether the developer could have gotten one lot in the area where the two are presently shown in compliance with conventional zoning requirements.

Mr. Kelley seconded the motion and the motion passed unanimously.
Mr. Long stated that this would be for decision only.
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ELDON J. MERRITT, app. under Sec. 30-7.2.6.1.3 of Ord. to permit continuation as private school from 125 to 165 pupils principally kindergarten and first grade. 125 to be located in existing building and 40 in modular building to be erected, located 9211 Arlington Blvd. 48-4 ((1)) 49, Providence District (RE-1), S-124-72

Mr. John Hazel, attorney for the applicant, offices on Main Street in Fairfax, testified before the Board.

Notices to property owners were in order.

Mr. and Mrs. Ray Hamilton, 9225 Arlington Blvd., Ella May Walker, 2601 Stenhouse, were the contiguous owners.

Mr. Hazel stated that this school goes under the name of Talent House. They have two locations, one is in a Baptist Church which is not involved today and this one which is on Arlington Blvd. approximately one mile from Fairfax Circle. They operated previously in the City of Fairfax and then moved into the County and have been operating for some years. He stated that everything that he knows about the operation indicates that it is a high quality school. Mr. Merritt originally came before the Board in 1967. He stated that the plan that is before the Board shows the site on the property where the modular building is to be erected. The tract of land is almost 7 acres.

Mr. Merritt who was present stated that he would like the ages to be from 2 through 8 and the grades, nursery through 2nd grade. He stated that the building does meet the State and County requirements.

This case was placed on the agenda to be recalled later in the day for decision only.

At a later time in the day this case was recalled and the following resolution was made.

In application No. S-124-72, application by Eldon J. Merritt under Sec. 30-7.2.6.1.3, of the Zoning Ordinance, to permit continuation as private school from 125 to 165 pupils, on property located at 9211 Arlington Blvd. Providence District, also known as tax map 48-4((1))49 County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 2nd day of August, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 6.8555 acres.
4. On May 9, 1967, permit granted private school, 400 children, ages, 2 thru 12.
5. On May 14, 1968, BZA granted revision of original permit to provide for 125 students within the existing structeres for a period of 4 yrs.
6. On May 22, 1968, Board of Supervisors granted waiver of site plan.
7. Compliance with all County and State Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of pupils shall be 165, ages from 2 to 8 years.
7. The hours of operation shall be 7:00 A.M. to 6:00 P.M., 5 days per week.
8. The operation shall be subject to compliance with the inspection reports, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions, and obtaining a Certificate of Occupancy.
9. The recreations area shall be enclosed with a chain link fence in conformity with State and County Codes.
10. All buses and/or other vehicles used for transporting students shall comply with County and State Standards in color and light requirements.
11. There shall be provided adequate parking spaces on the premises with ingress and egress satisfactory to the Land Planning Branch.
12. Landscaping, screening and planting shall be as approved by the Director of County Development.
13. All conditions and limitations setforth in original Special Use Permit shall remain in force.

Mr. Baker seconded the motion, the motion passed unanimously.

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TEMPLE RODEF SHALOM, app. under Sec. 30-7.2.6.1.3 of Ord. to permit expansion of existing pre-school nursery school use to maximum of 100 children, 9:00 - 12:30, 5 days per week, Monday through Friday during public school year, 2100 Westmoreland Street, 40-2((1))19, Dranesville District, (RE-1), S-128-72.

Mr. Phillip Schwartz, attorney for the applicant, Suite 110, 2054 N. 14th Street, Arlington, Virginia, testified before the Board representing the applicant.

Notices to property owners were in order.

It was determined that the school did have an occupancy permit. A copy of this was submitted for the file.

Mr. Schwartz stated that there had been a question raised concerning the recreation area. He stated that he would like to see a report from the staff regarding the capacity of that building handling that many students using the combined figures for both schools and in addition he would like to have the applicant submit a plan for the recreation area.

There was no opposition.

Mr. Long moved that this case be deferred until the first available date in September to allow the applicant to submit plans for the recreation area and for the staff to give a complete report on the combined use permits on this site and the impact and compatibility of the two schools in this building.

Mr. Baker seconded the motion and the motion passed unanimously.

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TRINITY COOP PRESCHOOL, app. under Sec. 30-7.2.6.1.3 of Ord. to permit private cooperative preschool, 1205 Dolley Madison Blvd. 34 children 9:00 A.M. to 12:00 Noon, 5 days per week, September thru May, 30-2 ((1))39, Dranesville District.,(R-17), S-129-72 (School has been in operation 14 yrs.)

Mr. Kennon Bryan, attorney for the applicant, 4085 Chain Bridge Road, Fairfax, represented the applicants before the Board.

Notices to property owners were in order. The contiguous owners were Mr. & Mrs. Walter Rinne, 6534 Gillian Road, who also gave a letter stating that they had no objection and Glen H. and Arlene Coplan, 6530 Gillian Road, McLean, Virginia.

Mr. Bryan stated that the contiguous owner to the property who would have a view of the recreation equipment is the Coplans and there are blue spruce trees and they are 20' tall and there is no way the Coplans could view the recreation equipment.

Mr. Bryan stated that this school had been in operation for fourteen years, but without a use permit, as they did not know they had to have one. There was no intention on the part of this cooperative association to fraud the law or to disregard the laws of the County of Fairfax. This school is in a church and reports to the church. The parents help operate the school. The agreement between the school and the church is verbal. The preschool does have its own Board of Directors and it also elects its own officers each year. They share the space used for Sunday School.

He asked Mrs. Purney, the Executive Secretary of the Preschool, to testified as to the relationship between the church and the school

Mrs. Purney stated that the preschool pays the church $50.00 per month and this is not under any sort of written agreement. They are controlled by the Board of Education of the Church, or in other words, they do not make any major decision without permission of that group. She stated that she was a member of the church and all of the members of the Board of Directors of the Preschool are members of the church. They pay $50.00 per month per class, so that is a total of $100.00 per month that they pay to the church. This is for using the church facilities and the janitorial services and at times when their financial situation permits, they pledge to the church budget as they are able. They do pay a staff, but this preschool is not incorporated. All of the teachers are well qualified to teach. She gave the Board their qualifications.

Mr. Smith stated that a memo was needed from the church giving their permission for this preschool to operate within its property.

No opposition.

Mr. Smith asked about the age limit for the children and it was determined that the age group would be from 3 through 6 years.

Mr. Long moved that application S-129-72 be deferred until September 13, 1972 for decision only to allow the applicant to submit additional information such as:

1. A lease or similar document authorizing this proposed use within the church property.

2. The applicant to review with the Division of Zoning Administration the recreational facilities.

Mr. Kelley seconded the motion and the motion passed unanimously.

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THE CHESAPEAKE & POTOMAC TELEPHONE COMPANY OF VIRGINIA, app. under Sec. 30-7.2.2.1.4 of Ordinance to permit expansion of existing dial center and plant test desk; south side of Burgundy Road, East of Chapin Avenue, Lee District, 82-2 & 83-1 ((1)) Lot 50, S-120-72 (Deferred from July 19, 1972 for full hearing)

Randolph W. Church, Jr., attorney for the applicant, 4069 Chain Bridge Road, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Burgundy Recreation Association, P. O. Box 4041, Alexandria, Virginia and American Oil, P.O. Box 507, Baltimore, Maryland.

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August 2, 1972
C & P Telephone Company (continued)

Mr. Church told the Board that in 1969, the C & P Telephone Company received a special use permit for the present dial center on Burgundy Road. At that time they constructed a two story building, but now they need to add a third floor. The site that this building is located on consists of seven acres and is approximately 1 and 1/2 blocks from North Kings Highway and Telegraph Road. The property is bisected by a 150' VEPCO right-of-way that has on it two sets of transmission poles and distribution circuits. This application arises from an advance in the technology of long distance telephone calls. It has advanced to a stage where it is possible to dial the whole number, suffix it with an "o" and the operator will come in, take the information, but the dialing is already done and most of the manual operation is already done. This will be used in person to person calls and charge calls, etc. This will greatly expedite the customers job as well as the telephone company's job. What is proposed for this 9100 square feet is to have room for special operators who will operate this system. The parking will be placed on the existing VEPCO right-of-way and contact has been made with the power company for this purpose.

Mr. W. R. Hall, Engineer, for the C & P Telephone Company, 703 E. Grey Street, Richmond, Virginia, spoke before the Board.

Mr. Hall stated that this property has a 400' frontage along Burgundy Street and it has a depth of 755'. The construction that is proposed will provide space for one operating unit, TSPS. Operators assisting telephone services for credit calls. Under this new system this will permit a person to dial such calls by preffixing the calls with an "o". This is being placed into operation in Northern Virginia and will take several years to complete. It will increase service to customers and save the telephone company many man hours of operating time. This is a step forward in long distance calling. This service should be placed in an existing dial center and the company has run studies that indicate this location is a good place for the operators who will be operating the system. It is within one mile of a transit stop. This addition is in harmony with the existing character of the building. The existing building has a basement, 1st and 2nd floors. At the present time there are 36 employees. The maximum number of employees when this service has reached its peak is 111 at any one time. There are 114 parking spaces provided. There will be no telephone trucks parked there. Basically, this center will be for long distance operators.

There will be very little grading this time and that will be for the parking area. There are two other centers such as this planned for this area.

No opposition.

In application No. S-120-72, application by C & P Telephone Company of Virginia under Sec. 30-7.2.2.1.4 of the Zoning Ordinance, to permit expansion of existing dial center and plant test desk, on property located at S. Side of Burgandy Road east of Chapin Avenue also known as tax map 82-2 and 83-1 ((1)) 50 County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and public hearing by the Board of Zoning Appeals held on the 2nd day of August, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 7.0153 acres.
4.. That compliance with site plan ordiance is required.
5. That compliance with all county codes is required.
6. That the BZA granted original Special Use Permit #S-183-69 on August 19, 1969.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the Applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7;1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use

permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping, screening and planting shall be as approved by the Director of County Development.

Mr Long, seconded the motion and the motion passed unanimously.

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HOLSINGER, SHEILA M. app. under Sec. 30-7.2.6.1.3 of Ord to allow use of lower level for one Montessori Class, 3501 Epsilon Place, Holmes Run Heights, Subd, 59-4((9))46, Annandale Dist, (RE-o.5), S-115-72 (Deferred form 7-19-72 for additional information; decision only)

Plats had been submitted, reviewed and approved for this case.

In application No. S-115-72, application by Harry F. & Sheila M. Holsinger under Sec. 30-7.2.6.1.3., of the Zoning Ordinance, to permit use of lower level for Montessori Class, on property located at 3501 Epsilon Place, Holmes Run Heights S/D, also known as tax map 59-4((9))46 County of Fairfax Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th Day of July 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant
2. That the present zoning is RE-0.5
3. That the area of the lot is 25,729 square feet.
4. That compliance with all State and County Codes is required.
5. That compliance with Article XI site plan ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted

1., This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application, Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6 This permit is granted for a three year period.

7. The maximum number of students sahll be 19, 3-6 years of age.

8. Hours of operation shall be 9A.M. to 12noon, Monday thru Friday.

Mr Baker seconded the motion and the motion passed unanimously.

CHANTILLY NATIONAL GOLF AND COUNTY CLUB, app. under Sec. 30-7.2.6.1.1 of Ord. to permit improvements to Club House facilities by remodeling and building a new golf cart and equipment shed, 14901 Braddock Road, 43-4((1))4, Centerville District (RE-1), S-117-72

This was deferred from July 19, 1972 in order for the applicant to revise the plat and show the building dimensions and setbacks and the number of parking spaces provided. This was for decision only.

The plats had been revised, reviewed and approved.

In application No. S-117-72, application by Chantilly National Golf and County Club under Sec. 30-7.2.6.1.1 of the Zoning Ordinance, to permit construction of golf cart shed and improvements to club house facilities on property located at 14901 Braddock Road Centerville District, also known as tax map 43-4((1))4 County of Fairfax, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 19th day of July 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 214 acres.
4. That S-116-69 was granted on June 24, 1969.
5. That compliance with all County Codes is required.
6. That compliance with Article XI, Site Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appelas has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date or expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether ot not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. All conditions stipulated in the original use permit shall continue to apply.

Mr. Baker seconded the motion and the motion passed unanimously.

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QUARLES ROBERTSON OIL, INC., app. under Sec. 30-7.2.10.3.1. of Ord. to permit service station northwest intersection of Route #123 and Southern Railroad, 77-1((1))34, Springfield District C-D, S-96-72 (Deferred from 6-28-72, then 7-12-72 for additional information, decision only).

Mr. Smith read a letter that had been sent to the Board members from his Excellency John J. Russell, Bishop of Richmond which stated:

"I have been informed that the Board of Zoning Appeals will be hearing on August 2nd the request of the Quarles-Robertson Oil, Inc. for a Use Permit to allow the erection and operation of a service station on part of a parcel located at the intersection of Route #123 and the Southern Railroad property and shown on Tax Map 77-1 double circle 1 Lot 34.

As owner of the adjacent property, St. Mary"s historic Church, I respectfully reguest that you delay consideration of said request for one more month since notification from

the applicant's attorneys of your original hearing on June 28, 1972 was recieved by me on June 29, 1972.

In view of this I would like to study this matter more clearly to see the implications of your rendering a favorable decision on Quarles-Robertson request.

Please notify me of your response to this request. "

Mr. Smith stated that the Board of Zoning Appeals has certain requirements set out in the Code of Virginia, Section 15.1-496 which states that the Board of Zoning Appeals has sixty (60) days in which to render a decision after acceptance of an application. He stated that because of this, the Board could not delay decision on this application without the applicant's consent. This application was filed in May and it was heard in June.

Mr. Smith then read an excerpt from the minutes of the Board of Supervisors meeting of August 1, 1972 requesting that this case be deferred.

Mr. Grayson Hanes, attorney for the applicant, Main Street, Fairfax, spoke before the Board. He stated that the applicant has provided the Board with the additional information the Board had requested and they had submitted a rendering of what the buildings would look like. Nothing else in the shopping center will need a use permit, nor will they need a variance. He stated that it appeared to him that the applicant has met all of the requirements requested by the Board he felt that the Board should make a decision.

Mr. Long stated that inasmuch as the Board of Supervisors have asked the BZA to consider deferring this, he would like to say for the record that he feels the BZA has the option of considering the request of the Board of Supervisors because the application in his opinion until such time as they have all the information that has now been submitted is not complete. It is up to the applicant to furnish evidence in compliance with the zone supporting his request and the evidence was not submitted at the Planning Commission hearing.

Mr. Smith stated that the BZA heard this case on the 28th of June and 60 days after that would be August 28 and the Board of Zoning Appeals does not meet again until September 13th.

Mr. Long stated that he feels the BZA has the right to defer this case if it so chooses. He said perhaps the Board of Zoning Appeals should not have had the public hearing since the applicant had not submitted all the pertinent information prior to the original hearing and therefore, the staff report was not complete.

Mr. Baker agreed that the Board could not defer this case any longer without the concurrance of the applicant.

Mr. Kelley stated that it was unfortunate that some of these problems were not brought up earlier at the time of the rezoning. There are certain rights that the owner has. He stated that although he does not agree with a lot of the zoning and this happens to be one of them that he does't agree with, it was rezoned and now it has to be lived with.

Mr. Smith stated that the rezoning was 6 or 7 years ago and at that time the zoning of the land should have been opposed, if the people who surrounded the area were opposed to it.

Mr. Smith stated that the BZA will not be in any better position to make a decision in September than it is now. Any new legislation would not affect this hearing. The applicant will now have to go before the architectural review board anyway and the applicant has agreed to do this even before the emergency historic district was put into effect.

Mr. Smith stated that it was indicated in the rezoning that there would be a gasoline station on this property.

Mr. Long asked Mr. Hanes if he had any objection to a deferral.

Mr. Hanes stated that he objects because on the 11th of September, the Board of Supervisors intends to make this a permanentHistoric District, but it already is a Historic District by way of the emergency ordinance that was passed. He stated that he does not see how waiting until after September 11th would affect this situation as it is now and that the applicant does object to another deferral. This application has been filed since May. If the use permit is granted, they are then only beginning and the time factor is always important in a development. He stated that he feels this action by the Board of Supervisors is a delay factor and is the only objective. He stated that they had submitted a Petition to the nearby property owners and they are in favor of this use.

Mr. Long stated that he felt that the Board had allowed the applicant to revise and modify his plans to improve the application and therefore, he could see no objection to considering the Board of Supervisors' request for deferral and in light of what the Board is doing, it would be reasonable. He stated that he did not think they had to go by the 60 days since they allowed the applicant to modify his plans.

Mr. Baker stated that he did not agree with Mr. Long and he did not see anything to be gained by deferring this application.

Mr. Long again stated that he would like to go on record as being in favor of deferring this until September 13, 1972 in compliance with the Board of Supervisors request.

Mr. Kelley stated that the Board of Supervisors have stated no reason for this deferral. He said it wouldn't bother him to defer it, but the verbatim statements from the minutes gave no reason why they wish this case deferred.

Mr. Baker moved for a 10 minute recess.

Mr. Kelley seconded the motion and the Board recessed for approximately 10 minutes.

The Board reconvened and recalled this case.

Mr. Smith stated that the Board has been in discussion on this matter, and he hoped they had reached a decision. Mr Smith further stated that the Board has under the State Cod 60 days from the time of the acceptance of the application, which has been interpreted by the Board as a maximum of 60 days after the public hearing, to make a decision. The original hearing was held on this application on June 28, 1972 and the maximum time allowed under the State Code would be 60 days from that date. For that reason the request of the Board of Supervisors to defer this decision beyond that time would be in defiance of the State Code. The resolution pertaining to the request for deferral was indicated at a hearing of the Board of Supervisors August 3, 1972. They referred to a hearing on this case that was to be held August 7, but this is not a hearing that is being held today, the Board has recalled this case to make a decision only. The public hearing has previously been held and it was deferred for additional information to this date and for decision only. The Board has discussed delaying action on this case until August 28, but the next meeting of the Board would be September 13, 1972. This would have to be a special hearing and would not be of any benefit to the County nor to the applicant. The Board would still not be able to defer decision until September 13th.

Mr. Long asked if that was a ruling of the Chair.

Mr. Baker stated that he was in agreement with the Chair.

Mr. Long stated that he saw no point in deferring this case until August 28th if they could not defer it until after September 11th, therefore, he was prepared to vote on it today.

Mr. Smith asked if the Board had reached a decision.

Mr. Baker stated that they had and the Clerk, Mrs. Kelsey, would read the motion.

In application No. S-96-72, application by Quarles Robertson Oil, Inc. under Sec. 30-7.2.10.3.1 of the Zoning Ordinance, to permit service station, on property located at N.W. intersection of Route #123 and South Railroad, also known as tax map 77-1((1))34 County of Fairfax, Mr. Baker moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordnace with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 28th of June, 1972 deferred until July 12, 1972 and deferred to August 2, 1972 for additional information and for decision only.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is C-D.
3. That the area of the lot is 7.0796 acres.
4. That compliance of Site Plan Ordinance is required.
5. That a gasoline station was shown on plat at time of rezoning.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C of I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings, uses, entrances, and landscaping indicated on plats prepared by Patton, Harris and Rust dated 5-19-72 submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. A 50' buffer strip along the entire length of the St. Mary's Catholic Church property shall be reserved and landscaped as approved by the Director of County Development.
7. This shall be a 3 bay, rear entrance colonial brick design station. The commercial development within the entire parcel of land 7.0796 acres shall be colonial brick design as approved by the Architectural Review Board unless modified by further action of this Board.
8. No use under, a use permit in this commerical designed shopping center shall be operated in a manner that will be disruptive with the religious services that will be conducted on the contigious property.
9. All lighting shall be directed onto the site.
10. There shall be no selling,storing, leasing or display of any trucks, trailers, automobiles or recreation vehicles on said property.
11. There shall be no free standing signs.

Mr. Kelley seconded the motion.

The motion passed unanimously with the members present. Mr, Barnes was not present.

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AMERICAN TRAILER CO., INC.

This case was deferred in order for the Chairman to study the Code and determine if it could be granted. The Chairman stated that he had studied the Code and the Board could grant if they so chose to do so.

In application No. S-118-72 application by American Trailer Co,. Inc., under Sec. 30-7.2.10.5.1 of the Zoning Ordinance, to permit construction of temporary trailer sales bldg. Alex, Virginia on property located at Lot 516 Oak Grove Trailer Park 9704 Richmond Hwy Lee District also known as tax map 101-2((6)) pt 516 County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th of July 1972 and deferred to August 2, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the American Trailer Co., Inc.,
2. That the present zoning is C-G.
3. That the area of the lot is 28.950.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Road widening, curb, gutter, sidewalk, and service drive will be required along the full frontage of the site on Route #1.
7. Dedication shall be made to 98' from centerline of right-of-way on Route #1 for future road widening.
8. Landscaping, screening and planting shall be as approved by Director of County Development.
9. This permit is granted for a period of 2 years with the Zoning Administration being empowered to extend the permit for 3-1 year periods.
10. The motion carried unanimously.

Mr. Baker seconded the motion and the motion passed unanimously with the members present.

The meeting adjourned at 4:30 P.M.

By
Jane C. Kelsey
Clerk

Daniel Smith, Chairman

September 20, 1972
Date Approved

The Regular Meeting of the Board of Zoning Appeals of Fairfax County was Held on September 13, 1972, at 10:00 A.M. in the Massey Building. Members present: Daniel Smith, Chairman; Richard Long, Vice-Chairman; Loy Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Long.

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7 CORNERS MEDICAL BUILDINGS, INC., app. under Sec. 30-6.6 of the Ord. to permit additional 4'6" maximum height and one additional floor in excess of maximum height and floors permitted under present zoning of a new office building extension of existing building, 2946 Sleepy Hollow Road, Mason District, 51-3 ((1)) 9; (C-O, C-OL, and C-G), V-125-72

Mr. Richard Waterval, 6316 Castle Place, Falls Church, Virginia, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. The contiguous property owners were Eakin Properties, Inc. and Wessinger Chevrolet Company.

Mr. Smith stated that before the Board begin to hear this case he would like to determine whether or not this same applicant was a participant in a variance case before the Board of Zoning Appeals about a year ago.

Mr. Waterval stated that he did not believe so. He stated that he had not been before this Board in the past twelve months.

Mr. Smith stated that the Board would hear this case with the understanding that if there is a conflict as far as the time element is concerned, then it would not be a proper case before this Board at this time.

Mr. Smith asked Mr. Knowlton to check on this. Mr. Knowlton is the Zoning Administrator for Fairfax County.

Later Mr. Knowlton stated that the case Mr. Smith had recollection of was on June 24, 1969, to permit an office building closer to the property line than is allowed.

Mr. Waterval stated that the applicant has a tract of land that has three zonings on it: C-G, C-O, and C-OL. C-G is where the existing office building is. He stated that the C-G and the C-O zoning was on the property when his clients purchased the property and therefore did not create the hardship. The C-OL was done later, but it does not relate to this variance. He stated that the total parking of both buildings would require parking over into the C-OL. That parking will go into a parking structure at a later time. He stated that to be technical there is probably about a foot of C-O land in the present application.

Mr. Smith asked if the restaurant still exists.

Mr. Waterval stated that it did, but this is a new restaurant location in the proposed new building.

Mr. Smith stated that he remembered the original restaurant in that building. The Board went into great details and put a lot of restrictions on it.

Mr. Waterval stated that that was correct, but now those restrictions have been lifted by the Board of Supervisors. He stated that he had checked with the civic associations and find that they have no objections to this variance. This is not a controversial situation. This variance will permit the owner to meet the configurations of the existing building as this is not a freestanding new building.

Mr. Kelley stated that it is rather difficult for him to understand if the applicant was aware of this zoning problem prior to the purchase of this land why there is a hardship. The applicant should have realized that difficulty at the time he purchased the property.

Mr. Waterval stated that the Zoning Code gives this Board jurisdiction where there is a problem that deals with some unusual building development on adjacent property and this is the problem. The applicants have had the property for ten years and economics change in the real estate market which determines what the property can be used for. Therefore, this variance seems appropriate.

Mr. Waterval stated that as he pointed out in his statement of justification that he submitted with the application, there are environmental problems because the public now looks at the back of an automobile repair garage. This shouldn't be left as it is and should be upgraded.

Mr. Kelley stated that he agreed in theory, but a change in zoning would take care of that as the Staff has recommended.

Mr. Waterval stated that zoning doesn't solve the use problem, because they have the use of the land under the present zoning. The only thing a rezoning would do is solve the question of height. He stated that this is why this Board was set up.

Mr. Smith stated that he disagreed and stated that Mr. Waterval was asking the best of two worlds. There would be a limit under C-O and they are using C-G for the restaurant. Under C-O they could have an extra floor, therefore, if this Board grants this variance they are in effect making it C-O zoning. They could not have the restaurant in C-O.

Mr. Waterval stated that this was not the intent of the applicant.

Mr. Smith stated that he would like to point out several environmental factors too. 7 Corners is one of the problem areas as far as smog is concerned. If the BZA allows this extra story, then they are compounding the problem. Therefore, he stated that it is his feeling that the applicant should consider rezoning the land.

Mr. Waterval stated that they could set whatever conditions on the restaurant that the Board wished too.

Mr. Smith stated that to set conditions on the restaurant based on this variance would not be permitted.

No opposition.

In application No. V-125-72, application by 7 Corners Medical Buildings, Inc. under Section 30-6.6 of the Zoning Ordinance to permit additional 4' 6" maximum height and one additional floor (in excess of maximum height), on property located at 2946 Sleepy Hollow Road, Mason District, also known as tax map 51-3 ((1)) 9, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners; and a public hearing by the Board of Zoning Appeals held on the 13th day of September, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is C-G.
3. That the area of the lot is 110,732 sq.ft.
4. As shown on the plat submitted, the existing zone where the proposed building is to be located is C-G. The adjacent zone on the same property is C-O. The height limitation in the C-G zone as set forth in Section 30-2.2.2., Col. 5, of the Fairfax County Zoning Ordinance is 3 stories or 40'. The height limitation in the C-O zone under Col. 5 of the same ordinance is 45'
   It is noted that if the property were zoned to C-O, a restaurant would not be allowed unless the total floor area of the buildings were 100,000 sq. ft. A restaurant is allowed in the C-G zone.
   The property does not seem to be exceptionally irregular, narrow, shallow, or steep for a commercial building and, therefore, would present no apparent hardship.
   In effect, what is being requested is the use of the C-G property with the higher height limitation of the C-O district. This perhaps could be a zoning classification change with the best of the two zones and could not be granted as specified in the State Code under Section 15-1-495. (Taken from Staff Report from Preliminary Engineering dated September 6, 1972.)

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty of unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present. Mr Barnes was absent.

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VULCAN MATERIALS CO., SUCCESSOR OF GRAHAM VIRGINIA QUARRIES, INC., App. under Section 30-7.2.1.3 of Ord. to permit extension of quarry permit issued by BZA in 1956 and last extended by BZA June 14, 1972 for 90 days, 10050 Ox Road, 112((1)) Lot 3,4,6, and portion of 8, Springfield District, (RE-1) S-199-71.

Mr. Gibson, 311 Park Avenue Falls Church, attorney for the applicant, represented them before the Board.

Notices to the property owneres were in order. The contiguous owners were Mr. Clarke and the Water Authority.

Mr. Gibson stated that this property is under an estate. The senior Mr. Clarke died several years ago and now it is under his two sons and widow.

Mr. Gibson stated that the permit was conducted during the past three months under the conditions that the County and Vulcan had imposed in order that they could experiment, test and coordinate information with the specialists and experts they had employed and also the County experts from Chicago.

He stated that he had written a letter which explains some of the things that have been done. They have also compiled a comprehensive booklet called "Operation and Reclamation", which explains their entire future program from now until it is finished. A bond has also been obtained in the amount of $300,000.00 and there is another bond that they have had renewed, but they cannot submit it at this time in final until they know what the restrictions are. Vulcan employed a landscape architect to plan this reclamation program and to help work out a dust control system that would be effective and also hired some environmental experts. Tests have been conducted with the County employees and also the Experts that the County hired from Chicago. These tests were on noise, dust and general pollution. They also varied their blasting hours to determine the best times to blast, as the former strict time of 6:00 P. M. for blasting was not good as they could not take advantage of the best atmospheric conditions. The reports from these tests made by Vulcan have been furnished to County officials. Vulcan has also paved the major roads throughout the quarry and the parking area and they have purchased a piece of dust removal equipment for the roads to remove the dust from the roads. This piece of equipment cost about $18,000 and that is now in operation. They have installed the dust collector equipment on all of the belts. The have installed a sprinkler on all of the stock piles. They have begun to landscape the entrance areas with planting of trees. They have met with the County people including the Restoration Board and who have come up with one or two additional recommendations a little bit different, but Vulcan feels they can comply with them. He stated that Vulcan has spent $150,000 in the last three months making improvements and in the employment of the experts and they have found that there is to be continuing work to be done in order to continue to comply with all the additional regulations and to make sure they are complying with the standards set up by the experts. They have also had some cleanup work remaining from the Agnes storm.

Mr. Gilbert Knowlton, Zoning Administrator, stated that as the Board would recall the Board of Zoning Appeals at the last meeting on this case deferred the case for three months extending the permit, until the County staff could conduct certain tests in order that they could make certain recommendations to this Board, therefore, before he gives the recommendations from the Restoration Board, he suggested that the Board hear from the experts that the County hired.

Mr. Salzenstein, President of Polytecnic, Inc. 2600 South Michigan Avenue, Chicago, Illinois testified before the Board.

He stated that he had been retained by the County to observe and run a testing program of the Vulcan Quarries. This was done by himself and Mr. Wiss, the noise expert. The air pollution test was one that was arrived at by setting up three samplers and take from these 24-hour samplers, one

piece of data from each sampler every 24 hours. They had three weeks of test data supplied to them. What they did was look at the suspended dust matter that was being carried from all the dust by the Town of Occoquan. There is a standard for measuring this dust and the average is 60 micrograms per cubic meter. The dust from Occoquan was compared to that 60. They found that Occoquan was getting 92 to 98 during the weekday and about 58 on weekends. They cannot assume all of the reduction was because Vulcan came to a stop on weekends, as there are other contributing factors also, but Vulcan is a definite contributor. They have not written a recommendation as to the definite language as to what is required.

Mr. Smith stated that the Board was just handed these reports this morning and they have not had an opportunity to read or study them.

Mr. Salzenstein stated that whether or not this dust level could be decreased to the standard limit would depend upon Vulcan. They are exploring ways of reducing this dust now. They are using all kinds of devices and technical means which are reasonable in the field. Whether they can achieve this level will depend upon the sampling program being used to see if the improvements will reduce the dust level.

Mr. J. F. Wiss, President of Wiss, Janney, Elstner and Associates, consulting and Research Engineers, 330 Pfingsten Road, Northbrook, Illinois, then spoke before the Board. Their assignment was to review and run testing programs as to noise. He stated that he was down to Vulcan several times and was familiar with the testing techniques. The test results were presented to them and they evaluated it as far as test techniques. They have come up with recommendations based on human responses rather than structure. The limits have been established by the United States Bureau of Mines. He stated that he had submitted his report to the County Staff.

He stated that in their testing they were concerned with the blasting effects but not with the noise of the plant. He stated that they were complying with the levels that they were recommending, but as far as the plant noise they were in excess. They did make certain recommendations that could help deaden the noise of the plant. He stated that this noise could be reduced to their recommended levels, but it becomes a matter of economics.

Mr. Gibson stated that they have made some changes, but not until this morning did he have the recommendations from the experts, but they do not have any doubt that they would not be able to meet the recommended level.

He stated that since the testing was done they have installed some anti-noise devices, new mufflers on the trucks, some of the equipment has been enclosed with sound muffling walls and probably if they were tested again now, the level would be down considerably. They have ordered rubber lined screen cloths and one of the engineers has devised a plastic bond noise deadening device which they are trying. He stated that he feels they have reduced the noise level way below the level that would bother a human.

He stated that they would be constantly trying to improve these areas for the remaining life of the quarry.

Mr. Gibson stated that he would like for their landscape architect to speak on what they have done and plan to do in the way of landscaping the area at present and the reclamation of the land as they go along.

Mr. Joe Hill, from Eden Planning Group, Planning Consultants, Raleigh, North Carolina spoke to the Board with regard to the booklet that was previously submitted entitled "Operation & Reclamation: Graham Virginia Quarries." Mr. Hill went into the details, which are in the booklet, on just how they plan to landscape the land as they continue the quarry operation. He stated that the quarry operation is planned to continue for eight years and by the end of that time, the land will be fully landscaped, and the large pit that is present now, which they plan to dig deeper, will be used by the Fairfax County Water Authority for water storage. They will hold 1.4 billion gallons of water in that reservoir.

Mr. Long inquired about the entrances and asked if they would have to come under site plan control for this because of the relocation of Route #123.

Mr. Knowlton stated that this was probably correct, but what is proposed here is grading and landscaping and would not affect the road.

Mr. Long stated that any entrance that is constructed should comply with the ultimate section of the State Route #123.

Mr. Gibson stated that land is now being condemned for the relocation of this road and the new bridge will not be in the vicinity of the old bridge.

He stated that he would like clarify the statement about making the hole deeper in order to be used by the Fairfax County Water Authority. He stated that they have had experts down there and they have told them that there is no danger of draining the river and there is no seepage. The water authority has asked them to dig the hole deeper.

Mr. Smith asked that their expert send a report in for the file on this.

Mr. Gibson stated that he would ask Mr. Berger to do so.

Mr.Randall, from Woodbridge, Virginia stated that he would like to speak in favor of this application. They have no financial interest in Vulcan Materials Company.

Mr. Smith stated he would accept his statement, but if they were interested only from the angle of getting concrete, in the interest of time they would go on to another speaker. The Board is aware that there is a need for this use.

In opposition,Mr. Rosenblum, 110 N. Royal Street, Alexandria, Virginia, attorney for the Town of Occoquan, spoke before the Board, He stated that he would like to submit a Petition that has been signed by 80 residents of the County of Fairfax And Prince William County in opposition to this use.

Mr. Smith accepted this Petition for the record.

Mrs. Claude Green spoke in opposition to this use. She stated th at at 2:50 A.M. several days ago, several residents were awaken by operations being conducted at the quarry.

Mr. Knowlton verified that he had similar complaints and had sent inspectors down and they were in fact doing some maintainence work on a piece of their equipment.

Mr. Smith asked if they had been informed that they were in violation of their Use Permit.

Mr. Knowlton stated that he had informed them of that.

Mrs.Green stated that they also had a question regarding the hole. It was stated at the earlier hearing that they would go no deeper and that is why they felt that could not comply with the 750' setback restriction that was before the Planning Commission and the Planning Commission recommended. The quarry stated at that hearing that this setback would chose them up because they could not go any deeper. Now they plan to go deeper and still do not plan to setback that 750'. There has been scientific evidence that a lot of construction noise does damage to the innerear and increases blood pressure, and the dust causes T.B. more so than in a rural area. She stated that no matter what the reports say, the noise level in Occoquan is just as bad as ever. She gave several examples of the problems they were having with their structures cracking.

Mr. Smith then read a letter from the Fairfax County Water Authority stating that they were interested in the project, but wished to be further informed as the quarry operation progressed.

Mr. Smith asked Mr. Wiss how going deeper would affect the noise and vibrations.

Mr. Wiss stated that one would get less vibrations and less noise at a greater depth.

Mrs.Green stated that Fairfax County is not a mining county and should not have to use the standards of the U.S. Bureau of Mining because in Fairfax County it is much more populated than in West Virginia where the closest structure to the mine would be a mile or so. She requested that they at least be confined to the 750' setback area.

Mr. Smith stated to Mrs.Green that the statement has been made that Vulcan is going down and there will be no more disturbances of the outlying area,

Mr. Rosenblum stated that previously they came before the Board and said if the 750' setback was enforced, then they would have to close down altogether. Today they are saying they intend to blast all the way back and 200' down in the rear portion.

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Vulcan Quarries (continued)

Mr. Smith asked the Engineer from Vulcan how much rock and how much more quarrying time they had left to work out of that area.

Mr. Gibson stated it would only be a year if they have to comply with the 750' setback area. He showed the Board a map of the area with the setbacks on it.

Mr. Rosenblum stated that the Planning Commission didn't mean 750' from their property line, but 750' from any occupied structure.

Mr. Gibson stated that they couldn't go straight down, there would be no way to get the rock out.

Mr. Carl Lynn, 313 Main Street, Occoquan, Virginia. He stated that a great deal of the problems with the citizens of Occoquan is the frustrations of not having anyplace to go nor anyone to go to in Fairfax County. These people in Vulcan seem to always pick the evening hours to do things such as a heavy blasting, and operating in the middle of the night and even though they could complain about it tomorrow, there is nothing they can do at that time.'

Mr. Lynn stated that during the past three months, but the last month in particular, they have had blasts that were unreasonable. He stated that if Vulcan couldn't operate within a restriction when they are under the gun as they have been the past three months, then he was sure they could or would not operate within any restriction if this Special Use Permit is granted. He also complained abouth the setback.

Mr. Smith again stated that the statement had been made by Vulcan that there will be no more disturbances of the top soil.

Mr. Smith stated that it is 35' below the surface level now. The Board members witnessed one of the last blasts to the surface area.

Mr. Lynn asked if there was a plan to monitor every blast in the future.

Mr. Smith answered that the County is now working on a permanent monitoring system. It will be an open public record. As to who he can call in Fairfax County, Mr. Smith told Mr. Lynn that this is the responsibility of the Zoning Administrator. He clarified that Mr. Wiss and Mr. Salzenstein were employed by Fairfax County and NOT Vulcan.

Mr. Wiss came forward and stated that he wasn't in the area of the heavy blasts that the citizens were complaining about and he is not saying that blasting at the levels they are suggesting would not be felt. They could be. They are suggesting that Vulcan should, when blasting, stay within the limits recommended by the U.S. Bureau of Mines. He stated that he agreed with this recommendation. He stated that several years ago he had published a book in which he recommended that the blast not exceed 0.5 inches per second in the earth at the closest occupied structure not on the quarry property. What has been recommended here is 0.2 inches per second. They have been using 0.4 inches per second.

Mr. Knowlton stated that the County has not been involved in the supervision of monitoring in the last several weeks. He stated that the County has called in consultants for this testing period because the County does not have a built-in monitoring system. The recommendation is for the County to get a built-in monitoring systen with Vulcan bearing part of the cost. They were not asking Vulcan to bear the entire cost as the County also needs this monitoring system for other areas to a smaller extent.

Mr. Albert Lynn from Occoquan spoke in opposition to this use. He stated that he has been active in trying to work out some of these problems with Vulcan, but they feel they are not getting much response from the people in Fairfax County Government. He stated that they have marked cracks in the plaster from one blast to the next and have found that they do in fact get larger.

Mr. Smith told him that if he could prove this it would be a matter for civil suit.

Mr. Lynn stated that then they come back to the fact that they didn't actually see it grow.

Mr. Charles Pugh, 303 Union Street, Occoquan spoke in opposition to the case. He stated that regardless of the readings on the seismograph, the blasts that have been felt in the past several months have been terrific. He gave several examples.

Mr. Smith stated that five years ago the County was told by Vulcan that they would take steps to help correct some of the problems and now as of this date, only part of the things are being done and just now are being done. And certainly, based on past history, the citizens of Occoquan have the right to conclude that nothing will be done in the future. He stated that he would assure the citizens that Mr. Knowlton the new Zoning Administrator has great interest in this project and the permit would be revoked if they do not comply.

Mr. Pugh suggested that a person from Occoquan be obtained to help with the monitoring system and to work with the County in this respect and he stated that he would volunteer for the job with no pay.

Mr. Smith stated that he felt this was a very good point.

Mrs. Toliver, 205 Washington Street, Occoquan spoke in opposition to this use. She stated that their house is now in a very dangerous state. During one of the last blasts some plaster fell off the ceiling and her sister-in-law was almost hit in the head.

Mr. Smith again stated that this would be the subject of a civil matter.

Mr. Rosenblum, attorney for the Town of Occoquan, came forward and stated that the citizens of the Town of Occoquan cannot afford to spend a whole lot of money to try to go into court and prove damages, and call in experts. This is a very expensive procedure. In the opinion of the prople of Occoquan, Vulcan is a nuisance. The situation is getting worse instead of better. They have talked with Vulcan and Vulcan denies any fault in causing the cracks in the houses.

Mr. Smith stated that it seemed to him that Vulcan would want to be good neighbors and repair the cracks in the walls.

Mr. Wallace Lynn spoke in opposition of this use. He stated that he lived just across the river from Occoquan, but in Fairfax County. He stated that he was a witness in the civil suit that involved Mr. Barnes and Vulcan several years ago and that didn't get anyplace. All the problems are still there. He stated that he even saw the fish jump out of the water before the blast was actually heard by himself.

Mrs. Evelyn Lynn, wife of Mr. Wallace Lynn, spoke before the Board. She stated that during one of the last blasts the stone came down through the trees like hailstones.

Mr. Ralph Meuller, Prince William County Board of Supervisors, spoke before the Board.

Mr. Meuller stated that at the last meeting of the Fairfax County Board of Zoning Appeals the Prince William County Supervisors had submitted a Resolution to this Board requesting that this application be denied. In accordance with the citizens request, they are again asking for the 750' setback if their ultimate request that the application would be denied could not be granted. He also suggested that there be put into the conditions on which the case is granted, if the Board feels it must grant it, that in the event that Vulcan does violate some of the conditions that their entire operation would cease for a period of one week. If the Board would do this, he stated, there wouldn't be any more such violations. He stated that they in Prince William County have a request from Fairfax County now regarding Lorton Reformatory and they would give that request their immediate and full attention and cooperate in every way possible and he hoped that this Board would do the same.

Mrs. Doris Green, 204 Center Lane, Occoquan, spoke before the Board in opposition. She stated that a lot of the people in Occoquan have lived there all their lives and are now senior citizens and would like to live their last few years in peace. This cannot be done in Occoquan anymore because of this quarry operation. She stated that she, too, has felt the blast and lot of the older people are scared to stay in their house when they hear the blast whistle go off. They go outside. They can't even sleep at night for the noise over on that hill.

Mr. Smith stated that they were all aware of the fact that there should be no operation between 6:00 P.M. and 6:00 A.M.

There was discussion between the Board, Mr. Rosenblum and Mr. Gibson with regard to the map that showed 750' setback area. Mr Rosenblum asked that this map be put into the record and Mr. Smith accepted it for the Record. It was a large cardboard map.

Mr. Long moved that appication S-99-72, application by Vulcan Materials Company to permit extension of quarry operation granted in 1956, extended October 1968 and June 14, 1972, be granted with the following limitations:

1. This permit is extended for a thirty (30) day period with the same conditions except where herein modified:

a. The hours of operation shall be Monday through Friday from 7:00 A.M. to 6:00 P.M. with no plant operations or maintenance on Saturday or Sunday, and

b. The final decision on this application shall be made on September 27, 1972.

Mr. Baker seconded the motion and the motion passed unanimously with the members present. Mr. Barnes was absent.

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EUGENE HOOPER AND JAMES E. HOOPER, app. under Sec. 30-3.2.1.1 of Ord. to allow access to proposed warehouse across RE-1 zoned land, East Side Prosperity Avenue (Route 699), 49-3 ((1)) 100, Providence District, IL and RE-1, S-127-72.

Mr. Morcarski, 450 West Broad Street, Falls Church, attorney for the applicant, represent them before the Board.

Notices to property owners were in order.

Mr. Morcarski stated that the applicant owns 4 and ½ acres, 2/3 of which is zoned I-L, which is light industry. The applicant presently plans to build a warehouse and the site plan has been submitted on the I-L zoned portion of the land. The only reasonable access to the property is an access road over the RE-1 property, therefore, they are requesting permission to construct an access road.

There are no immediate plans for the development of that area.

That front portion is also owned by the applicant. They are setting back the required amount from the adjacent property. The entire depth of the lot is 882' and about 30% of the front portion, or 200', is zoned RE-1. The rezoning took place prior to the applicant becoming the owner. There is commercial to the south.

Mr. Long stated that it looked as though they had an isolated piece of land.

Mr. Covington stated that this RE-1 land is on flood plain and it was left out at the time of rezoning because of the flood plain.

Mr. Smith stated that if this is granted, the staff recommendation regarding storm drainage should be included in the motion.

No opposition.

In application No. S-127-72, application by Eugene Hooper and James E. Hooper under Sec. 30-3.2.1.1 of the Zoning Ordinance, to permit access to proposed warehouse across RE-1 zoned land, on property located at east side Prosperity Avenue Route #699, Providence District, also known as tax map 49-3((1))100, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appelas held on the 13th day of September, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 4.5198 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County Codes is required.
6. That no other means of access is available or reasonably possible.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards of Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and to be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The storm drainage system shall be extended from the existing outfall on the post office site (adjacent north) to that of the Hamaker property (adjacent south)
7. A 22' travel lane connection shall be made to both adjacent properties and a 4' sidewalk included.
8. Prosperity Avenue shall be widened including a 90' R/W with curb and gutter located 32' from centerline with a 8' island separation from service drive. The developer shall dedicate 45' from centerline, construct curb and gutter 32' from centerline, an 8'median, service road and sidewalk.
9. To conform to County Code, all entrances must be located no closer than 12.5' from property line.
10. This parcel is located in the Long Branch of Accotink Creek watershed and the proportionate share is $574.00 per impervious acre.
11. Landscaping planting and/or screening shall as approved by the Director of County Development.

Mr. Baker seconded the motion. The motion carried unanimously. Mr. Barnes was absent.

Mr. Smith asked that there be added to the motion that there would be no impact on adjacent land owner as it is all under the same ownership. This should be under findings of fact.

Mr. Kelley accepted this and Mr. Baker accepted this as to his second.

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JAMES A. MORELAND, app. under Sec. 30-6.6 of Ord. to construct a one car attached garage within 8' of side property line, 4300 Fielding Street, 101-1 ((3)) 294, Lee Dist., (R-12.5) V-131-72 (Fairfield Subd.)

Notices to property owners were in order. The contiguous owners were Mr. DeVaughan and Mr. McDaniel. Mr. DeVaughan lived at 4302 Fielding Street and Mr. McDaniel lived at 4212 Fielding Street.

Mr. Moreland stated that he had lived and owned the property for six years. He purchased it new. He stated that he did not have an alternate location on the property for this garage. He has a drainage ditch on the lot that is 43' wide. It is a paved open ditch. He plans to use similar brick in the construction of the attached garage and use the same architecture as the present house.

Mr. Smith stated that it was rather unusual that 30 per cent of the lot would be in flood plain.

No opposition.

In application No. V-131-72, application by James A. Moreland, under Section 30-6.6 of the Zoning Ordinance, to permit construction of a one car attached garage within 8' of side property line, on property located at 4300 Fielding Street, Lee District, also known as tax map 101-1((3))294, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of September, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 11,937 square feet.
4. That compliance with all County Codes is required.
5. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

a. exceptional topographic problems of the land,
b. unusual condition of the location of existing buildings,
c. storm drainage easement across lot.

NOW, THEREFORE, BE IT RESOLVED, That the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. Architecture and materials used in proposed addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present. Mr. George Barnes were not present at this hearing.

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JAMES W. & DORIS A. ERMERINS, app. under Sec. 30-6.6 of Ord. to construct addition of family room and garage closer to property lines than allowed by Ordinance, 8943 Burke Lake Road, 69-4 ((5)) 429, Annandale District (R-12.5), V-132-72

Notices to property owners were in order. The contiguous owners were Edward Dutcher, 5249 Rolling Road, Springfield and Mr. and Mrs. Roy E. Weber, 8941 Burke Lake Road, Springfield, Virginia.

Mr. Ermerins stated that the traffic has increased and it is dangerous to park on the street. He has owned the property three years. The subdivision was built in 1962 but his house was not completed until 1965. He is the second owner. He purchased the house in 1970.

Mr. Smith asked if he realized that he was going to project into the front yard setback.

Mr. Ermerins stated that he did realize that.

Mr. Smith told him that the ordinance objects to this and the Board has never granted variances for permanent structures in a front yard setback such as this.

Mr. Ermerins stated that the house is skewed on the lot and on the other side is a storm drainage easement and at the rear of the lot is an open drainage ditch, therefore, he felt that he could not infringe upon the storm drainage easement.

Mr. Smith stated that a variance to the side property line would be minor beside of this. The ordinance requires 40' and the applicant is 16' within the front yard setback area.

Mr. Ermerins stated that he felt there was no other location.

Mr. Ermerins stated that he was 10 and 1/2' from the easement now and in addition, he would be destroying part of the existing structure and would have to excavate and that is more expensive.

Mr. Baker told him that the ordinance and this Board does not consider cost and that there were certain regulations that the Board is governed by.

Mr. Ermerins stated that he had a Petition signed by the neighbors which he would like to submit. This Petition stated that they had no objection to his infinging on the front yard setback.

Mr. Smith accepted the Petition for the record.

No opposition.

Mr. Long moved that this case be deferred for 60 days to allow the applicant to work with the County Staff to determine an alternate locations for the family room and garage so that he would only need a minimum variance, if any.

Mr. Baker seconded the motion and the motion passed unanimously, with the members present. Mr. Barnes was absent.

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DEFERRED CASES (FULL HEARING)

MRS. R. L. McCORMICK, app. under Sec. 30-6.6 of Ord. to permit building closer to property line than ord. allows, 6418 Georgetown Pike, Dranesville District, 22-3 ((1)) 49 (RE-1) V-102-72 (Deferred from June 28, 1972, at request of applicant)

Mr. Douglas Mackall, attorney for the applicant, testified before the Board. His address is 4041 Chain Bridge Road.

Notices to property owners were in order.

Mr. Mackall stated that Mrs. McCormick just recently purchased the property of the Happy Hills Country Day School and on the site is an old barn that was built in the 1900 and she would like to convert this barn into a house. He has employed Mr. DeWolfe, a noted architect, to come up with drawing and plans for converting this barn into a very nice house. The design does preserve the appearance of the barn. He submitted sketches to the Board. There is a 20' setback involved and they lack about 8'. They can meet all other setback requirements. Mrs. McCormick is trying to save this old barn and the cost will be about $45,000. This will be her personal residence. The barn exists now and is a non-conforming structure.

Mr. Knowlton stated that it could continue in its present use as a non-conforming structure, but they are changing the use and then would require a variance.

The architect, Mr. DeWolfe, 1605 N. Quincy Street, Arlington, Virginia, spoke before the Board. He stated that there would be some repairs required to the structure. There has been an informal site inspection of the house and they stated there would be prolbem with converting this barn into a residential house.

Mr. Kelley stated that the Staff Report mentions that the existing driveway to the school should be closed.

Mr. Mackall stated that this entrance is not used anyway. They have an agreement with the Church, whereby the Church uses their parking lot on Sunday, and the School uses that entrance during the week. Mrs. McCormick makes the parents of the students sign an Agreement that they will use the Church entrance. This is a non-conforming school that goes way back and is on the same site as the barn. Mrs. McCormick operates the school. Mrs. McCormick just recently bought this school and she has done a lot of things that the County and Health Department has required in order to comply. She could use this land and divide it into lots for a subdivision. He stated that he did not

feel that converting this barn into a house is not related to the school.

Mr. Long stated that he disagreed. He stated that the Staff has a responsibility to protect anyone using this school, if there is an entrance on the property that should be closed. He asked Mr. Reynolds to comment on this entrance.

Mr. Reynolds from Preliminary Engineering stated that his office did not make the comment regarding entrances. He stated that he had not checked the site. He stated that this comment came from the Zoning Inspector's Office.

Mr. Mackall reiterated that they did not use this entrance in question, they use the entrance on the church property. It is an oral agreement.

Mr. Smith asked Mrs. McCormick if she was still operating the school that she had obtained a use permit for some years ago.

Mrs. McCormick stated that was the Country Play School and she no longer operates that school.

Mr. Smith told her that she should make this known to the Zoning Administrator.

Mr. Kelley asked what is going to happen if the church should change their pastor, then what would they use for an entrance.

Mr. Mackall stated that they would agree to move the entrance to 125' away at that time.

Mr. Long stated that where there is a non-conforming use that is existing, there should be a complete inspection report.

In opposition, Mr. Dorsey Richardson, the contiguous neighbor, spoke before the Board. He stated that the barn was located very near his house and he does object to this conversion. He stated that he felt it would devalue his property. It would also set a precedent in the neighborhood.

Mr. Christopher Byrd, son of the owner of the other contiguous property, spoke before the Board in opposition to this variance. He stated that he objected for the same reasons as Mr. Richardson.

Ann Schoville, owner of Lot 47, 6400 Chain Bridge Road, spoke before the Board. She stated that she objected to this variance, not the school, because there would be two dwellings on the property. There is room for a house in other areas on the same property. The main thing that she objects to is changing the ordinance which would change the character of the entire neighborhood once the precedent is set.

In rebuttal, Mr. Mackall stated that the Richardson house is 175' away from this barn and the school is located on the other side of the property. The barn is there and has been there before any of the people present were here. When the Richardson's purchased their house from the Newman's, the barn was that close and it was an active barn up until World War II. He stated that he felt this would be something nice in the neighborhood and will improve the whole looks back in that area. He stated that he did not feel this would be setting a precedent, because this is the only barn in the area. He stated that it is the general consensus of government and most people to try to save history, of which this barn is a part of.

Mr. Smith stated that he has no objection to the barn, but it is the change in use and the change in use requires a variance. Mr. Smith told Mr. Mackall to relate this barn to the section of the ordinance as far as the hardship is concerned.

Mr. Mackall stated that the hardship is, the barn will be lost if this isn't done, because there is no need for the barn.

Mr. Long moved that V-102-72 be deferred for a maximum of sixty (60) days to allow the applicant the opportunity to file a use permit application for the Happy Hills Country School and the variance would be heard simultaneously; or if she doesn't, the Division of Zoning Administration should make a complete inspection report on the property and on its uses.

Mr. Baker seconded the motion and the motion passed unanimously with the members present. Mr. Barnes was absent.

Mr. Smith asked that there be added to the motion that there be a report from the sewer availablity department.

Mr. Long and Mr. Baker accepted this.

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Mr. Smith stated that he felt it was good to look into the entire picture in a case such as this so that if there are problems or a bad situation that it can be corrected.

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LEE & BEVERLY MORRISON, app. under Sec. 30-6.6 of the Ord. to permit erection of a two car carport 5 feet from side property line, Lot 21, Sec. 3 and resubd of Lot 49, Section 2, 2312 Wilkinson Place, Mt. Vernon District 102-1 ((26)) 21, (R-17), V-122-72 (Deferred from July 26, 1972, for proper notices.

Notices to property owners were in order.

Mr. Morrison stated that the request is to provide a double carport adjacent to the house in order to have a place for their cars. The design will be compatible with the neighborhood, all brick structure, and he needs a variance in order to construct this double carport. He stated that all the other houses have a garage or carport. The carport will be open and light and along the side it is tree screened, and the structure is not visible from most of the houses in the cul-de-sac. The issuance of this would not set a precedent as most of the houses in the area have garages or carports.

Mr. Smith asked if he realized that he could construct a single carport without a variance and he asked Mr. Morrison if the other houses that had garages and carports had to get variances in order to build them. He stated that he doubted very much if they did as the Board could not grant that many variances within a subdivision or they would be changing the entire zone which they were not permitted to do by law.

Mr. Morrison stated that he knew he could build a one-car carport, but he would like to have a two car carport. The subdivision is eight years old and they were the original owner of this house. He stated that he did not know if the neighbors had to get a variance as therehas only been two houses that have had carports added in that time period.

Mr. Smith told him that the statement that he is allowed to construct within 10' for a carport is already giving him 5' as the ordinance was changed in order that anyone who wished to have a carport instead of a garage could by right encroach 5' within the setback of a side yard.

Mr. Smith told him that he also had not indicated a topographic hardship in his testimony.

Mr. Morrison stated that he had obtained a couple of signatures from the neighbors stateing that they had no objection to this variance.

In opposition, Mr. Whitman, 2310 Wilkinson Place, spoke before the Board. He stated that the reason they purchased their house was because of the fine zoning. If this is granted, he stated, they would be denied light because this structure would impede it. They would also be denied a view from the bedroom windows. It would set a precedent in Kirkside. He showed the Board a map of the area and he had scaled the distance between each house in the area backing up his statement. These other houses that have carports and garages have been built by right and they face away from each other except the Morrison house and their house. He stated that he was also concerned about the drainage and they fear there would be flooding because of the change in elevation.

Mr. Kelley asked Mr. Morrison if he could take the garage back behind the building.

Mr. Morrison stated that he could not because there is a grade from the front to the rear.

Mr. Smith asked Mr. Morrison if he was aware of the Petition that is before the Board objecting to this application. This Petition was signed by twelve of the neighbors.

Mr. Long asked Mr. Morrison if he would consider reducing this to a one car carport or garage and having a minimum variance. He stated that Mr. Morrison could get a 17' carport in there with the 5' extension that the ordinance allows, or he could build a garage of 12' without a variance.

Mr. Morrison stated that they feel the garage would block the air and light.

Mr. Smith stated that he had the same problem as many other county residents. They do not have enough land to construct in conformity with their needs.

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MORRISON (continued)
September 13, 1972

In application No. V-122-72, application by Lee and Beverly Morrison, under Section 30-6.6 of the Zoning Ordinance, to permit erection of two car open carport closer to side property line than allowed on property located at 2312 Wilkinson Place, Mt. Vernon District, also known as tax map 102-1 ((26)) 21, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of September, 1972; and

WHEREAS, the BZA has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 17,508 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has not satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive theuser of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded the motion and the motion passed unanimously with the members present. Mr. Barnes was absent.

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B.P. OIL CORP. & JOHN R. HANSON, TRS., app. under Sec. 30-7.2.10.2.1 & Sec. 30-7.2.10.2.2 of Ord. to permit gas pumps and car wash (entrance and vacuum pumps in Town of Vienna) Maple Ave., at Vienna Line, 38-3 ((1))pt. Lot 44C & 115, Centreville Dist., (C-N), S-224-72

Mr. Smith read a letter from the applicant's attorney, Mr. Guy Farley, requesting another deferral as the proper landscaping plats had not been submitted due to some mixup in the organization and because it has been vacation time.

Mr. Long moved that the applicant comply with the conditions set forth in the original deferral motion before the case is reset and should be for a maximum of sixty (60) days and be rescheduled as a regular agenda item once the Zoning Administrator has established that the applicant has complied with all conditions in the original deferral motion and shall be scheduled for the first available date after all the information requested is available and determined to be satisfactory by the Zoning Administrator.

Mr. Baker seconded the motion and the motion passed unanimously with the members present. Mr. Barnes was not present.

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TEXACO, INC., app. under Sec. 30-7.2.10.2.5 of Ord. to permit design change in an existing service station under a previous special use permit so as to include a drive through car wash, 6543 Little River Turnpike, Hanna Park & Glendale Subd., 72-1 ((12)) (11) A & 7 & 1, Mason District (C-N), S-54-72 (Deferred from 5-10-72; 5-24-72)

Mr. Calvert, representative from Texaco, was present and stated that there was a mixup and even though they had the plats into the Zoning Office prior to the hearing it was not 5 working days. It was last Friday when the plats were submitted. As far as the question of the contiguous land being put into this use, Texaco feels that there is adequate land there now for this car wash to be added.

Mr. Long stated that previously the Board felt that they did not have adequate stacking lanes.

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TEXACO (continued)
September 13, 1972

Mr. Smith stated that the only reason they deferred this case originally was to let the applicant show that additional land in with this use, as the Board felt that this type operation generates additional traffic.

Mr. Calvert stated that it has been their experience that with a full scale car wash this would be true, but they are not planning a full scale car wash, and therefore, do not need this additional land.

Mr. Long stated that this is the first car wash of this type that the Board has had and if this type of use is going to be allowed, they have to be sure there is adequate stacking lanes.

Mr. Long read the original deferral motion stating:

"Mr. Long moved that S-54-72, be deferred until September 13, 1972, for decision only to allow the applicant

1. To furnish new plats showing the entire land area owned by Texaco used for the stacking lanes.
2. Showing both the existing and proposed uses.
3. Adequate stacking and parking lanes based on the proper utilization of the land area and the uses involved, the car wash and the gas station.
4. Zoning category.
5. Parking for the use.
6. Landscaping.

These plats must be in 5 days prior to the hearing in order for the staff to properly review them."

Mr. Long then moved that the applicant comply with the conditions set forth in the original deferral motion before the case is reset and should be for a maximum of (60) days and be rescheduled as a regular agenda item once the Zoning Administrator has established that the applicant has complied with all conditions in the original deferral motion and shall be scheduled for the first available date after the information requested is available and determined to be satisfactory by the Zoning Administrator.

Mr. Baker seconded the motion and the motion passed unanimously with the members present. Mr. Barnes was not present.

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SANDRA WARD, S-168-72 (Deferred for decision only after report from Zoning Administrator stating whether or not the Occupancy Permit had been issued and the barn had been removed)

Mr. Covington stated that the barn had been removed, but he had not checked to see whether or not she had the Occupancy Permit.

Mr. Baker moved that this case be deferred until after the Zoning Administrator has checked to see if she has the Occupancy Permit.

Mr. Long seconded the motion and the motion passed unanimously with the members present. Mr. Barnes was absent.

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TEMPLE RODEF SHALOM, S-128-72 (For decision only, deferred from August 2, 1972 for Staff to check the Recreation Area and for this to be put on the plats)

Mr. Smith read the staff report from Steve Reynolds, Preliminary Engineering, stating the recreation area and facilities are adequate, but the play times must be staggered with the other school that operates out of that building, the McLean Montessori School. He also suggested that there be a letter in the file giving the specific times for these play periods.

There was a letter in the file giving the specified times that both schools would have their play period outside.

Mr. Smith suggested that this be incorporated into the motion.

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TEMPLE RODEF SHALOM (continued)
September 13, 1972

The Staff Report read as follows:

"This office has reviewed the new plats in connection with the proposed private school ordinance and would offer the following comments:

1. The McLean Montessori School presently under a use permit has a permitted enrollment of 100 pupils in the Temple Rodef Shalom.

2. The Temple Rodef Shalom proposes an additional 100 pupils

3. According to the proposed private school ordinance, a school with an enrollment of 200 pupils should be located on a proposed or existing collector street.

4. Westmoreland Street is proposed to be a major thoroughfare, thereby surpassing the access or frontage requirements of the proposed ordinance.

5. The gross site area needed for 200 pupils for a private school as per the proposed ordinance is 80,000 sq. ft.

6. The gross site area of the subject propoerty is 7.378 ac., of which approximately 1/3 (2.759 ac.) is being used for temple and school facilities. As is evident, this also surpasses the minimum requirements of the proposed private school ordinance.

7. As stated in the letter attached to the new plat submitted the recreational facilities are proposed to be used on a staggered basis with approximately 35 students at any given time. It is suggested that a schedule be furnished to the board in order to assure that both schools in the Temple Rodef Shalom will have equal and adequate time for all 200 students for recreational periods."

In application No. S-128-72 application by Temple Rodef Shalom under Sec. 30-7.2.6.1.3 , of the Zoning Ordinance, to permit expansion of existing pre-school nursery school 100 children on property located at 2100 Westmoreland Street, Dranesville District, also known as tax map 40-2((1))19 County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS,, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, the following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 2nd day of August, 1972 and deferred to September 13, 1972 for decision and additional information.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 7.378 acres;
4. That compliance with all county and state codes is required.'
5. That compliance with Site Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of children shall be 100, ages 2½ to 6 years.
7. The hours of operation shall be 9:00 A.M. to 12:30 P.M., 5 days per week, Monday thru Friday during public school year.
8. The recreational area shall be enclosed with a chain link fence in conformity with county and state codes. Recreational area limited to the hours of 10:30 A.M. to 12:00 Noon.
9. All buses and/or other vehicles used for transporting children shall comply with county and state standards in color and light requirements.
10. There shall be adequate parking spaces provided with ingress and egress satisfactory to the Land Planning Branch.'
11. Landscaping, screening and planting shall be as approved by the Director of County Development.
12. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions and obtaining a Certificate of Occupancy.
13. All limitations and conditions set forth in original Special Use Permit shall remain in force.
14. This permit is granted for a period of 3 years with the Zoning Administrator being empowered to extend this permit for three one-year periods.

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Mr. Baker seconded the motion. Passed unanimously.

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TRINITY COOP PRESCHOOL, S-129-72 (For decision only, deferred from August 2, 1972)

Mr. Smith read the Staff Report stating that the recreational area had been reviewed and it had been determined that it was adequate for the use.

Mr. Kennon Bryan, attorney for the applicant, was present and presented to the Board a letter from the Trinity Methodist Church asking that they be included in the application

Mr. Baker so moved.

Mr. Long seconded the motion and the motion passed unanimously.
In application No. S-129-72, application by Trinity COOP Preschool and Trinity United Methodist Church under Sec. 30-7.2.6.1.3, of the Zoning Ordinance, to permit private cooperative preschool, on property located at 1205 Dolley Madison Blvd. Dranesville District, also known as tax map 30-2((1))39 County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:
WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and
WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of September, 1972.
WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 321,388 sq. ft. (7.308 acres).
4. That compliance with County and State codes is required.
AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance; and
NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approcal is granted for the buildings and uses indicated on plats submitted with this application.. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obilgation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 34, ages from 3 to 6 years.
7. The hours of operation shall be 9:00 A.M. to 12:00 Noon, 5 days per week, September thru May.
8. The operation shall be subject to compliance with the inspection report, the req. of the Fx. Co. Health Dept., the State Dept. of Welfare and Institutions and obtaining a Res. Use Permit.
9. All buses and/or other vehicles used for transporting students shall comply with County and State standards in color and light requirements.

10. There shall be provided adequate parking spaces with ingress and egress satisfactory to the Land Planning Branch.
11. The recreational area shall be enclosed with a chain link fence in conformity with State and County codes.
12. Landscaping. screening and planting shall be as approved by the Dir. of Co. Dev.
13. This permit is granted for a period of 3 yrs. with the Zoning Admin. being empowered to extend this for 3 - 1 yr periods.

Mr. Baker seconded the motion and the motion passed unanimously.

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PRESLEY DEV. CO. EAST, INC., V-126-72 (For decision only, deferred from August 2, 1972)

Mr. Smith read the reasons for deferral. He then read the report from Steve Reynolds stating that their office of Preliminary Engineering had reviewed this location and had no objection to the granting of this variance.

Mr. Kelley stated that in checking into this he found that originally this piece of land was set aside for some type of commercial use and the information he had was that Mrs. Pennino had requested that this be down-zoned to R-10, which was done. He stated that he felt this would be better on the neighbors than the commercial would have been.

Mr. Randolph Church stated that he was not aware of this that he didn't check that far back. He stated that it is next to industrial land and commercial zoning would seem likely. They are not able to put a through street in there though and this causes a hardship on the applicant.

In application No. V-126-72 application by Presley Development Company East, Inc. under Section 30-6.6 of the Zoning Ordinance, to permit increase in the required front setback or vary width at existing S/B line, on property located at LitWalton Court, Tysons Woods S/D Sec. 1, also known as tax map 39-1 & 39-3, Outlot B & C County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 2nd day of August, 1972 and deferred to the 13th day of September, 1972 for decision and report from staff.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant,
2. That the present zoning is R-10,
3. That the area of the lot is Lot B - 18946 sq. feet, Lot C - 20,799 sq. feet,
4. That compliance with all County codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
a. Exceptional topographic problems of the land

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not consitiute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures,

Mr. Baker seconded the motion. The motion passed unanimously with the members present. Mr. Barnes was absent.

DENNIS, Thomas J. & Eleanor, S-77-72; Deferred on 6-28-72 for additional information Adquate parking and turn around (2) Adequate building area for proposed number of students (3) Adequate landscaping (4) Adequate developed recreation area and (5) Rendering of building (6) Recreation area (Deferred from 6-28-72)

Mr. Jerry Friedlander,, attorney for the applicant, represented them before the Board.

Mr. Smith read the report from Steve Reynolds, Preliminary Engineering, which stated that all the items called for in the deferral motion had been complied with.

Mr. Reynolds report read as follows:

1. Lincoln Avenue is a local thoroughfare and would suffice for access as would be required by the proposed private school ordinance. The existing lot size for the subject lot is 31,234 sq. feet. The proposed private school ordinance would require a minimum of 42,400 sq. feet for 53 students as proposed by the applicant.
2. The plat submitted appears to allow for adequate turnaround area on-site as well as the on-site dispersing pf students.
3. Screen planting to the limits shown on the new plat appears satisfactory.
4. The recreation area and facilities appear to be of adequate size and convenience.
5. A rendering as requested by the Board is included in the case folder.

Mr. Friedlander stated that there had been some confusion about the number of students. Originally they asked for 60.

Mr. Long stated that his primary concern was that of the impact on the neighborhood and although the lot is deep, it is also very narrow. He stated that he felt the number of students should be limited.

Mr. Smith calculated the number of students using the guideline of the proposed ordinance on private schools and day care centers. He came up with the figure of 40.

Mr. Long stated that he felt the Board was not bound to grant exactly what that proposed ordinance suggested, if the Board felt that because of the shape of the lot, or the location of the school, the impact would be too great on the adjoining neighbors.

Mr. Long then moved that Application S-77-72 be deferred one week to allow the Board members to view the site.

Mr. Baker seconded the motion and the motion passed unanimously.

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AFTER AGENDA ITEMS:

RIVERSIDE GARDENS RECREATION ASSOCIATION, S-216-71.

Mr. Smith read a letter from Attorney Kenneth W. Smith, attorney for the contiguous property owners, who asked that this application be re-evaluated because of the numerous problems they were having down there. The letter enumerated these problems.

Mr. Smith also read a letter of Richard Hobson, attorney for the application, addressed to the Chairman of the Planning Commission regarding the Site Plan Appeal based on the location of the fence.

Mr. Smith asked Mr. Covington, Assistant Zoning Administrator, to tell the Board exactly what the problem was down there.

Mr. Covington stated that there had been several complaints from neighbors down there about the pool parties and he had sent an inspector down there and on one occasion the inspector did issue a violation because of the noise. This site was inspected on another occasion and the report from the inspector was that there was no noise off the pool site this time.

Mr. Covington also stated that there had been some problems that have arisen due to a dispute on where the fence should go.

Mr. Smith stated that when there are questions such as these, it should be brought back to the Board for an interpretation of their decision.

Mr. Baker so moved that this case should be brought back before the Board of Zoning Appeals for a re-evaluation hearing on the application and at that time the Zoning Administrator should submit for the BZA all the information that he has. The hearing should be set for the next available hearing date which is October 18, 1972.

Mr. Kelley seconded the motion and the motion passed unanimously with the members present.

Mr. Smith further stated that his feeling on this was based on the information from the Zoning Administrator, Mr. Covington.

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LAKE BARCROFT RECREATION ASSOCIATION, S-142-69;

Mr. Smith read a letter from Mr. Waterval regarding a retaining wall on the site which they would like to construct. Mr. Waterval also submitted a Site Plan with more extensive drawings on it than were on the original plat. The water surface is the same, Mr. Waterval stated, but because of engineering problems relating to the topography of the area there were slight changes in location of the facility.

Mr. Covington stated that he had gone over this plat and the changes appear to be slight, but that any change is necessary to come back before the Board, according to the Board's instructions.

Mr. Covington stated that these plats had been reviewed by the Site Plan Office and the only change they found was the location of the facilities, therefore, they sent it back to the BZA.

Mr. Long moved that Application S-142-69, Lake Barcroft Recreation Association, plats prepared by Patton, Harris & Foard and dated July 1, 1971 and revised 8-29-72, be substituted for those in the file with the original application.

Mr. Baker seconded the motion and the motion passed unanimously.

// SAUNDERS B. MOON COMMUNITY ACTION ASSOC., S-254-69

Mr. Covington submitted a letter from Mrs. Beatman, Day Care Coordinator with Social Services.

The Board discussed this case as this school is being operated by Fairfax County with Fairfax County funds.

Mr. Covington stated that the fee was not so much a problem as the engineer's plat which is very expensive. He stated that the question here is whether or not they have to come back with a new application since they are already County operated.
Mr. Covington stated that they were operating out of Drew School and he believes that they now have the entire school.

Mr. Covington stated that it could be brought back for a re-evaluation.

Mr. Smith asked Mr. Covington if he would investigate the school and give the Board a report at the next meeting.

Mr. Covington stated that he would.

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MOBIL OIL CORPORATION, Special Use Permit No. 27996 granted December, 1964. Inspector Douglas Leigh asked that this be brought back to the Board for a Show-Cause Hearing as they still do not have their occupancy permit. He has reminded them several times, to no avail.

Mr. Smith stated that in view of the violation, the Board does hereby request that Mobil Oil show cause why they should not be enjoined from operation since they had not complied with the Use Permit granted to them conditionally in December of 1964.

Mr. Long moved that Mobil Oil, No. 27996, granted December, 1964, be brought back before the Board of Zoning Appeals at the earliest possible date for a Show-Cause Hearing to find out why their Special Use Permit should not be revoked as they have not obtained the necessary clearance for the as-built site plan.

Mr. Baker seconded the motion and the motion passed unanimously.

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MORRISSETTE, Arthur E., V-63-71; Granted September 14, 1971.

Mr. Smith read a letter from Mr. Morrissette requesting an extension to his use permit because of hardships that had arisen that had prevented him from beginning construction on his warehouse.

Mr. Long moved that this request be granted for a 6 month period.

Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Smith asked the Clerk to so notify the applicant and remind him that the Board could only grant him one extension, therefore, he could have no further extensions.

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H & F DEVELOPMENT CORP., S-143-71; Requests that they be allowed to change tenant from Roth Twin Theatre to GEHWEILER THEATERS, INC.

Mr. Smith read the letter requesting the change that was sent by the attorney for the applicant, Mr. John Aylor.

Mr. Smith asked if construction had begun.

Mr. Covington stated that he did not know.

Mr. Baker moved that this be deferred for one week to allow the Zoning Administrator to determine whether or not this is a valid use permit.

Mr. Long seconded the motion and the motion passed unanimously.

// Page 314, Sept. 13 1972

RALPH LONG -- Case coming up on September 20, 1972 requesting Special Use Permit to allow him to use residential property for access to commercial property.

Mr. Smith read a letter from Falls Church requesting that the Board of Zoning Appeals consider asking the applicant to furnish a 22' travel lane or access road and a minimum of 30' entrance curb-cut.

Mr. Long stated that he thought it was Fairfax County's Site Plan requirement to require this.

Mr. Steve Reynolds, Preliminary Engineering, confirmed that it was a Fairfax County requirement under the Site Plan Ordinance.

Mr. Smith asked the Clerk, Mrs. Kelsey, to write to the City of Falls Church and convey to them that they wished to thank the City of Falls Church for bringing this to the BZA's attention and to tell them it is the BZA's wish to cooperate in every way with all the adjacent jurisdictions.

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HOLLIN MEADOWS SWIM & TENNIS CLUB

This had been deferred until September 13, 1972, as the applicant did not have proper notices at the previous hearing, then later they again asked the Board to defer the case in order that they might work out their problems with the contiguous property owners. At the time of these previously scheduled hearings, even though the hearing itself did not take place, the Board discussed the problems with the applicants and the citizens. They then instructed the citizens of the community to try to work together to come to an amicable agreement among themselves and submit a new plat showing what they intended to do. They were to have to plat in in time for it to be reviewed and approved by the Staff, scheduled for a set time and then the applicants were to renotify the nearby property owners, two of which touch the applicant's property.

Mrs. Kelsey informed the Board that because of a mixup in commmunications, the applicant did not realize that they had to get their plats in that much early and she, as yet, still did not have the plats and could not schedule the case without them.

Mr. Long moved that Hollin Meadows Swim & Tennis Club be notified that their application is to be complete and filed with the office of the Zoning Administrator on or before October 8, 1972. If this action is not taken then the Zoning Administrator is to schedule a Show-Cause hearing to see why they should not be enjoined from continuing to operate and this would be scheduled for October 25, 1972.

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LOYAL ORDER OF THE MOOSE, ARLINGTON LODGE NO. 1315; Special Use Permit No. 1374 (Ori) and S-663-67

Mr. Covington reported on the status of the fence that the Lodge requested they be allowed to put up for security reasons.

Mr. Covington stated that he had met with these people and found that they would not need a variance and the fence would not impose a hardship upon the surrounding property nor would it affect the surrounding property in any way.

Mr. Smith stated that in that case they could put up the fence by right.

Mr. Covington stated that he had told the group that they could not put the barb-wire at the top of the fence.

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AMENDMENT TO THE BY-LAWS OF THE BOARD OF ZONING APPEALS

Mr. Long moved that the Board of Zoning Appeals be amended as follows:

> Where the Board speaks of Certificates of Occupancy, this should be amended to require a Residential Use Permit or Non-Residential Use Permit, as the case may be, under the provisions of Article 9 of the Zoning Ordinance.

Mr. Baker seconded the motion and the motion passed unanimously.

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The meeting adjourned at 7:15 P.M.

By Jane C. Kelsey
Clerk

DANIEL SMITH, CHAIRMAN

October 11, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals of Fairfax County was Held on September 20, 1972, at 10:00 A.M. in the Massey Building. Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman; Loy Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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DAWN COPELAND, app.under Sec. 30-6.6 of Ord. to permit construction of pool closer to house than required, 13208 Pennypacker Lane, Greenbriar Subd., 45-3 ((2)) (15) 11, Centreville District (R-12.5), V-133-72

Notices were not in order.

Mr. Rosenthal, Rockville, Maryland, represented the applicant. The applicant was not present and Mr. Rosenthal's name was not indicated on the application form as agent.

Mr. Baker moved to have this case rescheduled when the applicant could be able to send out proper notices.

Mr. Kelley seconded the motion and the motion passed unanimously.

Mr. Smith stated that it would be necessary to have the property reposted and suggested that this case be scheduled for the next available scheduling date, which is October 25, 1972.

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RALPH S. LONG, app. under Sec. 30-3.2.1.1 of Ord. to permit access through residential property to commercial property, 2753 Annandale Road, Southgate Subd., 50-2 ((1)) 38, Providence District (R-10), S-134-72

Mr. Long represented himself and spoke before the Board. He stated that John D. Sessions would also speak on this.

Notices to property owners were in order. The contiguous owners were Patsy Ferguson Brice and Arthur Jackson.

Mr. Long stated that one of the reasons he needed this special use permit is because the State Highway Department took some ground for the widening of this road. He stated that he does own the residential property in question in this case and also the commercial property in Falls Church.

Mr. Smith asked Mr. Ralph Long why this residential property was not rezoned.

Mr. Ralph Long stated that this land is in Fairfax County and he hadn't intended to use it for commercial land but he had intended to use it for the entrance to the commercial as Fairfax and Falls Church require a 22' wide right-of-way and this right-of-way takes up most of the residential land, therefore, there would be no room for anything else. He stated that he would use the 14' on each side to plant shrubbery and for the trees that already exist. He stated that he did not have a road or any way to get in and out from the Falls Church side. He had tried to buy other land that surrounds this property, but has been unsuccessful.

Mr. Smith told Mr. Ralph Long that if he rezoned the residential in Fairfax County that would allow him access without the requirement of a Special Use Permit.

Mr. Ralph Long stated that this appeal is based on hardship of funds to pay for this rezoning and the State had taken so much of his land. He stated that he had owned the land since 1955 and had been paying taxes on it all this time. He stated that the zoning surrounding the subject property is primarily commercial. He indicated on the map where the different zoning categories were. To the North is the Runyan property which is commercial. Next to Runyan is an equipment and construction building, John Lewis's building. On the corner is the Amico American Station. Lot 39 is residential except for a small corner which is commercial. He stated that the corporate line between Fairfax and Falls Church has never been accurately surveyed. It is put on the map as an approximate line by all surveyors. The red on the map is in Fairfax County and is C-G. Commercial is on two sides and partially on the third side.

Mr. Ralph Long stated that they plan to have an automobile repair garage of body and mechanical work that is allowed in that zone.

Mr. Smith asked Mr. Covington, the Zoning Administrator, if body work and a body shop is allowed in C-G.

Mr. Covington stated that it was.

Mr. Ralph Long stated that it was an unfortunate situation when his property is divided between two jurisdictions. He stated that there was a great deal of cost involved in getting a property rezoned. This costs not only a lot of money, but a lot of time, for both the applicant and the County. This is a permitted use by use permit in Fairfax County and all he wants to do is put a driveway over his own property. This would do this same thing as a rezoning.

Mr. Smith stated that he would be providing access to a commercial property and the land involved in the access is almost double the amount to be used for commercial and it is residential on both sides of this subject property.

Mr. Smith stated that Mr. Ralph Long was asking the BZA to bring about what amounts to a rezoning.

Mr. James Sission, 254 Cedar Lane, Apartment 164, Vienna, Virginia, spoke before the Board in support of the application. He stated he was the Agent in this application.

He stated that on the transpariences the Staff has drawn this property in like a triangle, but it is not. The corner of that triangle is part of Mr. Runyan's property. He went into the details of the amount of commercial property that surrounds the commercial property in Falls Church.

Mr. Smith stated that this surrounding commercial surrounds the commercial piece of property in Falls Church, but residential surrounds the residential property in Fairfax

There were seven people who were present who indicated they were in opposition. They had three speakers. One of whom was Rev. Bell, Minister of the Galloway Methodist Church, 2752 Annandale Road.

Rev. Bell stated that they are located directly opposite the property and they oppose such an intensive use directly in front of their church. This business will have a lot of cars sitting around there and they might even be working on Sunday during the worship service. He stated that he was speaking for the members of the church.

Mr. Bohlan, 2804 Emerly Street, Chairman of the Administrative Board at Galloway Methodist Church, spoke in opposition. He stated that he did not live in the vicinity, but he was a member of the church and Chairman of the Administrative Board and represents a large portion of the members at Galloway. He stated that he would like to correct a statement made by the applicant that Arthur Jackson's property was commercial. It is not commercial. There is a residence on that property and that residence is occupied. He stated that the applicant spoke of all the property to the North being commercial, but Runyan's property is directly adjoining Long's property and then adjoining the Runyan property there is a lot where the Evans family live, so it is also residential. He stated that this seems to be an attempt to invade a residential area and also seems to be an effort to persuade Fairfax County to do some more spot zoning.

Mr. Bohlan also stated that this property also is across the street from the parsonage of the church. He stated that he had traveled all over northern Virginia and he has yet to find any churchthat has a garage or repair shop across from it, or on either side of it. This would be the first Church in the Northern Virginia area to have a garage across from it. This area has been residential for a long time and it is one of the few areas in Fairfax County that is completely occupied by blacks and the homes are decent homes and they are improving all along. He stated that he felt it was the beginning of a movement to try to relocate the Blacks in the area. He stated that they have lived in this area for 100 years or more. There is nothing that would prevent the applicant from doing this work on Sunday and it would interfere with church services.

Mr. Bohlan also stated that it would cause a traffic problem. There already is a traffic problem of congestion, but this would make it worse.

Mr. Bohlan stated that on behalf of the Church members, he requested that this application be denied.

Mrs. Smith, 2939 Randon Road, spoke before the Board. She stated that she was concerned about this type of construction. She stated that she realized that it could be spot zoned, but it is for a very bad use for this residential neighborhood. She stated that she felt this was something that should have to go before the Planning Commission and Board of Supervisors if they wish to go commercial. She stated that it took two years to get Annandale Road widened and she has many letters from the County and has spent much time here trying to get this road and sidewalks. There are many residences and homes in this area that go back to 1885 she stated when this was called the Old Falls Church Road. This road was widened for the safety of the community and the residents there.

The other reasons they oppose this use is because of the noise level. The people who live around this use are older people who have lived there a long time. The heavy equipment would also interfere with televisions, and other electrical applicances.

Mr. Smith read a letter that was received from Dr. Johnson, 2204 Annandale Road, the owner of the property adjacent to Lot 5 and he stated that they oppose this use as it would allow a commercial use in a residential community as he feels this will change this pleasant residential community into a noisy, contaminated automotive repair project and could be the beginning of greater difficulties for this area.

Mr. Richard Long, member of the BZA, stated that he felt this would change the character of the neighborhood if theBoard allowed this intensive use and if they felt they were entitled to this use, they should have it rezoned.

Mr. Smith stated that this is the highest use that could be made of this property as far as noise is concerned and the applicant should have found a use of lesser impact had he wanted to use this residential property to get to the higher commercial use.

Mr. Long stated that a rezoning would allow a better development plan to utilize more of the property.

In rebuttal, Mr. Ralph Long, showed a map of the area where he had drawn in the different commercial and residential areas. He stated that this entire area is going mechanical and automotive. He indicated the different areas on themap.

Mr. Smith stated that more and more, he was giving good reasons why he should have his land rezoned. He stated that the Board is well aware that there are automotive uses in the area, but the property on which he is asking the use permit is residential and there is residential around it.

Mr. Baker asked Mr. Long if he was paid a commercial price for the property that the State Highway Dept. took from him.

Mr. Ralph Long stated that he was paid residential price, $1.60 per square foot.

Mr. Smith asked him if he had really tried to acquire some property from the Runyan property.

Mr. Ralph Long stated that he had and that Runyan would not sell. They (Runyan) have an equipment repair place there now and they are not interested in competition.

Mr. Richard Long stated that he was in no way related to Mr. Ralph Long nor did he know him.

Mr. Richard Long stated that he feels this use would change the character of the residential neighborhood as this would be for a high density commercial use that they would be bringing through Fairfax County.

Mr. Richard Long moved that this be placed at the end of the Agenda for decision only.
Mr. Baker seconded the motion.
The motion passed unanimously for this to be placed at the end of the Agenda for decision only.
Mr. Smith stated that the public hearing is over.

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September 20, 1972
Ralph S. Long

In application No. S-134-72, application by Ralph S. Long under Section 30-3.2.1.1 of the Zoning Ordinance, to permit access through residential property to commercial, on property located at 2753 Annandale Road, Southgate S/D, also known as tax map 50-2((1))38, Providence District, County of Fairfax, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of September, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10 in Fairfax County and Commercial (B-3) in Falls Church.
3. That the area of the lot is 9,007 sq. ft.
4. The majority of the lot lies in Fairfax County.
5. The surrounding land in Fairfax County is residentially used and zoned.
6. The proposed use is for a garage and for auto repair.
7. "Applicant's property is divided by the boundary line between the County and the City of Falls Church is such fashion that it fronts on Annandale Road in Southgate Subdivision with R-10 zoning, in the County, while the rear portion lies within the City, where it is zoned for General Business. Applicant proposes to build a commercial garage on the portion of the lot within the City, and wants to construct a driveway access to that business use from Annandale Road through the residentially zoned land in the County. Under Section 30-3.2.1.1 of our Ordinance, such driveway access to a business use is not permitted use in any R district, except that the BZA may permit such use 'If no other means of access is available or reasonably possible.'
Approximately two-thirds of the subject lot lies within the County, where it is surrounded by residential zoning and residential uses. The granting of this application would have the clear effect of committing this portion of a residential area to commercial use, and would be tantamount to a rezoning which changes the basic character of that area of the County. The proposed commercial development on the one-third of the lot which lies within the City would provide no economic benefit to the County if permitted in this fashion, whereas it would provide some benefit if the County land was actually rezoned to fit the use.
Preliminary Engineering Branch suggests that if the BZA approves the requested use, it require that a minimum 22' entrance road be provided through the residential property and that a single standard 30' minimum VDH entrance be provided to Annandale Road." (From staff report dated 9-15-72)

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion and the motion passed unanimously.

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VIA HOMES CONSTRUCTION CO., app. under Section 30-6.6.5.4 of Ord. to permit house to remain within 48 feet of front property line, 6218 Colchester Road, Wonderland Subd., 76((12)) part parcel 4, Springfield District, (RE-1), V-135-72.

Mr. Grayson Hanes, attorney for the applicant, testified before the Board. His address is 10409 Main Street, Fairfax, Virginia.

Notices to property owners were in order. The contiguous owners were Mrs. Mildred Webb and Mr. Morris Eigen.

This corporation has been in existence for about five years and builds primarily single family homes. The home that is in question today is under contract to be purchased. It is in the name of the builder, but the name of the contract purchaser is Stuart G. Gathman.

Mr. Hanes stated that the property was properly staked, but somehow after the stakes were in place, they were either knocked out of place by a bulldozer and replaced improperly, therefore, the house was constructed and is 90% complete. The contract purchasers are living in a motel and have stored their furniture until this matter can be settled and the construction finished.

Mr. Barnes stated that he noticed that it was only in violation on one corner.

Mr. Baker stated that it is also an odd shaped lot.

Mr. Hanes submitted a letter from Mr. Gathman stating that he would like to be included in the application.

Mr. Barnes so moved that Mr. Gathman be included in the application.

Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Smith stated that this is a very minor variance.

In application V-135-72, application by Via Homes Construction Co. & Stuart Gathman under Section 30-6.6.5.4 of the Zoning Ordinance, to permit house to remain within 48' of front property line, on property located at 6218 Colchester Road, Wounderland S/D also known as tax map 76((12)) part parcel 4, Springfield District, County of Fairfax, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, th captioned application has been properly filed in accordance with the requirements of all applicable state and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of September. 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1
3. That the area of the lot is 2.00001 ac.
4. The dwelling is 90% complete and the request is for a minimum variance of 2 feet at one corner.

1. That the Board has found that non-compliance was the result of an error in the location of the building.
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted.
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion and the motion passed unanimously.

ANTHONY J. LUCACOS, app. under Sec. 30-6.6 of the Ord. to permit carport to be converted to dining room within 14.8' of side prop. line, 4516 Brookside Drive, Pinecrest Subd., 72-1 ((6)) 49, Mason District, (RE-0.5), V-136-72

Mr. Herb Morgan represented the applicant.

Notices to property owners were in order. The contiguous owners were Mr. Niclo Scalco, Lot 50 and Mr. Charles Smith, 4520 Brookside Drive.

Mr. Morgan stated that the applicant has owned the property for five years. He wished to encroach into the 20' setback in order to enclose the dining room. There will be no change in the outside structure from the standpoint of footings, etc. The applicant does plan to continue to reside there. He does not plan to come back and ask for another variance. The applicant needs the extra room as he recently got married and they expect an addition to their family. The hardship lies in their not being able to enjoy the property to the fullest without this addition of this dining room. This will be totally enclosed and the applicant intends to use the same type of material as is in the house. This is also a very narrow lot.

In application No. V-136-72, application by Anthony J. Lucacos, under Section 30-6.6 of the Zoning Ordinance, to permit carport to be converted to dining room within 14.8' of side property line, on property located at 4516 Brookside Drive, Pinecrest S/D, also known as tax map 72-1((6))49, Mason District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of September, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 30,368 sq. ft/
4. That compliance with all County Codes is required.
5. That this requirement is for a minimum variance.

AND, WHEREAS, THE Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist: which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:
a. exceptionally narrow lot.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials to be used in proposed addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion and the motion passed unanimously.

JOHN SAAH, app. under Sec. 30-6.6 of the Ord. to permit corner of house within 45' of front property line and carport within 35' of front property line, 8622 Chapel Drive, Wakefield Forest Subd., 70-1 ((2)) 123, Annandale District, (RE-1), V-137-72

Mr. Saah represented himself.

Notices to property owners were in order.

The applicant stated that he had two front yards, since he has a corner lot. He stated that he would like to build a house that is compact as possible, and put the carport on the front leaving a large area to the north of the property in the back.

Mr. Smith noted that he did not have the demensions on the plat and stated that they should have been drawn on the plat.

Mr. Long stated that if the applicant put the carport in the triangular area where the family room and kitchen is he would not need such a large variance.

Mr. Saah stated that if he did that, they could not have a patio.

Mr. Saah stated that the dwelling on Lot 24 faces Chapel Drive and they do not have any objections. He did not have this in writing.

Mr. Smith stated that most of the carport would be in the required front setback area and this is a situation that the Board does not allow to this extent, especially when there is an alternate location.

Mr. Kelley asked the applicant if he would like an opportunity to come back and change his plans and ask for a minimum variance.

Mr. Saah stated that if he moved the entire house back, it would bring him a lot closer to the house in the back.

Mr. Baker stated that if he moved the carport over to the triangular area, he would have no objection.

Mr. Barnes agreed.

Mr. Smith reminded Mr. Saah that the Board must be guided by and only grant variances in accordance with the ordinance.

Mr. Long moved that this case be deferred for a maximum of 60 days to allow the applicant to meet with the Zoning Administrator to find an alternate location for the carport and redirect his request to a minimum variance.

Mr. Barnes seconded the motion and the motion passed unanimously.

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DOROTHY & CHARLES OTTEN, app. under Sec. 30-6.6 of the Ord. to allow hedge to remain 4.5' high around corner lot, Lot 33 Blk. 2, Riverside Gardens, 1603 Old Stage Road, 102-4 ((12)) 33 (R-12.5), V-138-72, Mt. Vernon District

Mr. Otten represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Mr. J. H. Cribb, 1605 Old Stage Road, and Col. & Mrs. Feuerriegel, 8510 Backboard Road.

Mr. Otten stated that they wished to keep the hedge at its present height to reduce the pollutants and provide a sound barrier against noise, because of the constant stopping and starting of vehicles at this intersection. This would also provide some privacy in a way that is not offensive, but attractive by these plantings and maintaining green life which is so beneficial to all and to prevent run-off from heavy rains. This will also help reduce water pollution, which is beneficial to the county as a whole. He mentioned the staff report which stated that there was no interference with site distance at the intersection.

Mr. Smith asked who made the complaint.

Mr. Otten stated that he did not know, but Mr. Leigh stated that a lady had called and registered a complaint. He was issued a violation notice and told to cut the hedge back.

Mr. Smith stated that the Ordinance states "Shall Be" and if the Board allows this, everyone else will come in and ask for the same thing. He stated that it would be good if they could find out who complained.

Mr. Otten in answer to Mr. Smith's question stated that he bought the house in 1963, but went to Europe for three years during which time they rented the house, then came back in 1970.

Mr. Smith stated that it looked as though the street was lower than the yard, and if that was the case, he would have to cut the hedge back even lower.

Mr. Barnes stated that he felt the Ordinance should be changed because of the pollutant problem.

Mr. Smith stated that there is no doubt about the problem of pollutants these days, but this is a general situation throughout Fairfax County and all the United States, and if the Board grants this, then everyone else can come in and ask for the same thing.

Mr. Baker also stated that he felt a change in the Ordinance is needed.

Mr. Long stated that he felt that the BZA lacks the authority to grant a varince in this case, and the applicant should go back to the Board of Supervisors and ask for a change in the Ordinance.

No opposition.

Mr. Ralph Long, 7936 Shreve Road, spoke before the Board and stated that he was in favor of this request for this variance. He stated that there was an application for a variance on Gallows Road for Dr. Morgan's residence, and the Board granted that request for an 8' high wall along the road frontage and this is a variance.

Mr. Smith stated that the BZA did not grant this variance.

Mr. Long stated that this was denied.

Mr. Ralph Long stated that it was his information that the wall was put in permanently 8 feet high.

Mr. Covington, Zoning Administrator, stated that Dr. Morgan was advised to remove the wall.

The Board members asked Mr. Covington to check this out to make sure that Dr. Morgan removes the wall.

In favor of the request, Mrs. Denny, 8618 Buckboard Drive, spoke before the Board.

She stated that she felt that the hedge was a safety factor and not a safety hazard as throughout the community, stop signs have been ignored. She stated that she does not have small children, but she does walk her dog every day and has seen many near accidents in that community because of the fact that the stop signs are ignored. She stated that this hedge does not interfere with traffic but cars do have to come to a full stop. Therefore, she stated, that if the hedge is removed, it would create a safety hazard.

Mr. Smith stated that the Board has to uphold the Ordinance.

Mr. Baker suggested again that the applicant get with his Supervisor and ask him about having the Board of Supervisors change the ordinance.

Mr. Long moved that this case be taken under advisement.

Mr. Kelley seconded the motion and the motion passed unanimously.

Later in the day, the Board again took up this case and Mr. Long moved that this case be deferred for a maximum of 60 days to allow the applicant time to see if he can get some relief from the Board of Supervisors.

Mr. Barnes seconded the motion and the motion passed unanimously.

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VILLA AQUATIC CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit construction of tennis courts; hard surface parking area and reduction of required parking spaces from 137 to 135, westerly adjacent to Fairfax Villa, Section 3 & 4, 57-3 ((7)) A, Springfield District (R-12.5) (original permit for swimming pool granted 12-4-62, #13161) S-139-72

Mr. William G. Spruill, 11102 Del Rio Drive, Fairfax, Virginia, attorney for the applicants and Chairman of Pool Improvement for Fairfax Villa Swim Club, testified before the Board.

Notices to property owners were in order. The contiguous owners were Millard Bohler, 11100 Byrd Street and Agathe Maddox, 11102 Byrd Drive.

Mr. Spruill stated that their membership is 325. The planned membership at the time of the original hearing was 400. By-laws limit the membership to 350. The reason they wish to reduce the parking spaces by two, is because there is a concrete drain near these two spaces that could be hazardous to car tires and they could like to removes these spaces. This concrete abuttment sticks up about 6 to 8 inches.

Mr. Spruill stated that they plan to construct two tennis courts; there would be a maximum of eight players on these courts at any one time. He stated that they planned to go along with the Staff recommendation as to plantings and screening.
He stated that he had discussed this with Mrs. Kelsey, Clerk to the Board, previously and she had noted that the pool did not have proper screening at that time. He stated that he did not know what to suggest or propose and he had stated that it was heavily wooded, but they would put in any amount of shrubbery that was required.

In application No. S-139-72, application by Villa Aquatic Club, Inc. under Sec. 30-7.2.6.1.1 of the Zoning Ordinance, to permit construction of tennis courts, hard surface parking and reduction of parking req. to 135, on property located at westerly adjacent to Fairfax Villa Section 3 & 4, also known as tax map 57-3((7)) A Springfield District, County of Fairfax, Mr Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of September, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 5.74256 ac.
4. That the original permit for swimming pool was granted December 4, 1962.
5. That the compliance with all County Codes is required.
6. That the site plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. All provisions of the original permits shall be complied with except where herein amended:

A. The maximum number of memberships be reduced to 350 families.

B. There be a minimum of 135 parking spaces as indicated in plats.

C. Screening and landscaping shall be provided as set forth in the staff report and be approved by the Director of County Development. If the Board sees fit to grant this application Preliminary Engineering Branch suggests 'that screen planting to be provided between the proposed tennis courts and the abutting property to the west. Also, supplemental screen planting should be provided between the tennis courts and the subdivision to the south, the amount to be determined by the Director of County Development or his agent at the time of site plan approval.'

D. Hours of operation will be 9:00 A.M. to 9:00 P.M. 7 days a week.

Mr. Barnes seconded the motion and the motion passed unanimously.

DEFERRED CASES:

TEXACO, INC., app. under Sec. 30-7.2.10.2.1 of Ord. to permit gasoline station, intersection of Telegraph Road and Highland Street, 82-3 ((4)) 1-A, Lee District, (C-N), S-47-72 (Deferred from May 24, 1972 and deferred again until September 20, 1972 for decision only after the Staff makes additional reports)

MR. Wm Smith, Design Review Division, Planning Review Branch, of County Development, spoke to the Board regarding the soils tests and plans for this station.

Mr. Daniel Smith asked Col. Smith if he had inspected the parcel of land and if he was prepared to make a statement as to whether the plan presented is adequate.

Mr. Wm. Smith stated that he was familiar with the site and that it is troublesome. He stated that it is a site that can be built upon if the owner is prepared to spend the money that is required to stabilize it. Col. Smith went into the details of the different materials that the soil at the site consists of as had been gone into at the previous hearing. He stated that because of the make-up of the soil, the applicant would have to do something to keep the water away from the clay. There are other things that must be done other than just a retaining wall. He stated that there would need to be an underdrainage system put in. All these things can be done, he stated, as long as the owner in the submission of the plans certifies that he will meet the County's conditions, then he can build on the site. It will be expensive. He stated that he had reviewed the plans that were submitted, but they were only the concept plan for the retaining wall. The questions of whether or not all the water has been taken care of has not been answered and it must be answered in the submission of the plan. He stated that he did not feel the Board would need to have the owner submit a complete detailed working plans before the Board can wrestle with the question of whether or not to grant. He stated that their advise is that they can depend on Design Review to make sure that the station that is built is going to stay and there will be no damage to nearby properties.

Mr. Long asked if the applicant had obtained a bond to insure that this would be done.

Mr. Wm. Smith stated that that could be done and it has been done in a number of areas in that same general area.

Mr. Smith asked how much of a bond would the County recommend.

Mr. Reynolds from Preliminary Engineering stated that he had consulted with the applicant's attorney and he had stated that they had checked with James White who is in the Bonds and Agreements branch of Design Review. He stated that it was a standard type Agreement that has been approved by the County Attorney.

Mr. Kelley asked that this be done prior to the granting of this Use Permit as he has correspondence in the file going back to 1967 when Atlantic Richfield was trying to work out this thing.

Mr. Wm. Smith stated that he felt it was a question of asking the owner to invest a lot of money without any guarantee that he would get any return for it.

Mr. Kelley stated that if there were certain conditions that the applicant would have to correct and those conditions cost so much, then if the applicant see that it will be too expensive to pursue it, he could discontinue at that time, rather than waiting until he is in the middle of the project.

Mr. Long stated that if the Board does grant the Use Permit, it should be subject to the conditions stipulated by Col. Smith. If he could not provide the detailed engineering drawings as Col. Smith indicated, then the building permit could never be issued. As to the bond, it is up to the Staff to make a recommendation as to how much.

Mr. Kelley asked what happens if they go so far into this operation then abandon it and slippage occurs after that.

Mr. Richard Hobson, attorney for the applicant, testified before the Board.

He stated that he had tried to get a bond from the applicant to the County, but the County did not have a form, but he did get a copy of the County policy. He stated that he had no way of determining the amount that the Board wanted this bond to be. He stated that he had drawn up a draft of an Agreement in accordance with the policy to be submitted to the County Attorney.

They discussed what the amount should be.

Mr. Long stated that the Board had deferred this case, so all these things could be worked out by the Staff. The Staff works with bonding all the time and should have been able to come up with an amount.

Mr. Long stated that the Staff had not complied with the Board's motion.

Mr. Long read the motion from May 24, 1972:

"Mr. Long moved that this case, Application S-47-72, be deferred for a maximum of 60 days to allow the applicant to submit specific plans to the Division of Land Use Administration for their and the County Soils Scientist's review and approval for the protection of the adjoining properties from soil slippage.

The Director of County Development is to recommend to this Board a bond or insurance policy to be posted with Fairfax County to insure any construction for the protection of the adjoining property owners."

Mr. Long stated that it was his concern that the property owners would be harmed. Actually, he stated, we should not insure the reconstruction of Texaco property, but only as it would affect the adjacent property owners. Texaco is obligated to restore the site and to stablize it, but what about the damage that might be done to any property owner in the area. He stated that he wanted to see the language the Staff comes up with or the bond that is actually approved by the County Executive and the County Attorney. The conditions of the bond should also be carefully gone over. These people have been damaged and we need to insure them so that No. 1, they will not be damaged further, and No. 2, if they are, that these damages will be taken care of at no expense to them.

Mr. Long stated that it was never his intent to vote on the application without knowing all these things prior to voting on it.

Mr. Hobson stated that he has talked with the County extensively and this is the only thing that the County has given him.

Mr. Hobson further stated that there were so many uncertainties, such as: whether or not the design was proper.

Mr. Smith stated that the bond should be no LESS than One-Half Million Dollars. He stated that this bond should cover any and all residences or any property, whether it be a residence or business, that might be damaged. This bond should be for the sole benefit of the property owners.

Mr. Hobson stated that he would go along with whatever the Staff suggests within reason. He stated that the Staff has to know what the Board wants to cover.

Mr. Smith stated that there is no way to put a distance on this, as they do not know exactly how much property will be affected should the soil slip. There is no way the Board can answer the amount question without details such as, how many houses are or could be involved and how many square feet of land space is or could be involved.

Mr. Long stated that this is something that the County Staff should do. He stated that Col.Smith had answered the questions that he had relating to the plan for carrying out this construction on this property.

In opposition, Mr. John Elliott, Melview Street, one of the adjacent property owners spoke before the Board.

Mr. Smith stated that this is highly irregular to have anyone speak after the public hearing is over, but the Board tries to be democratic and hear from everyone who would like to speak and perhaps they could speak to the question of how much of a bond should the County impose on the applicant, should this application be granted.

Mr. Elliott stated that he could not answer that question as he did not know how many homes might be affected should the land start to slide. He stated that he is on the edge of that hill and next to him is Col. Christenston and then Mr. Striver. There are houses beyond Col. Christenston and around on the other side of the cul-de-sac. But, the question is, how many of those houses will go and how much of that hill will go. The homes are priced in the neighborhood of $50,000 on Melview Street and there are five homes on that immediate side. He stated that he was interested in the amount that would be available to indemnify the owners should a slippage occur and he stated that he would hope that this would be a separate item instead of making it a part of one bond for all purposes. If it is one bond for all purposes, then most of the money might be used to take care of their own property.

Mr. Long stated that the main purpose of the bond is to cover the homeowners in the area.

Mr. Elliott stated that he would like to see Texaco give up that idea as they had so much trouble in the past and it is too expensive to go to Court to get paid for the house or land that has slipped because of their construction, the last time they ended up paying it out of their own pockets and he really didn't feel this was fair.

Mr. Long agreed and stated that this is why the Board is trying to come up with a plan before they start anything and also the bond.

In opposition, Lt. Col. Christenston, 6409 Melview Street, spoke before the Board.

He stated that he, too, went through this same type of procedure in 1967, 1968, 1969, when Atlantic Richfield tried the construction of their station at this site, and, they gave up. He stated that he agreed with Mr. Kelley that they should try to stabalize the property first. The other time, they also had assurances that the Atlantic Richfield would do everything to keep the soil from slipping, but they did not do everything possible. The soil did slip and caused a lot of damage to be incurred by the homeowners. It takes a long time to get your money even if the homeowners did go through litigation and it is very expensive. The homeowners do not have the money that Texaco has. The same staff approved their plans five years ago, as will approve the plans now. There was slippage five years ago and he stated that he too concurred with Mr. Kelley's proposal that they should have their plans in and approved first.

Mr. Smith stated that it is the general concensus of the Board that the Staff has not responded to the deferral resolution well enough to be able to dispose of this case in a favorable manner.

Mr. Barnes moved that this case be deferred for a maximum of 30 days for additional information such as: a suggested amount of bond to cover and indemnify all the property owners contiguous or in the immediate areas who might be damaged and also to indemnify the County against any cost in restoring the property of the service station site in case construction is begun and a slide occurs and the owner abandons the property.

Mr. Long seconded the motion and the motion passed unanimously.

Mr. Hobson commented that 30 days would put this about October 18, 1972.

Mr. Smith stated that he felt the bond should not be less than $500,000 due to the fact that there are expensive houses directly contiguous with this site.

Mr. Long agreed.

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THOMAS & ELEANOR DENNIS, app. under Sec. 30-7.2.6.1.3 of Ordinance to permit private day care school of approximately 65 children, 2 to 7 years of age, 5 days per week, 4905 Lincoln Avenue, Lincolnia Park, Section 1 Subdivision, 72-3 ((1)) 2, Mason District (RE-0.5), S-77-72

Mr. Smith stated that this case had been deferred to allow the Board members to view the property.

Mr. Long stated that he and Mr. Kelley did view the property and it was a very narrow piece of land in a very nice residential area. He stated that he felt that 35 was a reasonable amount of children because of the impact it would have on the surrounding neighborhood and this should be kept in more of a neighborhood type school.

Mr. Kelley agreed.

Mr. Smith stated that according to the new ordinance they could have more students.

Mr. Long stated that he did not feel that the Board was bound by that ordinance if the members felt that the impact because of the location of the lot, the size of the lot or the surrounding community or any other feature could cause an adverse impact upon the surrounding neighborhood.

In application No. S-77-72, application by Thomas J & Eleanor Dennis under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit private day care school of children, 2 to 7 years 5 days per week, on property located at 4905 Lincoln Avenue, Lincolnia Park, Section 1, also known as tax amp 72-3((1))2, Mason District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of September, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 31,234 sq, ft.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with County and State Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and,

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit shall be cause for this use permit to be re-evaluated by this Board . These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. That the maximum number of children shall be 35, 2 to 7 years of age.
7. The hours of operation shall be 7:00 A.M. to 6:00 P.M. 5 days per week, Monday through Friday.
8. The recreational area shall be enclosed with a chain link fence in conformity with Coutny and State Codes.
9. All buses and/or other vehicles used for transporting children shall comply with County and State standards in color and light requirements.

10. There shall be a minimum of 7 parking spaces provided with ingress and egress satisfactory to the Land Planning Branch. All parking areas, travel lanes and turnaround areas shall be covered with a dustless surface.

11. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions, and obtaining a Residential Use Permit.

12. Landscaping, screening and planting shall be as approved by the Director of County Development.

13. This permit is granted for a period of 3 years, with the Zoning Administrator being empowered to extend the permit for three one year periods.

Mr. Baker seconded the motion and the motion passed unanimously.

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SANDRA WARD, S-168-72 (Decision only after report from Zoning Administrator stating whether or not the Occupancy Permit has been issued)

Mr. Wallace S. Covington stated that the Occupancy Permit has not been issued, but the only remaining thing is for the final inspection on the toilet facilities. The proper work had been done, but when it was inspected, the inspector felt they needed a vent system in the toilet to remove the air, so they had to get another permit to install the air venting system. This has been done and is awaiting the final inspection.

Mr. Covington stated that he would like the Board to continue this case until the last of October in order that he could get a report from the inspector and see that the Occupancy Permit had been issued.

The Board agreed that this would be deferred for a maximum of 60 days to allow the Final Inspection to be made, therefore, this could come up as early as the latter part of October, for final action by the Board.

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H. & F. DEVELOPMENT CORP., S-143-72 (Decision only after report from the Staff as to whether or not the Special Use Permit is valid) The request was for H & F Development Corp. to be allowed to change the tenant from Roth Twin Theatre to Gehweiler Theaters, Inc. There was a copy of the lease and corporation papers.

The Staff reported that this was a valid use permit.

Mr. Baker moved that Gehweiler Theaters, Inc. be included as co-applicant and that this request be granted.

Mr. Long seconded the motion and the motion passed unanimously.

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C & P TELEPHONE COMPANY, Burgundy Communications Center, 3103 Burgundy Road, S-126-72 Request for deletion of extra entrance.

Mr. Mitchell, Associate Planner for Zoning Administration, stated that the Staff was aware of this request and is asking the Board to make this decision.

Mr. Long after looking over the plats that were submitted moved that the request be granted that the entrance be eliminated on Chapin Street.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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Mr. Gilbert Knowlton brought news to the Board that the Court had decided in favor of the County in the U-Haul Trailer case. Mr. Smith stated that the Board was very happy with that decision. He stated that over a long period of time the interpretation of the Board of Zoning Appeals has been that no U-Haul Trailers can be allowed in a Gasoline Station. He stated that he hoped this would be conveyed to the Board of Supervisors at the earliest possible time. He requested a copy of the Judge's Order on this decision.

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SAUNDERS B. MOON CHILD DEVELOPMENT CENTER.

Mr. Wallace S. Covington, Zoning Administrator, stated that he had viewed the school and the school would like to eventually have 250 children in the Drew Smith Elementary School and this is under capacity for that building.

He suggested to the Board that this school be brought in for a re-evaluation.

Mr. Barnes so moved.

Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Smith stated that this should be set for a regular agenda item on the next available agenda date, which Mrs. Kelsey has indicated to be October 25, 1972.

The property should also be posted.

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Mr. Kelley moved that the minutes for the August 2, 1972 meeting be approved.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

October 18, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals of Fairfax County was Held on September 27, 1972, at 10:00 A.M. in the Massey Building. Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman; Loy Kelley and Joseph Baker.

The meeting was opened with a prayer by Mr. Barnes.

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SAMUEL J. KOORITZKY & R.J.L. ASSOC., app. under Sec. 30-6.6 of Ord. to permit addition within 20.16' from rear property line, 7804 Wincanton Court, Shrevecrest Subd., 39-4 ((16)) 19, Providence District, V-140-72 (R-12.5)

R.J.L. ASSOC., app. under Sec. 30-6.6 of Ord. to permit a 7.4' variance on front yard setback which faces Nottingham Street, located 7801 Appledore Ct., Shrevecrest Subd., Sec. 2, 39-4 ((16)) 24-A, Providence District. (R-12.5) V-145-72

Neither of the above cases could be heard on this date, as the newspaper did not print the advertisements properly. These cases had to be readvertised and will be heard on October 11, 1972, at the same times.

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During this time lapse, the Board took up a memorandum written by Harvey Mitchell, Associate Planner, concerning a proposed amendment to Section 30-3.5.1 of the Ordinance. At the meeting during the previous week, there was an application requesting that the applicant to allowed to let a hedge remain one foot higher than the Ordinance allows around their corner lot for privacy, pollution and water drainage reasons. The Board took the case under advisement for a maximum of sixty days to allow the applicants to seek relief through amendment of the Ordinance.

Mr. Mitchell drafted this proposed ordinance so that it would provide relief for this applicant and similar cases which might arise in the future, but would also clarify the purpose of the provision in the Ordinance.

The Board discussed this proposed ordinance and deferred it again in order that they might study it more.

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WILLS & VAN METRE, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit swimming pool, north Edinburgh Drive between Northumberland Road and Lake Pleasant Drive, Saratoga Subd., 98-2 ((1)) pt of parcel 13, Springfield District (RTC-10), S-141-72

Mr. Richard Hobson, attorney for the applicant, 4085 University Drive, Fairfax, Virginia, represented the applicant before the Board.

Mr. Hobson submitted notices which were in order. The contiguous owners were David J. Cullen, 8107 St. David Court, Springfield, Virginia and Mr. Richard Metz, 8101 Northumberland Road, Springfield, Virginia. He stated that these owners do not touch the pool property and nothing touches the pool property except property owned by the applicant, but these owners do touch the applicant's townhouse property.

Mr. Hobson stated that Mr. Fhrurer has prepared the case and he would be presenting it before the Board.

Mr. Ed Fhrurer, 1200 Prince Street, Alexandria, Virginia, presented the case before the Board. He stated that the pool was originally presented along with the zoning of the property in 1968. It is an olympic size pool and would accomodate 750 families in Saratoga Subdivision, should they all desire to join. The pool will be constructed and operated by Wills & Van Metre, Inc. initially until they sell memberships and finish construction of the pool and then it will be turned over to the Homeowners Association. It will be run at no profit until it is transfered. The people who buy the memberships will become the owners of this pool and this pool property. He stated that they have 120 members now and about 40 more have given an initial deposit of $100. He stated that he did not know at what point they would be able to turn this over to the Homeowner Association, but probably when they have about 400 members, or when they complete their sales in the project. They estimate that one-third of the people who purchase homes will buy a membership.

Mr. Long asked if this pool was part of the open space in the cluster plan.

Mr. Fhrurer stated that it was not part of the open space.

Mr. Long stated that if it was part of the open space, then all the homeowners would automatically become an owner, not just part of them.

Mr. Fhrurer stated that Mr. Wills tells him that when this was zoned as part of the RT zoning, it was not calculated as part of the open space, but it was part of the recreational space.

Mr. Gene Wills, 5929 Woodley Road, McLean, Virginia, spoke before the Board. He stated that the open space and parkland is along Pohick Creek and this is what has been calculated as open space separately from this piece of land in question where they are proposing the pool. This was not part of the density requirement.

Mr. Long asked if they had any subdivision plans that the Board might refer to on this.

Mr. Wills stated that a site plan has been submitted on the other sections, but no site plan has been submitted on the area surrounding the pool.

Mr. Long asked if they had checked with Site Plan to see if they had enough open space without the pool property.

Mr. Wills stated that they had.

The applicants submitted a plat of the area. This plat stated a total of 26.21 acres. The pool was indicated on the plat.

Mr. Long asked if this pool was included in this total of 26.21 acres.

Mr. Fhrurer stated that it was excluded.

Mr. Hobson stated that this wasn't going to be a membership that is restricted only to the townhouses and this is not townhouse cluster property.

Mr. Fhrurer stated that the bathhouse design would be very similar to the one for Blakeview Subdivision that the Board granted a few weeks ago. He stated that it was suggested that they put in an emergency access to the pool, therefore, they had the plats redrawn to include this. He submitted revised copies to the Board.

Mr. Smith stated that they would be accepted.

Mr. Fhrurer explained the parking situation to the Board. He stated that they had provided the proper number of spaces for the houses, but the townhouses were all within 1200' of the pool site and within walking distance. They did provide some extra spaces anyway for people who wished to ride to the pool. They have also provided bike racks.

Mr. Long stated that he wished to find out more about the open space calculations.

Mr. Smith stated that the Board also needs to know whether or not this is a non-profit pool. He stated that they are not in compliance with the Ordinance if the people have to purchase the land back.

Mr. Wills stated that he had not figured the land in the cost of the memberships.

Mr. Hobson stated that this pool would not be for profit.

Mr. Kelley asked if this Saratoga Subdivision would be all owned by Mr. Wills.

Mr. Hobson stated that it was, but it is all in different sections.

Mr. Long stated that he wished to find out for sure whether or not this pool property was part of the density credit for these townhouse cluster developments.
He moved that this application be placed at the end of the Agenda for further consideration.

Mr. Kelley seconded the motion and the motion passed unanimously.

The Board asked Mr. Reynolds from Preliminary Engineering to check this out and give the Board a report on this.

The Board recalled this case later in the day.

Mr. Reynolds from Preliminary Engineering reported to the Board. He stated that he had reviewed the process by which the preliminary plan for the subdivision was approved. He stated that normally County Development approves the preliminary plans for subdivisions; however, on Saratoga on the rezoning, B-703, the Board of Supervisors approved the preliminary plan instead of letting County Development do it. At the time, there were no written committments to provide this pool site for the benefit of all the individuals in the subdivision of Saratoga. It was also found that there were no density computations which would show whether the pool site was needed in order for the development to meet the density requirements. It is the Staff's position that the development could, in fact, exclude this area of the pool site from the density computation and perhaps still meet the requirements of the density of each individual zoning category. If he did, then each and every person who bought a home would not necessarily become an automatic member and if that were the case, then they could charge for individual memberships. The developer should state at the time he sells a lot that in order to be a member of the pool, it will be necessary to purchase membership, then the purchaser will not be mislead into thinking that when he does buy the home they are automatic members of the association.

Mr. Long asked Mr . Reynolds if this then means that the developer has the right to set this pool aside for individual memberships.
Mr. Reynolds answered that that was correct, and that it appears so, but it would be appropriate to restrict this to the Saratoga Subdivision.

Mr. Reynolds stated that the Staff didn't say that it is not a part of the cluster concept. It is part of the over-all plan that a pool be provided, but as to how the membership was selected, that was never established.

Mr. Long asked if he had a copy of the preliminary plan.

Mr. Reynolds stated that it was back in the office, but it does not show any sufficient information regarding the pool site or density computation.

Mr. Smith stated that it looked as though this is a community facility rather than a subdivision facility, but it should be limited to the Saratoga Subdivision.

Mr. Hobson stated that he would like the record to show that at the hearing this morning on this case, there was no one in the room except the applicants in this case and the applicants in the next case.

Mr. Smith stated that the record would so reflect.

In application No. S-141-72, application by Wills & Van Metre Inc. under Sec. 30-7.2.6.1.1, of the Zoning Ordinance, to permit swimming pool N. Edinburgh Dr. between Northumberland Rd. & Lake Pleasant Dr. also known as tax map 98-2 ((1)) pt par 13 Springfield District, Co. of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with theby-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 27th day of September 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant
2. That the present zoning is RTC-10
3. That the area of the lot is 3,49596 acres
4. That compliance with Site Plan Ordinance is required
5. That compliance with all County Codes is required
6. That 460 of the 750 units will be townhouses, which owners will walk to pool

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with (Standardsfor Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance)/and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferablewithout furthur action of this Board, and is for the location indicated in theapplication and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted to the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of the county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of family membership shall be 750, which shall be residents of Saratoga Subdivision.
7. The hours of operation shall be 9:00 A.M. to 9:00 P.M. Any after hours party will require special permission from the Zoning Administrator and such parties shall be limited to 6 per year.
8. There shall be a minimum of 115 parking spaces for cars and a minimum of 75 parking spaces for bicycles, and emergency lane to pool.
9. The site shall be completely fenced with a chain link fence as approved by the Director of County Development.
10. Landscapping, fencing, screening and/or planting shall be approved by Director of County Development.
11. All loudspeakers, noise and lights shall be directed to pool area and confined to site.

Mr. Baker seconded the motion.

The motion passed unanimously.

Mr. Smith told the applicant that when they transfer this over to a Homeowner's Association, they should also notify the Board of Zoning Appeals in order that this application could be amended to that name.

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JAMES R. ECKELS, app. under Sec. 30-6.6 of Ord. to construct a carport closer to Swinks Mill Road than allowed in Ord., 919 Swinks Mill Road, 21-3 ((1)) 24, Dranesville District (RE-1), V-142-72

Mr. Eckels represented himself before the Board.

Notices to property owners were in order.

The two contiguous owners were Gordon Donald, 911 Swinks Mill Road and Frank Pearl 935 Swinks Mill Road.

Mr. Eckels stated that most of his property is in flood plain. During the Agnes storm they lost some of the buildings. This is the only location that is out of the flood plain. This entire lot is 10' below grade of the highway therefore, it would not constitute an obstruction from the highway and cannot be seen from the highway. He stated that last year they widened Swinks Mill Road and the dirt that they removed was placed on his side of the road, but when the rains came it washed the dirt down onto the driveway in front of his house and it necessitated his building a retaining wall to hold that dirt back.

Mr. Eckels stated that the reason he cannot build at the end of the structure is because it falls off there. He stated that the flood plain map is not correct in that there is a hill approximately 10 to 12 feet high on the south side of the house which means that he could not build anything without cutting away that hill.

Mr. Eckels stated that there are three other houses built on the flood plain. Mr. DeBost built a carport prior to the time that Mr. Robey purchased the property. That is Lot 9.

There was also a variance granted on the property next door belonging to Gordon Donald.

Mr. Long stated that they had deferred that case until the Staff could get the additional information concerning the highway width. The Staff came back stating that they had no objection to this granting.

Mr. Eckels submitted additional photos of the house.

The case was placed at the end of the Agenda for decision only.

The motion was made by Mr. Long, seconded by Mr. Kelley and passed unanimously.

Later in the day the Board recalled this case and made the following motion.

In application No. V-142-72, application by James R. Eckles under Sec. 30-6.6 of the Zoning Ordinance, to permit carport closer to Swinks Mill Road than allowed in Ordinance, on property located at 919 Swinks Mill Rd., Dranesville Dist., also known as tax map 21-3 ((1)) 24, County of Fairfax, Virginia Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 27th day of September 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is .755 acre of land.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical diffuculty or unnecessary hardship that would deprive the user of the reasonable use of the land and buildings involved:
   (a) Exceptional topographic problems of the land,
   (b) Unusual condition of the location of existing buildings,

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 0 with Mr. Smith abstaining. He stated he did not feel the variance was a minimum variance.

CAVALCADE HOMES, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit walk-to pool and bath house, Cavalcade Site on Fountain Head Drive, 71-1 ((1)) 50, Annandale District (RT-10), S-144-72

Mr. Richard Kimzey, 6490 King Lewis Drive, Alexandria, employee of Calvacade Homes as Assistant General Manager, testified before the Board.

Notices to property owners were in order. The contiguous owners were John and Yvonne Brennan, P.O. Box 47 and Mr. Johnson.

Mr. Kimzey stated that they plan to build a walk-to pool with approximately 231 members.

They have provided an emergency parking space and they hope to operate the pool from 9:00 A.M. to 9:00 P.M.

Mr. Smith stated that this type of operation would not be able to have swim metes as they did not have sufficient parking.

Mr. Long asked if the space where this pool is to go part of the open space that was set aside at the time of rezoning.

Mr. Kimzey stated that it was. This land was set aside in the initial site plan.

Mr. Long asked if when a person purchases a home in this development, would they automatically become a member of the pool.

Mr. Kimzey stated that they would. He stated that the price of the pool was included in the price of the home.

Mr. Barnes stated that he felt this was a good set-up.

Mr. Smith stated that this was the intent of the ordinance.

In application No. S-144-72, application by Cavalcade Homes, Inc., under Section 30-7.2.6.1.1, of the Zoning Ordinance, to permit walk to pool and bath house, on property located at Cavalcade Site, Fountain Head Drive, Annandale District, also known as tax map 71-1((1))50 County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letter to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 27th day of September, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RTC-10.
3. That the area of the lot is 14,355 sq. ft.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all county codes is required.
6. That the request is for a walk to pool.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, That the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of family memberships shall be 231, which shall be residents of said development.

7. The hours of operation shall be 9:00 A.M. tp 9:00 P. M. Any after hours party will require special permission from the Zoning Administrator and such parties shall be limited to 6 per year.

8. There shall be a minimum of 17 parking spaces for cars and a minimum of 58 parking spaces for bicycles.

9. The site shall be completely fenced with a chain link fence as approved by the Director of County Development.

10. Landscaping, screening and/or planting shall be as approved by the Director of County Development.

11. All loudspeakers, noise and lights shall be directed to pool area and confined to said site.

12. A separate Special Use Permit will be required for the "Future" extenstion of the proposed bath house.

Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Smith reminded the applicants that should they transfer this pool over to a Homeowner's Association, they would have to so notify the Board of Zoning Appeals in order that that change could officially be made and noted on the file. This keeps everything up-to-date.

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SONDERLING BROADCASTING CORP., app. under Sec. 30-7.2.2.1.3 of Ord. to permit an erection of a one story building, addition to existing radio transmitter site facility, 7330 Ronald Street, Tower Heights, 50-1 ((12)) 2, Providence District, (R-10), S-146-72

Mr. Howard B. Silberberg, 111 South Alfred Street, Alexandria, Virginia, attorney for the applicant, testified before the Board.

Notices to property owners were in order. Contiguous owners were James D. Elliot, 7328 Ronald Street, Falls Church and Kathleen Koth, 7407 Tower Street, Falls Church.

Mr. Silberberg stated that this transmitter has been at this location for many years. The studios are in the District of Columbia. He stated that this one story building would be 16' by 20' and would be an addition to the existing radio transmitter site. This building would be used to house additional radio transmitter equipment made necessary by the station's increase in broadcast power as authorized by the Federal Communications Commission.

Mr. Silberberg stated that the tower would remain as it is. There will be no increase in height. The premises are visited once each day by an employee for verification of certain standards. Other than that, there is no one on the premises and the controls are in the studio in the District. He stated that the tower was 480' above sea level and it was erected by their predecessors.

Mr. Smith stated that this tower does not meet the fall area. The ordinance requires one to own enough land to permit the tower to fall within that land.

Mr. Silberberg stated that the tower is 44.4 feet from the front property line and 25' from the rear property line. The building will be 27.6' from the property line. He stated that this entire parcel is owned by Sonderling Broadcasting and is approximately 14,912 square feet of land.

Mr. Barnes stated that the old Special Use Permit plat stated five (5) acres.

Mr. Silberberg stated that a predecessor might have owned that much land, but they still own all of the land that they purchased. They purchased the property in 1966 or 1967.

Mr. Smith stated that the predecessor was in violation to the ordinance.

Mr. Long asked what the new building would be constructed of.

Mr. Silberberg stated that the existing building is of metal construction but the new building would be a single story masonry building with cinderblock.

Mr. Long stated that he did not feel that cinderblock is compatible with the surrounding neighborhood.

Mr. Kelley asked if they planned to paint the cinderblock.

Mr. Silberberg stated that it would be painted.

Mr. Smith stated that if the Board was going to grant this extension of this use, then the Board should know that the tower is safe and therefore, there should be an inspection team report.

Mr. Silberberg stated that they were not enlarging the use of the station of the facility. They have been authorized by the FCC to install a second transmitter which will give them standby capacity which they currently do not have. This will mean that in the case of mechanical failure, they will be able to stay on the air. The antenna is attached to the physical tower structure, therefore, there will be no changes to the tower.

Mr. Smith stated that Mr. Long has raised the question that since the original permit granted was for 5 acres and that has been reduced without permission from the Board to only 14,000 square feet and the tower is not in compliance with the County's zoning standards, then it will have to be determined whether or not this tower is safe.

Mr. Smith asked how close the tower is to a residential property.

Mr. Silberberg stated that it is 25' from the property line and he would make a guess that it is about 40' from the closest residence. He stated that it was above average terrain and the tower itself is about 275' high.

Mr. Barnes stated that FAA should have an inspection of these towers.

Mr. Pete Adams, County Communications Engineer, spoke before the Board. He stated that he was familiar with the site. The owner rents space for antennas to others for their use and he stated that on one occasion he was asked to check this site as the building was being left open and there is 20,000 volts of electricity in this building.

Mr. Adams stated that children were playing in this building. He stated that he did not think the tower has been inspected since this system was installed. At the time he inspected the site, there were mycro-wave facilities hooked to the tower and the building was wide open. He stated that he did not remember the exact year that he checked this tower. He stated that he had been an employee of Fairfax County for ten years.

Mr. Smith asked the applicant how many organizations they allowed to use the antenna for broadcasting.

Mr. Silberberg stated that they have approximately 9 to 12, depending on the particular month. They use the tower for a location for citizens bands. It is a remote set-up. They have hospitals, doctors, ambulances, alarm systems, etc. He stated that they did not have radar or mycro-wave. The building is checked daily by Frank Cramer. The area is fenced with a 6' chain link fence with barb-wire at the top. They do plan to add extra fencing.

Mr. Smith stated that there should be an alarm system built in.

Mr. Silberberg stated that he felt this was an excellent idea.

Mr. Long moved that Application S-146-72 be deferred for a maximum of 60 days for further information and to allow the Office of the Zoning Administrator to review this application for specific recommendations, and to have an inspection by the Fairfax County Inspection Office and Mr. Adams from Communications on the safety operations of these facilities.

Mr. Barnes seconded the motion.

Mr. Smith stated that they should also submit a certificate of insurance.

The applicant stated that he would.

The motion passed unanimously.

Mr. Smith stated that this inspection would be done and if the report was in, then the Board could make a decision on the case earlier than the 60 day maximum.

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During the lunch break as the Board of Supervisors needed the Board Room for bidding for bonds, the Board of Zoning Appeals again visited Vulcan Materials Company at Occoquan.

The Board noted that there were several changes made. One was that they had constructed a wall along the side of the crusher that faces the Town of Occoquan. This wall is constructed of 1/2 inch plywood, insulation and an exterior of corrogated metal. They showed the Board how much it helped cut down on the noise by first going by the exposed side of the crusher then going around to the other side. The Board noted that there was a definite decrease in noise from the crusher because of this wall.

They stated that they also plan to put up this one-half inch plywood on two sides of the screening towers.

The Board noted that they had begun a beautification program by planting trees and seeding the slopes surrounding the quarry operation. They had also painted the rocks on the hill side overlooking the Town of Occoquan with a gold colored Sherman-Williams paint.

The Board then toured the entire quarry operation and drove across to the Town of Occoquan to see how loud the noise was from that location. The most noticable of the noises seemed to be that of the trucks and heavy equipment, instead of the crusher.

The Board recalled this case later in the afternoon for the purpose of making a decision.

Mr. Smith asked the attorney for the applicant, Mr. Gibson, if the crusher that was in the back has always been there.

Mr. Gibson stated that it was up there for five years and then it was taken down and then was put back up.

Mr. Smith stated that this crusher has never been shown on the plats.

Mr. Smith stated that unless the Board goes down there, how would they know what is on the land. The applicant is required to put everything that is on the land on the plats.

Mr. Gibson stated that the land is District of Columbia land over which, Fairfax County has no control.

Mr. Smith stated that if the District of Columbia leases this land for a use that is not permitted in Fairfax County, or a use that requires a special use permit, then Fairfax County does have control over it. If they were using it for District purposes, Fairfax County would have no control over it, but they are leasing it to Vulcan for Vulcan's purposes.

Mr. Gibson stated that he was sure that he knew the law better than Mr. Smith.

Mr. Knowlton, the Zoning Administrator, stated that there has been a feeling that perhaps Fairfax County has no jurisdiction on District land. He stated that he had been in contact with the County Attorney and was informed that there is a study going on in connection with trying to find out what authority Fairfax County has within the D.C. compound of Lorton. Mr. Knowlton stated that where the BZA feels some control is necessary for the operations, it would be correct for the BZA to put conditions on a special use permit that apply to the property that is under the special use permit and make that special use permit apply to all operations of the applicant in the vacinity.

Mr. Smith stated that it could not be binding unless it was on the plat.

Mr. Smith stated that in the discussion he had with Mr. Woodson, when Mr. Woodson was Zoning Administrator, it was Mr. Woodson's opinion that this would have to come under the Use Permit.

Mr. Covington stated that this was not what Mr. Woodson has advised him.

Mr. Gibson stated that they would be bound by the restrictions of the Special Use Permit even on the D.C. land.

Mr. Smith stated that the Board did need the plats.

Mr. Gibson stated that the plats would be forthcoming within the week.

Mr. Smith asked that the County Attorney be asked to come down and talk with them about this question.

Mr. Lang Keith, County Attorney, stated that the problem of Lorton is not restricted to Special Use Permit, but they have been researching the jurisdictional problem of the Lorton complex for two weeks. It is a difficult jurisdictional problem. He stated that they hope to have a draft of this by the end of the week. He stated that he felt that the zoning ordinance and the power of the BZA over a Federal enclave particularly is hybrid. He stated that he was unable to give an answer on this question.

Mr. Smith stated that D.C. has leased this land to Vulcan and Vulcan is operating a pug mill, crusher and stockpiling on this land and this is not for the benefit of the District of Columbia.

Mr. Barnes stated that it is on the record that the applicant will include this land in the use permit and this thing has been dragging on for almost a year and he would be in favor of disposing of it.

Mr. Long stated that he concurred with this.

Mr. Smith stated that the Board has received various correspondance from the opposition and also from people who were in favor of this operation.

Mr. Smith asked the Board members if they had had an opportunity to read these letters.

The Board members stated that they had read the letters.

Mr. Smith still read the letter from Mr. Rosenblum, attorney for the Town of Occoquan into the record and also the letter from Mr. Pugh, Vice-Mayor for the Town of Occoquan.

In application No. S-199-71, application by Vulcan Materials Company under Sec. 30-7.2.1.3, of the Zoning Ordinance, to permit the operation of a stone quarry, on property located at 10050 Ox Road, also known as tax map 112 ((1)) lots 3,4,6 and portion of 8, County of Fairfax, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the September 13, 1972, and deferred to Sept. 27, 1972, for decisions.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Vulcan Materials Company.
2. That the present zoning is RE-1.
3. That the area of the lot is 36.1121 acres.
4. There is an existing rock quarry operation on this site under use permit.
5. The Fairfax County Restoration Board, consultants retained by the County and Vulcan Materials have made specific recommendations for the continued operation of this quarry.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
3. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
4. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
5. This permit is granted for a period of 5 years with annual review for compliance with conditions set forth in this permit by this Board.
6. The bond of $10,000 per acre to insure restoration of the property shall be continued for the duration of this operation.
7. Provide for absorbing three-fourths of the cost of enforcement services ($15,000.00 per year).
8. Blasting vibrations shall be limited to a maximum resultant peak particle velocity of 0.4 inches per second in the earth at any occupied structure not on the quarry property, except no more than one in ten shots can go over 0.4 with the limit being no more than 0.6.
9. The peak overpressure from any blast shall be limited to 0.003 psi (120 dB) at any occupied structure not on the quarry property.
10. Earth vibration produced by the quarry from sources other than blasting shall not exceed 0.05 inch per second at any occupied structure not on quarry property.
11. Air borne noise produced by the quarry from sources other than blasting shall not exceed at any occupied structure not on quarry property, 58 dB (A) in residential areas, or 65 dB (A) in commercial areas.
12. It will be mandatory for Vulcan at the end of the first year of the permit, to prepare a study based upon the same principles and in the same form as shown on Vulcan's report of September 25, 1972, to demonstrate that their contribution to total ambient air quality has decreased and during that year methodology will be devised upon which to base future evaluation leading toward E.A.P. standards.
13. Paved roads and other paved areas within the confines of the quarry will be watered and cleaned with heavy duty cleaning equipment as often as needed. Unpaved areas subject to quarry traffic will be treated with calcium chloride as often as needed.

14. All present dust control equipment, including the Johnson-Marsh Dust Control System, will continue to be maintained and operated.
15. All conveyors will continue to be covered.
16. No drilling, blasting or crushing shall be performed other than during the hours between 7:00 A.M. and 6:00 P.M., Monday thru Friday; provided however blasting shall occur only between the hours of 10:00 A.M. and 6:00 P.M. and all blasts shall be coordinated to wind and other atmospheric conditions at a time between the hours of 10:00 A.M. and 6:00 P.M. in order to minimize as far as possible any adverse effect upon the Town of Occoquan or other occupied dwellings.
17. Missesecond delay caps shall be used in all blasting operations, with no blast exceeding 6,000 pounds.
18. All blasting material shall be handled and stored in accordance with standards and regulations established by the United States Bureau of Mines.
19. A seismograph will be furnished to Fairfax County for the purpose of enabling it to engage a seismologist to monitor the blasting at the Quarry site and to enable the County to make available, or furnish officials of Fairfax County, Prince William County, and the Town of Occoquan, detailed seismograph records of such blasts. All expense incurred in connection with the purchase and use of the seismograph will be for the account of Vulcan.
20. Subject to the limitations of paragraph 16, no maintenance shall be performed after 10:00 P.M., except that performed inside the repair shop at the top of the hill and except maintenance which can be performed by the use of hand tools only, with no power driven equipment to be used outside the building after 9:00 P.M.
21. There shall be no work performed other than sales of materials on Saturday between the hours of 7:00 A.M. and 6:00 P.M. and maintenance of equipment indoors on top of the hill or with hand tools.
22. Rubber or wood lining will be maintained on or around impact points, spouts and chutes.
23. Sound muffling walls for secondary crusher, noise deadening materials in screen towers and rubber lined screen cloth or other appropriate method for deadening sound of vibrating screens will be maintained during all periods of plant operation.
24. In the event any feasible equipment or means of controlling the dust from blasts becomes available to the industry, the quarry operators shall install and use the same as soon as available to them.
25. There will be no further removal of rock or trees within 150 feet of the edge of Route 123 along the northeastern side of the quarry and no further removal of rock or trees within 240 feet of the edge of Route 123 and the southeastern side of the quarry from the point where Route 123 changes from a northeast to a southeast direction and runs parallel to the Occoquan River.
26. Supervision during blasting and discipline of personnel shall be exercised diligently to prevent flying rock.
27. All operations at the Quarry shall conform to all applicable performance standards and regulations.
28. In addition to the specific conditions hereinbefore set forth, the Quarry shall comply with the "Operations and Reclamation" submission prepared by Eden Planning Group of Raleigh, North Carolina, and heretofore submitted to the Restoration Board of Fairfax County pertaining to and for use in consideration of the application for the permit subject to these restrictions.
29. The Zoning Administrator, or his agent, shall inspect the premises monthly to determine that the Quarry is being operated in compliance with all the foregoing restrictions.
30. These conditions shall be met on the entire operation.
31. There shall be no work on Sunday of any kind.

Mr. Barnes seconded the motion
The motion passed unanimously.

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By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

October 18, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals of Fairfax County was Held on October 11, 1972, at 10:00 A.M. in the Massey Building. Members Present: Daniel Smith, Chairman; Richard Long, Vice-Chairman; Loy Kelley and Joseph Baker, and George Barnes.

The meeting was opened with a prayer by Mr. Barnes.

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SAMUEL J. KOORITZKY & R.J.L. ASSOC., app. under Sec. 30-6.6 of Ord. to permit addition within 20.16' from rear property line, 7804 Wincanton Court, (R-12.5) Shrevecrest Subd., 39-4 ((16)) 19, Providence District, V-140-72

Mr. Robert Kehlhaas, 210 East Broad Street, Falls Church, Virginia, attorney for the applicant, represented the applicant before the Board.

Mr. Kehlhaas stated that R.J.L. Associates are the contiguous lot owners because none of the contiguous lots have been sold. Mr. Newell is contiguous to the subdivision and he was notified. Mr. Nakamoto is also contiguous to the subdivision and he was notified.

Mr. Knowlton stated that this was is an unusual situation as the Staff discovered an error, but it was not discovered until after the Staff report was completed. As the Board can see from the plats, there are five areas where this house is encroaching into the required setback. The staff misread the plats as it was indicated that only the overhang was encroaching, but this overhang turned out to be a part of the house and is called a cantilever. The only item that was advertised is the rear proposed dining area which encroaches into the rear setback. This was the only variance that was requested by the applicant.

Mr. Kehlhaas stated that he was not aware of this until Mr. Knowlton, the Zoning Administrator, called him a few days ago. He stated that he realized there was a problem with the advertising, but the builder would like the Board to go ahead and hear the variance that was advertised as the builder would like to continue to get this house under roof before bad weather sets in. Mr. Kehlhaas stated that three of these variances are types that would normally be passed without a hearing because it is less than 1'. The one on the side would have to come to the Board of Zoning Appeals and the one of adding the optional eating area on the rear would also have to come before the Board.

Mr. Long stated that it looked as though the carport had not been built yet, therefore, he did not feel this could be heard as a mistake. He stated that as he sees it, there is nothing in violation.

Mr. Kehlaas stated that the entire house is up to the first floor deck. The footings, foundation and the first deck are in.

Mr. Smith after checking the plats and the pictures stated that Mr. Long was right, there is nothing in violation at the present time.

Mr. Baker asked if the overhang could be cut out.

Mr. Long stated that he would like to know exactly how many variances were going to be needed before the Board hears any of them. If the Board grants one variance, then they are helping create the other variances.

Mr. Barnes stated that he agreed.

Mr. Long moved that this case be placed at the end of the Agenda for decision or final action only to allow the applicant to meet with the Zoning Administrator and determine just what variances will be needed and required.

Mr. Barnes seconded the motion and it passed 4 to 0. Mr. Kelley abstained, as he stated that R.J.L. are clients of his.
There was no opposition present.

Later in the day, the Board recalled the above case.

Mr. Long moved that V-147-72 be readvertised, rescheduled and reposted stipulating all the variances that will be necessary to erect the building on the property and the applicant is to pay all expenses for the readvertising, etc.

Mr. Barnes seconded the motion and the motion passed 4 to 0 with Mr. Kelley abstaining as R.J.L. Assoc. is a client of his.

Mr. Smith stated that the applicant should also renotify the five property owners and that the applicant be allowed to amend the application.

Mr. Long accepted this for the motion. Therefore it was added to the original motion. Mr. Barnes accepted as to his second.

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R.J.L. ASSOC., app. under Sec. 30-6.6.5.4 to permit house to remain 22.6' from front prop. line which faces Nottingham Street, located 7801 Appledore Court, Shrevecrest Subd., Section 2, 39-4 ((16)) 24-A, Providence District (R-12.5 Cluster), V-145-72

Mr. Robert Kehlhaas, 210 East Broad Street, Falls Church, attorney for the applicant, testified before the Board.

Notices to property owners were in order.

Mr. Kehlhaas stated that this house is completely under roof. The problem was created here because the house's from the time the building permit was submitted and the time it was staked out, computations got mixed up and the house was turned at about a 90 degree angle and this caused the problem. This was not discovered until the wall check. The house does not create any site problem. This is a corner lot and R.J.L. still owns the houses on each side. From looking at this house from any angle, it does not appear to be off line.

Mr. Ed Sears, Urban Engineering, 8001 Forest Place, Springfield, testified before the Board.

Mr. Sears stated that it was his firm that made the error and this is a case where it is a human error. The field party chief on the survey party interchanged some numbers and the house ended up being set at a 90 degree angle on the lot. Except to say that this was a purely human error, there is no other excuse for it, he stated. He stated that his firm has been staking houses in Fairfax County for five years and this is the first time they have been before this Board. This house at its present location does not create a sight distance problem from a traffic standpoint. It does fit in well with the rest of the subdivision. The street is curved at this location. This house already has the walls up and it is roofed, but no further work has been done since the pictures were submitted to the Staff for this file. They originally tried to eliminate the most of the protrusion and cut that part off the house, but it was an intergral part of the house and, therefore, they could not eliminate it.

Mr. Smith asked approximately how many houses they had staked out in the past five years.

Mr. Sears stated that they had staked out probably four hundred.

Mr. Long stated that he felt there was no connection in this case and the first case and he also felt that this was an honest error on the part of the surveying company.

There was no opposition.

In application No. V-145-72, application by R.J.L. Associates, under Section 30-6.6 of the Zoning Ordinance, to permit a 7.4' variance on front yard setback which faces Nottingham Street, on property located at 7801 Appledore Court, Shrevecrest Subd. Sec. 2, also known as tax map 39-4((16))24A Providence Distict, County of Fairfax, Virginia, Mr, Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, THE Captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of October, 1972,

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5 cluster.
3. That the area of the lot is 10,150 sq. ft.
4. The construction of the dwelling has proceeded to the roof.
5. The dwelling would not impair sight distance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the Board has found that non-compliance was the result of an error in the location of the building, and,
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immdeiate vicinity.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted.

Mr. Barnes seconded the motion. The motion passed 4 to 0, Mr. Kelley abstained.

In application No. V-151-72, application by James R. & Charleene Jones under Section 30-6.6 of Zoning Ordinance, to permit construction of swimming pool enclosure over existing pool, on property located at 6042 Ramshorn Place, Dranesville District, also known as tax map 31-2((1))134A, County of Fairfax, Virginia, Mr. Kelley Moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of October, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.8046 acres.
4. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
   a. excetionally marrow lot.
   b. unusual condition of the location of existing buildings.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and material to be used in proposed structure shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion, the motion passed unanimously.

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire oneyear from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion, the motion pass 4 to 0 with Mr. Kelley abstained.

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IRADO CORP., app. under Sec. 30-7.2.10.3.1 of Ord. to add one standard auto inspection bay and two pump island canopies, 13001 Lee Jackson Highway, Greenbriar Shopping Center, 45-1 & 45-2 ((1)) 13, Centreville District (C-D), S-148-72

William E. Astle, 10560 Main Street, Fairfax, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. The Greenbriar Fifty Center, 3033 N. Central Avenue, Phoenix, Arizona 85012 was the only contiguous property owner. They notified a total of 12 property owners in the nearby area.

Mr. Astle stated that this service station is under Special Use Permit No. S-832-68. The permit was granted to Greenbriar Fifty Center, then shortly after it was granted, Greenbriar sold it to IRADO who now owns the property.

Mr. Smith stated that it should have come back to the Board for the transfer. He stated that it would now have to be transferred to bring it into conformity with their standard procedures.

Mr. Astle stated that the station has three bays at present and they wish to add a standard inspection bay and put canopies over the pumps.

Mr. Smith read the Staff Report which stated that the applicant would be allowed to eliminate the five parking spaces in order to make a 22' travel lane.

Mr. Astle also stated that in reading the minutes from the hearing in 1968, the canopies were discussed, but they were never resolved.

Mr. Smith asked if the canopies met the setback.

Mr. Covington stated that they did.

Mr. Long asked if the parking spaces would be used for cars to park while they were waiting to be inspected.

Mr. Aslte stated that to his knowledge they were not for that purpose.

Mr. Long asked if there was storage, rental, or leasing of trailers or trucks planned.

Mr. Astle stated that they did not plan to do that. He stated that it was their understanding that this was prohibited by law.

Mr. Smith asked if the stacking lane for the inspection station would be confined to these premises.

Mr. Smith stated that the parking spaces would be needed for people who leave cars there to be inspected and repaired. Mr. Smith stated that he assumed they would be making some of the minor repairs on the cars. He asked Mr. Astle if he and the company realize they cannot make major overhauls on motors.

Mr. Astle stated that they did realize that.

Mr. Astle also stated that the lease prohibits the leasing or rental of trucks, trailers, etc.

Mr. Smith asked Mr. Covington if Atlantic Richfield is under notification of any violation for having U-Haul trucks, trailers, etc.

Mr. Covington stated that they were not under a violation notice to his knowledge.

Mr. Covington stated that the U-Haul people have gone to the Circuit Court Judge and we now have to hold the enforcement of that judgement in abeyance until such time as the appeal from that decision has been heard by the Supreme Court.

Mr. Smith stated that the Board of Zoning Appeals does not have to hold them in abeyance as far as their use permit is concerned. The Board has never agreed to this.

Mr. Long asked the height of the existing sign.

Mr. Astle stated it was about 18'to 20', and 85 square feet and is a standard ARCO sign. He did not have photographs of the sign, but stated that he would bring them in for the file.

Mr. Long asked Mr. Covington if the canopy on Majestic Lane would have to be 22'.

Mr. Covington stated that it would have to be 22' and it looked as if it were 22'.

Mr. Smith asked the attorney what they would do with this bay should the State deny them the inspection bay.

Mr. Astle stated that it would be used for the normal operation of a service station. He stated that an inspection bay is under great demand from the citizens of Greenbriar. He stated that he had notified the Greenbriar Civic Association of this application. The vote taken at that meeting was that they were not going to oppose it, but would come to the hearing and speak in favor of it. Mr. Astle stated that they were not present though.

Mr. Long asked what the setback would be for the canopy on Lee Jackson Highway.

Mr. Covington stated that a travel lane exists, therefore, there is no specific number of feet from the setback of the pump islands.

Mr. Covington read the section of the ordinance pertaining to this, Section 30-3.3.1 which stated:

> "...Three feet into any required yard, but not nearer to any lot line than a distance of two feet, except pump island canopies of a permanent nature, with supports located on the pump island, which may extend into street setback areas; providing, they do not overhang travel lanes, or if no travel lane exists, not closer than twenty-two feet from the right-of-way line."

Mr. Covington stated that he felt the ordinance is very specific about this and he agreed with it. He stated that he had gone over this with the applicant prior to the hearing.

Mr. Smith stated that this is a different interpretation from what he always has gotten from the previous Zoning Administrator.

Mr. Long moved that this case be deferred for decision only for one week, October 18, 1972, to allow the applicant to furnish the Board with (1) photographs of the property showing the sign and (2) a letter from the Zoning Administrator clarifying the position on the setbacks of canopies for gasoline stations.

Mr. Barnes seconded the motion and the motion passed unanimously.

Mr. Covington stated that he had already gone over this problem with the Zoning Administrator, Gilbert R. Knowlton, and they had arrived at this position.

Mr. Smith stated then that this just be put in writing for the file.

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JEFFREY SNEIDER & CO., app. under Sec. 30-7.2.6.1.1 of Ord. to permit recreation center--Club House incident to PAD, existing building, Blake Lane, Oakton Village Subd., 47-4 ((1)) 35, one half mile E. of Route 123, Providence Dist., S-149-72 (RE-0.5)

Mr. Jeffrey Rosenfeld, attorney for the applicant, 5600 Columbia Pike, Bailey's Cross Roads, Virginia, testified before the Board.

He submitted an Affadavit for the file certified that the notices had been hand delivered to the property owners nearby, but it was dated October 2, 1972. Mr. Smith ruled that these notices were not in order and the Board Members also agreed.

Mr. Rosenfeld stated that he did not believe there was anyone in the room that was in opposition.

Mr. Kelley moved that the application be deferred until proper notices has been given according to the instructions of the Board that was given to the applicant previously.

Mr. Baker seconded the motion.

Mr. Rosenfeld asked that the Board not hinder the applicant because of an error made by his firm.

Mr. Long stated that according to their by-laws, the Board could not deviate from this requirement and the Board had never deviated from this requirement.

Mr. Rosenfeld stated that the owners of the property that the applicant has a contract on is present today and the property is completely surrounded by land that Jeffrey Sneider owns. There are no other property owners adjacent to this land in question.

Mr. Kelley stated that he felt that the Board has certain procedures to meet and he would not vote for this application because the requirements had not been met.

Mr. Long agreed. Mr. Smith stated that this motion should apply to the following case too as they had the same notices for both cases.
The motion passed unanimously and the application was deferred to October 25, 1972.

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JEFFREY SNEIDER & CO., app. under Sec. 30-2.2.2.Rel Col. 2, PAD Section, to permit sales pavillion for display of models for condominium apts. and townhouses, Blake Lane, one-half mile E. of Route 123, Oakton Village Subd., 47-4 ((1)) pt. 60, Providence District (PAD), S-150-72

The above motion applied to this case also, and this case was deferred until October 25, 1972.

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JAMES R. & CHARLEENE JONES, app. under Sec. 30-6.6 to permit construction of swimming pool enclosure over existing pool closer to side property line than allowed, 6042 Ramshorn Place, 31-2 ((1)) 134 A, (RE-1), Dranesville District, V-151-72

Mr. Jones represented himself before the Board.

Notices to the property owners were in order. Mr. Jones had notified Mr. Shelton who was out of the country and was the owner that would be most affected. He had the return receipt for that letter.

Two contiguous owners were Mr. E. O. Whelland, 6046 Ramshorn Place and J. W. Todd, 6044 Ramshorn Place.

Mr. Jones stated that according to the survey their pool is 20.5' from the Shelton's property. They are in an area that is wooded and beautiful. They wish to put an enclosure on this pool and one of the reasons is because of the leaves from those beautiful trees and in order that they can use the pool year around instead of two months of the year. This property is 1.8 plus acres and this is the only suitable place for the pool and the pool already exists. This pool is 132' from the Rynex house that they also notified. There is a steep hill on that side of the property and there is also a drainage area there. This enclosure will be constructed of brick and glass and the roof will be asbestos shingles. This is the same type materials as the house is constructed.

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JONES (continued)

In application No. V-151-72, application by James R. & Charleene Jones under Section 30-6.6 of Zoning Ordinance, to permit construction of swimming pool enclosure over existing pool, on property located at 6042 Ramshorn Place, Dranesville District, also known as tax map 31-2((1))134A, County of Fairfax, Virginia, Mr. Kelley Moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of October, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.8046 acres.
4. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
a. excetionally marrow lot.
b. unusual condition of the location of existing buildings.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and material to be used in proposed structure shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion, the motion passed unanimously.

HENRY & EDNA JOLLIFFE, app. under Sec. 30-6.6 of Ord. requesting variance to front yard width on Lots 4, 5, 6 & 7 from 150' with pipe stem lots, Dranesville Road at Herndon Line, Tylinda Estates, 10-2 ((1)) 4, 5, 6 & 7, Dranesville District (RE-1), V-152-72

Mr. Joffiffe represented his parents, the applicants, at the hearing. He stated that his parents were present and they reside at Swinks Mill Road.

Notices to property owners were in order. The contiguous owners are Marjaret J. Coomber P.O. Box 425, Herndon, Virginia and Fred D. Matthews, 4853 Queen Chapel Terrace, N.E. Washington, D. C.

Mr. Joffiffe stated that this property had been owned by his parents since 1954. The engineering on the plat was done by Runyan and Huntley. He stated that it was felt that because of the size of the lots and the topographic configurations and in order to properly preserve the natural beauty of the country side, it would be better in pipe stem lots. This area is heavily wooded and is cut by a stream.

Mr. Smith read the memorandum from Preliminary Engineering which stated:

"This office has reviewed the subject case and would suggest that the applicant provide a dedicated public street to the rear portion of the lot rather than request a frontage variance from the BZA. The existing zone is RE-1 and the property could be developed satisfactorily with a dedicated public street. Also, service drive will be required along Dranesville Road, Route #228, for the full frontage of the property, as this road is a primary highway. A preliminary has been submitted to this office and is being held for the decision of the Board of Zoning Appeals.

If the Board grants this application, it is suggested that the owner execute an agreement stating that he, his heirs, survivors, successors or assigns will not petition the County or State for maintenance of the proposed 50' ingress-egress easement until such time as the road is dedicated and constructed to State and County standards."

There was no opposition to this case.

In application No. V-152-72 application by Henry & Edna Jolliffe under Section 30-6.6 of the Zoning Ordinance, to vary front yard width on Lots 4,5,6,7, and 150' with pipe stem lots on property located at Dranesville Road at Herndon Line, Tylinda Estates, also known as tax map 10-2((1))4,5,6,7, County of Fairfax, Virginia, Mr. Long moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 11th day of October, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lots is 13.619 acres.
4. The minimum lot acre in the RE-1 zone is 90,000 square feet of land. All lots in the subdivision except lot 7 have an area of 2 acres of land.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
a. exceptional topographic problems of the land

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted
1. This approval is granted for the location and the specific lots indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless the subdivision plat has been recorded or unless renewed by action of this Board prior to date of expiration.
3. The owner shall execute an agreement stating that he, his heirs, survivors or assigns will maintain the private street until such time as the street is dedicated to public use and constructed to County and State standards.

Mr. Barnes seconded the motion, the motion passed unanimously.

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CHAIN BRIDGE DEVELOPERS, V-43-72 -- Deferred until after the Board of Supervisors grants or hears the vacation of Greenwich Street --

Mr. Smith read the Staff Report which stated:

"This case, involving a variance of the minimum lot width requirements for a proposed resubdivision of a portion of Mount Daniel Subdivision in Dranesville District near the City of Falls Church, was considered by the Board of Zoning Appeals on April 26, 1972, and deferred to allow for a 15.1-456 hearing by the Planning Commission and action by the Board of Supervisors to vacate a portion of Greenwich Street. Without this change in the Public Facilities Plan, the request is moot.

Action by the Board of Supervisors to vacate the street is now scheduled for October 23 at 7:00 P.M., so the BZA will presumably wish to defer this case until a date subsequent to action by the Board of Supervisors."

It was stated that originally the Board of Supervisors was to hear this case on October 7, 1972 and that is why it was scheduled for this date. The Board of Supervisors did not hear the case on this date and it was rescheduled for October 24, 1972.

Mr. Knowlton stated that the case should be readvertised because of the long delay.

Mr. Long moved that this case be deferred until such time as the Board of Supervisors has acted on vacating the street, then it should be rescheduled, readvertised and the applicant should renotify the property owners as soon thereafter as practicable. The applicant should pay the advertising costs.

Mrs. Kelsey explained to the Board that because of the long delay in hearing this case, the applicant was under considerable pressure and this was a hardship on him. She stated that the reason she had scheduled it this date was because it had been scheduled before the Board of Supervisors and she has it scheduled now for October 25, 1972, not realizing that it had to be readvertised.

Mr. Barnes seconded the motion that Mr. Long made.

Mr. Smith stated that it is the Board's intent not to hear this case until such time as the Board of Supervisors has acted on the vacation of the street.

The motion passed unanimously.

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AFTER AGENDA ITEMS:

CITCO - Pohick & Hoos Road, S-96-70

Mr. Smith read a letter from Douglass Leigh, Zoning Inspector regarding the above applicant. Mr. Leigh's letter stated:

"On May 1, 1972, I sent a notice of violation to John McIntyre, District Engineer, Cities Service Oil Co., requesting that their gas station at 8318 Hooes Road obtain a certificate of occupancy by June 2, 1972. Their As-Built site plan #132 was submitted on May 22, 1972. Later in May the site plan was rejected because there were structural deficiencies in the sanitary sewer system.

On July 7, 1972, I sent Mr. McIntyre a letter stating that the violation had continued to exist and that it was necessary to warn his corporation that if the violation was not cleared by August 9, 1972, a "show cause" use permit hearing would be arranged.

About the first of August Mr. McIntyre called me and said the difficulties were being worked with the county site inspector, two weeks later he called and said the difficulties were covered on a separate sanitary sewer site plan and the V.D.H. was to pave the road in front of the station. When he arrived to pick up the Occupancy Permit for the station he was informed that we had no record that the corrections needed on As-Built Site Plan #132 had been made. Since my initial investigation in May there have been no apparent changes on the site. I now await your further instructions."

Mr. Covington stated that they should not have been operating without an occupancy permit.

Mr. Smith stated that they were in violation of the County ordinance.

Mr. Long stated that the Board had no recourse except to make them come back and show cause.

Mr. Long moved that the applicant, CITCO, S-96-70, be notified that the Board of Zoning Appeals is scheduling a Show-Cause Hearing to have the applicant show cause why their Special Use Permit should not be revoked for a service station as they are occupying the premises without first complying with all County Ordinances.

Mr. Kelley seconded the motion.

Mr. Smith stated that they do not actually have a Special Use Permit as the Special Use Permit is not valid until they have complied with all other State and County Ordinances and they only have one year from the granting to do this.

Mr. Long agreed, but thought that the Show-Cause Hearing would bring out anything that might have happened and at that time the Board could make a decision on what to do about this station.

The motion passed unanimously.

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AMERICAN HEALTH SERVICES, INC., S-178-70

Mr. Covington stated that he had had numerous calls from the citizens of the Sleepy Hollow Area regarding the nursing home located at 2960 Sleepy Hollow Road, Falls Church, Virginia and known as Fort Buffalo Nursing Home.

The citizens in the area raised several questions and the County Staff has been trying to arrive at some of the answers, or at least try to get enough information together to help the Board know what is going on.

Mr. Covington submitted to the Board a letter from Mr. Stevens,Attorney for American Health Services, Inc. This was an eight page letter and in that letter, Mr. Donald Stevens answered two of the foremost questions that had been raised.

The question No. 1 was: Whether or not construction under the special use permit was initiated within a period of one year from the date of issuance of the use permit, so that the use permit has not expired under the provisions of Section 30-6.15 of the zoning ordinance.

Mr. Smith stated that he didn't know there was a question about that since the Board had granted an extension to the use since the original granting. The Board discussed this question, Mr. Stevens' answer and several aspects of it and it was determined by the Board that this was a valid use permit as to the time frame of beginning of construction and operation was concerned.

Question No. 2 -- Whether or not limitation number 9, as imposed by the Board of Zoning Appeals at the time of the issuance of the permit, to wit: "9. There shall be no treatment of out-patients.", has been violated by the maintenance of a day treatment program at the Fort Buffalo facility.

Mr. Covington then read a copy of a letter that was sent to the patients in that nursing home concerning the home's future plans. This included having a children's wing and several other things of that nature.

Mr. Smith then read a letter from the Sleepy Hollow Citizens' Association which asked several questions. (1) Has there recently been, or is there about to be a change of use of this facility? (2) Has the Special Use Permit granted by the BZA on October 20, 1970, for one year been extended or revised? If so, when and how? (3). Has this facility been transferred to a new owner? (4) Has there been a change of name of the facility? and (5) Has there been a recent on-site inspection by the County with regard to compliance with the limitations outlined in paragraphs 4, 5,6, 7, 9, 10 and 12 of the Special Use Permit granted by the BZA on October 20, 1970? The Association requested the Board's clarification of these points at their earliest convenience.

The Board then discussed possible definitions of the term "out-patient".

Mr. Smith read a report from Mr. Carpenter, the Zoning Inspector for that area, who stated that he had inspected the premises.

It was determined that the only members of the Board that was present for the original granting was Mr. Barnes and Mr. Smith.

Mr. Barnes stated that he needed additional time to study the letters that had been submitted by these various people and additional time to consider the matter, therefore, he moved that this item be deferred until such time as the Board can study this matter.

Mr. Baker and Mr. Long seconded the motion.

The motion passed unanimously.

Mr. Smith asked Mr. Covington for a clarification on the name that the nursing home is now called "Barcroft Institute". He asked that it be determined whether this was a trade name.

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Mr. Baker moved that the minutes for September 13, 1972 be approved.

Mr. Long seconded the motion.

The motion passed unanimously.

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Mr. Kelley complemented the Staff on the new format of the Staff Report. He stated t hat it was an excellent improvement.

Mr. Smith and the other Board members agreed.

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Mr. Kelley pointed out that Mr. Long was one of the instigators of this Staff Report.

Mr. Smith stated that this was one of the many things that Mr. Long has been involved with as far as the upgrading of this Board is concerned. The Board has taken on a complete new format as far as the resolution and procedures. He stated that he believed if Mr. Long had not been on this Board the Board would not have accomplished this in this short period of time. He stated that Mr. Long had been very helpful to the Chairman as Vice Chairman to the Board. He stated that Mr. Long did an excellent job as Acting Chairman during the period of time the Chairman was sick.

Mr. Baker and Mr. Barnes and Mr. Kelley stated that they wholeheartedly agreed with this.

Mr. Long stated that he appreciated their comments and he would look back on these years with many fine memories.

The meeting adjourned at 1:40. The Board did not break for lunch.

By Jane C. Kelsey
Clerk

DANIEL SMITH, CHAIRMAN

October 25, 1972
DATE APPROVED

The Regular Meeting of the Board of Zoning Appeals of Fairfax County was Held on October 18, 1972, at 10:00 A.M. in the Massey Building. Members Present: Daniel Smith, Chairman, Loy Kelley, Joseph Baker, George Barnes and the newly appointed member, Charles Runyan.

The meeting was opened with a prayer by Mr. Barnes.

// Mr. Smith welcomed Mr. Runyon, newly appointed member, to the Board of Zoning Appeals.

Mr. Smith stated that the first order of business today would be the appointing of a new Vice-Chairman to replace Mr. Richard Long, the former Vice-Chairman.

Mr. Baker moved that the Board nominate Mr. Kelley.

Mr. Barnes seconded the motion.

Mr. Baker moved that the nominations be closed.

Mr. Runyan seconded the motion. The motion passed unanimously.

The Board members by acclamation appointed Mr. Kelley as the new Vice-Chairman.

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VIRGINIA ELECTRIC AND POWER CO., app. under Sec. 30-7.2.2.1.2 of Ord. to permit erection and operation of addition to Ox substation. Outlet road from Ox Road, 97 ((1)) 24A, Springfield District (RE-1), S-143-72

Mr. Randolph W. Church, Jr., attorney for the applicant, testified before the Board.

Notices to the property owners were in order. Contiguous property owners were Mr. Martin Webb, Katherine Moss and Richard Ober.

Mr. Church stated that in 1965, the Board of Zoning Appeals granted a Special Use Permit to construct a switching station at this site and in 1968 the Board granted them permission to erect and operate an addition to the Ox Substation. Mr. Church stated that this is located at the intersection of two major corridors of transmission lines that bring power into Fairfax County from generating sources outside Fairfax County. One comes in from the West and one comes in from the South. This substation is in a very strategic location and it is possible to distribute transmission power either through a corridor that runs north to the Idlewood Substation and delivers power for distribution at lower voltages along the way, and to the east to the City of Alexandria. Therefore, this is a center of great importance of electrical supply in Northern Virginia. He stated that they were requesting the addition of more transformer banks at this substation to lower the voltage to be again transmitted from one of these corridors to the other substations throughout Fairfax County. It is necessary for reliability to have three more transformer banks at this substation. At the 1968 hearing, these three transformers were shown in dotted lines showing that at some time in the future they were planned to be constructed, so this is in line with a plan that has been previously submitted to this Board, although it was not actually approved. An addition 1.3 acres has been acquired and a small portion of that will be utilized because of the necessary turns that the wires have to make.

Mr. R. W. Carroll, Manager of the VEPCO's Potomac District, and a civil engineer, spoke before the Board. He stated that as the Manager of the Potomac District in Northern Virginia he has become familiar with the electrical requirements of this area. He stated that as the population increases in this area there is a corresponding need for an increase in electrical power. This substation receives power from several sources, one of which is the Loudoun substation and this is the most important. They have to convert from 500,000 volts to 230,000 volts. He explained that if they are able to make this addition, it will handle the peak loads that are anticipated during the 1973 period.

Mr. Carroll stated that they planned to fence the entire area and all construction will exceed the standards that are required. This will create no new traffic and there will be no interference with electronic equipment.

Mr. Church stated that on the two previous occasions, they have had Mr. Downs, a real estate appraiser, here, but since this addition is minor and the substation already exists, Mr. Downs previous statements are still applicable. The height of this equipment will not exceed the height of the existing equipment.

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Mr. Richard Ober, 8606 Ox Road, spoke before the Board. He stated that he was not objecting to the addition nor did he wish to impede the service for residents of Northern Virginia, but the main reason he wished to speak was to ask for some action by VEPCO and possibly the BZA in connection with the use of this facility by VEPCO and its contractors. He stated that he had appeared before this Board on one other occasion in connection with this same substation. He stated that he is a close neighbor. His problem is mainly the access road from the Ox Substation. He stated that he had found Mr. Carroll to be a cooperative person and very helpful, but he has found the implementation of some of the arrangements that they have had together leaving a lot to be desired.

Mr. Ober stated that the original road which was built previously is not used. He stated that he built a new road that is one-half mile long and subsequently VEPCO has been using his new road for access to their substation and power lines. The installation of these power lines and towers has caused heavy traffic on that road and has resulted in a serious deterioration of that road. VEPCO has done maintenance on that road, but this has not been adequate. Nothing is done until he complains, he stated. He stated that he would like some arrangement where VEPCO would automatically take care of that road. He stated that VEPCO eventually did after some legal negotiations contributed $1,500 to the cost of the road which cost was $5,000 total. He stated that he felt they should restore the entire road to its original condition and he requested that the BZA request VEPCO to do this. He stated that the road is in two portions. One is the original road and the other part is the part that he built. The road has been graded, but the road is being used for heavy equipment. The road has never been regraveled.

Mr. Ober stated that another problem is that of trespassing. There was a gate at the front of the road, but it was stolen. Possible VEPCO could install another one. VEPCO could also reinstall the signs that people have now torn down indicating there can be NO trespassing.

He stated that another problem they have is that of safety. They have to now share the road with concrete trucks, cranes, etc. and several times members of his family have been forced off the road by one of these trucks.

Mr. Ober stated that the noise from these transformers is annoying,contrary to Mr. Carroll's statement. VEPCO has stated in the past that they would install noise abatement equipment on these transformers, but as yet they have not.

In rebuttal, Mr. Carroll stated that under current regulations, the transformers' noise level is acceptable. They are trying to devise some noise abatement equipment.

Mr. Baker asked Mr. Ober who was there first, he or VEPCO.

Mr. Ober stated that he was there first and VEPCO came afterwards.

There was no further opposition.

Mr. Church stated that VEPCO has no desire to do anything except try to be a good neighbor. What Mr. Ober has said is that everything that was required the last time that they met has been done, but that he finds problems with the maintenance of the road. He stated that even regular maintenance would not resolve the problem. The condition of the road is a subject of judgment. Mr. Ober travels that road every day and he notices a new pot hole or any changes that might occur.

Mr. Baker suggested that the road be checked right after those increases in traffic, such as the installation of new transformers, etc.

Mr. Baker suggested also that Mr. Ober call VEPCO and he stated that he was sure Mr. Ober would receive action. If he travels the road everyday he could check it out and report it.

Mr. Church stated that he was to call Mr. Fletcher if he had any problem.

Mr. Ober stated that he had not called recently because (1) It should not be his place to continue having to call (2) The road should be brought into good condition in the first place. He stated that he spoke with the Foreman at the time the crane ran off the road about repairing the road and nothing happened.

Mr. Carroll stated that one sure way of getting VEPCO's attention is to call him.

Mr. Smith stated that if the telephone call does not resolve the problem, the next move would be to telephone theZoning Administrator.

In application No. S-143-72, application by Virginia Electric & Power Co. under Sec. 30-7.2.2.1.2 of the Zoning Ordinance, to permit erection and operation of addition to Ox Road, on property located at Outlet road from Ox Road, also known as tax map 97((1))24A, Springfield District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of October, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 43.2171 acres.
4. Compliance with Site Plan Ordinance is required.
5. Compliance with all county codes is required.
6. Ox Substation is now operating under Special Use Permit granted December 7, 1965.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The chain link fence shall be extended to include the new addition.
7. Landscaping, screening and planting shall be as approved by Director of County Development.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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FAIRFAX COUNTY WATER AUTHORITY, app. under Sec. 30-7.2.2.1.5 of Ord. to permit continuation of a storage facility to serve a water system, including incidental repairs to furniture and equipment and parking of County and employee's vehicles, 1845 Cherri Drive, Pimmit Hills Subd., 40-1 ((3)) 496, Dranesville District (R-10), S-153-72

Mr. Richard Hobson, 4085 Chain Bridge Road, Fairfax, attorney for the applicant, testified before the Board.

Notices to property owners were in order. Contiguous property owners were Jenkins, Elwood and Larry Reeves. The applicant notified nine property owners in the area.

Mr. Hobson stated that this land was acquired by Pimmit Service Corporation that operated in Pimmit Hills. He stated that as far as he knew, they never had a use permit.

Mr. Smith asked if they had added any buildings since they acquired it.

Mr. Hobson stated that there was only one building, which was formerly a barn with no windows and the Zoning Administrator brought to their attention that they did not have a use permit and had two alternatives; (1) that it was a prior non-conforming use or it is a public use and is permitted by right. Notwithstanding those two positions, the water authority felt it was preferable to come to this Board and assure the neighbors that they would have the protection of the Board of Zoning Appeals. This is a storage facility and inside the building they do slight repairs to lawn mowers, etc., and they do park two vehicles inside the building during the night. During the day eight employees come into the building and check it out and then go. Two employees vehicles are parked on the property during the day. In addition, as an accomodation to the Fairfax County School Board, two or three school buses have been allowed to park outside by drivers who live in the nearby neighborhood.

Mr. Hobson further stated that this water system serves Pimmit Hills and also serves other parts of the water authority system. He indicates on the map the general area of service.

Mr. Smith asked Mr. Covington, Zoning Administrator, if they had applied under the proper section of the ordinance.

Mr. Covington stated that he had researched the ordinance and it would be necessary for the Water Authority to have a Use Permit. They should have had one to start with, but they did not. He stated that he contacted the Attorney for the Old Pimmit Water Authority and he stated that he had not felt they needed a use permit for this use. He stated that he had received a complaint about a year ago and several since then and he felt this should come to this Board so the Board could put some conditions on the use, such as landscaping. This comes under Group II.

Mr. Hobson stated that he would like to submit a plat for the record showing that there is no C-G property in the Pimmit Hills area.

Mr. Hobson stated that the plat they have submitted shows an existing fence along one side of the property that the neighbors put up. He stated that they do not propose to fence the entire property. No children can get into the building as the building is always locked. The understanding is, that the Water Authority will reimburse the neighbors for the fence that is now up. He stated that they have submitted a landscaping plan on the plat.

Mr. Smith stated that there was a letter in the file from one of the neighbors, Mr. Monahan, on the east side of the property toward Falls Church, stating that they have no objection to the proposed application provided that it does not permit commercial use by others to be established on the property and that the type of chain link fence presently installed by the neighbors adjoining one side of the property would be the type of fence they would like adjoining their property.

Mr. Smith also read a letter from the Pimmit Hills Citizens' Association, Inc. stating that they announced and discussed this application at their public meeting October 3, 1972. They have not received any objections or complaints from the property owners adjacent to 1845 Cherri Drive. Their only concern was that the property owners adjacent to this be notified of this hearing.

Mr. Smith stated that this was done and this is a requirement.

The Board then discussed the problem of the school busses being parked on this property.

Mr. Kelley stated that it may be the law that these school busses can park anywhere, and he didn't wish to argue with the law, but he would object to school busses being parked on the street.

Mr. Smith stated that they legally have the right to park the busses on this property until they came in for a Use Permit and this Board has the right to impose any reasonable condition on the Permit. The neighbors seem to object to these busses being parked here.

Mr. William W. Gray, Transportation Supervisor for Area 3, in charge of school busses in Area 3, spoke before the Board. He stated that they have four busses that park on this property. The four drivers live right there. These busses are backed off of this street 25' back. They are lined up. There has never been any vandalism there. It is true that Pimmit Hills School is close by, but they cannot park busses there, because they have had tires cut off the front and rear. The next nearest school is Westgate on Magarity Road and they have the maximum amount of busses parked there, nine.

Mr. Barnes asked if there was a custodian at the schools.

Mr. Gray stated that there is, but this doesn't come within the confines of his duties.

Mr. Bahnemann, 415 Lyle Avenue, spoke before the Board in Opposition to this application.

He stated that this barn is a bad fire hazard. It originally belonged to Mr. Offitt and the Pimmit Water Company. Mr. Offitt came to him and asked him if it would be all right for him to use the barn for storage of pipes and valves only. This was agreed to. Since Fairfax County Water Authority has taken over, they have lawn mowers and everything in there. Should this barn catch on fire, his house would be completely destroyed. There is rubbish and gasoline stored there too. The only reason the busses are not bothered by vandals, is because he chases them away, he stated. To his knowledge they have never placed any busses on the school property. That property is only 40' away from his house. They park there on the Water Authority property. The Water Authority even put gravel all the way around the building, so the busses could park. This gravel is strown around everywhere. It is not nice and grassy like it used to be. Late at night they come in and shut the windows on the busses, fix tires, and make all sorts of noise. They also have some type of communication equipment and it is very noisy. You can hear it in his house, he stated, if the windows are open.

Mr. Sitnit, 1901 Cherry Drive, also spoke before the Board in Opposition to this use.

He stated that he had been told by Mr. Offitt that this barn would be torn down. He was told this when he purchased his property. There was also an Agreement that they would not change the Zoning for twenty-five years.

Mr. Barnes told him that this was not a rezoning.

Mr. Sitnit also stated that the Water Authority does not properly maintain the grounds. He stated that he is opposed to using this barn for storage in this residential area and also to using this barn as a workshop. He stated that he felt it would affect the property values in the area, as no one in his right mind would buy a home in that noisy place. He stated that he had complained to the Zoning Administrator several times

Mr. Smith stated that the BZA had no authority in this, until they came before this Board today.

Another neighbor at 7522 Lyle Avenue, spoke in opposition. He stated that for the past three or four years they have been doing more and more work there. The busses are there making noise early in the morning and late at night. Blue stone is all over the place. There is a woman talking over the communications system that is very loud.

There was no further opposition.

In application No. S-153-72, application by Fairfax County Water Authority under Section 30-7.2.2.1.5 of Zoning Ordinance, to permit continuation of a storage facility to serve a water system, repairs to furniture and equipment and parking of County employees on property located at 1845 Cherri Drive, Pimmit Hills Subdivision also known as tax map 40-1((3)) 496, Dranesville District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of October, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 25,497 square feet.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all county codes is required.
6. That the Fairfax County Water Authority has been using the subject property on Cherri Drive, Pimmit Hills Subdivision, Dranesville District, since it was acquired in 1960, without a special use permit.
7. The site is within the confines of the immediate water system served thereby.
8. The system utilizes wells which require prompt and timely maintenance and repair.
9. There is no land zoned C-G within the Pimmit Hills area.
10. The Pimmit Hills area is geographically separated from the major portion of the Fairfax County Water Authority's water service area.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Department of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping, screening, fencing and planting shall be as approved by the Director of County Development.
7. There shall be no overnight parking of school buses or any other vehicles on said property, outside the buildings.

Mr. Barnes seconded the motion.

The motion passed unanimously.

DONALD H. BOTT, app. under Sec. 30-6.6 of Ord. to permit construction of carport within 6' of side property line, 4214 Ferry Landing Road, Mt. Vernon Grove Subdivision, 110-3 ((3)) (J) pt. of 247 & 248, Mt. Vernon District (RE-0.5), V-154-72

Mr. Smith read a letter from Mr. Bott stating that his case be withdrawn without prejudice as neighbors who previously stated that they had no grievances have now changed their minds. For the sake of keeping the peace in the neighborhood, he stated, that he felt it best not to pursue this venture any further at this time.

Mr. Barnes so moved that this request be granted.

Mr. Baker seconded the motion.

The motion passed unanimously.

At this motion a gentleman came up and stated that he objected to this being withdrawn without prejudice. He stated that his name is Col. Goldberg, 9330 Booth Street. He stated that his property is around the corner from the property in question, but it is still in the neighborhood.

Mr. Barnes stated that he would stand on his motion.

Mr. Kelley stated that he stands on his second.

Mr. Smith told Col. Goldberg that the case would have to be reopened in order to consider his request.

Mr. Kelley then made a motion to reopen the case.

There was no second.

Mr. Smith stated that the motion had failed, therefore, the case could not be reopened.

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WARD T. SHIELDS, app. under Sec. 30-6.6 of Ord. to build screened-in porch in rear of house within 20' from rear property line, 2502 Appian Court, Milway Meadows Subd., 93-3 ((25)) 15, Mt. Vernon District (R-12.5), V-156-72

Notices to property owners were in order. Contiguous owerns were Mr. Lemmon, 2503 Lisbon Lane and Col. Richard L. Myers, 2501 Lisbon Lane.

Mr. Shields represented himself before the Board.

He stated that his house is set on an angle to the property line and there is a slant to the rear of the house. The rear faces north and he has a glass door which is a "natural" for a screened-in porch. The slab was provided at the time the house was built. He purchased the home new. He stated that he had lived in the house for one year and three months. He stated that he planed to construct the addition by using the same architecture and materials as the existing house.

There was no opposition.

In application No. V-156-72, application by Ward T. Shields, under Section 30-6.6 of the Zoning Ordinance, to build screened in porch in rear of house within 20 feet of rear property line, on property located at 2502 Appeian Court Milway Subdivision also known as tax map 93-3((25))15, Mount Vernon District, County of Fairfax, Virginia Mr. Runyan moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18th day of October, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 12,624 square feet.
4. That the compliance with all county codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

a. irregular shape of the lot.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations;

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of the Board prior to date of expiration.

3. Structure addition to be of similar architectural and type of materials as existing structures.

FURTHERMORE, the applicant shall be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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RE-EVALUATION -- RIVERSIDE GARDENS RECREATION ASSOCIATION, S-216-72, Granted November 23, 1971, to permit two double tennis courts, 1930 Elkins Street and S-10-65, Granted January 26, 1965, to permit operation of community swimming pool and other recreational facilities, 1930 Elkins Street, 102-3 ((1)) 43, Mt. Vernon District (R-12.5)

Mr. Kenneth W. Smith, 10560 Main Street, Fairfax, Virginia, spoke before the Board. He stated that he does not represent the association but the adjacent property owners.

Mr. Richard Hobson, 4085 University Drive, Fairfax, Virginia, spoke before the Board. He stated that he represented the opposition, the association.

Mr. William Barry, Zoning Inspector for Fairfax County, Virginia, spoke before the Board. He stated that the Zoning Office was made aware of some conflict of some of the adjacent residents to this pool property. Specifically, the complaints were about the teen parties and the noise immediately in the area from this pool and the pool parties. He stated that he had various letters in the file from the adjacent residents. He has made several inspections. One in particular was made about 10:30 P.M. when a teen party was in progress. The volumn of the music was quite loud. He advised Mr. Lee, a member of the Association, of the inspection and Mr. Lee assured him it would not happen again.

He stated that as he remembered when the tennis courts hearing was held sometime ago the same neighbors complained about the noise from the pool and the overall problem of having this pool so close to them. Parking on the street was a problem then and now. He stated that there was quite a flow of traffic in that area and he stated he felt it was something that is difficult to control unless you had someone standing at the gate that told the teenagers that "you are here to stay if you are here". The vehicles seemed to be just going around and around the thing and there was a lot of foot traffic. They were using the parking lot too. He stated that to be honest, he did not know how to define "on the street parking" as it relates to these parties. He asked if you define it as on the street parking when a couple of teenagers are sitting in the car. He stated that definitely these vehicles were connected with the function that was being held there.

The Zoning Administrator, Mr. Covington, stated that he had never observed a party in progress. He stated that he had been down in that area meeting with several groups regarding this problem.

Mr. William Barry stated that he went into the residence of Mr. H. D. Harding and had a conversation with him. Outside the noise was deafening, but inside it was acceptable. Then he went two blocks away and got out of his car and he could still hear the music.

Mr. Kenneth W. Smith stated that he represented the families of Stricklin, Dillard and Denny, who live immediately adjacent to the pool and the area where the proposed tennis courts are to go.

Mr. Kenneth Smith stated that at the time this Use Permit was issued the pool was there and the area adjacent was there and still vacant. Mr. Barry mentioned a number of problems with that pool. He stated it was their hope that the Board would revoke the permit or restrain it from beginning the tennis court construction until another location could be found. Some of the other things that have been happening has been the harrassing of one of the families he represents. In addition after the splash parties, their yard has been left with debris. At one of these parties, Mr. Barry did issue a violation. A copy of that is in the file. The Police Department has been involved. He stated that he had talked with the officers and they had indicated that they had been unable to apprehend the parties that were creating the harrassment.

The fence for the tennis courts has begun in that the posts have been set in concrete. Since that time, Mr. Hobson and Mr. Smith had attempted to negiotiate a compromise that would be acceptable to both sides, but they have been unable to do this. The Association refuses to cut the weeds on that vacant lot and the Health Department has had to cut the weeds twice. Once in July and once in September. He stated that he had photographs which he hoped the Board would look at that would show that the weeds had not been cut. He stated that the Association had not yet paid the County for cutting these weeds.

He stated that he would like to make some suggestions that might help solve the problem. He stated that his clients do not want to deprive the families in the area of the swimming pool facilities.

Suggestion No. 1: Require the public address system to be placed south of the Club house. That would place the Club house and the facilities between the adjacent homeowners.

Suggestion No. 2: Require a maximum volumn control. The speaker system perhaps without any fault on the Association has been turned up and if there is a governor on it, that would solve that problem.

Suggestion No. 3: Change the entrance to the pool from Buckboard Drive where it now is to Elkins Lane.

Suggestion No. 4: Now the parking area is not marked off. If this parking area was marked off, perhaps it would encourage the people to use it to park their cars.

Mr. Smith, Chairman, asked Mr. William Barry if there had been an overflow of parking.

Mr. Barry stated that during daylight hours, he did not feel there had been an overflow, but he did feel that if the lot was lined off and delineated with specific parking spaces, it might encourage people to park there and help eliminate the problems they were having on that street.

Mr. Kenneth Smith stated that the Board would note from the minutes of September 23, 1971, that one of the members of the Association indicated that at a pool party cars were "in and out constantly". The Chairman asked "if he was aware of the fact that the ordinance prohibits parking on the streets for this use. They would either have to cut out the teenage parties, which he hoped would not be necessary,""" ...he felt the teenagers should be aware of the fact that there are certain regulations which govern these civic organizations and they have to adhere to them when they are using the facilities."

Mr. Kenneth stated that another problem with the Pool is that the by-laws restrict membership in the Association to residents of Riverside Gardens, but in practice, it is open to other people in other areas. One of the past presidents of the Association was not a resident of the subdivision.

Mr. Jeckell, former Director of Public Works for the City of Fairfax, spoke before the Board regarding building the tennis courts on another part of the property other than where they are presently planned.

Mr. Jeckell stated that a study had been made of other tennis courts that operate in the area and this report that one of the other gentlemen will give will show beyond question that the granting of this use permit will be inconsistent to the criteria of other tennis courts in this area.

Mr. Hobson stated that he objected to this as the Special Use Permit for the tennis courts has already been granted and there was not an appeal to the Courts. He stated that he could put on such evidence as the Board wanted to hear. He stated that this line of testimony was not proper or germaine for this Board to hear.

Mr. Daniel Smith, Chairman, stated that this is only a re-evaluation. If there is a better location, the Board should and could change the location.

Mr. Charles Jeckell, 3506 Old Post Road, Fairfax, continued in his testimony. He stated that as you look at the plat, the tennis courts are presently located just east of the pool on the north of the property. There are two other places on the property where the courts could be located: One is to the west of the parking lot which would only hold one double and one single and they would not be side by side. On the south side of the pool it would be possible to put both courts in that area. It would require that the 40' setback be waived. On the west where the vacant land now is, there are several possibilities. The one selected as the best is to the south and center. This would give the same number of courts and the level of the land is the same as the present proposal and the courts could be provided at the same cost. He showed the Board a sketch showing this location.

Mr. Daniel Smith, Chairman, asked how this relates to the other courts as far as impact. He stated that the one that needed the variance is out.

Mr. Kenneth Smith answered that it would move the courts further from the two existing dwellings.

Mr. Daniel Smith asked if this proposal had been discussed with Mr. Hobson and the Association.

Mr. Kenneth Smith stated that he had discussed it generally as one of the alternate locations, but the Association nor Mr. Hobson have talked with Mr. Jeckell about this specific location.

Mr. Daniel Smith asked Mr. Hobson to come forward and look at the plat.

Mr. Daniel Smith then asked the status of the existing permit and asked if the building permit had been granted for the tennis courts.

Mr. Kenneth Smith stated that he had filed an Appeal to the Planning Commission of the Planning Engineer's Site Plan, therefore, no building permit has been issued.

Mr. Allen E. Dillard, 8629 Buckboard Drive, spoke before the Board.

Mr. Dillard stated that Col.Stricklin and himself had visited the eleven tennis courts at other sites in the area to see how other people lived with them. He submitted the survey results to the Board. He stated that the distances between tennis courts and residences varied from 75' to 350', but according to the proposed tennis courts in this case, they will be less than 60' from the residences. The average in these tennis court distances is 210' and the median is 140'. Therefore, their situation is worse than any other situation in their area.

Mr. Daniel Smith, Chairman, stated that this is one of the problems that comes about by the existing Association placing tennis courts in a limited amount of land area to begin with.

In Rebuttal, Mr. Hobson, stated that the tennis courts have not been constructed as yet. He stated that there has been no testimony before this Board with respect to a change in circumstances since this Board found that these uses on this site were compatible with the residential neighborhood. He stated that it was clear to him that these tennis courts were a minor thing as compared to the pool. The reason the tennis courts are not in is because the residents that are here today that Mr. Kenneth Smith named have opposed the construction and have done everything in their power to hold them up. They have, through County officials, delayed the Site Plan. He stated that he and Mr. Kenneth Smith have tried to work the situation out.

He stated that nothing is different now from what it was eleven months ago. There is no justification for a change in the action that was taken in November of 1971. He stated that he had witness here to rebut the testimony of Mr. Smith. He stated that he had about ten speakers.

Mr. Daniel Smith asked about the problem of grass cutting.

Mr. Hobson stated that they had never received a bill and as he understood it, the bill would come along with their real estate taxes.

He stated that the reason they had not cut the grass was because they were planning on beginning the tennis courts. The weeds have now been cut. The Health Department did not cut them in September.

He stated that he wished to raise a procedural point here. There has been presented, nothing that would call for a revocation of the permit. Nothing has been given to justify the change.

Mr. Hobson stated that the reason the site plan had been appealed and the only way a site plan can be appealed to the Planning Commission is because of an error on the part of the Engineer in Site Plan as to where the fence was to go along the property line. He stated that they feel it is quite clear where the Board wanted that fence. They must have wanted it along the property line as it is shown on the plat that was approved. He stated that this was discussed at the time of that hearing.

Mr. Daniel Smith stated that he would like to go over the minutes of that hearing and also the minutes of this hearing. He stated that he did not feel that the Board had to go into anything further. Any noise level that can be heard for two blocks away is not a tolerable level.

Mr. Hobson stated that the Zoning Administrator could curtail these parties if he feels that they are not in keeping with the resolution.

Mr. Hobson stated that if the tennis courts were moved away from the Dennys' and the Dillards and the Stricklins they would be closer to the Newmans. The Newmans did not object to this, but if they are moved down closer to them, they probably will object. The Newman house is older and probably is not as well insulated.

Mr. Smith, Chairman, stated that he did not feel there was a need for any further witnesses.

Mr. Barnes stated that there is also a letter in the file from one of the inspectors, a Mr. Beaver, stating that on August 23rd, he visited the site and the party was well organized and no problem.

Mr. Barry stated that his record of complaints go back eighteen months.

Mr. Daniel Smith asked about the membership from the other areas.

Mr. Hobson stated that initially members were permitted from other areas and the Board gives primary consideration to membership requests from Riverside Gardens.

Mr. Hobson stated that the parties that are given are supervised parties by the adults. This is an important form of community life. He stated that if there had been something legally wrong with the original Board action, the case would have been appealed in Court. That was not done.

The by-laws and membership is an internal problem. He stated that the Association had publicly stated that they did not have anything to do with throwing eggs at Mrs. Denny's door and that they abhored that type of thing.

Mr. Hobson asked the people present who were supporting the Association and the tennis courts to stand.

Approximately thirty people stood.

Mr. Kenneth Smith stated that he had talked with Mrs. Newman about moving the tennis court and she had told him that she honestly didn't care what they did, but she did wish they would just get rid of the problems.

Mr. Kenneth Smith stated that there were numerous letters of complaints in the file.

Mr. Barnes moved that this case be deferred to give the Board time to go over the information in the file on the last meeting and defer decision on this until some later date. He stated that he would not say exactly when; but a period of such time as they can get together on this and study the information.

Mr. Smith stated that it should not be more than thirty (30) days.

Mr. Baker seconded the motion.

The motion passed unanimously. Both Mr. Kenneth Smith and Mr. Hobson submitted pictures for the file and letters from individual property owners regarding this case.

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SHOW-CAUSE WHY SPECIAL USE PERMIT SHOULD NOT BE REVOKED -- Randolph D. Rouse (Mobil Oil Co.) Appl. No. 27996, Granted March 25, 1965, N.E. corner Annandale Rd. & Dashiell Road, 50-4 ((1)) 5C, (C-N), Mason District

Mr. Smith read a letter from applicant's attorney requesting a 30 day deferral.

Mr. Baker made a motion to grant a 30 day deferral. Motion seconded and passed unanimously. Case deferred for 30 days to allow applicant time to comply with County requirements.

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B.P. OIL CORP. & JOHN R. HANSON, TRS., app. under Sec. 30-7.2.10.2.1 & Sec. 30-7.2.10.2.2 of Ord. to permit gas pumps & car wash (entrance and vacuum pumps in Town of Vienna) Maple Ave. at Vienna Line, 38-3 ((1)) pt. Lot 44C and 115, Centreville Dist. (C-N), S-224-71

Mr. Guy Farley, 10560 Main Street, attorney for the applicant, represented them before the Board. Mr. Farley stated that the recent staff report indicates the vacuum pumps are in the Town of Vienna. This is not the case. More recent plans show the vacuum pumps are in the County along with the storage tanks. The original application had both of those facilities in the Town of Vienna but the application that is now before the Board only shows an entrance in the Town and the vacuum pumps and the storage tanks are located in the County. The Site Plan has never been processed in the Town. The Town refuses to process the Site Plan and a Writ of Mandamous has been filed and by agreement of the Town Attorney, that case was continued. The Board has a copy of the Town Attorney's letter of May 19 indicating that the Town will not act on the Site Plan until this Board has acted on the Use Permit. The Town Attorney stated in his letter that if the Use Permit is granted that the Town can't deny a Site Plan approval if the entire facilities are located in the County. But that is the subject of another application. The applicant will have to file for Site Plan approval in the Town. All of the above ground facilities are located in the County.

Mr. Smith stated he was still concerned about the driveway being in the Town of Vienna.

Mr. Farley stated that this will be the subject of the question of Site

Plan approval in Vienna, but he did not recall anything being said when this item was deferred about not having any entrance in Vienna. He said there was quite a bit of discussion about relocating the vacuum pumps and relocating the storage tanks which has been done, but there was no mention of any prohibition to having any entrance to the property in Vienna.

Mr. Smith stated the question that arises is whether this Board has authority to grant a use that must be served by overland that is under the control of the Town of Vienna. He felt that the only way the Board could grant this was if all entrances and exits are under County control.

Mr. Farley told the Board that if that were true every piece of commercial property that is located in the Boundary line of two jurisdictions would never be used unless both jurisdictions had concurrent hearings - joint concurrent hearings and acted on applications at the same time.

Mr. Smith stated that this particular use is not permitted by right. It is a use permitted by Use Permit only. You are asking the Board to allow a use not permitted by right, but by Use Permit only.

Mr. Farley stated that certainly if the Use Permit is granted in the County and the Town of Vienna denies a Site Plan approval, the applicant would not be able to make use of the property unless it was revised in such a way that the entrances or whatever objections the Town might have were located in the County.

Mr. Smith asked if that could be eliminated before the Board takes action.

Mr. Farley stated that the Town of Vienna refuses to process the Site Plan application until this Board acts on this Use Permit application.

Mr. Smith asked the size sign they propose to use.

Mr. Farley stated it would be a 7 foot sign. A representative of the sign company has indicated that the height will be within the limits of the Ordinance. He stated that they were not asking for any variance for a sign.

Mr. Smith stated that they would be allowed a free-standing sign and it might be a good idea to limit it to whatever the Town of Vienna limits.

Mr. Farley stated that compared with the Pizza Hut and McDonalds Golden Arches and the ones across the street, he did not think the sign would be offensive.

Mr. Smith asked if this is a separate free standing sign and not one as an intricate part of the building as indicated in the drawings.

Mr. Farley stated that it was.

Mr. Smith asked Mr. Reynolds if he was familiar with the application under discussion concerning the B. P. Oil Company in Vienna.

Mr. Reynolds stated he was.

Mr. Smith asked if he reviewed these plats.

Mr. Reynolds stated that this plat is virtually the same plat as I recall that was submitted with the original application. He stated that he had asked Mrs. Kelsey the exact nature of the deferral for the meeting, and she said it was for the landscaping plan.

Mr. Smith stated it was deferred for a landscaping plan and also to bring the whole operation into the County.

Mr. Farley stated that the plats show the drive and the parking in the Town of Vienna with the entrance in the Town and alloof the facilities in the County.

Mr. James Grant, Director of Planning for the Town of Vienna, read a prepared statement. He stated that this statement was prepared prior to the time that he knew all of the facilities would be in the County.

"With respect to this application, the Town of Vienna takes the position that, if the Board were to grant a use permit for a gas station/car wash on that portion of the applicant's property lying within the County, such action in effect would rezone that portion of the property lying within the Town to a lesser restricted use than is intended by its present C-1 zoning.

Of the three commercial zones in the Town, the C-1 Zone (Local Commercial) is the most restrictive. It permits uses which meet certain criteria and which either are not expressly prohibited, or are designed with special conditional limitations. These uses, all of which must be conducted within an enclosed building, are general business enterprises consisting of sales; home installation services associated with sales; offices; recreation; limited repairing, manufacturing, processing or assembly. Section 18-72, A.1.b. stipulates: "No sales or services of any kind, type or nature, comprising or relating to the business shall be conducted on the premises outside of a wholly-enclosed building(s).

Section 18-76 governs parking in the C-1 Zone: "The parking of vehicles belonging to and which are part of the business activity within a building, other than vehicles configured as private passenger cars, may be in an enclosed or partially-enclosed building or in the open. Provided, however, that the partially-enclosed building or open area shall be so located as to not be visible from the principal street on which the premises face and screened from any adjacent or abutting residential area by an ornamental masonry wall which shall be no less in height than the greatest height of the vehicles to be parked.

When the applicant first came before the Town in late 1971, he sought a building permit for a gas station and was informed that the use proposed was neither a permitted nor a conditional use within the zone. Subsequently, by telephone, the applicant inquired about building a car wash in the Town. Again, he was advised that this was neither a permitted nor a conditional use. In rejecting these two proposals, the Town Zoning Administrator had properly interpreted the provisions of the C-1 Ordinance. Under an amendment of the Town Code dated May 10, 1971, Minute Car Wash Stations may be operated <u>only</u> in the Town's C-2 Zone, <u>and</u> as a Conditional Use. The category of Automobile Service Station is included as a Permitted Use <u>only</u> in that Zone. The Chief, Fairfax County Division of Land Use Administration was advised of the Zoning Administrator's action by letter of November 26, 1971. The Mayor of Vienna, by letter of January 5, 1972, expressed to the Board of Zoning Appeals the strong opposition of the Town Council to the applicant's proposed car wash in the Town.

The applicant now applies for a permit to operate gas pumps and a car wash in the County portion, with entrance to such facility and vacuum pumps in the Town portion of his property. (For the record, the applicant has not notified the Town Zoning Administrator of his proposed new use of his Town property.) It is the Town of Vienna's position in this case that the Town Zoning Administrator cannot legally accept an application for the uses proposed in the Town portion of applicant's property. The use itself is neither a permitted nor conditional one within the C-1 Zone and, in our judgment, higher restricted land (C-1) cannot be used to provide access to lesser restricted land (C-N)."

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Mr. Smith stated that the thing that concerned them now is that the Board does not have the authority to grant the use unless it cannot be serviced and self-contained in the County.

Mr. Farley read a letter from the Town Attorney dated May 19, 1972. This letter is connected with an attempt to process the Site Plan in the Town of Vienna. If you look at the bottom page, the last sentence on the first page and the top of the second page "...absent the granting of such a use permit by the County, it would in my opinion by an unlawful act for the Town Administration to process your client's site plan...", so in other words absent is in a situation where the Town has been advised by the Town Attorney that they cannot process a site plan without the granting of a use permit in the County. Absent a decision from this Board on the application there is no way we can get a definitive answer from the Town of Vienna. Most of the comments that were made by the Representative of the Town of Vienna are prefaced on the belief that part of the facilities, the vacuum pumps and the tanks, would be located in the Town. But the absent is in the situation where the Town will not consider the site plan unless the County approves the use permit. Of course if the County denies the Use Permit then there is no point in making application for the site plan. We are really at a deadend as far as the Town is concerned. Mr. Farley further stated that he did agree with the Town Attorney to continue the Writ of Mandamous case because of the case cited in his letter of Azalea Corp. vs. the City of Richmond, which makes it pretty clear that the adjoining jurisdiction where the facility is located has to grant a Use Permit before the other adjoining jurisdiction is required to process the site plan. There is nothing now that the applicant can do with the Town of Vienna until this Board acts on the application before it.

Mr. Smith stated again that the only thing that bothers the Board is the fact that you cannot contain a use as well as the entrance and exits and the parking necessary there on County property. You cannot meet the parking requirements without the Town of Vienna land. Neither would you be able to provide an entrance and exit to the use other than over a more restrictive zoning category. The question is whether this is permissible.

Mr. Farley stated that he thought that the Town Attorney doesn't have any doubt that there will be opposition to the site plan application if the Board grants the Use Permit. I think it is pretty well agreed that if the use is granted that the Town of Vienna would not be legally justified in denying the site plan.

Mr. Smith stated that if the Board does deny this application it is not denying theapplicants or owners of this property a reasonable use of it. There are many uses permitted by right both as to the County zoning and the Town zoning. The questionsarises here and a lot of the problems arise simply because of the more intense use the applicants desire to make of the property.

Mr. Farley stated that he agreed with that, but he thought it is a question of whether or not the Board thinks that the applicant is making a reasonable use of the property. But he would submit that with a McDonald's and a Pizza Parlor on one side and a plumbing businesson the other and two filling stations and a Seven-Eleven and a High's and a Dry Cleaning plant across the street that this is a reasonable use of the property.

Mr. Smith stated that simplybbecause there are several uses in there now doesn't mean the Board should grant one. This Board did not grant the McDonalds. That is a use permitted by right. The only thing this Board has any jurisdiction over is the service station.

Mr. Kelley stated that he did not feel this is an unreasonable use of the prqerty, he agreeded with the attorney that you have to start somewhere and someone has to hear it to get it started.

Mr. Barnes asked why someone from Land Planning could not sit down with the Town of Vienna and work this out.

Mr. Smith stated that the representative from the Town of Vienna did point out the fact that theyTown of Vienna would permit several uses of this property. This is one of the uses that is prohibited.

Mr. Smith stated that B. P. Oil Company is not the owner of the property.

Mr. Kelley asked if it had definitely been established that the driveway cannot be placed in Fairfax County.

Mr. Farley stated that he had not talked with the engineer since this revised plan was made up . He stated that it wouldn't make any difference to the Town if the entrance were in Fairfax County. The Town is opposed to this use next to the Town line.

Mr. Kelley asked Mr. Grant if the Shell Station and the Seven-Eleven store across the street from this site is in the County.

Mr. Grant stated that it is all in the County.

Mr. Barnes stated that Mr. Farley has been heard and he agreed with him that if The Board does act on this favorably it would have to be on that portion of the land that lies within Fairfax County.

Mr. Kelley stated that he was still in a quander. He had visited this site three times to study it and it seems to him that it is in keeping with the other uses in the Town of Vienna and Fairfax County.

Mr. Kelley moved that this be placed at the end of the agenda.

Motion seconded by Mr. Barnes.
The motion passed unanimously.

This case was recalled later in the day and the following motion was made:

In application No. S-224-71, application by B. P. Oil Cor. & John R. Hanson, trs. under Section 30-7.2.10.2.2 of the Zoning Ordinance, to permit gas pumps in conjunction with car wash, on property located at Maple Avenue at Vienna, Virginia line, also known as tax map 38-3 ((1)) pt. lot. 44c, & 115, Centreville Districtm County of Fairfax, Mr. Barnes moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on January 11, 1972 and deferred for applicant to work out problems with Town of Vienna, brought up again at various dates, the last of which is October 18, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is MdDonald's Corp.
2. That the present zoning is C-N.
3. That the area of the lot is 77,846 sq. feet.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all county codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance); and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county.] The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. There shall be a minimum of 16 parking spaces.

7. There shall not be any display, selling, storing, rental, or leasing of automobiles, trucks, trailers, or recreational vehicles on said property.

8. Construction of a service drive along the frontage of Route 123 will be required.

9. Landscaping, screening and planting shall be as approved by Director of County Development.

This motion only applies to the land that is in Fairfax County.

Building to be 1,800 square feet.

Mr. Kelley seconded the motion.
Motion passed 4 to 1 with Mr. Smith voting No.

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SAUNDERS B. MOON COMMUNITY ACTION ASSOCIATION, app. under Sec. 30-7.2.6.1.3 of Ord. to permit operation of pre-school and day care center in Drew Smith Elementary School, RE-EVALUATION HEARING--Granted 1970 for 80 children. 8100 Fordson Road, 101-2 ((1)) 47, (R-12.5), Mt. Vernon District S-254-69.

Speaking for the Association was Mrs. Sandra Lowe, Director of the Saunders B. Moon Child Development Center, located at 8100 Fordson Road, Alexandria, Virginia. She stated that they are located in the Drew Smith Elementary School. The school was recently turned over by the Board of Supervisors to the SBMCAA. The school itself contains 14 classrooms with a capacity of 15 children per classroom. She stated that they are asking the Board to zone it for the maximum occupancy, although they only have 94 children at present; however, as funds become available they plan to increase the number of children that they serve in accordance with the needs of the Mt. Vernon area.

Mr. Smith asked the capacity of the Drew Smith Elementary School.

Mrs. Lowe stated the capacity is 210. There are 14 classrooms and if there were 15 children in 14 classrooms that would give a maximum of 210.

Mr. Smith asked how many children they have at the present time.

Mrs. Lowe stated at the present time they are zoned for 80 children and they have 75 children. They are funded for 94 children. As soon as the use permit is changed they will go up to the 94. As additional funds become available we will continue to increase until they get to the maximum.

Mr. Smith stated that Mr. Covington made a survey of the school and his report indicated that the public school and the Zoning Administrator had no objections to granting the use permit up to the maximum number of 210.

Mr. Covington stated that the building is designed for in excess of 400 youngsters at one time so the additional children under this program would not have as great an impact as the original use. There is no basic change to the original use of training youngsters.

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Saunders B. Moon Community Action Association (continued)

Mrs. Mary Lou Beatman, Day Care Coordinator for the County of Fairfax spoke in favor of this application.

She stated that this is a county subsidized facility. Fairfax County gives money to two programs in this center. SBMCAA has a federally funded program &a ATW funded program. Fairfax County gives part of the non-federal share. They are now increasing the number of children and the County gave them $24,000 in additional funds. She stated that this is a County subsidized program they are working with and the County is aware of the quality program they are providing and support it.

No one spoke in opposition to this case.

Mr. Kelley moved that this school's enrollment be increased to 210.

Mr. Barnes seconded the motion.
Motion passed unanimously.

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IRADO CORP., app. under Sec. 30-7.2.10.3.1 of Ord. to add one standard auto inspection bay and two pump island canopies, 13001 Lee Jackson Highway Greenbriar Shopping Center, 45-1 & 45-2 ((1)) 13, Centreville District (C-D), S-148-72

(Deferred from October 11, 1972-- to (1) allow applicant to submit photographs of the property showing the sign and (2) to allow the Zoning Administrator to write a letter for the file clarifying the position on the setbacks for gasoline station pump islands canopies.)

Mr. Smith read a letter from the Zoning Administrator of October 17, 1972
"It is the interpretation of the Zoning Administrator under Section 30-3.3.1 of the Zoning Ordinance, that canopies on pump islands of a permanent nature with supports located on the pump island may extend into street setback areas; providing they do not overhang travel lanes, or service drive and if no travel lane or service drive exists, not closer than twenty-two feet from the right of way line".

Mr. Smith stated the applicant has requested an extension of the use to include one additional bay. The Zoning Administrator says the canopy is permitted as outlined in the application. This facility is operating on a use permit granted in 1968.

Mr. Runyon moved that the Board adopt the following resolution:

In application No. S-148-72, application by Irado Corp. under Section 30-7.2.10.3.1, of the Zoning Ordinance, to add one auto inspection bay and 2 pump island canopies, on property located at 13001 Lee Jackson Highway Greenbriar Shopping Center, also known as Tax Map 45-1 & 45-2 ((1)) 13, County of Fairfax, I Mr. Runyon move that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 18 day of October 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is C-D.
3. That the area of the lot is .9151 acres.
4. That compliance with site plan ordinance is required.
5. There is an existing permit for a gasoline station on this property, granted May 14, 1968

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance

Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance); and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structues of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. There is not to be any sale, rental, leasing, or storage of automobiles, trucks, trailers, and recreational equipment on these premises.
7. The station will consist of 3 pump island with canopies and 4 bays including inspection bay.
8. The stacking lane for the inspection of cars shall be confined to the premises.

Mr. Baker seconded the motion.
The motion passed unanimously.

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TEXACO, INC., S-47-72

Mr. Smith read a letter from the Staff recommending the amount of $296,000 for a bond to be put up by Texaco to cover damages to nearby property owners should a slippage occur.

Mr. Smith also read a letter from Frank Carter, Assistant County Attorney, approving the form for the bond.

Mr. Kelley stated that the amount for the bond is apparently sufficient. It has been studied by the Staff. The County Attorney has o.k.'ed the bond form.

Mr. Smith stated that all the documents have been received by the Board that were requested.

Mr. Kelley stated that Mr. Richard Long was handling the drafting of the motion and he has resigned. It will be necessary to redraft the motion or find the one that Mr. Long had already drafted.

Mr. Barnes moved to defer Texaco until the 25th for decision only.

Mr. Kelley seconded the motion and the motion passed unanimously.

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Mr. Covington brought a question before the Board. He stated that the Board had issued a Special Use Permit to Artery Corp. for a swimming pool for townhouses. Now these plans have changed and there were only 47 townhouses built. There will be 300 condominums built and they will still need the community pool as they have promised the townhouses that they can use the pool, but it will be owned and controlled by the condominum apartments.

Mr. Smith stated that he believed it was originally granted for 300 townhouses.

Mr. Covington stated that that was correct and this will increase the total number to 347, but normally condominums do not have to come under this Board.

Mr. Smith stated that they would have to this time if they wish to keep the townhouses in the pool. The Board will need to make a change of ownership and whatever change in facilities they might have.

Mr. Smith stated that the Board would also need a copy of the by-laws.

The Board members concurred that a new application would be necessary.

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AMERICAN HEALTH SERVICES, INC., S-178-72

The Board read and discussed letters that had been received from the applicant's attorney, Donald Stevens and also a letter from the citizen's association President. There were several other letters too. After a lengthy discussion, it was decided that the Board wished to bring the applicant in for a Re-Evaluation in order to answer some of the questions that the Board members had and that the citizens had. The Board set the hearing for November 22, 1972, with the request that both the applicant and the citizens association be notified.

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Mr. Baker moved that the minutes for September 20 and September 27 be approved.

Mr. Kelley seconded the motion and the motion passed unanimously.

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The meeting concluded at 4:45 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

DATE APPROVED: November 15, 1972

The Regular Meeting of the Board of Zoning Appeals of Fairfax County, was Held on October 25, 1972, at 10:00 A.M. in the Massey Building. Members Present: Daniel Smith, Chairman; Loy Kelley; Joseph Baker; and Charles Runyon. Mr. George Barnes was absent.

The meeting was opened with a prayer by Mr. Wallace S. Covington, Assistant Zoning Administrator.

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FAIRFAX FALLS CHURCH MENTAL HEALTH THERAPEUTIC NURSERY, app. under Section 30-7.2.6.1.3 of Ord. to permit day program for emotionally disturbed children (12) Ravensworth and Braddock Roads, Annandale, Ravensworth Park Subd., 70-4 ((16)) Parcel A, Annandale District (R-12.5) S-155-72

Dr. Phyllis Dane, 7010 Calamo Street, Springfield, Virginia 22150 spoke before the Board. She stated that that address was the headquarters for the Fairfax County Mental Health Center.

Notices to property owners were in order. Mrs. Dane stated that this facility is on a block by itself. These are the property owners around the church.

Notices to property owners were ruled in order by the Chairman.

She stated that they plan to operate only one classroom at this point in time.

Mr. Smith stated that the permit could only be granted for the period of time that they had permission to operate in the church.

Mrs. Dane stated that they propose to have a class for six emotionally disturbed children. This would be a three hour program for these children. They would work with both children and parents. There is a small recreation area that the church now uses and they have permission to use it also. For the most part the children will be indoors.

Mr. Smith asked if these youngsters are under treatment.

Mrs. Dane stated that at least one hour per week is spent with the staff physiatrics and the families are also seen by him.

Their transportation is on a volunteer basis.

Mr. Kelley stated that if they used a bus, it would be necessary to comply with State and County standards as to lights and color of the busses.

Mr. Kelley stated that should they go beyond the number of children granted in this Special Use Permit, or wish to add transportation, this permit would then have to be reevaluated by this Board.

Mrs. Dane stated that they are working with the Fairfax County Public School System in their program and they are trying to see if they can use the public school busses.

Mr. Smith then stated that if that was the case, it would not be necessary to come back before this Board.

There was no opposition. However, Mrs. Bryon Massey, 3100 Beechwood Drive, Falls Church, came before the Board and asked if she could ask some questions.

Mrs. Massey asked the meaning of theropeudic treatment.

Mrs. Dane stated that in this program there will be one adult for every two children. These children require a great deal of care. This is the basic concept of the program. They will also be doing family therapy. They try to determine why this particular child is like he is. They try to develop resources within the family so the children will get along better in the family situation. These are children who have been asked to

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Fairfax Falls Church Mental Health Therapeutic Nursery (continued)
October 25, 1972

leave their normal program. In a small group, they can do much.

Mrs. Massey asked Dr. Dane if these children could be considered hyperactive?

Dr. Dane answered that there are two hyperactive children. There are some who are very artistic and some who are withdrawn and some with communicative disorders.

Mrs. Massey asked if these children could be under the program where they were taking any drugs of any kind.

Dr. Dane states that there is only one boy who must be given a medication. They would be using medication for those children who require this.

There was no opposition.

Dr. Dane stated that they had considered having two programs of three hours each, but for this year they are only thinking of one class. There is a much greater need, but they do not have a sufficient budget to handle two programs.

Mrs. Massey asked if these were county children.

Dr. Dane stated that these were county children. They do not anticipate bringing in any children from another county. The need is too great in Fairfax County to think of bringing children from any other place.

In application No. S-155-72, application by Fairfax Falls Church Mental Health Therapeutic Nursery under Section 30-7.2.6.1.3, of the Zoning Ordinance, to permit day program for emotionally disturbed children (12), on property located at Ravensworth Road and Braddock Road, also known as tax map 70-4((16)) parcel A, Annandale District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of October, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Ravenworth Baptist Church.
2. That the present zoning is R-12.5.
3. That the area of the lot is 4.54256 acres.
4. That compliance with all State and County Codes is required.
5. Site Plan requirements may be waived pursuant to Section 30-11.3 of the Ord.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject applicant on be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in uses or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN A NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNITL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-residential use permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of students shall be 8, ages from 3 to 6 years.

7. The hours of operation shall be 9 A.M. to 12 Noon, 5 days per week.

8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institution and obtaining a Non-Residential Use Permit.

9. All buses and/or other vehicles used for transporting students shall comply with State and County standards in color and light requirements.

10. There shall be no signs.

11. This permit is granted for a period of one year with the Zoning Administrator empowered to extend the permit for 3 - 1 year periods.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

DELIA B. OLSON, appl. under Section 30-7.2.6.1.7 of Ord. to permit antique shop in home, 8705 Little River Turnpike, 59-3 ((10)) 1, 2, 20, 21, Annandale District (RE-1), S-157-72

Mrs. Olson represented herself before the Board.

Notices to property owners were in order. The contiguous owners were Padgett, 5817 Amelia Street and St. Matthew's United Methodist Church.

Mrs. Olson stated that she had owned the property for twenty-seven years and they do plan to continue to live there. When the County inspectors came out, they suggested that she use the porch for the antiques and enclose it and also to use a portion of the garage. They will be able to enclose the porch without any encroachments into the setbacks. They have almost five (5) acres of land. She hopes to operate six days per week and be closed on Sunday. She would like to operate from 10:00 A.M. until 4:00 P.M.

Mr. Smith read the report from Preliminary Enginnering. The report stated that "This use will be under site plan control. It is suggested that a 150 ft. deceleration lane, 12 feet wide measured from edge of pavement, be constructed in order to provide two "free-flow" lanes to the east on Route #236."

Mr. Kelley stated that he and Mr. Baker went out and viewed the property. No one was home, but they went into the driveway. He stated that they felt after viewing the property that there was a lot of room, but the traffic conditions were very bad in that area.

Mrs. Olson stated that they have a back entrance as well as a front one.

Mr. Kelley stated that most people would not know there was a back entrance. He stated that the comment from Preliminary Engineering is very good. He stated that the traffic was so bad that they had to go on down the road, turn around and then come back.

Mr. Smith read a letter from the Wakefield Forest Citizens Association stating that they did not oppose the use with the proper conditions imposed on it such as the permit being non-transferable.

Mr. Smith also read a memorandum from two members of the Planning Commission, Mr. George Warlick from the Annandale District and William Lockwood from Providence District, dated October 25, 1972 which stated:

"The property which is the subject of the above application was part of rezoning application C-78 (Virginia Dynamics Company from RE-1 to C-D) which was unanimously recommended for denial by the Planning Commission on November 19, 1970 (Planning Commission recommendation to the Board of Supervisors attached) and was subsequently unanimously denied by the Board of Supervisors on April 29, 1972.

Because of a potentially dangerous traffic situation and to prevent further commercial stripping along Route #236, this area is now in a proposed highway corridor overlay district.

Although we did not request that this item be pulled from the Board of Zoning Appeals' Agenda because of time and scheduling constraints, we would appreciate your taking the above facts into consideration during your deliberations on this application."

Mr. Smith stated that he agreed that a deceleration lane should be constructed here. This is a five acre parcel of land and it is very seldom that you find a five acre parcel of land with a house of this type on it that is so well screened. The PTA in that area did not object. The conditions that they request are mandatory conditions anyway. The Board never allows these type uses to be transferred without first coming back before this Board with a complete new application just as though a use of this type never before existed.

In application No. S-157-72, application by Delia B. Olson, under Section 30-7.2.6.1.7, of the Zoning Ordinance, to permit antique shop in home, on property located at 8705 Little River Turnpike, also known as tax map 59-3((10))1,2,20,21, Annandale District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals;, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of October, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 4.93 acres.
4. Site Plan approval is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board, These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not consitiute exemption from the various requirments of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNITL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Operational hours of 10 .A.M. to 4 P.M. Monday thru Saturday.
7. Deceleration lane, 12 feet wide from existing edge of paving be constructed with a length of 150 feet along Route #236 with transition to drive.
8. No sign larger than 2 square feet be permitted; further that the existing sign shall be modified only to that extent to add the word "antiques" and the hours of the operation.

Mr. Baker seconded the motion.

The motion passed 3 to 1 with Mr, Kelley voting "No".

Mr. Barnes was absent.

GUARANTY BANK AND TRUST CO., app. under Sec. 30-6.6 of Ord. to permit erection of elevator 2' over bldg. setback line, 7267 Arlington Blvd., 50-3 ((1)) 5A, Providence District, (C-D), V-158-72

Mr. Bernard Fagelson, attorney for the applicant, testified before the Board.

Mr. Fagelson stated that he had submitted an amended application. The owner of the building is Boulevard Associates and the lessee of the building is Guaranty Bank and Trust Company. The land is owned by Jefferson Standard Life Insurance. He stated that Jefferson Standard owns all the land around this building. He had notified the nearest adjacent property which is Link Properties, Inc., 210 Little Falls St., Falls Church and Roland Blancke, 3140 Graham Road and several other nearby property owners.

Mr. Baker moved that the application be amended to include both Boulevard Associates and Jefferson Standard Life Insurance Company.

Mr. Kelley seconded the motion and the motion passed unanimously.

Mr. Fagelson stated that at the time this building was designed, it was the intent of the builders to have three stories. The bank is now and will be the sole occupant of the building once the three stories are completed. An elevator is needed because the existing first floor will be extended upward two more floors and older people have trouble walking up that many flights of stairs. In addition, it is difficult to move files, etc. without an elevator. It is almost impossible to put the elevator on the inside of the building because the present building is built on land that has a high water table. There are springs and artisian wells under this building and it would not be good to penetrate the existing slab. An elevator has all types of electrical works and it would not be practical to combine this and water. The building is 55' from the road and the elevator will be 6'2". In order to make sure the footings are within the setback, they are requesting a 2' variance from the setback line to take care of the elevator and the footings necessary. In order to keep the proper design of the building, they are planning to build an extension on the other side of the building. It will also extend 2' over the line.

Mr. Fagelson stated that they may not extend 2' into the setback area, but they wanted to get the variance just in case they did.

Mr. Smith read the comments from Preliminary Engineering.

"On the site plan approved for Loehmann's Plaza Shopping Center, 629 parking spaces were provided. The required number of parking spaces was 626. If the subject variance is approved the 5 spaces in front of the bank building would be rendered useless, thereby reducing the parking available to two below the minimum requirements of Fairfax County, If the variance is granted, it is suggested that it be conditioned upon the satisfactory relocation of two parking spaces in order to meet the minimum requirements of the Fairfax County Code. This relocation of parking spaces should be to the satisfaction of the Director of County Development."

In application No. V-158-72, application by Building Assoc. & Jefferson Std. Life Ins. Co. Guaranty Bank & Trust Company under Section 30-6.6 of the Zoning Ordinance, to permit erection of elevator 2 feet over building setback line, on property located at 7267 Arlington Blvd. Providence District, also known as tax map 50-3((1))5A, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of October, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Jefferson Std. Life Ins. Company.
2. That the present zoning is C-D.
3. That the area of the lot is as shown on site plan.
4. That site plan approval be obtained.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
a. unusual condition of the location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. That the building be constructed in accordance with the architectural plans submitted.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permitand the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously with members present.

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STEPHANIE COLLINS, appl. under Section 30-6.6 of Ord. to permit enclosure of carport closer to property line than allowed, 9018 Stratford Lane, Stratford on the Potomac Subd., 111-1 ((3)) (2) 501, Mt. Vernon District (R-12.5) V-160-72

Notices to the property owners were in order.

Mr. Collins stated that Mr. Hogan's property touches the lot that adjoins his other lot. THey also own the adjacent lot, but Mr. Hogan's property touches it. Mr. Sullivan touches his lot on the rear.

Mr. Collins stated that he had owned the property for seventeen years and they do plan to continue to live there. He stated that if he built on the opposite side he would also be encroaching into the setback. He stated that he also had a steep lot on the opposite side of the house. He stated that he did not wish to add another structure, inasmuch as the present carport has a finished roof and floor.

In application No. V-160-72, application by Stephanie Collins under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of carport closer to property line than allowed, on property located at 9018 Stratford Lane, Stratford on the Potomac, also known as tax map 111-1((3))(2)501, Mt. Vernon District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of October, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 13,058 square feet.
4. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
   a. Exceptionally irregular shape of the lot.
   b. Exceptional topographic problems of the land.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application, only and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Architecture and materials used in addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Baker seconded the motion, the motion passed unanimously with the members present.

DEFERRED ITEMS:

CHAIN BRIDGE DEVELOPERS, appl, under Sec. 30-6.6 of Ord. to permit division of lot with less frontage at building setback line than allowed, Mount Vernon

Mr. Smith read a memorandum from Mr. Knowlton, Zoning Administrator, stating that this case had been advertised according to the Board's wishes, after the Board of Supervisors had vacated the street in question that had been holding the case up, therefore, he suggested that the case be deferred until November 8, 1972. He stated that due to the hardship that was on the applicant, assuming that the Board of Zoning Appeals would defer until November 8, 1972, the Staff has sent the ad to the newspaper for that date.

Mr. Baker moved that this case be deferred until November 8, 1972.

Mr. Kelley seconded the motion and the motion passed unanimously.

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DAWN COPELAND, app. under Sec. 30-6.6 of Ord. to permit construction of pool closer to house than required, 13208 Pennypacker Lane, Greenbriar Subd., 45-3 ((2)) (15) 11, Centreville District (R-12.5), V-133-72 (Deferred from 9-20-72 for proper notices)

Ms. Copeland represented herself before the Board.

Notices to property owners were in order. The contiguous owners were Robert Raspen, 13212 Poplar Tree Road, Fairfax; Mr. and Mrs. David Hodges 13206 Pennypacker Lane, Fairfax; Jon R. Wolfe, 13210 Pennypacker Lane, Fairfax.

Ms. Copeland stated that a small portion of the pool runs into the telephone easement, therefore, she secured permission from the telephone company to construct a portion of the pool over that easement.

She stated that she had easements all along the rear of her house, but this is the only one that encroaches.

Mr. Smith asked her if she could cut it down to 16 x 32.

She stated that she could.

Ms. Copeland in answer to Mr. Smith's question stated that she had owned the property for five years and planned to continue to live there. This pool is for the benefit of her family.

Ms. Copeland stated that she also has a sewer easement along the side of her property, but the pool will not encroach into that.

Mr. Kelley asked her if she was aware that she would have to fence this pool.

Ms. Copeland stated that she has a 6' fence completely around the back yard.

There was no opposition.

In application V-133-72, application by Dawn Copeland under Section 30-6.6 of the Zoning Ordinance, to permit construction of pool closer to house than required, on property located at 13208 Penneypacker Lane, Greenbriar Subd., also known as tax map 45-3((2))(15)11, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of October, 1972, and deferred from September 20, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 11,331 square feet.
4. That electric and telephone easements are located across the entire length of the lot at rear of property.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
A. Exceptional topographic problems of the land.
B. Unusual condition of the location of existing buildings and easements.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to the date of expiration.
3. That the size of the pool shall be 16'x32' with the maximum distance between pool and house shall be 4'. FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Baker seconded the motion, the motion passed unanimously.

MYRNO MAYS, app. under Sec. 30-7.2.6.1.7 of Ord. to permit antique shop in home, 8732 Glenbrook Place, Pine Ridge Subd., 59-3 ((6)) 22, Providence District (RE-1), S-2-72 (Deferred from 8-2-72 at request of applicant)

Mrs. Mays represented herself before the Board.

Notices to property owners were in order. Contiguous owners were Louise Hicks, 8731 Glenbrook Place and Michael Treano, owner of the vacant lot, also contiguous to this property.

Mrs. Mays stated that she had owned the property for twelve years. There is 59,400 square feet of land there. She plans to continue to live there and she hopes to operate an antique shop.

Mrs. Mays in answer to Mr. Smith's question stated that the road in front of her house is a secondary road.

Mr. Smith stated that the minimum width of the road would be 20' now, but some of the older roads are only 15'.

Mr. Runyon stated that the road looks like a 50' right-of-way road.

Mr. Kelley read the Staff's comments on this case:
"This use will be under site plan control. It is suggested that the plat submitted show sufficient parking spaces so that all parking will be confined to on-site only."

Mrs. Mays stated that she was going to have this shop "by appointment only" on a five day per week basis. She stated that she would be available for an appointment from 10:00 A.M. until 8:00 P.M., Monday through Saturday.

There was no opposition.

Mr. Smith read a letter from Louise Hicks stating that she as an adjacent neighbor supports the application of Mrs. Mays.

Mr. Smith also read a letter from the Pine Ridge Civic Association stating that they had considered Mrs. Mays' application at an advertised hearing and all her neighbors were present and they all unanimously supported Mrs. Mays' application.

Mr. Smith also read a letter from Mr. Himes, Prosperity Avenue, stating that they supported the application.

In application No. S-2-72, application by Myrno Mays under Section 30-7.2.6.1.7, of the Zoning Ordinance, to permit antique shop in home, on property located at 8732 Glenbrook Place, Pine Ridge Subdivision, also known as tax map 59-3((6))22 Providence District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of October, 1972 and deferred from August 2, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 59,405 square feet.
4. That the property is located at end of a narrow cul-de-sac and the width of the driveway is not sufficient to allow two cars side by side.
5. That off street parking would be very difficult because of topography.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1. of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Hours of operation be from 10:00 A.M. to 8:00 P.M. Monday through Saturday.

7. Business be by appointment only limited to 2 vehicles at any one time, parking only on site.

8. Sign on premises, no larger than two (2) feet.

9. Parking and turn around area of Bituminous paving be provided for the two additional vehicles.

Mr. Baker seconded the motion, the motion passed 3 to 1 with Mr. Kelley voting "no" and Mr. Barnes was absent.

HOLLIN MEADOWS SWIM & TENNIS CLUB, appl. under Sec. 30-7.2.6.1.1 of Ord. for community swimming pool, tennis courts and other rec. facilities and permit lesser number of parking spaces than required, 2500 Woodlawn Trail, Hollin Hills Subd., 93-3 ((1)) 6A, Mt. Vernon District (R-17), S-100-72 (Deferred from 6-14-72 for proper notices and revised plats)

Mr. Frank Magiotto, 7915 Kendlewood Drive, Alexandria, Virginia, spoke before the Board. He is the current President of the pool.

Notices to property owners were in order. All five that he had notified were contiguous to the pool property.

He stated that 14 of the 17 neighbors were in favor of keeping 75 parking spaces. He stated that 100 parking spaces is the basic requirement for 300 members.

Mr. Smith read the Staff Comments.

"Hollin Meadows Swim & Tennis Club, S-100-72. This use will be under site plan control. It is noted that a portion of the property along the existing paved storm sewer ditch is proposed to be used for a parking lot, However, no provision is shown to prevent a vehicle from accidentally driving into the paved ditch.

Also, recent pool and recreation sites have been required to provide a parking ratio of one space for every three family memberships when not a "walk-to" oriented site. This requirement has often proved to be inadequate and this office would suggest that the Board not approve a reduction below the standard requirement."

Mr. Magiotto stated that they had consulted with the County Engineers several times and these plats were the results of their suggestions.

Mr. Smith stated that Plat A would have to be disregarded. He stated that they could not reduce the number of parking spaces required ten years ago.

Mr. Magiotto stated that his presentation primarily was based on their justification for only 75 parking spaces. He stated that they have taken traffic counts and have found that they actually have never used but 55 parking spaces.

Mr. Smith stated that they actually have been operating without a Special Use Permit. Ten years ago the Board granted a Special Use Permit but conditioned it that it should have 100 spaces. Mr. Smith stated that as he recalled they had agreed not to ask for lights on the tennis courts.

Mr. Magiotto stated that that was correct. He stated that they would like to use the courts from dawn until dust and the neighbors had agreed to this.

Mr. Kelley stated that it was the Board's practice to grant this type of use from 9:00 A.M. until 9:00 P.M.

Mr. Atken, an adjacent neighbor, came before the Board. His address is 7604 Elba Road. Mr. Aitken stated that at the meeting of the association and the contiguous neighbors the group accepted a resolution to be placed before this Board and asked that this resolution be added to any use permit that was granted. This resolution restricts the use of the courts with the hours from 7:00 A.M. to sunset, but they did not mean to countervene any regulations that the Board might have that they were not aware of. Mr. Aitken stated that these hours were put on because the courts were being used from 6:00 A.M. or earlier in the morning. This would also be a neighborhood group and would be without lights.

Mr. Smith stated that this Resolution that is granted, if it is granted, should be posted in the Club House where everyone can see it, therefore, they will know the hours.

Mr. Kelley stated that as he understood it, they have agreed to fence the area completely.

Mr. Kelley then asked if their membership still consisted of residents from Hollin Meadows Subdivision.

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Mr. Magiotto stated that there is an extended area, but the Association has taken action to restrain the boundaries. The boundaries now include Kirkside and a little bit on the other side of Sherwood Hall Lane.

Mr. Magiotto submitted a boundary map for the file.

Mr. Smith stated that everything that they plan to do should be on the plat. He stated that he hope the Club realizes that this permit could be revoked if they do not now comply with all conditions. He stated that he would not like to see this happen.

Mr. Smith asked if all this work could be completed prior to the swimming season next year.

Mr. Magiotto stated that it could be.

Mr. Smith stated that this will be a condition of the Special Use Permit.

Mr. Smith stated that unless they get the Non-Residential Use Permit, which was formerly called the Occupancy Permit, prior to next season, they would not be able to open.

Another neighbor from 7612 Elba Road spoke before the Board. She stated that she was wondering what the height of the fence would be.

Mr. Covington stated that the fence would have to comply with the regulations of the zone.

Mr. Smith reminded the Association that they should keep the gate locked at all times.

Mr. Magiotto stated that the gate would be from the adjacent properties and they would keep the gate locked. The gate is for their benefit.

In application No. S-100-72, application by Hollin Measows Swim & Tennis Club, Inc., under Section 30-7.2.6.1.1 of the Zoning Ordinance, to allow continuation of existing facilities of parking requirements, on property located at 2500 Woodlawn Trail, Hollin Hills Subd, also known as tax map 93-3((1))6A, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of October, 1972.

WHEREASm the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 9 acres.
4. Compliance with all County Codes is required.
5. Compliance with site plan ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted in part with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of ecpiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs,and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN A NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE

SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the special use permit SHALL BE POSTED in a conspicious place along with the Non-residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. There will be a maximum of 300 family memberships which shall be limited to residents of Hollin Hills Subdivision and immediate area.

7. Hours of operation shall be 9 A.M. to 9 P.M. Should the Club desire to have an occasional pool party extending beyond the hours set herein, permission must be granted by the Zoning Administrator, and such parties shall be limited to three (3) per year.

8. There shall be a minimum of 100 parking spaces for cars and 60 for bicycles. No parking space shall be located in any required setback or within a distance of 25 feet from any property line. Parking spaces to be paved and marked.

9. The site is to be completely fenced with a 6 foot chain link fence as approved by Director of County Development.

10. Landscaping, screening, and planting shall be as approved by Director of County Development.

11. All lights, loudspeakers, and noise shall be directed onto site and must be confined to said site. Lights for tennis courts not permitted.

12. A dustless surface for all parking lots and travel aisles shall be provided with a sidewalk to the proposed tennis courts and existing pool from Woodlawn Trail. An emergency access to the existing pool shall be provided.

13. This permit is granted for a period of three (3) years with the Zoning Administrator being empowered to extend the permit for 3 one year periods.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

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JEFFREY SNEIDER & CO., appl. under Sec. 30-7.2.6.1.1 of Ord. to permit recreation center -- Club House incident to PAD, existing building, Blake Lane, Oakton Village Subd., 47-4 ((1)) 35, one-half mile East of Route 123, Providence District, S-149-72 (RE-0.5)

Mr. Jeffrey Rosenfeld, 5205 Leesburg Pike, Bailey's Crossroads, Virginia, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were William Newton, Mr. Sneider and Cecil Borden.

Mr. Rosenfeld stated that there is an old house on the property and the entire house will be devoted to recreational facilities for the PAD area that surrounds it. This is a frame house. It has been inspected, but the report has not been received. The house will be used in "as is" condition. The PAD was zoned back in 1966. 122 acres was zoned. Out of this 122 acres, 45 acres in this area is owned by the applicant and they have a contract to purchase this piece of land which is zoned RE-0.5. The Preliminary Plan for the PAD development has been approved by the staff. The site plan has been approved for Jermantown Road and this road is under construction. Water, sanitary sewer, and curb and gutter is in now. The site plan for the garden apartments and townhouses is before the staff for their approval now. He stated that they have two applications before this Board, one is for the recreational facility and the other is in the shopping center for a sales pavillion. They will be back before the BZA for a swimming pool at some time in the future. This entire complex will serve approximately 1,404 families with the entire 77 acres.

Mr. Runyon asked if these were condominium townhouses and apartments.

Mr. Rosenfeld stated that back in '66, when the PAD was approved, the entire 77 acres was a sea of asphalt. Now they have put in underground parking and left as much open land as possible. They are spending $1,000 per unit for recreation and landscaping and the community center. The entire plan has changed from the 1966 plan. There are 568 spaces underground. They did not increase the number of units. Actually, there was a loss of 100 units.

Mr. Smith read the report from Preliminary Engineering with the suggestions as to landscaping. He stated that these should be incorporated into the Resolution.

Mr. Smith asked the applicant if they agreed with the recommendations of Preliminary Engineering regarding the landscaping.

Mr. Rosenfeld stated that they did agree.

There was no opposition.

In application No. S-149-72, application by James & Louise Critchfield Contract Purchaser, and Jeffery Sneider & Company, under Section 30-7.2.6.1.1, of the Zoning Ordinance, to permit recreation center club house incident to PAD, existing building, on property located at Blake Lane, Oakton Village Subdivision, also known as tax map 47-4((1))35, Providence District County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of October, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant, contract purchaser.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 1.6627 acres.
4. That compliance with site plan ordinance is require and site recommendations attached.
5. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changesin use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN a NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-residential use permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Applicant has agreed to recommendations of the Staff of Preliminary Engineering in their memo dated September 28, 1972, and attached hereto as follows:
"1. The white crepe myrtle (white is reasonably rare) be pruned and fertilized and remain.
2. The existing dogwood, also drawn in, be fertilized and remain, and the existing spirea, etc., in the area be pruned to allow these specimens to survive.
3. The boxwood be sprayed with Malathion (or suitable insecticide) to eliminate the diseased condition (Boxwood psyllid).
4. That the trees colored in red which were previously to be removed remain if at all possible. We have been assured all reasonable care will be taken to save them.

5. All trees and shrubs be pruned and fertilized and bed areas formed around the appropriate areas.
6. We have also been requested to permit the utility lines into the structure be retained above ground. To place then underground would destroy some material; this decision should be made at the pleasure of the Board."

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

// JEFFREY SNEIDER & CO., appl. under Sec. 30-2.2.2 of Ord. Re. Col. 2 PAD Section, to permit sales pavillion for display of models for condominium apartments
// and townhouses, Blake Lane, one-half mile East of Route 123, Oakton Village Subd., 47-4 ((1)) pt. 60, Providence District (PAD), S-150-72

Mr. Jeffrey Rosenfeld, attorney for the applicant, testified before the Board. His address is 5205 Leesburg Pike, Bailey's Crossroads, Virginia. Notices to property owners were in order. Contigious owners were William B. Newton and Cecil Borden.

Mr. Rosenfeld outlined the area on the map. He stated that the site plan has been approved and they are under construction now building the road (Jermantown Road). As he stated in the previous application, sanitary sewer, water, curb and gutters are already in. This will be a permanent building to be used as a display center to show the condominium apartments. It will also be used as a sales center. It will be a one story building. It will be a frame building. They intend to make a permanent use of the building after the sales center is no longer needed.

Mr. Kelley questioned the material to be used.

Mr. Rosenfeld stated that he did not believe there was any specifics on the drawings that were submitted.

Mr. Runyon stated that it looked as though it would be a masonry building from the plans.

Mr. Kelley stated that it should be the same architecture and the same materials as is the shopping center.

Mr. Rosenfeld stated that it would resemble the architectural design of the building.
Mr. Jennings from the Jeffrey Sneider Company, applicant, also testified before the Board on this question.

Mr. Jennings stated that the apartments and townhouses will incorporate some brick and some frame.

There was no opposition to this use.

Mr. Jennings stated that he felt this would be used as a sales center for four or five years. It will not stand out as something unusual and it will be the same architecture and construction as the apartments and townhouses.

Mr. Jennings stated that they would be back within one year with several other items involved with this site. They have to have a minimum of one pool and they will probably have one or two tennis courts. There will be a service station on this corner also (he indicates on the map) They also have some setback problems that they are trying to work out.

Mr. Smith stated that they should try to alleviate any need for a variance. The other uses he mentioned would present no problem. He stated that there was considerable land area there, and it seemed to him that they should be able to come up with a solution to the setback problem.

Mr. Kelley stated that there was some mention earlier about someone else owning some of the land.

Mr. Jennings stated that they own the 77 acres out of the total 122. They have not acquired the other land. The original plan under which this land was rezoned was inadequate.

Mr. Jennings stated that he had wanted to bring these problems to the Board's attention prior to the applications coming in.

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JEFFREY SNEIDER & COMPANY (continued)

In application No. S-150-72, application by Jeffrey Sneider & Company, under Section 30-2.2.2 RE. Col. 2, PAD, of the Zoning Ordinance, to permit sales pavillion for display of models - condominium and townhouses, on property located at Blake Lane, one-half mile east of Route #123, also known as tax map 47-4((1)) pt 60, Providence District, County of Fairfax, Mr. Runyon that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 25th day of October, 1972.

WHEREAS, the Board ofZoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is PAD.
3. That the area of the lot is 2.32 acres.
4. That compliance with site plan ordinance is required.
5. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-residential use permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Architectural detail in conformance with proposed center.

Mr. Baker seconded the motion, the motion passed unanimously.

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AFTER AGENDA ITEMS:
CANTERBURY WOODS SWIM CLUB, INC., S-179-72

Mr. Smith read a letter from the Club requesting that they be allowed to reduce the number of parking spaces and also reduce the number of family memberships. The contractor made an error on the site and covered over with fill about ten of their parking spaces. The Club after this permit was granted voted to keep the original 400 members instead of 425 anyway, therefore, this would not be cutting out any present members as there had never been 425 members.

Mr. Smith stated that there would be a change on the plat, therefore, they would have to have new plats showing the exact location of the parking spaces and the tennis courts.

Mr. Kelley stated that he also felt they would need a new application.

Mr. Barnes moved that they reapply.

Mr. Kelley seconded the motion and the motion passed unanimously.

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Mr. Smith read a letter from Mr. Ralph Louk, attorney for the applicant of case number NR-22, which had been deferred from May, 1971. Mr. Louk formally requested the BZA to make a decision without further delay.

Mr. Smith stated that the Board must make a decision within 60 days from the date the application is officially accepted, but in this case they had deferred with the applicant's consent. Now that the applicant wishes to be heard without further delay, the Board has no choice except to schedule this case for the earliest possible date.

Mr. Covington stated that in case there was any question as to which case this was, this land is next to Oscar Harlow.

Mr. Smith requested that a letter be written to the County Executive and the Board of Supervisors advising them that the BZA must hear this case and explain the time limit.

Mr. Smith stated that the applicant has waited almost two years and he felt this request was reasonable.

Mr. Runyon suggested that the Board get copies of the Restoration Board recommendation for them to study prior to the hearing.

The Board then directed the Clerk to schedule this case for the earliest hearing date possible.

The Clerk stated that that date would be December 13, 1972.

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JOHN J. AND JANE F. LONG, V-148-71

Mr. Smith read a letter from Mr. John J. Germanis regarding the above-captioned application. Mr. Germanis inquired of the Board whether or not the above variance was still valid. He stated that Mr. Long did not begin construction until after July 27, 1972.

Mr. Covington stated that they had researched the building permits and a building permit had been issued in June of 1972, therefore, it was his contention that the permit was valid, as there was no way the inspectors could check backward to see whether or not Mr. Long had actually begun construction.

Mr. Smith stated that if he had the building permit, then his permit was valid.

Mr. Germanis continued his letter by then asking the Board whether or not in their granting they had permitted Mr. Long to construct an addition with a door facing his house. He stated that the plans as he recalled them when Mr. Long had showed him the plans for this addition did not show a door facing his house.

Mr. Runyon stated that he would do a field check to see what was going on and report to the Board at the next meeting.

Mr. Smith stated that it seemed the problem was in the wording of the motion. Mr. Smith stated that the ordinance says nothing about "starting" construction, but does rather talk about "completion".

Mr. Kelley read that section of the ordinance.

Mr. Smith stated that a few years ago the Board discussed this problem and found that in view of the time that it takes a site plan to be approved in the County, that it would take at least one year to get started, therefore, that is why they worded the resolution this way.

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Mr. Baker moved that the minutes for October 11, 1972, be approved.
Mr. Kelley seconded the motion and the motion passed unanimously.

The hearing adjourned at 4:35 P.M.

By Jane C. Kelsey
Clerk

BY Daniel Smith
DANIEL SMITH, CHAIRMAN

DATE APPROVED: December 13, 1972

BOARD POLICY:

To restrict tennis courts and swimming clubs to the hours of 9:00 A.M. to 9:00 P.M.

The Regular Meeting of the Board of Zoning Appeals of Fairfax County, was Held on November 8, 1972, at 10:00 A.M. in the Massey Building. Members present: Daniel Smith, Chairman; Loy Kelley; Joseph Baker; and Charles Runyon, and Mr. George Barnes

The meeting was opened with a prayer by Mr. George Barnes.

// WILLIAM HATCHER, app. under Section 30-7.2.8.1.1 of Ord. to permit kennel for dogs, 1661 Beulah Road, 28-1((1))23, Centreville District, (RE-1), S-161-72.

Notices to property owners were in order. Contiguous owners were Frances Lucas and W. Clifford Hoag.

Mr. Smith questioned the contiguous owners. Mr. Hatcher stated that Mrs. Walker who was one of the contiguous owners is deceased and the property is still in her name. Mrs. Lucas is one of the members of the Walker family. Mrs. Lucas lived on the property prior to her becoming ill.

One of the members of the audience spoke before the Board and stated that her mother is one of the heirs to the property and Mrs. Lucas has not been living there for six months. She is not the executor of the estate. Mr. Robert Walker is the Executor and he was not notified.

Mr. Smith stated that the heirs were aware of the hearing, but there is some question as to whether or not the notices are in order, but the Board would continue with the hearing.

Mr. Hatcher stated that he proposed to have a dog kennel and have about 50 to 60 dogs. These dogs will be in inside pens. He stated that he had developed a device to keep the dogs quiet when no one is there, but he hopes to have someone there most of the time. This device is one that talks because he has found that dogs only bark when no one is around. There will be no training of these dogs, only boarding. He stated that he was no longer in the K-9 business. He is now a Deputy United States Marshall. His old use permit for the K-9 business has expired and he has no dogs other than his own personal dogs which number three. He now has two horses on this property, but he proposes to get rid of them.

The Board then discussed with him the condition of the barn and the fact that he wanted to have someone live in the barn. He stated that he had a permit to build the barn. Mr. Smith reminded him that the Code for building a barn is not a strict as the Code for building a dwelling where someone would reside.

The Board found that the septic field is proposed and is not in, but they have had a perk test done and it would be possible to have a septic field at this location.

The Board also discussed with Mr. Hatcher the problem of landscaping and screening.

The engineer had not put the existing trees on the plat, but after viewing the photographs, it was determined that these trees were only small pine trees.

Mrs. June Thomas, 1617 White Pine Drive, Vienna, Virginia spoke in opposition to this use. She stated that directly past this property is a private drive called Norry Drive and her property is next to Norry Drive. She stated that she was speaking for the people who live on White Pine Drive. She stated that they do not want a business in that area and particularly that business. She stated that they have children and are afraid of what might happen should these dogs get out. In addition, they are not looking forward to all the noise of the dogs barking. She stated that she had a Petition signed by the people who live on White Pine Drive and Beulah Road who are in opposition to this use. She stated that these people own property and live in the immediate vacinity. Four of these people are in the room today.

Mrs. Laura Miller , 1563 Beulah Road, spoke in opposition. She stated that this is a residential community and a stable community. The people have been living her for thirty years or more. These people settled here because of the character of the neighborhood. She stated that Mr. Hatcher lives a long way from this property and she wondered who would care for the dogs when Mr. Hatcher cannot get there in the mornings because of bad roads. The citizens in the area also feel this will set a precedent and are concerned about not only the immediate, but the long-range effect this will have. They are also concerned about the safety factor involved.

Mrs. Dorothy Aggee also spoke in opposition to this permit. She stated that they were in opposition for many of the same reasons as the previous speakers. She stated that she was concerned for the older people in the area who are on set incomes as she feels this will cause property values to change. She is also concerned about the safety factors. They are concerned about the noise. There are dogs in the immediate neighborhood and surrounding communities and when one dog starts barking, all the dogs start barking. During the summer one can hear the performances from the filene center, therefore, one could also hear the barking of dogs for that distance.

Mary Horn, member of the Animal Welfare League, spoke in opposition to this application. She stated that she did not feel this barn is a suitable building to house dogs. The barn is hot in summer and cold in winter. The trees on the property have been chewed up by the horses that are there. They also question having dogs there when there is no one there to take care of them. They also question the size of the cages which seem to be 4x4. In addition, even if Mr. Hatcher was there all the time, they wonder whether or not he could sufficiently care for 50 or 60 dogs.

Mrs. Pearl Twine, River Bend Road, Great Falls and also is an officer in the Fairfax County Humane Society, spoke in opposition to this application. She stated that she is opposing for the same reasons that Mrs. Horn stated previously. They also feel someone should be there at all times.

Mr. Hatcher spoke in rebuttal to the opposition. He stated that he plans to retire from his job and devote his full time to this work. He stated that no attack dogs will be on the premises. He stated that he does plan to have someone there full time. He stated that he does have a place inside the barn that was designed for someone to live in.

Mr. Smith again questioned this and stated that there would have to be an inspection done to see if the building could be used as a dwelling.

WILLIAM HATCHER, application under Section 30-7.2.8.1.1 of Ord. to permit kennel for dogs, 1661 Beulah Road, 28-1((1))23, Centreville District, (RE-1), S-161-72.

In application No. S-161-72, application by William Hatcher under Section 30-7.2.8.1.1 of the Zoning Ordinance, to permit kennel for dogs on property located at 1661 Beulah Road, Centreville District also known as tax map 28-1((1))23 County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of November, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 4.660 acres.
4. That the Planning Commission, at its required meeting on November 2, 1972, recommended denial of this application.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion, the motion passed unanimoulsy.

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KNIGHTS OF COLUMBUS

KNIGHTS OF COLUMBUS, FITZGERALD COUNCIL, app. under Section 30-7.2.5.1.4 of Ord. to permit use as meeting hall for 250 members, 7155 Telegraph Road, 91-4((1))42, Lee District, (RE-1), S-163-72.

Mr. Arbin, Jr., President of the Knights of Columbus, Fitzgerald Counsel, spoke before the Board.

He stated that they would like to defer this application until the next meeting.

Mr. Smith stated that he would like to have cleared up the question of the requirement that all buildings must set back 100' from the property lines. This building is not 100' from the property line. He stated that they could not request a variance without an application and there was some question in his mind whether or not the BZA had the authority to grant a variance to a specific requirement of the Ordinance. He suggested that the applicants talk with the Zoning Administrator about this problem and see if something could be worked out.

Mr. Baker moved that this case be deferred until December 13, 1972.

Mr. Barnes seconded the motion and the motion passed unanimously.

This hearing ended at 11:10 A.M.

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CHARLES F. SCHEIDER, app. under section 30-6.6 of Ord. to permit variance of front setback line for lots 1 through 10 to allow houses to be constructed within 30 feet of front property line (req. 50') Rebel drive, 59-2((1))49 A, Annandale District, (RE-0.5), V-164-72.

Mr. Smith stated that the Planning Commission had requested the Board to defer this case for decision only at least, if not the entire hearing, to give them an opportunity to hear this case on November 9, 1972.

Mr. Royce Spence, attorney for the applicant, 311 Park Avenue, Falls Church, represented the applicant before the Board.

Mr. Smith checked the notices and found that they were in order. The contiguous owners were James Roop, 7821 Rebel Drive, and Trammel Investment, 7236 Columbia Pike, Annandale.

Mr. Spence stated that they were asking for this variance as they definitely have a topographic problem with these lots.

Mr. Smith asked if there was anyone in the audience that was present for this hearing that was in opposition. Two gentlemen rose and stated that they did not know whether they were in opposition or not until they heard what it was all about.

Mr. Smith stated that in view of this, the Board would have to go ahead with the hearing and defer decision until a later time to give the Planning Commission an opportunity to hear this case.

Mr. Spence stated that there is considerable fill behind the houses which are to be built on this property. In order to build on this property and set back the required distance, it would amount to confiscation of the property as there is too much money involved. This land has been lying idle for many years. The houses across the street are set back about 75', therefore, they distance between the two rows of houses would still be about 100'.

Mr. Smith asked if the applicant would be the developer.

Mr. Spence stated that he would.

Mr. Kelley asked who the owner is as the Staff report states that the owner is Sara S. Scheider.

Mr. Spence stated that the land is titled in her name and he asked the Board to amend the applicant to include Sara S. Scheider.

Mr. Baker so moved.

Mr. Kelley seconded the motion and the motion passed unanimously.

At the end of the hearing, Mr. Smith asked if there was any opposition. There was none. The two gentlemen who had earlier stated that they might have opposition stated that they had found out what they wanted to know and that was that this was going to be single family houses. Since it is single family residences going in here, they do not have any objection.

Mr. Barnes moved that this application be deferred until November 15, 1972, for decision only until after the Planning Commission hears this case.

Mr. Kelley seconded the motion and the motion passed unanimously.

This application hearing ended at 11:40 A.M.

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WALLACE W. EDENS, app. under Section 30-7.2.6.1.10 of Ord. to permit practice of dentistry to be continued in residence at 5008 East Chester Circle, Rose Hill Farms Subd.,82-3((12))48, Lee District, (R-12.5), S-165-72.

Mr. Anthony Lane, attorney for the applicant, 911 Jefferson Davis Highway, Alexandria, Virginia, testified before the Board.

Notices to property owners were in order. The contigous owners were Walter J. Scott, 5006 EastChester Circle, and Mr. Kenneth Belt, 5007 Greenhaven Place, Alexandria, Virginia.

Mr. Lane stated that Dr. Eden started out practicing at this location and he has been there for nine years. Since that time, he has gotten married and has a family. The community needs the services of a dentist and Dr. Eden has been a very good neighbor all these years. The home is renoviated for thepractice of dentistry. There is no space available in any of the nearby shopping centers for his office. He stated that since the plats was drawn up, the neighbors have decided that they do not like the entrance on Scott's Drive. Dr. Eden would like to revise the plats to have the entrance and exit on East Chester Circle to conform with the neighbor's wishes. This house was constructed in 1952 or 1955.

Mr. Smith stated that these plats do not show enough parking spaces. There can be two doctors and two nurses, therefore, there would need to be more parking spaces.

Mr. Lane stated that the neighbors wished that they could eliminate the parking spaces altogether. The patients have been parking in the Rose Hill Shopping Center. He stated that there was a question in his mind whether the parking had to be on the site.

Mr. Covington cleared that question up by reading the section of the ordinance that pertained to that and stated that the ordinance clearly states that the parking must be on the site in question.

Mr. Smith stated that parking on the shopping center lot brings up another question of whether or not the people have the right to lease or rent parking spaces in that lot.

Mr. Lane stated that these spaces that they have proposed to rent are in excess of what the shopping center needs by site plan.

Mr. Smith stated that to have patients cross the street like that is a hazard. He stated that there have been a lot of dentists who have started out in their home and then as their family began to get larger, found that they had to seek new quarters.

Mr. Million, 6412 May Blvd. Rose Hill Farms Subdivision, spoke in opposition. He stated that he was the President of the Rose Hill Citizens Association. He stated that Dr. Eden had been a good neighbor and there is no objection to his being there, but they did object to any addition of parking which in their opinion would create an unsitely area and would take away from the residential character of the neighborhood. They also object to the curb cut that was planned. He stated that Dr. Eden has not lived in that house for seven years according to what he has heard. He stated that he could not substantiate this, but there were people in the audience who could.

Mr. Smith asked if this was under violation notice. Mr. Covington stated that it was not.

Mr. William H. Warner, 5006 Green Haven Place, spoke before the Board in opposition. He stated that he felt Dr. Eden had been a good neighbor, but he did object to the parking area.

Mr. Weiss, 5005 Green Haven Place, spoke in opposition. He stated that they did not like the idea of having a medical building going up there in their neighborhood. They also object to the parking.

Another lady from the neighborhood spoke in opposition. She stated that there was already traffic problems and this would not help it any. She also did not like the parking lot on the property as it is proposed.

Mr. Smith stated that the Board did not have the authority to grant parking areas other than on the site.

Mr. Lane in answer to Mr. Smith's question stated that Dr. Eden does not operate a dentist office at any other place.

In application No. S-165-72, application by Wallace W. Edens, under Section 30-7.2.6.1.10 of the Zoning Ordinance, to permit practice of dentistry to be continued in residence, on property located at 5008 East Chester Circle, Rose Hill Farms Subd., also known as tax map 82-3((12))48, Lee District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of November, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 15,851 square feet.
4. That on-site parking is not adequate to accommodate required use.
5. That the granting of this request would constitute a more substantial change in the character of the small lot subd than the ordinance contemplates.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion

The motion passed unanimously.

JOHN & PATRICIA STITCHER, app. under Section 30-6.6 of Ord. to permit addition to house closer than the 12' required between house and separate structure, 2100 Belleview Blvd. Bucknell Manor Subd., 93-1((23))33, Mt. Vernon District, (R-10), V-166-72.

Notices to property owners were in order. The contiguous owners were Sardero and Rousseau.

Mr. Stitcher represented himself before the Board. He stated that there were now four people in the family as he now has an invalid mother living there and will be there from now on. His kitchen is 8x12 and he wishes to extend it an additional 8'. He stated that he had checked the other houses in the neighborhood that are similar to his and find that most of them have added onto the back closer to the garage than the requirement. He names the streets and the specific addresses.

He stated that the garage is now over the easement in the back, and he had had to check around to find out how it got that way as he had just purchased the home and did not know any of these things at the time he purchased it. In fact, he was assured that he could put the addition on the house. He stated that one of the previous owner's garage burned down and the owner had replaced the garage, but extended it two feet in each direction. He stated that the new garage is constructed of materials that will create no fire hazard.

Mr. Covington stated that if these additions were put on prior to 1959, there was a different set of regulations at that time.

Mr. Smith stated that due to the easement in the back, the applicant certainly merits favorable consideration. They could move the garage back, if it were not for the sanitary sewer easement.

Mr. Stitcher stated that he planned to continue to live there and this was for his own family's use and not for resale purposes.

Mr. Smith stated that this is also an odd shaped lot.

Mr. Stitcher stated that the materials used would be aluminum siding and next spring he plans to put aluminum siding on the house.

There was no opposition.

In application No. V-166-72, application by John and Patricia Stitcher under Section 30-6.6 of the Zoning Ordinance, to permit addition to house closer than 12' required between house and separate structure on property located at 2109 Belleview Blvd. Bucknell Manor Subd. also known as tax map 93-1((23))33, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of November, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 7,757 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exists which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

a. Exceptionally narrow lot.
b. Sanitary sewer easement in back of property.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. Applicant will hold the County harmless from any problem encountered in the sanitary sewer easement on the subject property. In other words, if the County has to go in and remove part of the garage to get into the sewer easement it will not be at County expense.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion, the motion passed unanimously.
The hearing concluded at 12:15 P.M.
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SAMUEL KOORITZKY, & R. J. L. ASSOC. app. under Section 30-6.6 of Ord to permit house to be constructed (footing and foundation in now) closer to rear, front, and side property lines than allowed, 7804 Wincanton Court, Shrevecrest Subd., 39-4((16))19, Providence District, (R-12.5), V-140-72.

Mr. Robert Koohlaas, attorney for the applicant, testified before the Board. His address is 210 East Broad Street, Falls Church.

Notices to property owners were in order. Contiguous property owners were notified properly.

Mr. Koohlaas stated that RJL owns both the adjacent properties. Mrs. Newell is one of the other contiguous property owners. She is present at this hearing and she was present previously when this case was brought up. Mrs. Newell owns a lot in the Shady Brook Subdivision.

Mr. Koohlaas stated that the entire foundation is in place. The original plats referred to overhangs, but they were actually part of the house and had to be set back just as if it were a wall. They are called cantilivers. There are actually five variances needed. The house does not architecturally fit on the lot. The builder was aware of certain variances, but he did get the building permit as he was told these variance could be granted administratively, except for the addition in the rear. They last time they came before this Board, they were told to redraw the plat and show all five places where a variance was needed. Therefore, the plat was redrawn and the application was amended and the case was readvertised and the property reposted. The house appears to be in line with the other houses in the neighborhood. The lot is large enough for the house, but because of the configuration of the lot and the building restriction lines, none of the three designs that the builder is building in that area can fit on that particular lot. Mr. and Mrs. Kooritzky, the contract purchaser, would like the builder to be able to continue to construct the house.

Mr. Barnes stated that in his opinion the variances do not amount to much as they are all minor and there seems to have been a misunderstanding on the whole thing.

Mrs. Robert Newell, Shady Brook Subdivision, spoke before the Board. She stated that they own Lot 11, 12, 13 and 14. Lots 13 and 14 border this particular lot in question. They do not object to the granting of these variances.

In application No. V-140-72, application by Samuel Kooritzky and R.J.L. assoc., Inc. under Section 30-6.6 of the Zoning Ordinance, to permit house to be constructed closer to rear, front, and side property line than allowed, on property located at 7804 Wincanton Court, Shrevecrest Subd., also known as tax map 39-4((16)) 19 Providence District, County of Fairfax Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of November, 1972, deferred from October 11, 1972

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant (R.J.L. Assoc,Inc.)
2. That the present zoning is R-12.5 cluster.
3. That the area of the lot is 12,041 square feet.
4. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
a. Exceptionally irregular shape of the lot.
b. Unusual condition of the location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. Variance does not include the carport distance.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously,

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CHAIN BRIDGE DEVELOPERS, app. under Section 30-6.6 of Ord. to permit division of lot with less frontage at building setback line than allowed, Mount Daniel Subd., Lot 22A, 40-4((15))22A Dranesville District, (R-10), V-43-72, (Deferred from 4-26-72 & 10-11-72.).

Mr. Knowlton stated that the vacation did take place for Greenwich Street on October 24, 1972, and the Board of Supervisors did grant this vacation, therefore, the Board of Zoning Appeals can hear this case for a variance.

Mr. Richard Clement, 10605 Vickers Drive, from Chain Bridge Developers, represented the applicant before the Board.

Notices to property owners were in order.

Mr. Clement stated that on October 5 he met with the Falls Church School Board at their regularly scheduled meeting. Greenwich as a through street presented a safety hazard and in addition, it was used by the school as a parking lot and play area too. To build the street would not help the school, therefore, the City of Falls Church asked Chain Bridge Developers if they would agree to having the street vacated. Chain Bridge Developers did agree to this and the proceedings began. They went before the Planning Commission and then before the Board of Supervisors who approved the vacation of Greenwich Street. The original subdivision was recorded in 1947. Lot 22 A of this subdivision has been pipe stemed in order to achieve a better balance of lot area. The topography was such that this was the best way to subdivide these lots. He submitted a Petition signed by 25 citizens of the area in support of this application. He stated that they had completed 9 homes which are now occupied of the original 21 which were planned.

Hearing completed at 1:00 P.M.

In application No. V-43-72, application by Chain Bridge Developers under Section 30-6.6 of the Zoning Ordinance to permit division of lot with less frontage at building setback line than allowed, on property located at Mt. Daniel Subd., Lot 22A, also known as tax map 40-4((15))22A, Resub. of lots 20, 21, 22, and pt. 23 - 24 through 30, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners. and a public hearing by the Board of Zoning Appeals held on the 8th day of November, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 15,387 square feet.
4. That the subdivision contains lots all in excess of the average lot size required.
5. That all other provisions of the ordinance can be met.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and

a. Exceptional topographic problems of the land and shape of the property being subdivided.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific lot indicated in the plats included with this application only, and is not transferable to other lots on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion and the motion passed unanimously.

DEFERRED ITEMS:

JOHN W. and DORIS A. ERMERINS, app. under Section 30-6.6 of Ord to construct addition of family room and garage closer to property lines than allowed by Ord. 8943 Burke Lake Road, 69-4((5))429, Annandale District, (R-12.5), V-132-72, (Deferred from 9-13-72 for a maximum of 60 days to allow applicant to meet with the County Staff to determine an alternate location for the family room and garage so that it would only need a minimum variance, if any.)

Mr. Ermerins again appeared before the Board.

Mr. Barnes stated that the Board is in receipt of new plats and the new plats show a good deal of difference from the original plat and Mr. Ermerins is asking for a much less variance than originally. He is only 5.33' in the front yard, whereas, before he was practically all in the front yard.

In answer to Mr. Smith's question, Mr. Ermerins stated that he had owned the property since August, 1970. The house was built in September of 1965 and the subdivision was started in 1962. He does plan to continue to reside there and this is for the use of his own family and not for resale purposes. He stated that he had talked with Mr. Covington, Zoning Administrator, Mr. Garza and Mr. Stuart Territt, Chief of Design Review. They discussed vacation of the easement that is on his property to allow the addition by right, but after careful consideration of all factors, they decided to try it this way.

In application No. V-132-72, application by James W. & Doris A. Ermerins, under Section 30-6.6 of the Zoning Ordinance to permit construction of family room and garage closer to property line than allowed, on property located at 8943 Burke Lake Road, Annandale District, also known as tax map 69-4((5))429 County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of November, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 12,018 square feet.
4. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Apppeals has reached the following conclusions of law:
1. That the applicant has satisified the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.
a. Unusual condition of the location of existing buildings.
b. Location of sanitary sewer easement.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. Architecture and materials to be used in proposed addition shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion, the motion passed 4 to 0.

Mr. Runyon abstained as he was not present at the original hearing.

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JOHN SAAH, app. under Section 30-6.6 to construct house with one corner within 45' and carport within 35' of front property line (AMENDED TO: construct house with one corner with 45' and carport within 43' of front property line), 8622 Chapel Drive, Wakefield Dorest Subdivision, 70-1((2))123, Annandale District, (RE-1) V-137-72. (Deferred for a maximum of 60 days to allow applicant to meet with the Zoning Administrator to find alternate location for carport or redirect his request FOR A MINIMUM VARIANCE.

Mr. Saah again appeared before the Board.

Mr. Smith asked Mr. Covington if he had gone over the new plat and agreed that this is a minimum variance and the best place on the lot where he could have this carport.

Mr. Covington stated that he had gone over the plat and also talked with Mr. Saah prior to the drawing of the plat and this is a minimum variance and the only place on the property where Mr. Saah could have the carport.

Mr. Barnes stated that this is a corner lot and it is also an odd shaped and narrow lot.

Mr. Covington stated that this lot has two fronts and two sides.

The Board members looked over the new plat.

In application No. V-137-72, application by John Saah under Section 30-6.6 of the Zoning Ordinance to permit corner of house within 45' of front property line carport within 35' of property line on property located at 8622 Chapel Drive, Wakefield Forest, also known as tax map 70-1((2))123, County of Fairfax, Virginia Mr. Kelley moved that the Board of Zoning Appelas adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of November, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1
3. That the area of the lot is 26,074 square feet.
4. That the request is for a minimum variance
5. That this is a corner lot.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonalbe use ofthe land and and/or buildings involved:

a. Exceptionally irregular shape of the lot.
b. Exceptionally narrow lot.
c. Exceptionally shallow lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be abd the same is hereby granted

1. This approval is granted for the location and the specific structure or structures indicaed in the plats included with this application,only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, THE applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 0.

Mr. Runyon abstained as he was not present at the full hearing.

TEXACO, INC. app under Section 30-7.2.10.2.1. of Ord. to permit gasoline station, intersection of Telegraph Road and Highland Street, 82-3((4))1A, Lee District, (C-N), S-47-72, Deferred for decision only.)

Mr. Richard Hobson appeared before the Board in case the Board had any question.

Mr. Smith stated that the Board was in receipt of an Amended Bond Form which has been approved by Mr. Frank Carter from the County Attorney's Office.

Mr. Smith stated that this bond is for the protection of the landowners in the vacinity of the property in question.

In application No. S-47-72, application by Texaco, Inc., under Section 30-7.2.10.2.1 of the Zoning Ordinance, to permit gasoline station on property located at Highland Street and Telegraph Road, also known as tax map 82-3((4))1A, County of Fairfax, Mr. Barnes moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 26th day of April, 1972, and deferred for decision only on November 8, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Atlantic Richfield Company
2. That the present zoning is C-N.
3. That the area of the lot is 21,446 square feet.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7:1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operation,changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFCATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. There shall not be any display, selling, storing, rental, or leasing of automobiles,

truck, trailers, or recreational vehicles on said property.

7. There shall not be a single free standing sign for this use. Any sign must be on the building and conform to the Fairfax County sign ordinance.

8. The owner shall provide an ingree-egress easement along Telegraph Road for the travel lane as well as an easement for the proposed common entrance. The proposed common entrance will be subject to the Virginia Department of Highways approval when site plan is submitted.

9. Landscaping, fencing, screening, and/or planting shall be as approved by the Director of County Development.

10. The applicant is to employ a professional soils and foundation engineer to perform extensive soils exploration at the location of the retaining wall to determine adequate footing designs.

11. The same engineer is to supervise the actual foundation installation.

12. The final structural design of the retaining wall is to be performed by a prefessional structural engineer consistent with the foundation engineer's recommendation.

13. The soils engineer is to make any additional soils test necessary for site development and shall show that all speings have been capped, all surface water has been intercepted and required measures to maintain a uniform water content in the clay have been taken.

14. Monitoring stations shall be installed to keep close check on any slope movements during construction.

15. The applicant is to execute a bond in the amount of $300,000.00 in accordance with the form attached * which has been approved by the County Attorney's Office providing protection for nearby land owners. Restoration of the subject property if construction thereon is abandoned is to be insured by separate bond in a form and amount approved by the County Executive and County Attorney's office.

16. The nearby land owners shall not be forced to sue in order to recover damages.

Mr. Baker seconded the motion.

The motion passed 3 to 1. Mr. Kelley voting "No". Messrs. Barnes, Smith and Baker voting "Yes."

Mr. Runyon abstained as he was not present at the original hearing.

* There is an approved Bond Form in the file.

RIVERSIDE GARDENS RECREATION ASSOCIATION, RE-EVALUATION HEARING -- (Deferred for decision only - for Board to study minutes of previous meetings

Mr. Smith stated that there were several things the Board has to consider. One of these things is which plat the Board actually approved at the originalhearing. The site plan office at that hearing had suggested that the screening be moved away from the property line with shrubs between the fence and the property line. Since that time the Site Plan Office has changed their position and now they submit a plat showing the fence along the property line except where it abutts Mrs. Denny's property. Mr. Reynolds from Site Plan then stated that the reason for this is because the property owners abutting this except for Mrs. Denny did not want the fence away from their property line. He stated that the Staff has found that when the fence is away from the property line, there is a problem with the upkeep of this property in between. They also propose to have the green slats in between the chain link fence with green canvas backdrops at each end of the tennis courts.

The Board members discussed at length the pros and cons of having the fence on the property line versus moving it away from the property line.

Mr. Smith then read the letter from Mr. Hobson, the attorney for Riverside Gardens Recreation Association requesting an extension of 6 months due to the Site Plan Appeal.

Mr. Kelley moved that this be granted.

Mr. Barnes seconded the motion and the motion passed unanimously to grant a 6 month extension.

Mr. Smith stated that there were also some problems with debris being scattered throughout the area and noise from the pool parties. He asked the Board if they had arrived at a decision.

Mr. Baker moved that to clarify the original resolution the Board accept the amended plat with corrections as noted that was presented by Preliminary Engineering on November 8, 1972 showing the fence along the property line with shrubbery inside the fence 3' wide. The plat is to be stamped by the Chairman of the BZA. The property shall be kept in a neat manner with no accumulation of litter or debris on it at any time.

Mr. Barnes seconded the motion.

Mr. Runyon the new member of the Board asked what exactly was the purpose of this hearing.

Mr. Smith stated that the main thing was the objection of the tennis courts being where they are and it was also to clarify where the fence was to be located. The Board obviously from the motion and the second does not feel it is justified to revoke permit.

Mr. Smith stated that the swimming pool permit had been issued several years ago, but November 23, 1971, the BZA issued a permit for the tennis courts and it is the tennis courts that are causing the problem.

The motion passed unanimously.

Mr. Smith told Mr. Hobson to relate to the Officers of the Organization that they should spend some time evaluating the testimony of this case relating to the noise factor. One of the conditions of the Permit is that the noise SHALL BE confined to the site. This includes the loud speakers. The music and voice noise from the loud speakers can be confined to the site.

Mr. Smith also told Mr. Hobson to relate that the Staff has recommended that the parking lot be marked off.

Mr. Hobson stated that he would be sure and tell the Officers of the Organization these things, and these things would be done.

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TEXACO, INC., app. under Section 30-7.2.10.2.5 of Ord. to permit change in design in an existing service station previous use permit so as to include a drive-through car wash, 6543 Little River Turnpike, Hanna Park and Glendale Subd, 72-1((12))(11)A & 7 & 1, Mason District (C-N), S-54-72, (Deferred to allow applicant to revise plats to include the contiguous land for stacking purposes), See letter from Mr. Upton.

Mr. Smith read a letter from Mr. Gilbert Knowlton, Zoning Administrator, to Mr. R. B. Upton of Texaco stating that the Staff would not be able to schedule the deferred case to be heard by the BZA, as it does not comply with the motion of June 14, 1972.

Mr. Smith then read a letter from Texaco outlining their position as to using the contiguous and Texaco owned property for stacking lanes as suggested by the BZA. They did not wish to do that and asked for the Board grant thepermit without their using this land.

Mr. Kelley stated that he had seen the property and felt that they did not have sufficient land area to take care of the stacking lanes and traffic would probably overflow into the service drive on busy days.

Mr. Baker agreed and stated that even though the average might not overflow on weekends when the traffic for car washing was heavy it might be ten times the lowest day.

In application No. S-54-72, application by Texaco, Inc., under Section 30-7.2.10.2.5 of the Zoning Ordinance, to permit design change in an existing service station to include car wash, on property located at 6543 Little River Turnpike, Mason District, also known as tax map 72-1((12))((11)) A & 7 & 1, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public be advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of November, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is C-N.
3. That the area of the lot is .588 acre.
4. That Special Use Permit was granted by the BZA on May 9, 1967.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained In Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Barnes seconded the motion. The motion passed 4 to 0 with Mr. Runyon abstaining as he was not present at the original hearing.

Mr. Runyan testified that he had visited the site last week and it is now under construction The brick has been completely put in. The problem is that the neighbor who complained lives directly behind this lot and is situated above the house in question. The Board granted a variance so the property owner could build two additions extending to the rear with a courtyard in between the two additions. The door to this addition does face the adjacent property owner in the rear, but when the Board granted this variance they did not approve a particular plan. He stated that as he recalled, this door was on the plan that was shown to the Board at the time of the hearing. The Board did stipulate that the addition had to be compatible in architecture and materials to the existing dwelling. He stated that he did not see any violation to the Board's resolution. The construction is good quality and the materials and architecture is compatible with the rest of the house. There wasn't anything unusual about the construction or the additions.

Mr. Covington stated that since the time the Board previously discussed this, the opposition has hired an attorney.

The Board asked that the Zoning Office inspect the property for verification purposes and report back to the Board at the next hearing.

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SONDERLING BROADCASTING, S-146-72 (Deferred from September 27, 1972 for 60 days for additional information from County Staff)

This request was for the erection of a one story building.on the property of the present tower.

Mr. Smith read a letter from Mr. Adams, Communications Engineer, to Mr. Covington which stated:

"I inspected the site of the radio tower located off Tower Road in Fairfax County, Virginia along with Mr. James McDilda, Assistant Chief of the Electrical Inspections Department.

The tower in question is a so called self supporting or "Free Standing" tower. This type of tower is designed to support a pre determined antenna, transmission line and electrical conduits, and navigational clearance lights. In the calculations for such a tower there is a provision made to account for ice loading during ice and sleet storms.

Mr. McDilda and I found that a minimum of 20 or more additional antennas and transmission lines have been added to the tower.. Many of the transmission lines are improperly installed and are free swinging from the tower. This condition tends to increase the danger presented by icing.

The original specification of this tower should be reviewed and the additional weight should be made to conform to the designed weight, wind and ice loading."

Mr. Smith then read a report from James McDilda, Assistant Chief Electrical Inspector, which stated:

"In order to approve the captioned tower structurally, this office would require that an independent registered professional Virginia Engineer inspect said tower and submit a report with supporting calculations stating that the tower was designed to withstand the wind load as prescribed by Fraifax County Code and is now in structurally sound condition to carry such loads as are imposed upon it."

Mr. Smith read a report from the electrical inspection's office which stated that the wiring had been done, but no inspection had been done, therefore, they needed to get a permit from Electrical Contractor.

Mr. Covington stated that the applicant had asked if they could withdraw the case and forget the whole thing. Mr. Covington stated that the County could not just forget it when there was a possible hazard involved.

Mr. Smith stated that he agreed, particularly, since this Special Use Permit was granted originally, they have sold off some of the land that was under the Special Use Permit and now they do not have sufficient land area so that if the tower falls, it would fall on their own property. For that reason, it is very important that the Board know that the tower is structurally sound.

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SONDERLING BROADCASTING CORP., S-146-72

Mr. Barnes moved that this case be deferred for an additional sixty (60) days to allow the applicant to comply with these reports.

Mr. Baker seconded the motion and the motion passed unanimously.

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Mr. Smith read a letter from Royce Spence, attorney for Luck Quarries, which the BZA considers under Case S-233-71, Fairfax Quarries, Inc., asking the Board schedule and hear this case at the earliest possible date.

The Board had previously deferred this Case because of the Natural Resource Ordinance and the request from the Board of Supervisors to defer all such cases until such time as this new Natural Resource Ordinance is adopted.

Mr. Smith stated that the applicant had agreed to a reasonable deferral time in order to allow the Board of Supervisors to adopt this ordinance. He stated that this case will now have to be scheduled as this case was filed in December of 1971.

The Board directed the Clerk to reschedule this case for the earliest possible date, which the Clerk stated to be December 20, 1972 and so notify the Board of Supervisors that the BZA had been requested by the applicant to schedule this case and in view of this, the BZA has no choice but to schedule it and hear it because of the Code requirements. The Board also stated that the applicant should bring in plats of the entire facility including the land across // Routes 29-211 so there will not be any delay at the hearing date.

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Mr. Smith read a letter from Mr. Douglas Leigh, Zoning Inspector, about the BZA Case of Humble Oil and Refining Company, Lessee, S-4-72. Mr. Leigh described the events leading up to his decision to notify the Board of the applicant's noncompliance with the County Codes.

The Board after discussing all the points in the letter, asked the Clerk to notify the applicant that the Board had set a Show-Cause Hearing for December 20, 1972 to show cause why the Use Permit granted March 9, 1971, should not be revoked as the Lessee nor the Owner of the Property have complied with the action of the Board of Zoning Appeals granting the use. To-Wit: The applicant has not fulfilled its obligations to Fairfax County -- the applicant has not obtained a Certificate of Occupancy as outlined in the letter to Mr. Bettius, the applicant's attorney, dated March 23, 1971. This certificate of occupancy is now called a Non-Residential Use Permit.

The Clerk was instructed to notify both the Owner and the Lessee in addition to the attorney of record.

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The Board then discussed the Board of Supervisors' action of October 30, 1972 requesting the Staff to comment and made a study on which Special Use Permit should be taken over by the Board of Supervisors.

Mr. Smith suggested that prior to any official action, some representative of this Board might have an opportunity to discuss the matter with the Board of Supervisors.

Mr. Covington stated that it is also being considered to allow the Zoning Administrator the right to grant variances. They are basing it on that Virginia Beach decision.

Mr. Smith stated that it was never the intent of the State or County Code to allow the Zoning Administrator to grant variances except with stipulated conditions. He stated that if this is what they want to do fine, but they will be in trouble if they do.

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SANDRA WARD, S-168-70

Mr. Covington reported that Mrs. Ward had complied with all of the conditions of her use permit, finally. She has been issued a Non-Residential Use Permit. The Board can make a decision now to allow her to continue this use if they so desire.

The Board directed Mrs. Kelsey, Clerk of the Board, to notify Mrs. Ward that she can continue to operate and remind her that the Permit expires on October 13, 1973. It will be necessary for her to come in with a new application prior to that time.

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TEMPLE RODEF SHALOM, S-128-72

Mr. Smith read a letter from the applicant's attorney, Mr. Philip Schwartz, regarding the No. 8 limitation of the resolution granting this use stating that "the recreational area shall be enclosed with a chain link fence in conformity with County and State Codes." He stated that he had reviewed the Virginia Code and the Fairfax Code and can find no regulations with regard to such fencing. He stated that he would appreciate the Staff's furnishing them with some guidance as to the Board's intent here in order that he can properly advise the nursery school as to what is required.

Mr. Smith asked Mr. Covington to check this out.

Mr. Covington stated that he would.

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The meeting adjourned at 4:20 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith, Chairman

Approved: December 13, 1972
Date

The Regular Meeting of the Board of Zoning Appeals of Fairfax County, was Held on November 15, 1972, at 10:00 A.M. in the Massey Building. Members Present: Daniel Smith, Chairman; Loy Kelley; Joseph Baker; and Charles Runyon; and Mr. George Barnes.

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The meeting was opened with a prayer by Mr. Barnes.

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LOYAL ORDER OF THE MOOSE CENTREVILLE LODGE, #2168, Inc., app. under Sec. 30-7.2.5.1.4 of Ord. to permit Moose Lodge, 4317 West Ox Road, 56-1 ((1)) 15, Centreville District, (RE-1), S-162-72

Dexter Odin, 4101 University Drive, Fairfax, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Frank Kitchen, 1221 Pendercrest Court and Mr. Fioramonti, 12217 Pendercrest Court, Fairfax.

Mr. Odin stated that as the Board could see from the map, this property is contiguous with I-66. It has 715' of frontage on I-66. The proposed building is 32'x72'. There is 5.609 acres of land here and the proposed structure will have a total ground cover of 2,304 square feet which is less than 2 percent of the total ground cover for the lot itself and the ordinance states that this use can cover up to 20 percent. The building is to be a minimum of 100' from any residential property line. There is a buffer provided for I-66 which is on the south side. The membership will not exceed 400. This 400 does not mean active members. At the present time there is a membership of 234 and it has been the experience of the Lodge that the members who are active and who participate in their meetings number about 30. Therefore, if you double the membership, you can anticipate approximately 60 people in attendance. They plan to continue to have their social once a month and they anticipate having a membership of 60 and if they bring their wives, it would number 120. If this land were developed as residential, you could anticipate 8 trips per unit for a total of 100 trips per day. The trips to the Lodge will be once a week. Therefore, there will be no adverse traffic impact because of this Lodge. There are ten members of the Lodge who would approach the Lodge from the North passing through Pendercrest residential area. The majority of the membership will approach the Lodge from 29-211 and proceed on Ox Road and make a right at the first intersection of I-66 and this carries them through what would not be considered a wholly residential area. There is Hunter's Lodge, a drive-in theatre and Bethlehem Baptist Church which operates a large fleet of busses, 25 or 30 on Sunday, and there were about 18 parked there the other day. They have a garage on the lot for the repair of the busses. The applicant proposes to dedicate 40' for the roadway. It is 20' at the present time. He stated that he hoped the Board would keep in mind that I-66 is less than a football field away from this facility. The area is already impacted by traffic. This organization also sponsors charitable activities in the community. They participated in the flood relief activity, Little League, help for the blind, orphanages, hospitals and many more worthwhile community causes. This has been an extremely active Lodge and in the past people surrounding their Lodge has found them to be good neighbors and there have been no complaints. It is an order which is family oriented. Their slogan is "a family that plays together, stays together" The family that would be most affected by this Lodge would be Mr. and Mrs. Tate and they have no objection. Mr. Kitchen has' no objection and neither does Mr. Fioramonti. These are the contiguous neighbors. Mr. Garvis and Mr. Maldovin do not have objection to this use.

Mrs. Robert Dennis, 4221 West Ox Road, testified before the Board in opposition to this use. She stated that there was a letter in the file from her husband who is also in opposition. The main concern is that of traffic. They already have the prison camp, the highway department and the landfill traffic.

Mr. Smith read the letter from Mr. Dannis dated November 9, 1972. Mr. Dennis stated that this use would be inconsistant with the residential character of the neighborhood and would increase the traffic in the area.

Mr. Smith then read another letter in opposition from J. P. Philipsborn. He stated that he objected to this rezoning. Mr. Smith stated that this was not a rezoning.

He read a letter from Beverly Monico in opposition.

Mr. Smith read a letter from a contiguous owner in support of the application.

Mr. Odin stated that he did not believe there was a letter opposing this use who was adjacent to the site.

Mr. Kelley asked what type of material they planned to use. They answered that they would use masonry and brick.

Mr. Smith asked if any part of the building that is adjacent to residential would be cinderblock.

They answered that no part of any building that is adjacent to residential would be cinderblock.

(The gentlemen who testified to this were part of the audience and I would assume part of the Lodge.-- One of the men's names was Mr. Viars.)

Mr. Odin stated that they planned to have a picnic area, barbecue pits, etc.

In answer to one of the Board members questions, Mr. Odin stated that the building they propose would be at a height not to exceed 24'. The building is a basement with a first floor. The building would be 32x72'.

In application No. S-162-72 application by Loyal Order of the Moose, Centerville Lodge, #2168 Inc., under Section 30-7.2.5.1.4 of the Zoning Ordinance, to permit moose lodge, on property located at 4317 West Ox Road, Centreville District, also know as tax map 56-1((1))15, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of November, 1972, deferred from November 15, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is W. Rembert and Jo Sue L. Simpson
2. That the present zoning is RE-1.
3. That the area of the lot is 5.6120 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with All county codes is required.
6. That the planning commission, at its regular meeting on November 14, 1972, recommended approval of this application, the vote was 5 to 2.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Speeial Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location idicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, chnages of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himslef responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit Shall be posted in a conspicious place along with the NON-RESIDENTIAL USE PERMIT on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The maximum number of members shall be 400.
7. The hours of operation shall be Monday through Thursday 6 P.M. to 12 Midnight, Friday 6 P.M. to 1 A.M., Saturday 12 Noon to 1 A.M.
8. The minimum number of parking spaces shall be 100.
9. Landscaping, screening and/or planting shall be as approved by the Director of County Development.
10. The entrance road shall be widened to a width of 33 feet and covered with a dustless surface.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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SCHOOL FOR CONTEMPORARY EDUCATION, INC., under Sec. 30-7.2.6.1.3 of Ord. to permit erection of private school for handicapped children, 225 children, Monday through Friday, 9:00 A.M. to 3:00 P.M., 1700 Kirby Road, Chesterbrook Subd., 31-3 ((1)) 130, Dranesville District (RE-1), S-167-72

Mr. Donald C. Stevens, P.O. Box 547, Fairfax, Virginia, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. The contigous owners were Alice McLinley, 1656 Kirby Road and George Parker, 1807 South Glebe Road.

Mr. Stevens stated that this is a non-profit corporation which presently operates out of three locations.

Mr. Smith stated that the Board was familiar with the school in McLean.

Mr. Stevens stated that the growth of these schools has been rapid and there is a great need for this service in this area. The schools have outgrown their present location and the applicant would like to combine the three schools into one operation for greater convenience both to the Staff and to the parents. This school is for handicapped children who are not acceptable in ordinary school systems. This site has more then five acres. The buildings would be several modular buildings of one and two stories. The Staff has raised one question and that relates to traffic and applies to the criteria of the proposed ordinance relating to childcare facilities which has not yet been adopted. This criteria states that this school should be on a collector road. It states that if one has a school with between 75 to 600 students it must be on a collector road with a 60' right of way. This school is for a maximum of 225 children which is on the lower end of the spectrum. In addition, the McLean Master Plan specifies Kirby Road as a major thoroughfare. He stated that he had reviewed the minutes of the Board of Supervisors and the Board had indicated that they did not want Kirby Road widened to an arterial cross-section. The Highway Department had conceded to allowing Kirby Road to remain two lane but they plan to make significant improvements. Nevertheless, Kirby Road is now and will continue to be a collector road. Its location makes it a collector road. The applicant will have fifteen (15) buses and these buses already run in this vacinity. The total number of trips per day would be approximately 74. The Staff for this school is very generous and when this school reaches full scale, there will be 80 staff members. There are relatively few parents who visit this school, therefore, they estimate the number of visitors per day to be about 10. He asked the Board to consider permitting the applicant to work out an acceptable entrance configuration with County Development.

Mr. Smith told Mr. Stevens that it had been the Board's policy to require deceleration and acceleration lanes for schools over 50 or 60 students.

Mr. Runyan asked the ages of the children.

Mr. Stevens stated that the ages would be from 2 to 20 because of the State's regulations.

Mr. Runyan stated that the parking area should be expanded to at least 80.

Mr. Stevens stated that he had no objection to having 80 parking spaces.

Mr. Smith stated for the record that the Board is in receipt of about 250 letters in favor of this application.

Mr. William Stell, 6535 Mulroy Street, McLean, spoke before the Board in favor of this application. He stated that he was speaking for the McLean Citizens Association. The Board of Directors voted November 1, to recommend approval of this application. He stated that they felt that their organization has appeared on numerous occasions in opposition to cases in their area and they felt that the least they could do this time was to appear in favor of an application. Their organization studied this application and came to the conclusion that this is a good facility for the community. The next question was about the site. They had done some ground work on the application on the Montessori School which was before this Board about a year ago and they are aware of the difficulty of finding a suitable location of this kind of facility in the McLean area. This is a five acre tract and there are very few of these left in McLean. They then considered the area itself which is largely institutional. There is the Methodist Church which has an educational facility which will be discontinued next year, and there is the Episcopal Academy; and Vincent Hall and several other churches in the area. There is also a line of gasoline stations on Old Dominion Drive. Therefore, in view of these uses that are already there, they do feel this would be in compliance with the neighborhood. They also looked at the traffic problem separately. They did not have a technical report on traffic, but they did feel that there is probably more traffic generated with this school being at three separate locations then it will be at one location. This is near a major intersection and the peak hours of traffic generation for this use will not be the same as the usual rush hour traffic period. He stated that the above are the grounds under which he was authorized to speak.

Mr. Smith asked for the opposition. There were four hands raised in opposition. Mr. Smith asked if they had a spokesman. One of the gentlemen in the audience stated that they each represented different local citizens associations.

Mr. Donald L. Borcherding, President of the Brookhaven Forest Villa Civic Association, spoke before the Board in opposition.

He stated that they had had a meeting with Dr. Phillips on November 8, 1972, to review the site plan for this case. They were concerned about traffic, safety, parking and screening. He stated that this does not meet the new proposed Private School Ordinance because the Board of Supervisors reduced Kirby Road to a maximum width of 40' R/W with 22' of pavement. Their Association of Brookhaven Forest Villa and the Potomac Hills Citizen's Association and the Chesterford Citizen's Association are all unanimously agreed that this proposed school would place a undue burden of traffic on their neighborhood. They based this on several points which can be found in the file in Dr. Borcherding's letter. They also feel this traffic will cause an increased safety risk on their children. In addition, they feel that Kirby Road has a historic value and should be preserved.

Mr. Smith read a letter from Mr. J. W. Conrad, President of the Chesterford Association, Inc. objecting to this use. The main reason for his objection and that of his association was the traffic that would be generated by this use.

Mr. Smith told Dr. Borcherding that the Planning Commission will hear the ordinance on November 16, 1972 and the Board of Supervisors on December 4, 1972. Mr. Smith stated that the Board has been using this ordinance as a guideline for almost a year now.
Mr. Smith stated that if this Permit is granted that he felt it should be on the entire five acres and not just the back portion.

Mr. Smith read a memorandum from Mr. Pumphrey in the Planning Division regarding this application. Mr. Pumphrey gave some information regarding Kirby Road as it is and as it is planned. He related Kirby Road traffic to this use. He attached an assumption sheet from the School where the school gave several items of information regarding their school's proposed traffic generation.

Mr. Daniel C. Pollock, Chairman, Roads and Parks Committee, Potomac Hills Citizens Association, spoke before the Board in opposition to this use. He stated that contrary to the testimony, the overall character of the neighborhood on the north side of Kirby Road is entirely residential with one exception. Several years ago, they did not oppose the public school with the understanding that there would only be residences in that area in the future. He stated that they oppose any use that would bring more traffic to the area and Kirby Road is not a major thoroughfare. They feel that such a facility with the complex of structures as portrayed in the artist's sketch will be detrimental to both the character and the development of the adjacent areas and that this is not in harmony with the comprehensive planning for the area.

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SCHOOL FOR CONTEMPORARY EDUCATION (continued)
November 15, 1972

Mr. Runyan asked if these groups were members of the McLean Citizen's Association.

They answered that they were.

Mr. Runyan asked if they had a vote there. They answered that they did. They stated that the vote was not unanimous to support. That was why they came out today to speak their views on this case.

Mr. Runyan asked if they wanted Kirby Road to be changed from what it is now as far as the alignment and width are concerned. Mr. Pollock stated that he did not feel this was a fair question. They do want Kirby Road improved but to remain in its present width. They do want that road to be safe.

Mr. Paul Kelly, 15701 Forestville Lane, McLean, Virginia, spoke in opposition to this use. He stated that they do not question the worthwhile character of the school, but they do object to this school going in that location because of Kirby Road. He stated that Kirby Road carries a heavy load of commuter traffic and this school will add traffic, which they certainly do not need.

Mr. R. J. Harvey, President of the Chesterbrook Citizens Group, spoke before the Board in opposition. He stated that his objections are similar to those of the other speakers. He submitted a statement for the file summarizing those objections which were mainly traffic and safety.

Mr. Kelley moved that this case be deferred for one week to allow the attorney for the applicant to return and answer the opposition, since the BZA has to give up the Board room at this time for the Board of Supervisors to have a bond bid, and also to request the applicant's attorney to furnish the Board with new plats showing the line deleted and the entire parcel being made a part of the application.

Mr. Barnes seconded the motion and the motion passed unanimously.

The Board at a later time amended the above resolution to include that the applicant should show at least 90 parking spaces on the plats.

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HERBERT C. & ANN HAYNES, app. under Sec. 30-6.6 of Ord. to permit pool to remain closer to property lines and within 10' of house, 1340 Merrie Ridge Road, Dogwoods Subd. at Langley, 31-2 ((19)) 17, Dranesville District (R-17), V-168-72

The attorney requested that this case be deferred for one week.

There was no one in the room in connection with this case other than the applicant's attorney.

Mr. Barnes so moved. Mr. Kelley seconded the motion and the motion passed unanimously.

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JAMES MOLSTER, app. under Sec. 30-6.6 of Ord. to permit construction of pool 17' from street, 2942 Rosemoor Lane, North Pine Ridge Subd., 49-3 ((16)) 11, Providence District (RE-1), V-169-72

Mr. Molster represented himself before the Board.

Notices to property owners were in order. The contigous owners were Mr. Trennery and Mr. Sjeid.

Mr. Molster stated that two-thirds of his lot is in flood plain and most of the back yard is in a septic field, therefore, there is only a small area of the lot that can be used for this pool. He stated that he was 50' off of Dogwood Land and this is a corner lot. Dogwood Lane is 500' long and is a dead end street which no one lives on. No one would be affected by this pool. Dogwood Lane is surrounded by trees. He stated that he does not plan to cover the pool.

Mr. Smith stated that in view of these circumstances this application does merit favorable consideration. Mr. Kelley agreed.

In application Number, V-169-72, application by James Molster, under Section 30-6.6 of the Zoning Ordinance, to permit construction of pool 17 feet from Dogwood Drive, Providence District, on property located at 2942 Rosemoor Lane, North Pine Ridge Subdivision, also known as tax map 49-3((16))11, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 15th day of November, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is James R & Janet L. Molster.
2. That the present zoning is RE-1.
3. That the area of the lot is 60,007 square feet.
4. That said lot extends the entire distance from Rosemoor Lane to Long Branch Creek and is the only lot on the south side of Dogwood Drive.
5. That this is a corner lot.
6. That the county has no plans to extend Dogwood Drive, at it dead ends at Long Branch Creek.
7. That the request is for a minimum variance.
8. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
   a. Exceptional topographic problems of the land and flood plain.
   b. location of existing septic field.
   c. There is a 15 foot storm drainage easement across the lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Barnes seconded the motion, the motion passed unanimously.

SHELL McDONALD CORP. TRADING AS
SHELL DAY CARE CENTER, appl. under Sec. 30-7.2.6.1.3 of Ord. to permit day care center 7 A.M. to 6 P.M., 2 years to 10 years, 45 children, 5 days per week, 7901 Heritage Drive, Heritage Hill Subd., 70-2 ((1)) 2, Annandale District (C-N & RM-2), S-170-72

Mrs. Shell represented herself before the Board. Notices to property owners were in order.

Mrs. Shell explained the type day care facility she planned to have. She stated that she would have a nursery in the morning from the ages of 2 to 4 and in the afternoon she would have a Kindergarten. In addition, after school she would have a few children who had been at public school all day. At no time would she have more than 45 children. She stated that she had a degree in Kindergarten and Early Childhood Education. She explained the qualifications of her teachers.

Mr. Smith stated that there was a copy of a Lease in the file from the Immanuel Methodist Church for one year.

Mr. Smith stated that the Special Use Permit must only run for the amount of time that the Lease is written for, subject to a renewal.

Mrs. Shell stated that the church is fairly new. There is a fenced play ground on the property. The 45 children would not be on the playground at any one time, it would be about 15 at a time.

There was no opposition.

In application number S-170-72, application by Shell Day Care Center, Shell McDonald Corp., under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit day care center 7 A.M. to 6 P.M. 2 years to 10 years, 45 children, on property located at 7901 Heritage Drive, Heritage Hill Subdivision, also known as tax map 70-2((1))2 Annandale District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notive to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 15th day of November, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Trustees of Immanuel Methodist Church.
2. That the present zoning is C-N and RM-2.
3. That the area of lot is 1.77045 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all State and County Codes is required,

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject applicantion be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in uses or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. There changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VAILD UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED

in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. That the maximum number of children shall be 45, ages 2 to 10 years.

7. The hours of operation shall be 7 A.M. to 6 P.M. Monday through Friday.

8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions, obtaining a Non-Residential Use Permit.

9. The recreation area shall be enclosed with a chain link fence in conformance with State and County Codes.

10. All busses and/or vehicles used for transporting students shall comply with State and County standards in lights and color requirements.

11. Landscaping, screening and planting shall be as approved by the Director of County Development.

12. This permit is granted for a period of 1 year with the Zoning Administrator being empowered to extend this Use Permit for 3 - 1 year periods.

Mr. Barnes seconded the motion.

The motion passed unanimously.

CURTIS T. CLAYTON, app. under Sec. 30-6.6 of Ord. to permit enclosure of carport into a double garage, carport is 13.5' from side prop. line (15' req) 9706 Woodwind Way, Tiburon Subd. 28-3 ((11)) 389, Centreville District (R-17), V-171-72

Mr. Clayton represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Mr. Ballantine, 9708 Woodwind Way and Mr. and Mrs. DeWolfe, 9704 Woodwind Way.

Mr. Clayton stated that his lot was long and narrow. He also has a storm sewer easement on his property. The lot slopes very steep away from the house making it almost impossible to mow.

Mr. Smith stated that he certainly did have a topographic problem.

Mr. Clayton had submitted six sets of pictures showing his property so that the Board could see the topographic problem that surrounded his lot making it impossible to build anyplace else on the lot.

There was no opposition.

Mr. Smith complimented Mr. Clayton on the fine pictures and presentation he had made before the Board and stated that it made their job easier when they could see exactly what was going on.

In application Number V-171-72, application by Curtis T. Clayton, under Section 30-6.6 of the Zoning Ordinance to permit double garage 13.5 feet from side line by enclosing carport, on property located at lot 389 section Tiburon Subd., also known as tax map 28-3((1))389, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following propertnotice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 15th day of November, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 16,773 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
a. Exceptional topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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FRANCES F. BATCHELDER, app. under Sec. 30-7.2.6.1.3 of Ord. to permit day care center, Fairfax Village Apartments, Fairfax Village Drive, 47-4 ((1)) 19 & 22, Providence District (RM-2G), S-172-71

Mrs. Batchelder represented herself before the Board.

Notices to property owners were in order. The two contiguous owners were Mr. P. M. Curran, 3401 Chain Bridge Road, and J. Kaplan & Marshall & K.M. Associates, 7900 West Park Drive.

Mrs. Batchelder stated that she had a Special Use Permit for a day care center in the Yorktown Apartments and had had it for six years. Everything there had worked fine.

Mr. Carlson, one of the builders of this apartment, was present and perhaps would come in before the meeting was over. She stated that this would be built into the apartment structure and they would be using the entire downstairs of that apartment building. It

would be Building No. 13 on the plat. She stated that the playground that belongs to the apartment would be hers from 7:00 A.M. until 6:00 P.M., then it becomes the apartment playground again. In addition, they have planned another playground for the school. The lease is enclosed with the application and it is a five year lease with an option to renew. She stated that Caplan Marshall was present previously but had to leave. He had no objection to this use. The ages of the children will be 2 1/2 to 6 with a maximum of 125 students. They plan to have 28 square feet per child.

Mr. Kelley read the Staff comments to the effect that the standards of the Proposed Ordinance would not apply in this case, but that it probably does meet the standards.

Mr. Runyan questioned the recreation space.

Mrs. Batchelder stated that the day care center she has in Yorktown had begun with buses, but now she did not need buses as most of the children come from the apartment area. She stated that she had 6 parking spaces as she is using the equilavant to four apartments.

Mr. Kelley stated that at least this is going in before anyone moves in, therefore, they would be aware of the facility.

Mrs. Batchelder stated that she had a staff of perhaps fourteen, but only 6 to 7 at any one time.

There was no opposition. Mr. Carlson, one of the builders of the apartment complex, did appear and stated that he was in favor of this operation.

In application Number S-172-72, application by Frances F. Batchelder, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit day care center, on property located at Fairfax Village Apartments, Fairfax Village Drive, also known as tax map 47-4((1))19 & 22, Providence District, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 15th day of November, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is K & B Associates.
2. That the present zoning is RM-2G.
3. That the area of the lot is 10.6 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all State and County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and,

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application.* Any additional structures of any kind, changes in use or additional uses, whether or not these additonal uses require a use permit, shall be cause for this use permit to be re-evalued by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constiture exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the premitted use.

* being building #13.

6. That the maximum number of children shall be 125, ages 2½ to 6 years.
7. The hours of operation shall be 7 A.M. to 6 P.M. Monday through Friday.
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions, and obtaining a Certificate of Occupancy.
9. The recreation area shall be enclosed with a chain link fence in conformance with State and County Codes, with implied use of adjoining apartment play area.
10. All busses and/ or vehicles used for transporting students shall comply with State and County standards in lights and color requirements.
11. There shall be minimum of 6 parking spaces provided, with implied use of adjoining apartment parking area.
12. Landscaping, screening, and planting shall be as approved by the Director of County Development.
13. Permit shall be for a 5 year term as per lease.

Mr. Baker seconded the motion.

The motion passed unanimously.

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CITCO, SHOW-CAUSE HEARING, S-149-69. Permit granted to Ewell G. Moore, Jr. to permit erection and operation of service station, 8318 Hooes Road, 89-3 ((1)) 24, Springfield District (C-N) (Show-Cause why permit should not be revoked as applicant is occupying premises without complying with all County Ordinances)

Mr. John McIntyre, District Engineer for CITCO, 9600 Colonial Avenue, represented the applicant before the Board. He stated that they had not gotten their Non-Residential Use Permit (formerly called Occupancy Permits) as they had been on hold from the County for two months this summer which stopped them completely. The only thing they lack is curb and gutter and completing Citco Drive. The curb and gutter has to be put in first.

Mr. Smith asked if these could be completed within 6 month.

Mr. McIntyre stated that everything could be completed except paving.

Mr. Covington stated that they would have to provide snow removal.

Mr. McIntyre stated that it went through last winter in the same condition.

Mr. Covington stated that that is exactly what this hearing is all about.

Mr. McIntyre stated that they had tried to get this done, but everything happens with that place.

The Inspector, Douglas Leigh, stated that Mr. Cooper from Public Works had told him that they can pave whenever the weather permits, therefore, it would not be necessary for them to wait until spring.

Mr. Smith asked about the screening.

Mr. McIntyre stated that the screening was in.

It was noted on the site plan that was returned that that was one of the items that was circled indicating that they had not yet complied.

Mr. Kelley asked what would happen if the permit was revoked, then how long would it take to comply.

Mr. Smith stated that if the Board was going to give them additional time to complete the work, it should be on a 30 day basis. He asked Mr. Covington if there would be a hazard involved should they be allowed to continue to operate.

Mr. Covington stated that there was no hazard that he knew of.

Mr. James Smith, engineer for the project, stated that they are now pouring curb and gutter at the bottom now.

Mr. Smith stated that if it was agreeable with the Board, this case should be deferred for 30 days and then they should report back to the Board on their progress. In addition the Board should have a report from the Zoning Inspector.

Mr. McIntyre stated that the road is the main problem and the road was a gimmick in the first place.

Mr. Barnes so moved that this hearing be recessed for thirty (30) days and put it on December 20, 1972 for a report from both the applicant and the inspector.

Mr. Kelley seconded the motion and the motion passed unanimously.

DEFERRED ITEMS:

CHARLES F. SCHEIDER, appl. under Sec. 30-6.6 of Ord. to permit variance of front setback line for lots 1 through 10 to allow houses to be constructed within 30 feet of front property line (required 50'), Rebel Drive, 59-2 ((1)) 49A, Annandale District (RE-0.5) V-164-72 (Deferred from November 8, 1972 to allow Planning Commission to hear case -- for Decision only)

Mr. Smith read the Planning Commission memorandum recommending approval.

In application Number V-164-72, application by Charles F. Scheider and Sara Scheider, under Section 30-6.6 of the Zoning Ordinance to permit variance of front setback 30 feet from front property line for lots 1 through 10 to allow houses to be built on property located at Rebel Drive, Annandale District, also known as tax map 59-2((1))49 A, County of Fairfax, Virginia Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 8th day of November, 1972, deferred to the 15th day of November, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Sara S. Scheider and Charles F. Scheider
2. That the present zoning is RE-0.5.
3. That the area of the lot is 6.74 acres.
4. That the Planning Commission on November 9, 1972, unanimously recommended approval of this application.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

a. Exceptional topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, non-residential use permits and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed 4 to 0; Mr. Runyon abstained.

// AFTER AGENDA ITEMS

NATIONAL EVANGELICAL FREE CHURCH & SHELL McDONALD, INC., S-106-72

Mr. Smith read a letter from the Church regarding the day care center with reference to the recreational area which had been changed to another area of theproperty due to topographical problem of the land.

Mrs. Shell appeared before the Board to answer any questions that the Board might have.

Mrs. Shell stated that they had originally told the Engineer to place where the recreational would be put immediately and where it would eventually go, but unfortunately the Engineer neglected to put the planned area on the plat that was approved.

Rev. Gerald Hall from the Church also spoke before the Board stating that the changes were necessary because of topographical problems.

Mr. Smith read a letter from Mr. Kelly, an adjacent property owner to the planned recreational area, objecting to placing it in this location. He stated that they had also taken down some of the buffer shrubbery.

Rev. Hall stated that they are proposing to replace that shrubbery that was removed.

Mr. Runyan asked if this recreation area would also be used by the Church.

Rev. Hall stated that it would.

Mr. Runyan moved that the applicant be required to resubmit new plats to the Board through Mrs. Kelsey and Mr. Covington's office showing the new location of the recreation area and how it is to be screened and some concurrence from Mr. Kelley that at least he has been informed of the new location and how he feels about it, if they promise to replace the shrubbery that was removed. In other words, we need some up-to-date correspondence. The correspondence should show that the School and the Church have spoken to him and also show whatevery he feels is the outgrowth of the conversations. He stated that the letter from Mr. Kelley is very open ended and doesn't finalize it at all.

Mr. Baker seconded the motion and the motion passed unanimously.

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JOHN J. AND JANE F. LONG, V-148-72

The Zoning Inspector's Office gave a report on this case stating that the building permit had been issued and the building was under construction. The construction complies with the conditions set forth in the granting of the variance and the construction complies with the plans submitted and approved by the Building Inspector's Office.

The Board then instructed the Clerk to notify the opposition and answer his letter stating that the Board had reviewed his letter and inspected the site and find no violation of the resolution granting the variance.

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Mr. Baker moved that the minutes of the meeting of October 18, 1972, be approved.

Mr. Kelley seconded the motion and the motion passed unanimously.

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The meeting adjourned at 3:30 P.M.

By Jane C. Kelsey
Clerk

DANIEL SMITH, CHAIRMAN

APPROVED: December 13, 1972
(Date)

The Regular Meeting of the Board of Zoning Appeals of Fairfax County, was Held on November 22, 1972, at 10:00 A.M. in the Massey Building. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; Joseph Baker; and Charles Runyon; and George Barnes.

The meeting was opened with a prayer by Mr. Barnes.

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L. DELBERT AND NELLIE M. FOSTER, app. under Sec. 30-6.6 of Ord. to permit construction of an addition closer to side property line than allowed, 6405 Inwood Drive, Springfield Forest Subd., 81-3 ((11)) 15, Lee District (R-17 & RE-1), V-173-72

Mr. Knowlton, Zoning Administrator, stated that there is an administrative way by which this variance can be granted and accordingly it has been granted and with the Board's permission, we will attempt to cancel this case and return the fee.

Mr. Smith asked if the advertising was done on this.

Mr. Knowlton stated that it had been done. He stated that the office had attempted to contact Mr. Foster, but was unable to do so.

Mr. Foster represented himself before the Board. He was not aware of this new information.

Mr. Smith instructed Mr. Foster to contact Mr. Knowlton after the hearing. This case was withdrawn due to an administrative error.

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JOHN W. KOONS, JR., app. under Sec. 30-7.2.10.3.8 of Ord. to permit Chevrolet Dealership, 2000 Chain Bridge Road, 29-3 ((1)) 31, Centreville District (C-D), S-174-72

Mr. Ralph Louk, 4101 Chain Bridge Road, Fairfax, attorney for the applicant, represented them before the Board.

Notices to property owners were in order. The contiguous owners were Samuel D. Redd, et al, c/o Douglas Mackall, 4031 Chain Bridge Road, Fairfax, Virginia, and Trulie Investment Corporation, Real Estate Dept.

Mr. Knowlton, Zoning Administrator, stated that this property was the subject of a recent rezoning and the rezoning file is before the Board.

Mr. Smith asked if there is to be a roof over the parking.

Mr. Louk stated that the roof will be covered. He stated that this case was heard by the Board of Supervisors in June and at that time the applicant presented the application and told the Board that it was for the Chevrolet Dealership. The parking area is over the parts and service department. There are 120 bays in the service building. This is a full Chevrolet dealership and, he stated, that he assumed that this would mean trailers and camping trailers and mobil homes, etc.

Mr. Smith questioned the mobil homes being in the dealership.

Mr. Knowlton, Zoning Administrator, stated that Amendment No. 118 to the Zoning Ordinance dealt with recreational vehicles. These are allowed only by Special Use Permit and only in C-G. This is zoned C-D.

Mr. Smith then asked about the service facility and asked if this included a body shop.

Mr. Louk stated that they had indicated on the site plan, 'parts and service'. He stated that he knew there had been a difference in opinion as to the interpretation of the ordinance regarding 'parts and service' and they consider the work on vehicles whether it be mechanical or on the vehicle itself as a part of the service. This is considered as such in the trade. The only statement, he stated, that he could make is that they will comply with the terms of the Zoning Ordinance, but they take the position that a body shop as part of an automobile dealership is permitted.

Mr. Smith asked Mr. Knowlton if the interpretation of the Zoning Ordinance had changed.

Mr. Knowlton stated that the Zoning Ordinance on this particular subject has been to the Board of Zoning Appeals and the Board has interpreted that paint and body repair shops do not go in a C-D zone. He stated that he was not saying that he disagreed, but it has already been interpreted by a higher authority than the Zoning Administrator.

Mr. Barnes stated that it seemed to him that since this is a full fledged dealership it could come under 'service'.

Mr. Smith stated that if you allow a dealership to incorporate a body and paint shop in a C-D zone, you will have to allow it by all. The zoning is the governing factor here. This is a question that has been raised for many years and he stated that he thought it was cleared up. He asked if the Board of Supervisors were aware of this proposed body shop when they granted the rezoning.

Mr. Louk stated that to the best of his knowledge, the subject was not discussed at the time of the rezoning. He stated that they told the Board of Supervisors that they planned to operate an automobile dealership just like Koons Ford at 7 Corners, except it would be a Chevrolet dealership. There is a body shop in the Koons Ford dealership at 7 Corners.

Mr. Smith stated that this is in Falls Church and is not under the control of Fairfax County. Mr. Smith stated that body work is not part of the warranty on a new car. He stated that several dealerships have had to move to an industrial area because they wanted to have a body and paint shop. There was a little bit of trouble with the Ford dealership that went in recently too. They also wanted to have a body shop and that is when the Board ruled that there could be no body and paint shops in a C-D zone. This, of course, is already in the ordinance.

Mr. Louk disagreed with this. He stated that the Ford people agreed not to have a body and paint shop during the hearing on this case, and he is not agreeing not to have a body and paint shop in the Chevrolet dealership.

Mr. Smith stated that he would not be able to vote for it then.

Mr. Louk stated that he hoped the Board could include what is on the Site Plan, and approve only the area where the Chevrolet dealership is going on.

Mr. Smith stated that it looked as though the application shows the entire tract.

Mr. Louk stated that it was filed on the entire 15.1 acres, because he didn't want the Board to think a gasoline station was going in there beside it, but the use permit is only on the area outlined in the Site Plan. Actually the area under consideration is under 15 acres. He asked that the Board amend the application to show only the area on the Site Plan.

Mr. Smith asked if the dealership was supposed to encompass the entire 15.1 acres at the time of the rezoning, and stated that all the area not to be used for the dealership should be deleted.

Mr. Barnes stated that he thought the entire area was for the dealership.

Mr. Daniels, architect for this project, spoke before the Board and stated that they planned to construct this building of concrete panels in color on all four sides. The panels are to cover the roof parking also.

Mr. Knowlton stated that he would like to give the Board some background that was discussed by the Board at the time of the rezoning. He stated that the Tyson's area is now handling a tremendous amount of traffic, 20,000 vehicles per day on Leesburg Pike and 24,000 on Chain Bridge Road. There is a loop proposed around Tyson's Corner. International Drive has been erected through the shopping center. Gosnell Road has been started and also improvements to the existing road. There are to be public hearings to be held by the State concerning connections from this point to Gallows Road. It is difficult to get access to this property, particularly at a point near the intersection. If the service drive around this property could continue in this fashion (he indicates on map) it would allow access to this property from several directions without too much entry from the street. It will be necessary that this building have four architectural facades, which the applicant testified would be the case.

The other question Mr. Knowlton raised was that of just how much of the service drive would be constructed. He stated that this was the reason the staff was pleased to see the entire area on the plat, because they hoped to have the entire service drive put in.

Mr. Smith stated that it seemed to him that in view of the size of the dealership, fifteen acres of land is necessary. He stated that all of the dealerships are now having problems of not enough land, including the one in Falls Church.

Mr. Smith asked him to clarify what they planned to do with the piece of land adjacent to where the dealership is shown.

Mr. Louk stated that his first statement was future expansion or retail stores under C-D, which are the bank and drive-in bank. Then if they should decide to expand, they could come back in and the Board could put more conditions on the use.

The Board discussed the pros and cons of where the service drive would be best suited.

Mr. Barnes stated that he felt this case should be deferred for some new plats and to find out exactly what they plan to do, and to get any other pertinent information that could help in making a decision on this. He so moved.

Mr. Baker seconded the motion.

Mr. Runyan stated that he felt the information shown on the present plat was sufficient for the Board to amend the application as it is easy to see what area is left in the dealership.

Mr. Smith stated that it is the Board's policy to defer all these applications until the applicant can get proper and correct plats, then to rush and grant without proper plats.

Mr. Baker called for a vote. The vote was 4 to 1, with Mr. Runyon voting No.

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BERGER CONSTRUCTION CORP., app. under Sec. 30-6.6 of Ord. to permit fence 6' in height within front setback, 2059 Huntington Avenue, 83-3 ((1)) 79, 80, 81, Mt. Vernon District, (CRMH), V-175-72

Mr. Marc Bettius, attorney for the applicant, 4101 Chain Bridge Road, Fairfax, Virginia, came forward and stated that they had had a mixup and did not get the notices out on time and asked that the case be deferred until January 17, 1972.

There was no one in the room other than the applicant on this case, therefore, Mr. Baker moved that the request be granted.

Mr. Runyon seconded the motion and the motion passed unanimously.

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VEPCO, app. under Sec. 30-7.2.2.1.2 of Ord. to permit erection, operation, and maintenance of ground transformer station, east side Interstate 495, North of Gallows Road, 59-2 ((6)) 8, 9 and pt. of Highway Right-of-Way, Providence District, (R-12.5), S-159-72

Mr. Randolph W. Church, 4069 Chain Bridge Road, Fairfax, Virginia, attorney forthe applicant testified before the Board.

Notices to property owners were in order. The contiguous owners were Bobby Shipp, 7916 Sycamore Drive and Mr. Jorgenson, 7911 Sycamore Drive.

Mr. Church stated that the Board is generally familiar with the area where they are proposing to put this station. At the present time, the area between Route 236 and Route 7 in the area of the beltway is served by the Braddock Substation, located south of Route 236 and the Idylwood Substation located near the City of Falls Church. Because of the growth of the area and the demand for electricity it is necessary to establish another substation to step down the voltage of the transmission lines. A site has been selected which is an equal distance between the existing Braddock Substation and the existing Idylwood Substation. It is on the north side of Gallows Road, east of the beltway under the transmission lines that are presently in place and within the existing 225' easement.

Mr. Church stated that several weeks ago, this matter was presented to the Planning Commission, but several of the neighbors in the area voiced objections to the plan as proposed. The company has now reworked the plans to satisfy some of these objections. He stated that he had those plans for the Board today. The structure within the

substation has been moved further away from the neighbor's property and one floor has been deleted and the majority of the structures will not exceed 13 feet in height. Two 35 foot structures will bring the lines into the station. The transformers will be approximately 26 feet high. They propose to create an earthern berm and add a panel fence instead of chain link. They propose to plant Canadian Hemlock in front of this fence.

Mr. Church then submitted to the Board the new plans.

He stated that these are 230 KV lines and it is proposed to tap those circuits and reduce this voltage for use in the immediate area.

Mr. Smith asked if this aluminium fence is similar to that on 236.

Mr. Church stated that it was. They propose to use the color green, but they do not object to any other color, if the neighbors prefer another color.

Mr. Smith stated that the color of green that is on 236 seems to be compatible with the surrounding neighborhood.

Mr. Church showed a sketch of what the fence would look like.

Mr. R. W. Carroll, Manager of the Potomac District of VEPCO, spoke before the Board. He stated that he is a civil engineering graduate of the University of Maryland. In the capacity of assistant transmission engineer in the System Engineering Office in Richmond, he became familiar with the engineering problems related to transmission and substation facilities. More recently, as Manager of the Fairfax Office, he became familiar with the electrical requirements of Northern Virginia and Fairfax County in particular. He, therefore, is familiar with the need for the substation for which VEPCO is seeking a special use permit.

He stated that the company has four 230 KV circuits which run from its Ox substation to Idylwood Substation. Two circuits are on a set of steel towers and two circuits are on a set of steel poles. These structures are adjacent to Route 495 for some distance and occupy a 225' right-of-way which has existed in this area for many years. The proposed substation site is entirely within the existing transmission line easement. He submitted an Exhibit No. 1 which showed that the demand for electricity in Northern Virginia has grown at a rapid rate. Load on the Braddock Substation was 140.8 MVA in July, 1972 and is expected to reach 160 MVA by the 1973 summer peak. The load on the Idylwood substation is expected to grow from 158 MVA in 1972 to 180 MVA in 1973. Six 34.5 KV circuits from Braddock and Idylwood substations presently service the area. They are now fully loaded. By 1973 summer peak additional 34.5 KV circuits and additional transformer capacity will be needed to provide service to the area. Even at the 1972 levels of electric demand the area can not now be served for all single contingency conditions, and in the event of some contingencies to the system, customers could not be switched to other facilities but would remain out of service until repairs could be made. To provide both service to the area and a single contingency system which would allow for continuous service, Vepco proposes to build a substation within its existing transmission line right-of-way north of Gallows Road and east of Route 495. The Company proposes to devote approximately 1.1 acres of the site to substation use. The initial service area for the substation is shown on Exhibit II. (Submitted to the Board) He stated that a mature growth of trees exists between the proposed site and Route 495 which should provide an excellent screen from traffic on the highway. Natural screening also exists between the proposed site and the closest residences. Vepco, as Mr. Church stated, proposes to grade the site in a manner which will create an earthern berm approximately nine feet in height between the nearest residences and the proposed equipment. The Company then proposes to erect an 8 foot green panel fence on top of the berm, 36' from the property line, and to plant Canadian hemlocks in front of the fence. Additional screening is also proposed along Gallows Road.

The 34.5 KV circuits leaving the proposed substation will be placed underground until they reach Gallows Road. He stated that it is highly desirable to locate the station adjacent to Gallows Road since this is where the existing distribution system will be reinforced and to provide easy access for maintenance vehicles. The station must be located at a point where the existing transmission lines can be tapped. There is no "C" or "I" zone within one mile from which the company could perform the functions proposed for this substation.

He stated that the gate would be locked at all times except for ingress and egress. The substation will create no new traffic which might be hazardous or inconvenient to the

neighborhood.

Mr. Kelley asked if they had made any attempt to locate north of this site since they do have vacant land there.

Mr. Carroll stated that they had contacted the owners of the Child's tract and they refused to sell, but the closer they can get to Gallows Road, the better off they are. He stated that they could use the power of eminent domain, but they do not like to use that unless they absolutely have to.

Mr. Smith asked how far one could hear the noise from the transformers.

Mr. Carroll stated that this is a difficult question to answer as it depends on other things such as the noise in the area at the time. He stated that they had moved the transformers toward the beltway as far as they could get them and they do propose to build a wall around each of the transformers and they will more than meet the minimum noise level requirements. This wall will be a concrete block type wall. He stated that they do have someone present at this hearing who can answer questions on this. The wall will be so designed to allow space for a second wall if the first wall fails to alleviate the noise to a satisfactory degree.

Mr. Smith asked if the fence around this property facing the beltway met the setback requirement.

Mr. Knowlton answered that it did and he read the ordinance regarding this which stated that the setback would not inhibit the construction of a substation such as this.

Mr. Church stated that there had been some discussion with the neighbors regarding the fence. They felt that perhaps a solid fence facing the beltway would reflect the noise back on them, therefore, they thought a chain link fence might be better at this particular location on the site.

Mr. Smith stated that he was a believer of a solid fence and it might act as a buffer from the road traffic noise.

Mr. Kelley questioned the second wall that had been mentioned. He asked who would be the one to say whether or not this wall would be needed.

Mr. Church stated that the neighbors would have to be the one to say that it was needed and if there were complaints from the neighbors, and not just one supersensitive person, then they would erect the second wall.

Mr. Compton from VEPCO spoke before the Board regarding the fence. He stated that they had been using these walls for ten years. It is a zig zag wall that goes above the transformer height and is so designed that the sounds bounce back and forth on the wall and destroy themselves.

He stated that it was his experience that with the use of these walls around the transformers, no noise of any nuisance would go beyond the substation site itself. In answer to Mr. Smith's question about whether or not a solid wall would reflect sound and bounce it back, he stated that they have not made their calculations to determine whether it would reflect back or not, or what the angle of the reflection would be, if any. He stated that in view of their lack of knowledge in this area, a chain link fence would be better at this time.

Mr. McKinsey Downs, Real Estate Appraiser, spoke before the Board on how this substation would affect property values in the area.

Mr. Smith stated that theBoard was familiar with his qualifications and that he is well qualified to speak on this subject.

Mr. Downs stated that his address is 10409 Main Street, Fairfax, Virginia and he is not a employee of VEPCO. He submitted a plan with photographs that he stated might be of use to the Board members. He located the site. He stated that directly opposite the subject property in the area shown as RT-5, there is a townhouse project under development. An investigation of the properties in the subdivisions would indicate that the property values have risen over the years. They were originally $20,000 and now they are in excess of $40,000. Therefore, the general neighborhood surrounding

this substation would range in price from $36,000 to a maximum of $48,000. Mr. Downs stated that this particular substation is more modern in design than most of the other substations, which is a step in the right direction. It is located along an existing VEPCO right-of-way. He gave several examples of different locations where substations had gone in as to the values of the houses before and after the substation. He stated that it was his opinion that there would be no noticeable difference before the substation and after this substation in the property values of the adjacent property. He submitted a detailed report to the Board regarding these items above.

Mr. George Lawson, from the Holmes Run Acres Civic Association, spoke before the Board on behalf of the citizens of that neighborhood in opposition to this use.

He stated that they wished to compliment VEPCO for their efforts to revise their plans to achieve an amicable agreement. He stated that they did have an opportunity to review these plans at close hand last night. He stated that they do realize that expanded development in the County does impose an obligation to the utility companies. They also realize that a substation should be located as close as possible to transmission lines. Nevertheless, they are not sure that VEPCO has exhausted all other possibilities for locating this substation someplace other than next to an existing subdivision. There is vacant land nearby that they could use. There are townhouses proposed adjacent to this land that is vacant, but at least the people would know that the substation is there when they purchase the property.

Mr. Lawson stated that there were several recommendations they would like to make if this use is granted:

1. Low profile for the buildings.
2. Berm around the substation to dampen the noise.
3. Fence installed tight to the ground.
4. Landscaping plan should be revised and subsequently reviewed by the BZA stating a type of planting and screening that is not Canadian Hemlock, but mature trees and denser material.
5. Residences surrounding this substation be allowed to review the landscaping.
6. Split rail fence along the Gallows Road property line to protect from dumping.
7. Maintain the existing screening material along the property lines.
8. Be assured that the construction will be carried on during normal working hours.
9. Reserve the right to require future noise reducing devices.

He suggested substituting white pine or something similar.

The Board members discussed the pros and cons of using different types of trees for screening.

Mr. Smith stated that the trees should be planted 4' off center in a staggered row. He stated that he felt that cedar provides a good buffer.

Mr. Lawson stated that this proposal by VEPCO is better than the previous one.

Mr. Smith asked Mr. Church if VEPCO had researched the area to see if they could find a better location that would be further from residences.

Mr. Church stated that they had. He stated that the property down below this is under development now and the property to the north slopes off rapidly and to build a road down that right-of-way that would be readily accessible during snowy days would be impractical and undesirable.

Mr. Church stated that the trees that are there between the substation and the residences would remain. There is no need to take them out.

Mr. Compton spoke on the planting. He stated that they had given a great deal of thought to what type plantings should be used. The problem with cedar is the branches start about 18" above ground. He stated that after their botanist looked at the range of the plantings for that site, he asked if VEPCO could possible use Canadian Hemlock, even though it will cost VEPCO more. He felt they would provide a denser screen and they grow all the way to the ground.

Mr. Kelley asked the hours of construction.

Mr. Compton stated that they work 10 hours per day from 7:00 A.M. to 6:00 P.M., 5 days per week. No Saturdays and No Sundays.

In application Number S-159-72 application by Vepco under Section 30-7.2.2.1.2 of the Zoning Ordinance, to permit erection, operation and maintenance of ground transformer station, on property located at east side interstate #495, North Gallows Road, also known as tax map 59-2((6)) 8, 9, & part of highway right of way, Providence District, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of November, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Vepco and Virginia Department of Highways.
2. That the present zoning is R-12.5.
3. That the area of the lot is 2.749 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County Codes is required.
6. The Planning Commission on November 2, 1972, approved the above subject application by a vote of 4-3.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the subject application has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN A NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping, screening, fencing, walls and/or plantings shall be as approved by the Director of County Development. In the event the area now screened by woods and natural growth should subsequently become insufficient to provide the necessary protection for adjoining residential lots, the applicant himself shall be responsible for adequate landscaping, plantings and screening as approved by the Director of County Development, and as agreed by the applicant in the presentation to the Board of Zoning Appeals.

Mr. Barnes seconded the motion.

The motion passed unanimously. Mr. Smith stated that for clarification, it has been agreed that if the noise factor becomes a nuisance that the Board will notify VEPCO and a reevaluation hearing to reduce the noise level will be held.

Mr. Church asked the Board if the motion regarding screening meant that this is left up to the Director of County Development as to the final selection of the type of trees and the amount of aluminum screening.

Mr. Smith stated that the aluminum screening (solid) should be put on three sides and the front toward 495 should be left with a chain link fence. The screening is left open. He suggested that VEPCO consult with the contiguous property owners in this matter and come up with something that everybody will be satisfied with. County Development will make the final decision, but the contiguous property owners should be kept advised. The Staff will be the mediator. He suggested that the berm be enlarged to include staggered plantings.

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AMEND APPLICATION FROM ARTERY LTD., S-221-71 TO PRESLEY DEVELOPMENT COMPANY EAST, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit swimming pool for 343 family members, 9231 Burke Lake Road, 78-4 ((1)) 4, Springfield District (RM-2G), S-177-72

Mr. John Aylor, attorney for the applicant, 4017 Chain Bridge Road, Fairfax, Virginia, represented the applicant before the Board.

Notices to property owners were in order.

Artery Ltd. bought about 30 acres and put in Section 1 . They then had 21 acres left and they originally planned to build townhouses. They later vacated all of Section 2 and since this was zoned RM-2G, they decided to develop this into apartments which will be converted into condominums. In 1971, he stated that Artery appeared before the BZA and received a Special Use Permit on the pool and according to the plan, this pool was limited to 300 families. Now, under the proposed development, there will be 303 condominums and by contract Artery sold Presley, there was an agreement that the 40 families living in Section 1 townhouses would have the right to have a pool membership. This pool is in the same location. It is the south corner of the 21 acre tract. They have changed the street layout when they converted to condominum. They have increased the size of the pool to compensate for the additional members from 2735 square feet to 3750 square feet. They are requesting the addition of 40 family memberships and the name to be changed from Artery Ltd. to Presley Development Company East, Inc. The pool will be run by the condominum. The pool will be built at the expense of Presley.

Mr. Runyan asked if 47 parking spaces would be sufficient for this increased number of people.

Mr. Aylor stated that it would be sufficient. They have an overage of parking spaces for the condominum itself. All the apartments and townhouses are within walking distance. The townhouses are the fartherest away and they might want to drive.

There was no opposition.

Mr. Runyan asked what the Board requires for bike parking.

Mr. Smith stated that in view of the limited number of parking spaces, there should be from 50 to 75 bike racks.

Mr. Aylor stated that the architectural design of the bath house would be compatible with the rest of thebuilding in the development.

Mr. Aylor requested that this be a New Special Use Permit running for one year. He reminded the Board that under condominum zoning, it would not have been necessary to go before the BZA, except for the fact that they were allowing the 40 townhouses to continue to be in the pool.

In application No. S-177-72, application by Presley Development Company East, Inc. under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit amendment of S-221-72 for name change and increase of membership on property located at 9231 Burke Lake Road, also known as tax map 78-4((1))4 County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of November, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Presley Development Company East, Inc.
2. That the present zoning is RM-2G.
3. That the area of the lot is 1.5 acres.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has present testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Department of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of family membership shall be 343, which shall be residents of the Keene Mill Woods Subdivision.
7. The hours of operation shall be 9:00 A.M. to 9:00 P.M. Any after hours party will require special permission from the Zoning Administrator and such parties shall be limited to 6 per year.
8. There shall be a minimum of 47 parking spaces for cars and a minimum of 75 parking spaces for bicycles, and emergency lane to pool.
9. The site shall be completely fenced with a chain link fence as approved by the Director of County Development, except along the west which shall be with wood inserts.
10. Landscaping, fencing, and screening and/or planting shall be approved by Director of County Development.
11. All loudspeakers, noise and lights shall be directed to pool area and confined to site.

Mr. Baker seconded the motion.

The motion passed unanimously.

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CANTERBURY WOODS SWIM CLUB, INC., app. under Sec. 30-7.2.6.1.1 of Ord. to permit construction of tennis courts for 400 family members, 5101 Southhampton Drive, Canterbury Woods Subdivision, 70-3 ((8)) 5, Annandale District (R-12.5), S-179-72 Out Of Turn Hearing

Mr. David Cochran represented the applicant before the Board. He stated that he was representing the pool. Their attorney, Frank Perry, was present, but he had to go over to County Court. He asked that thir case be deferred until Mr. Perry could return.

The Board allowed the applicant to defer their case until after the Regular Agenda items had been heard.

Immediately, thereafter, Mr. Frank Perry, attorney for the applicant, appeared before the Board. He stated that at the time the application was granted in 1971, the plans that were filed with the application indicated that the proposed maximum membership would be 430 families. That was strictly a proposed figure and that figure was never reached. As a matter of fact, there were fewer than the 400 memberships. At the present

time the membership voted and said they only wished to have 400 members instead of 430. The 430 was contemplated because they thought they might need to raise more funds. Therefore, before it was found that they had ten parking spaces covered up, they only had 400 members, not 430. They would like now to amend their application and change the number of members to 400 and reduce the parking spaces by 10. The contractor who is putting in the tennis courts filled in over some of the parking spaces, cutting off about 10 spaces. In doing this, however, he moved the tennis courts back to 46' from the curb, therefore, they no longer need the variance that was granted at the original hearing. All the other facilities will remain the same.

No opposition.

In application No. S-179-72, application by Canterbury Woods Swim Club, Inc. under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit construction of the relocated tennis courts, reduction of parking and members on property located at 5101 Southampton Drive, Canterbury Woods Subdivision, also known as tax map 70-3((8))5 County ofFairfax Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and near by property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of November, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 155,231 square feet.
4. That Site Plan Approval is required.
5. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and'

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. That this approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use Permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of family membership shall be 400, which shall be residents of subdivision.
7. The hours of operation shall be 9:00 A.M. to 9:00 P.M. Any after hours party will require special permission from the Zoning Administrator and such parties shall be limited to 6 per year.
8. There shall be a minimum of 134 parking spaces for cars and a minimum of 40 parking spaces for bicycles, and emergency lane to pool.
9. The site shall be completely fenced with a chain link fence as approved by the Director of County Development.

10. Landscaping, fencing, screening and/or planting shall be approved by Director of County Development.
11. All loudspeakers, noise, and lights shall be directed to pool area and confined to site.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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RE-EVALUATION -- AMERICAN HEALTH SERVICES, INC., S-178-70, app. under Sec. 30-7.2.5.1.2 to permit nursing home (S-310-66) and S-178-70 to permit psychiatric facilities as an amendment to the existing use permit retaining as a primary use the nursing home, 2960 Sleepy Hollow Road, Providence District (R-12.5).

Mr. Knowlton, Zoning Administrator, stated that he was under the impression that Mr. Covington had presented the problem to the Board at an earlier date.

Mr. Smith stated that Mr. Covington had presented a list of questions from the civic organization in the community on whether or not the psychiatric provision of the use permit was being properly interpreted and implemented.

Mr. Smith stated that they had already answered some of the questions of that letter, but today they would try to get the answer to the remainder of the questions.

The President of the Sleepy Hollow Citizens Association spoke before the Board. He stated that he was speaking in lieu of Fred Webb, the Zoning Chairman, who could not be present.

He stated that the main thing that most of the neighbors were concerned with is the psychiatric treatment of the patients. The neighbors feel that there might be some that are violent. He stated that a group of citizens met with Dr. Fishman from the nursing home on November 15, 1972 and the association convinced the citizens that none of these fears had a firm base, as they have no violent patients . They also convinced them that they have no out-patients, even though they do have a day treatment program. They came to the conclusion that there are no immediate problems, but if something happens in the future such as the items mentioned above, there will be quite a bit of objection.

Mr. Smith asked if he knew of any instance where a patient had been lost in the neighborhood or of a patient that had become a nuisance.

He stated that he knew of no such case. He stated that it was his understanding that there were only a few patients, 10 or 12, that are being brought in by station wagon on a daily basis and taken home at night. There are another 75 that are regular patients and stay there at night.

Mr. Smith stated that if they have no more than 100 psychitric patients, then they comply with the Use Permit.

Mrs. Laura Massey spoke before the Board. She stated that her address is 3100 Beechwood Lane.

She questioned why the residents were not notified of this hearing today. Mr. Smith told her that was an internal problem between she and the organization. The property was posted.

Mrs. Massey submitted a letter to the Board members which questions the correct owner of the property at the present time; questioned the treatment of "out-patients"; and questioned the operation of the psychiatric unit that would be conducted by American Health Services, Inc. only.

The letter stated that on January 1972 a newsletter was sent to residents stating that the University Research Corporation had entered into an agreement with American Health Services to manage the Fort Buffalo Convalescent Residence. On September, 1972, a newsletter was sent to residents stating that the name of the Fort Buffalo Convalescent Residence was changed to Barcroft Institute, and a "day treatment" program and a "residential live-in" program was to be started for emotionally disturbed children. She stated that on September, 1972, a letter was sent to the Chairman of the BZA stating that the Barcroft Institute (formerly Fort Buffalo) was totally acquired by the American Health Services of Virginia, Inc., a subsidiary of American Health Services, Inc.

She stated that in view of the above items, it would appear that there is a conflict with the provisions on ownership or that the intent and purpose of the provisions on ownership have been circumvented. On September 1, 1972, student school desks, books, files, office furniture, etc., began occupying certain rooms on the first floor north wing and second floor rear half section of north wing for an apparent special education lab school for 17 emotionally disturbed boys in this facility. The presence of a yellow one-half type school bus was parked on the grounds. Several days later a private car pool, a yellow bus, and several D.C. tagged station wagons began busing in children between the hours of 9:00 a.m. through 3:00 p.m.

She stated that the aged convalescents in the facility are on the same floor with the emotionally disturbed children, separated only by a swinging fire preventive door.

She wanted to know (1) if there was a possibility that the management firm of University Research Corp. which is operating under an agreement with American Health Services, Inc. and/or American Health Services of Virginia, Inc., is proposing a mental center, at this location, which they planned to open in Northern Virginia during 1972.
2) Are children being bused from other areas outside of the State of Virginia, and are there any county or state regulations that govern this sort of thing?
3) Is this facility, in reference to State Hospital Commission license, a:
   a: Special education (school) institution for program as a day treatment center?
   b: Psychiatric hospital for program as a residential(live-in) treatment unit?
   C: Nursing home for the aged?
4) Is this a mental center? Is this in conformity with the residential zoning under Special Use Permit of 1966 including the primary use as a nursing home, located at 2960 Sleepy Hollow Road?

She also submitted exhibits to the Board.

Mr. Smith stated that in answer to question No. 2, he knew of no State or County regulation governing the bringing in of people from out of state to utilize this facility. He stated that they would try to get the other questions answered by the facility.

Mrs. Massey stated that the original owner was American Health Services, Inc. The sign out front was Fort Buffalo. It was installed in 1968. It was removed September 12, 1972. She stated that she began on the 1st of October making checks payable to Barcroft Institute. The sign now says Barcroft Institute and it is a commercial type sign appearing on the building. The nursing home was a residence for convalescents. As a homeowner and Grantor of a resident of the home, she objected to the new name of "Barcroft Institute", because it sounds like an institution. The effect of this may be a devaluation in real estate values.

Mr. Donald Stevens, attorney for American Health Services, Inc., P.O. Box 547, Fairfax, Virginia, spoke before the Board.

Mr. Stevens stated that the real estate is owned by American Health Services of Virginia, Inc. This is the same land as that under the Special Use Permit granted by this Board. Nothing has been conveyed off.

In answer to the other question, he stated that it is not true that American Health Services, Inc. was managed by University Research Corporation. He stated that the administrative nurse in writing the newsletter did not accurately describe this. They were hired for a short

time on a consultant basis only.

Mr. Stevens stated that the name of the building is Barcroft Institute or the name of the facility. It is not a corporate name.

As to the sign, as the Board probably remembers, there was a sign on the north part of the property. Now there is a sign that is no bigger than an 8 1/2 by 11 piece of paper which is screwed to the building.

The limit of the license, he stated, is 170 beds for a nursing home and 100 patients in the psychiatric facility. They cannot exceed the limit of the BZA which was 222. They did not ask the State to license them for 270 total, they arbitrarily did it. 154 is the maximum number they have ever had. There are 150 nursing home beds and 25 in the psychiatric facility.

Now, regarding the school bus, Mr. Stevens continued, they did hire a school bus for one or two days when they first had these youngsters in the day treatment program. Those in the day-treatment program are patients at the Barcroft Institute. Unlike someone like himself, he stated that these patients are the same patients every day, not just someone who drops by to the Doctor's office for a visit once in awhile. These day-treatment patients receive the same treatment as the regular, but in some instances they have progressed far enough to be able to go home and spend the night and come back the next morning. They are readjusting to the outside world. In some cases, they do not have to spend the night there at all. They only need day-treatment. Sometimes their family situation is such that if they are sufficiently stablized, they are allowed to go home at night to be with their family. In addition, to helping the patients emotionally, this type of service is also cheaper. This is not limited to children. The maximum number of day-treatment patients has been 16. They are transported to and from their homes in station wagons. These buses are rented from a leasing company. The ages of the children has been around the ages of 10 to 17.

Mr. Smith asked if they have to provide the standard paint and lighting of the station wagons as if they were school buses, as this is transporting of children.

Mr. Stevens stated that he did not believe this was the same type thing.

In answer to Mr. Smith's questions Mr. Stevens stated that they had not admitted patients by direction of the Court Commitment. They had admitted no drug patients. In fact, he stated that they have an extensive screening program to make sure they do not get anyone of that nature.

Mr. Stevens stated that this day treatment thing is not a separate thing at all. All of the people who work there are employees of American Health Services, Inc. He stated that they did not foresee an increase in the number of psychiatric patients to any more than 25, but it hard to gage such things.

Mr. Smith asked if there had been any complaints from the aged in the nursing home regarding these young patients.

Mr. Stevens stated that they have found that some of the elderly are pleased and cheered up by having kids around.

Mr. Smith asked if they attended a school other than this facility.

Mr. Stevens stated that they do not. He stated that sometimes these patients are in from a month to six to seven months.

Mr. Smith stated that he was still concerned about the busing of these students. He asked if they pull up to the curb to pick up these children.

Mr. Stevens stated that they probably pull into the driveway. If they do not pull into the driveway, it will become the policy of the drivers to do just that in the future.

Mr. Carpenter, Zoning Inspector, stated that he had made an inspection of the American Health Services, Inc.

He stated that this inspection was in September, 1972. He stated that he was told about the day treatment program. He stated that he also received a newsletter that stated that they had two programs of treatment of this type in this institution. He stated that he asked theDirector why they had notified the Board of the change in name if there actually had been a change. He did indicate that the name had been changed. He stated that the Director told him that there had been no change in personel or staff. The newsletter he had received from one of the neighbors in that area.

Mr. Stevens then spoke before the Board and in great detail he and Mr. Smith answered Mrs. Massey's questions regarding the State requirement for licensing, etc.

Mr. Baker moved to defer this case for a period not to exceed 30 days to study all the information the Board had received.

Mr. Kelley seconded the motion and the motion passed unanimously.

Mr. Smith stated that the applicant and Mrs. Massey and the citizen's association would be notified of the decision of the Board in this matter.

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SCHOOL FOR CONTEMPORARY EDUCATION, INC., app. under Sec. 30-7.2.6.1.3 of the Ordinance to permit erection of private school for handicapped children, on property located at 1700 Kirby Road, Chesterbrook Subdivision, Dranesville District, also known as tax map 31-3 ((1)) 130, County of Fairfax, RE-1, S-167-72 (Deferred from 11-15-72)

Mr. Stevens appeared before the Board to rebutt the opposition. He stated that it seemed to him that the main source of the opposition stems from the traffic situation on Kirby Road. Kirby Road has been the subject of a great deal of discussion by a number of groups including the Board of Supervisors over the last three or four years. He stated that one had to recognize several things that are facts about Kirby Road: (1) the memorandum from Mr. Pumphrey, Deputy Director, Office of Planning, stated that"the McLean Comprehensive Plan, as adopted by the Board of Supervisors in 1966, shows Kirby Road as a major thoroughfare." He stated that he knew no way traffic could be cut off of Kirby Road. Some improvement are going to occur to that road.

Mr. Stevens stated that at the time of the peak rush hour traffic, the school will not cause a problem as the school hours are later than the rush hour traffic in the morning and earlier than the traffic in the afternoon.

Mr. Smith asked if it would be possible to rearrange the school's hours to have the school start at 9:30 to 3:30 rather than 9:00 to 3:00.

Mr. Stevens stated that he was sure they would be willing to do that.

Mr. Smith stated that that should eliminate some of the objections to the traffic problem, as most people are in the office by 9:00 A.M.

Mr. Stevens stated that the roads being used will not be the subdivisons' roads. He stated that this school would not impact the roads as much as developed residential would. He stated that the objector's testified that the entire Kirby Road is residential and he submitted that this was not true. On that intersection, there is a school, a church, another institution and other uses that would not beinconsistent with this school. Mr. Stevens stated that he felt the architectural design of these buildings on this site would be consistent with the neighborhood.

Mr. Kelley asked Mr. Stevens if he was familiar with the Staff's comments regarding this use. Mr. Kelley read the comments. The first comment was to the height of the building, the plantings and things of that nature; comment No. 2 requested that the applicant put in a deceleration lane;and the third comment requested a reconstruction of the entrance to provide for a smoother flow of traffic; comment No. 4 regarded the parking spaces; and comment No. 5 regarded the fact that a school for this many children had to be on a collector street.

Mr. Stevens stated that the ordinance states if the number of the children is from 150 to 600, it should be on a collector road; 225 is on the low end of that range. This ordinance has not been passed by the Board of Supervisors as yet. As to the other requirements, they are prepared to live with those.

Mr. Smith asked if this structure or structures would be of brick.

Mr. Stevens after consultation with the applicants agreed that the structures would be of brick.

Dr. Borcherding appeared before the Board. Mr. Smith put into the record his letter in opposition.

This letter is in the file on the above-captioned case.

In application No. S-167-72 application by School for Contemporary Education, Inc. under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit erection of private school for handicapped children, on property located at 1700 Kirby Road, Chesterbrook Subdivision, also known as tax map 31-3((1))130 County of Fairfax, Mr. Barnes moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 15th day of November, 1972, deferred to Nov. 22, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is J. Torregrossa and G. Johnson.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.3998 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all State and County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional use, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of theuse and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. That the age of the students will be 2 to 20 years.
7. The hours of operation shall be 9:30 A.M. to 3:30 P.M. , Monday through Friday.
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department. The State Department of Welfare and Institutions, and obtaining a Non-Residential Use Permit.
9. The recreation area shall be enclosed with a chain link fence in conformance with State and County Codes.
10. All buses and/or vehicles used for transporting students shall comply with state and county standards in lights and color requirements.
11. There shall be a minimum of 90 parking spaces.
12. Landscaping, screening and planting shall be as approved by the Director of County Development.
13. A 150 feet deceleration lande with a 50 foot taper to existing pavement within that 150 feet; also a reconstruction of the entrance should be provided to allow for a more smooth flow into traffic heading south.

14. This permit is granted for a maximum of 160 students with the provisions that the number may be increased to 225 after three years of operation on condition that the applicant return to this Board for re-evaluation within 3 years.

Mr. Baker seconded the motion and the motion passed 4 to 0.

Mr. Runyon was not present.

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HERBERT C. & ANN HAYNES, app. under Sec. 30-6.6 of Ord. to permit pool to remain closer to property lines and within 10' of house, 1340 Merrie Ridge Road, Dogwood Subd., at Langley, 31-2 ((19)) 17, Dranesville District (R-17), V-168-72
(Deferred from 11-15-72 for full hearing)

Mr. Donald C. Stevens, attorney for the applicant, P.O. Box 547, Fairfax, Virginia testified before the Board.

Mr. Stevens stated that Dr. Haynes recently purchased a house in the Dogwood Subdivision of Fairfax in the Dogwood Subdivision. Dogwood Development Corp. still owns the surrounding lots.

Notices to property owners were in order.

Mr. Stevens stated that this pool had been constructed. When the construction plans were brought in by the pool construction company, they showed 12' from the house. When they went out on the site, they noticed there was a VEPCO underground utility easement on the property. They called the power company to come out and locate the easement. When the power company did come, the construction company decided that the corner was too close for comfort to the underground power line running along the westerly property line. The construction firm asked Dr. Haynes if he minded if they came a little closer to the house because of this, Dr. Haynes stated that he did not mind. The first notice that Dr. Haynes had that this was in error was when he applied for an occupancy permit.

There was no oppostion.

Mr. Smith stated that it should be pointed out that even though this is an error, this is also an irregular shaped lot and there is an easement in the back yard.

In application No. V-168-72 application by Herbert C. & Ann Haynes under Section 30-6.6 of the Zoning Ordinance, to permit pool to remain closer to property lines and 10 feet of house, on property located at 1340 Merrie Ridge Road, also known as tax map 31-2((19))17, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resoltuion:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of November, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 14,304 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
a. Exceptionally irregular shape of the lot.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Runyon was not present.

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DOROTHY & CHARLES OTTEN, appl. under Sec. 30-6.6 of Ord. to permit hedge to remain 4.5' high around corner lot, Lot 33, Block 2, Riverside Gardens Subd., on property located at 1603 Old Stage Road, also known as tax map 102-4 ((12))33, County of Fairfax, Virginia, V-138-72, (R-12.5)

Mr. Kelley stated that he went down and visited that area just the previous day. It is at the corner of Old Stage Road and Buckboard Drive. It is a beautiful hedge. It has a stop sign where you come out on Old Stage Road and if anyone observes the stop sign, there is no question that they could see the traffic. He stated that he realized that the ordinance is set at 4'. This is 4 and one-half. One block east from that intersection, there is about 50 times as much traffic and there is a 15' to 17' high hedge that comes right up to the corner of the lot at Fort Hunt Road and Old Stage Road. It is 2 to 3 times as high as this hedge in question. There is also a Riverside Gardens Subdivision sign there which is higher than the 4 and 1/2' hedge. He stated that in all fairness, he felt it would be a crime to make these people cut this hedge down or back.

Mr. Smith stated that this is a general condition throughout the County. There is no topographic problem here. If the Board grants permission for them to keep this hedge this high, then everybody in the County is entitled to have a hedge this high. The BZA is then changing the ordinance by variance.

Mr. Barnes stated that he felt the Board members should talk with the Board of Supervisors and see if something couldn't be done about this.

Mr. Smith read the Staff recommendation regarding the hedge.

Mr. Knowlton stated that the Staff had prepared an amendment to the ordinance which was brought before this Board previously and the Board had taken it under advisement and the Staff has not proceeded further. The Staff is waiting direction from this Board.

Mr. Kelley read the minutes from the previous hearing which stated that there was no one present in objection to this hedge being left as it is.

Mr. Baker stated that he felt the ordinance should be changed.

Mr. Barnes stated that he would like to know whether or not Mr. Otten has been to the Board of Supervisors and attempted to have them change the ordinance.

Mr. Smith again stated that he did not believe the BZA could or should grant this variance. He also stated that he did not feel the ordinance should be changed. He stated that it had been changed so much, there were more amendments than existing ordinance at this point.

In application No. V-138-72, application by Dorothy and Charles Otten under Section 30-6.6 of the Zoning Ordinance, to permit hedge to remain 4.5 feet high around corner lot, Lot 33, Block 2 Riverside Gardens on property located at 1603 Old Stage Road, also known as tax map 102-4((12))33, County of Fairfax, Virginia, Mr. Barnes moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of November, 1972, and deferred from September 20, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 13,446 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has not satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded the motion. He stated that he sure didn't like to see the man have to remove the hedge, but the Board has to abide by the Ordinance.

The motion passed 3 to 0. Mr. Kelley abstained. Mr. Runyan was not present.

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McCORMICK, R. L., appl. under Sec. 30-6.6 of Ord. to permit building closer to property line than allowed, 6418 Georgetown Pike, Dranesville District, 22-3 ((1)) 49 (RE-1), V-102-72 (Deferred from September 13, 1972)

Mr. Smith read a letter from the applicant's attorney, Douglas Mackall, requesting that the Board allow the applicant to withdraw this case without prejudice.

Mr. Barnes so moved.

Mr. Kelley seconded the motion and the motion passed unanimously with the members present.

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By Jane C. Kelsey
Clerk

Daniel Smith, Chairman

APPROVED December 13, 1972 (date)

The Regular Meeting of the Board of Zoning Appeals of Fairfax County was Held on December 13, 1972, at 10:00 A.M. in the Massey Building. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; Joseph Baker; and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

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VETERANS OF FOREIGN WARS OF USA, POST #8421, app. under Sec. 30-7.2.5.1.4 of Ordinance to permit VFW Post Home, 1051 Spring Hill Road, Spring Hill Subdivision, 20-4 ((1)) 71 & 72 Dranesville District, (RE-1), S-176-72

Mr. Donald Stevens, attorney for the applicant, P.O. Box 547, Fairfax, Virginia, testified before the Board.

Notices to property owners were in order. The contiguous owners were Mr. Cousins and Mr. Zimmerman.

Mr. Stevens stated that three years ago a Special Use Permit was issued for a term of three years and a variance was granted for a side yard setback. The use is now existing as it was then in accordance with the ordinance. The parking is in and is not in the setback areas and is twenty-five feet from all property lines. The applicants have accomplished the dedication. There were two things that have created some controversy and that is the hedge that is on the property of the adjacent property owner. Since the time the Special Use Permit was granted three years ago, the officers of the Post have changed and the new officers are not exactly clear on what has to be done to this hedge. One of the conditions of the Special Use Permit was to "trim the hedge". This hedge is on someone else's property and perhaps the Board was not aware of this at the time the Permit was granted. They have trimed the hedge back to the fence line which is as far as that property owner, Mrs. Zimmerman, wishes them to trim it and is as far as she will give them permission to trim. They are willing to trim as much as she will let them trim, but they have no right to trespass on her property without her permission. She has the right to maintain her property in any way that she chooses. From the road one can not even make out the Zimmerman property's house as it sets so far back. All along this property line in the front there is a hedge and that hedge is impenetrable. There is an area that goes 200' back that is full of hedge, then there is a strip about 50' in length where the screening is a little sparcer than in the front. There can be no benefit to the property owners surrounding this Post if this hedge is removed and the standard screening placed in its stead. The Zimmerman's have constructed a shed that is practically on the property line. This shed used to house horses. Other than that it is open space on the Zimmerman property and the house sets back 300 to 400 feet. If it is necessary that they screen then they should not have to screen anything but that 50 feet that was mentioned previously where the hedge is not as thick.

Mr. Stevens stated that this Post has 138 members and the growth is on the order of six to ten per year and they also loose some members each year when people transfer out of the area, etc. They have two meetings per month, but only about 50 attend. Most of the time it is less. The building is available for community groups in the area as long as it is sponsored by the Post. The only outdoor function is the annual open-bit barbecue which is in September. That is the only time there are a lot of people outside. The members have redone the house and the grounds are lovely. The grounds are used by residents of the community to have family picnics in the yard. As to the impact of this property on the surrounding area, he stated, that the Counsins' property immediately to the north is like a junk yard. The only thing that the Post needs to remove is a small pile of lumber that was used remodeling the building. The VFW Post has demonstrated that they are a desirable use in this location and they have fulfilled all of the conditions placed on them in the original use permit. He asked that in order to make the members feel more comfortable he would like the Board to issue a permanent Special Use Permit, as these members have spent money and most of it has been their own money to remodel this house and fix up the grounds and make this into a lovely spot in the community. They would like to do more. The conduct of the Post will be no different in the coming years and it has been a good neighbor for these three years.

Mr. Stevens stated further that the main objector at the previous meeting was Mrs. Zimmerman. Mrs. Zimmerman has now expressed to the members of the Post who talked with her that she has no objection now.

Mr. Smith asked what the maximum number of members this Post could handle.

Mr. Stevens stated that they could accomodate 225 because they can accomodate 50 people in the building. They have never had a parking problem at any of the regular meetings. At the annual barbecue they hire a uniformed policeman to handle traffic and also lease the open field across the street.

Mr. Smith asked if the Post plans to continue to keep this as their home or do they plan to move elsewhere in the future.

Mr. Stevens stated that they have no definite plans to move. If and when the Highway Department has a plan to widen Old Dominion Drive, which may be 5 or 10 years from now and the impact of the highway becomes such as it might then be appropriate for commercial zoning, then they would look elsewhere.

There were several members in the room who were in favor of the application.

No opposition.

Mr. Smith read a portion of a letter from Clive DeVal requesting the Board to renew this Special Use Permit.

Mr. Smith stated that the variance would not be needed in this second request because they are using the existing building and the variance continues with that building.

Mr. Smith stated that at the last hearing there were a lot of objections from the adjacent property owners about the large parking lot, therefore, if their parking facilities has been adequate for the past three years, they should not increase it.

Mr. Runyan stated that he had been to the property and he feels that they have adequate parking.

In application No. S-176-72 application by Veterans of Foreign Wars, USA, Post #8241, under Section 30-7.2.5.1.4 of the Zoning Ordinance, to permit VFW Post Home on property located at 1051 Springhill Road, Spring Hill Subdivision, also known as tax map 70-4((1))71 & 72, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals: and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of December, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 40,480 square feet.
4. That site plan approval is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance;

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

3. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

4. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

5. All conditions of original permit be met, except screening. This must be placed if adjoining property owner removes hedge.
6. The maximum membership is 200.
7. The term of this permit is 5 years, with automatic 5 year extension by Zoning Administrator if no opposition is encountered.

Mr. Baker seconded the motion.

The motion passed unanimously.

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HENRY W. SCHMALENBERG, app. under Sec. 30-7.2.10.5.4 of Ordinance to permit sales and service of motor home, camping equipment, recreational vehicles, 13616 Lee Highway, Centreville District, 54-4 ((6)) 21 & 22 (C-G), S-180-72

Mr. David Boyd, attorney for the applicant, 10533 Main Street, Fairfax, Virginia, testified before the Board.

Notices to property owners were in order. The contigous owners were Mr. Fletcher and Mr. Smith.

Mr. Boyd stated that the owner of the property is Mr. King who has been operating a service station there since about 1925. He is present today should the Board have any questions of him.

Mr. Boyd stated that the applicant is presently using a lot on Jermantown Road in the rear of the Shell Station there and is on a month to month lease. He would like a more permanent business. He operates this business with his two sons and this is the way he will continue to operate. This property will also give him more space and he can also service the equipment. The area is zoned C-G. It will be compatible with the surrounding area. He stated that there are inconsistencies in the ordinance as he could by right have a car sales lot here and the sale of farm machinery also. He stated that this section of the ordinance is difficult to understand. Why should these things be able to go in by right and a piece of property that is used for the sales and service of camping equipment have to have a Special Use Permit. He stated that there had been a question raised by Preliminary Engineering regarding the dedication of some property for a sidewalk. There is no sidewalk on this road at any place between Fairfax and Centreville. Why should Mr. Schmalenberg have to do this.

Mr. Smith stated that any time one is implementing a new use in a new location, they have to come under site plan.

Mr. Boyd stated that this is not what the ordinance says.

Mr. Boyd stated that no improvement to the property are contemplated. The only thing about the site plan is the County is trying to getthe purchaser to give away part of his property.

Mr. Smith told him that that was his opinion. Site Plan does require certain entrances and exits to facilitate the entrance and exit of vehicles using this facility. This is to prevent traffic hazards.

Mr. Kelly read the comments from Preliminary Engineering regarding this case.
"This use will be under site plan control. It is suggested that the owner of the subject property dedicate to the back of the proposed sidewalk for future road widening, median, service drive and sidewalk for the full frontage of the property."

Mr. Kelley stated that he could not see the need for sidewalks in that area. They would not be needed for many years to come. He stated that it wasn't in line with his thinking to require dedication.

Mr. Runyon stated that this refers to the standard section referred to for Lee Highway in the future. It is a standard notation and is the standard for them to say.

Mr. Kelley stated that each case has to stand on its own merits. He stated that he had purchased gas at this location for many years and had had no difficulty getting in and out of the site.

Mr. Runyon stated that in this case a waiver would be in order as the suggested construction to the road is in an area where this construction is not yet needed. Mr. Runyon stated that if this applicant puts in the service road, it would be the first one between here and Centreville.

Mr. Smith stated that that entire area is programed for high density and you have to start somewhere. Apparently this is the first major change in the area.

Mr. Boyd stated that no improvements to this property is contemplated. It will be used as is.

Mr. Boyd stated that to require the applicant to construct a service road would be asking him to build it for other people who would be creating the impact at some undeterminable time in the future.

Mr. Runyon stated that the Board does not have much authority in this field. The Board could not require a waiver by design review, but the Board could recommend a waiver.

Mr. Smith asked how many units they propose to have.

Mr. Schmalenberg came forward and stated that at the moment they have two motor homes the largest of which is 24' and the next size is 20'; two are in for service. They have eight trailers of the camping size with a maximum length of 23', but most being a much smaller variety. Financially, he stated, that they could not afford to stock more than they currently have. Including the camping tents, they could store about twenty-five (25) and if they could have that many financially they would feel they were a huge success, but at the moment, they could not have that many. He asked if he did have twenty-five and added one more, if he would be in violation.

Mr. Smith told him that he would be in violation if he did this.

Mr. Boyd stated that the best way to solve this is to state that they will not store any vehicles closer than 50' from the road of Lee Highway.

Mr. Runyon stated that the plat shows ten.

Mr. Smith stated that the applicant would be limited to ten.

Mr. Boyd stated that the engineers inadvertently placed ten on there, probably just as an example of where they would be parking them, but they had not agreed to have only ten. He stated that it is hard to say exactly how many vehicles could be put on this lot, as it would depend on which type you put on the lot. For example, should you put all mobil homes, you could not get as many on the lot as if you put all camping tents on the lot. They will be putting a small amount of each variety, depending on the market at the time.

Mr. Stephen L. Best, attorney, 4069 Chain Bridge Road, Fairfax, spoke before the Board in opposition to this use. He stated that he represented Paul H. Mannes, Testamentary Trustee of the Estate of Julie M. Higgins. The trust holds title to property under lease to the Cavalier Nursery, which is directly across Route 29-211 from the property which is the subject of this application. He stated that his clients feel that this use would tend to downgrade the area and give it an unsightly appearance.

Mr. Smith stated that the plats that the Board has is not what the applicant intends to do.

Mr. Boyd asked that this case be deferred to allow the applicant to resubmit plats to conform with what they need for the Board and they would try to show how many trailers they can get on this lot on the new plats.

Mr. Kelley moved that this application S-180-72 be deferred until such time as the plans can be submitted.

Mr. Smith stated that the Board wants the plans to show all the proposed changes and how many trailers and where they will be located.

Mr. Runyon stated that the applicant should give some thought to screening this property from any residential property adjacent to it.

Mr. Boyd stated that it is open ground around the back of this. There are also trees in the back of the property in question. On the East, there is an Amoco Station and surely they do not have to screen from that.

Mr. Smith stated that he was talking about uses that have been there prior to the ordinance. All the other trailer sites have been required to comply with all these requirements. Mr. Smith stated that the next available date is the 27th of December. He told Mr. Boyd to get the new plats in five days prior to this date, or the 22nd.
Mr. Barnes seconded Mr. Kelley's motion to defer.
The motion passed unanimously.

The hearing ended at 11:15 A.M. on this application.w

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JOHN FORSTMANN/WESTGATE CORP., app. under Sec. 30-6.6 of Ordinance to permit construction of building closer to side property line than allowed by Ordinance, between I-495 and Old Meadow Road, 39-2 & 29-4 ((1)) pt. of lot 34, Dranesville District (CRMH), V-182-72

Mr. Smith read a letter from the attorney for the applicant requesting that this case be withdrawn without prejudice.

Mr. Baker so moved.

Mr. Kelley seconded the motion and the motion passed unanimously.

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LEIGHTON E. DAVIS, app. under Sec. 30-6.6 of Ordinance to permit construction of building (within 12') closer to side property line than allowed by Ordinance,86 ((1)) 40, Springfield District, (RE-1), V-183-72 (7554 Clifton Road)

Mr. Davis represented himself before the Board.

Notices to property owners were in order.

Mr. Davis stated that this is the only side of the house that is suitable for this addition. The property that is immediately adjacent to this site is an open field owned by Mr. Hamilton. He stated that he would like to purchase a piece of property from Mr. Hamilton to square up his property, making the variance unnecessary, but Mr. Hamilton is not yet ready to sell. The other side of the house slopes down and he could not build there. He submitted photographs to the Board showing the topographic problem.

Mr. Runyon asked him if he could get along with an addition that would be 12' from the property line instead of the 10.9' that he was requesting. That would make it the same as the cluster zone. He stated that it gets hard for the Board to justify giving a variance that is as large as he was requesting.

Mr. Davis stated that he did not know whether this would be enough for the addition.

Mr. Baker stated that there is a slant on the property line and if it were straightened out, he would not need the variance.

Mr. Davis stated that he wished he could do that, but he couldn't if Mr. Hamilton wouldn't sell.

Mr. Covington stated that he had looked a t the site and the applicant does have a topographic problem. It would be very difficult for him to build on the other side of the house.

No objections.

In application no. V-183-72 application by Leighton E. Davis, under Section 30-6.6 of the Zoning Ordinance, to permit side yard of 12 feet for construction of addition, on property located at 7554 Clifton Road, also known as tax map 86-((1))40, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of December, 1972, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 1.808 acres.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
a. Exceptional topographic problems of the land.
b. Unusual condition of the location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not consitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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PRINCE OF PEACE LUTHERAN CHURCH, app. under Sec. 30-7.2.6.1.3 of Ordinance to permit operation of preschool, maximum number of children 175, 8304 Old Keene Mill Road, Cardinal Forest Subd., 79-3 ((8)) 3, Springfield District, (RPC), Original Permit S-485-66 for 75 children.

Mary Anne LaTelle, 6406 Gate Drive, Springfield, Virginia, testified before the Board representing the applicant.

Notices to property owners were in order. She stated that all the people that live on Carrleigh Parkway's backyards touch that of the school, therefore all the notices are to contiguous property owners.

She stated that the church operates this school. The school has been housed for the past three years in the church building. An addition was made to the church and an educational wing. This is also a community building. This addition was built with the pre-school in mind. They are now using the new addition plus two rooms in the old building. They have a total of 122 students, but they are not all present at the same time. They only have a maximum of 75 students there at any one time. They do hope to increase the program.

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She stated that there is a teacher for every fifteen children. This school is on a half-day program at the present time. The transportation is done by parents carpool.

No opposition.

She stated that with regard to the fence, they have worked closely with the Health Department and the Health Department recommended a particular area in order that they would not have to put up a fence.

The hearing ended at 12:10 P.M.

In application number S-485-66 amended to S-178-72 application by Prince of Peace Lutheran Church under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit operation of day preschool on property located at 8304 Old Keene Mill Road, Cardinal Forest Subdivision, also known as tax map 79-3((8))3, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of December, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RPC.
3. That the area of the lot is 3.998 acres.
4. That compliance with Site Plan approval is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these addtional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit shall be posted in a conspicious place along with the Non-residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 175, ages 3 to 6 years.
7. The hours of operation shall be 9 A.M. to 12 Noon & 1 P.M. to 4P.M., 5 days per week Monday thru Friday during public school year.
8. All buses and/or other vehicles used for transporting children shall comply with County and State standards in color and light requirements.
9. There shall be adequate parking spaces provided with ingress and egress satisfactory to the Land Planning Branch.

10. Landscaping, screening and planting shall be as approved by the Director of County Development.
11. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department, the State Department of Welfare and Institutions and obtaining a Non-residential Use Permit.
12. All limitations and conditions set forth in original Special Use Permit shall remain in force. (if applicable).
13. This permit is granted for a period of 3 years with the Zoning Administrator being empowered to extend this permit for three one-year periods.

Mr. Baker seconded the motion.

The motion passed unanimously.

Hearing ended at 12:10 P.M.

Send them copy of grant motion

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DEFERRED CASES:

KNIGHTS OF COLUMBUS, FITZGERALD COUNCIL, app. under Sec. 30-7.2.5.1.4 of Ordinance (AMENDED TO Sec. 30-7.2.6.1.1) to permit use as meeting hall for 250 members (AMENDED TO 50 members) 7155 Telegraph Road, 91-4 ((1)) 42, Lee District, (RE-1), S-163-72 -- Complete Hearing (Deferred from 11-8-72)

Mr. Peter S. Arban, Jr., 112 S. Royal Street, Alexandria, Virginia, attorney, and also President of the Fitzgerald Council testified before the Board on behalf of the applicant.

Notices had been submitted at the previous meeting and were in order. There was no one present objecting to this use at the previous meeting.

Mr. Smith asked why this was amended.

Mr. Arban stated that they had amended the application to better comply with what they intended to do.

Mr. Covington stated that this does comply with the ordinance.

In answer to Mr. Smith's question, Mr. Arban stated that the Council has an active membership of 20 to 40 members. The present rolls show 75 to 100, but all these are not active. He stated that they had submitted a new plat to the staff because originally the plat showed 51' from the house to the property line, now it is 84'. The surveyor made a mistake and resurveyed and corrected the plat. He stated that this organization is a community organization. The property adjoins the Coast Guard Station. Hayfield School also adjoins this property and is one of the largest schools in the County. There is also some commercial development surrounding this use. They propose to keep the present setting of the property as an estate setting. They feel there will be no adverse impact on the area since they will only have 50 members. The home itself is screened and there is a pool in the back of the home. The pool will be fenced. They plan to provide screening on the side where the new subdivision has gone in. The entire piece of property will be preserved as an estate setting and there will be no subdivision of this property, no commercial, and no multi-family development. They feel they will be an asset to the community. Recreation and park land is becoming scarce and this property will be maintained as a recreational and park use. The subdivision that adjoins their property is zoned R-12.5 which shows that this area is developing into a heavy residential area, therefore, this open space is very much needed. The staff suggested that they dedicate 40' for street widening. They would be agreeable to the widening of Telegraph Road. The Staff recommended screening, which they plan to do. The neighbors are basically 100 percent for this use.

He stated that there are four contiguous neighbors present in favor of this application. He submitted a Petition to the Board to be placed in the record. This Petition was signed by contiguous neighbors who were in favor of this use.

There was no opposition.

The hearing ended at 12:45 P.M.

In application number S-163-72, application by Knights of Columbus, Fitzgerald Council, under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit to use a meeting hall for 50 members, (Reduced from 250 members), on property located at 7155 Telegraph Road, Lee District, also known as tax map 91-4((1))42, County of Fairfax, Mr. Barnes moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applimble State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of December, 1972, deferred from 11-8-72 at request of applicant.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Robert A. & Beverly B. Sills.
2. That the present zoning is RE-1.
3. That the area of the lot is 4 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of members shall be 50.
7. Hours of operation of the outside activities shall be 9 A.M. to 9 P.M., 7 days per week.
8. The minimum number of parking spaces shall be 70.
9. Owner shall dedicate 45 feet from centerline of right-of-way for future road widening.
10. Entrances to the property shall be limited to two (2), with adequate sight distance for both.
11. Landscaping, screening, fencing, and planting material shall be as approved by the Director of County Development.
12. The pool shall be fenced as agreed by the applicant and as approved by the Director of County Development. The pool shall be operated from 9:00 A.M. to 9:00 P.M. except for Special Parties which will need the approval of the Zoning Administrator, and are limited to 6 per year. All noise, loudspeakers, and lights shall be confined to the site.

Mr. Baker seconded the motion.

The motion passed unanimously.

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VIRGINIA CONCRETE, NR-22, app. under Sec. 30-7.2.1.1 of Ordinance to permit sand and gravel removal, 7603 Beulah Road, 91-3 ((1)) 30 and 100-1 ((1)) 1, Lee District, (RE-1) Deferred from 5/25/71 for decision only. Public Hearing Closed.

The Board discussed this application.

Mr. Knowlton informed the Board that the Ordinance relating to Natural Resources was passed by the Board of Supervisors just recently and in addition the Natural Resource Overlay District was passed.

Mr. Smith stated that the public hearing on this application had been completed and the BZA was awaiting the Board of Supervisors to pass these ordinances before making a decision. This was at the Board of Supervisors request that all cases relating to Natural Resources be deferred until such time as they approved these ordinances.

In application Number NR-22, application by Virginia Concrete Company under Section 30-7.2.1.1 of the Zoning Ordinance, to permit sand and gravel removal on property located at 7603 Beulah Road, Lee District, also known as tax map 91-3((1))30 & 100-1((1))1, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 5th day of May, 1971 and deferred, decision made December 13, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 42.7525 acres.
4. That on April 12, 1971, the Restoration Board reviewed and approved gravel operation application of Virginia Concrete Company NR-22.
5. The Planning Commission on 5-20-71 recommended that the BZA deny this case.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use, or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. This permit is granted for a maximum of eighteen (18) months (1½ years).
7. All material shall be removed within the first year. Restoration of the site shall be a continuous operation with all land being restored within the time limits of one and one-half (1½) years.
8. The hours of operation shall be from 7:00 A.M. to 6:00 P.M., Monday through Friday with no operation on Saturday or Sunday. Equipment shall not be started or commence operation before 7:00 A.M.
9. A bond shall be posted in the amount of $3,000.00 per acre (Three thousand and no/100 dollars) for the entire acreage of the property to insure the restoration of the disturbed areas of the property.
10. All areas are to be restored in compliance with the Restoration Board's recommendation including areas shown on the restoration plan which are not within the limits of this permit.
11. No grading, mining, excavating, removal of trees or other disturbance of natural vegetation shall be permitted within 200 feet of contiguous property subdivided into residential lots of one acre or smaller not under the ownership or control of the applicant, nor within 250 feet of an occupied dwelling.
12. All natural resources extractions and related operations shall be in conformance with Chapter 17, Section 17-7a relating to erosion and siltation and shall comply at all times with the provisions of Section 30-7.2.1.4 A 12, except that no blasting shall be permitted.
13. No building or structure used in connection with such an operation, except buildings for only office and administrative purposes, shall be located within 200 feet of (1) the right-of-way of any public street or (2) any adjoining property. Buildings devoted solely to office and/or administrative uses may be constructed no less than 100 feet from such street or property when specifically approved as part of the Special Use Permit.
14. No washing, crushing, processing or similar operation shall be conducted on this site.
15. The top of all open excavations having a depth of ten feet or more, which will create a slope of forty-five (45) degrees or more from the horizontal and which shall remain for a period of more than twenty-four (24) hours, shall be enclosed by a substantial fence erected at least fifty (50) feet outside the excavation. Such fence shall be not less than four (4) feet in height, and shall effectively control access to such excavation.
16. All settlement ponds, used in connection with the operation, shall be fenced with at least a six (6) foot chain link fence (18" to 24" arm above the chain link fence with at least three (3) strands of barbed wire-four (4) barb equipped with a locked gate at all access points.
17. All vehicles used to transport excavated material shall be required to be loaded in such a manner that the material may not unintentionally be discharged from the vehicle. Trucks shall be cleaned of all material not in the load-bed prior to entering the public streets.

Mr. Barnes seconded the motion.

The motion passed 4 to 0, Mr. Runyon abstained as he was not present at the public hearing.

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AMENDED March 13, 1974, to show KOONS PLAZA DEVELOPMENT COMPANY in place of John W. Koons, Jr. and to show change in building dimensions and sign area to conform with plats submitted with appl. submitted to the Board, S-262-73.

JOHN W. KOONS, JR., app. under Sec. 30-7.2.10.3.8 of Ordinance to permit Chevrolet Dealership, 2000 Chain Bridge Road, 29-3 ((1)) 31, Centreville District, (C-D), S-174-72 (Deferred from 11/22/72 for decision only)

The plats had been submitted to the Staff prior to the hearing. These plats were reviewed by the Board.

In application number S-174-72, application by John W. Koons, Jr. under Section 30-7.2.10.3.8 of the Zoning Ordinance, to permit Chevrolet Dealership, on property located at 2000 Chain Bridge Road, Centreville District, also know as tax map 29-3((1))31, County of Fairfax, Mr. Kelley, moved that the the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of December, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Sherwood, Sherwood, and Corbalis
2. That the present zoning is C - D.
3. That the area of the lot is 9.8827 acres.
4. That compliance with Site Plan Ordinance is required.
5. That compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Hours of operation shall be 7:30 A.M. until 9:30 P.M. Monday through Friday, and 8:30 A.M. until 6:00 P.M. Saturday.
7. The minimum number of parking spaces shall be 760.
8. Landscaping, screening, fencing and/or planting shall be approved by the Director of County Development.
9. The owner shall dedicate the land and construct a service road along Route #7 and Route #123 for the full frontage of the property as proposed by the County Staff and this road is indicated on the site plan submitted. All dedication of land and construction of roads shall be in accordance with the plat submitted with this application dated October 4, 1972, and revised October 18, 1972, October 27, 1972, November 9, 1972, and December 7, 1972, made by Walter L. Phillips Incorporated, certified civil engineers and land surveyors, Falls Church, Virginia, and certified correct by Walter L. Phillips, Jr.
10. At the public hearing before the Board of Supervisors in connection with the rezoning of the subject property on June 12, 1972, the applicant agreed to construct the above mentioned service road as proposed by the County Staff. At the same public hearing, in connection with a Staff recommendation that architectural fronts be required on all four sides, applicant was agreeable to having aesthetic review by the BZA in order to make the site as attractive as possible.

Mr. Barnes seconded the motion.

The motion passed unanimously.

AFTER AGENDA ITEMS:

Out-Of-Turn Hearing Request -- RALPH SUTHERLAND, app. under Section 30-7.2.10.5.4 of Ord. to permit sale of used autos, 11325 Lee Highway, Springfield District, 56-2 ((1)) 52, C-G, S-197-72

Mr. John K. Lally, attorney for the applicant, 4059 Chain Bridge Road, Fairfax, Virginia appeared before the Board.

Mr. Smith read the letter from him requesting this out-of-turn hearing . The letter stated that the applicant now occupies a building in the City of Fairfax, but his lease will be terminated soon and he has to find another spot to have his business in, therefore, they need to be heard as soon as possible.

Mr. Baker moved that the request be granted.

Mr. Barnes seconded the motion.

Originally Mr. Lally's name was also on the application as one of the applicants.

Mr. Smith asked if Mr. Lally was going to help operate the business. Mr. Lally stated that Mr. Ralph Sutherland was the operator and he was not going to operate the business.

Mr. Ralph Sutherland appeared before the Board. He stated that he would operate the business himself and his trade name is Auto-Land. It is not a corporation.

Mr. Smith stated that only the name of Ralph Sutherland Trading As Auto-Land should be listed on the application.

The motion passed unanimously to grant the out-of-turn hearing for January 10, 1972.

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NATIONAL EVANGICAL FREE CHURCH & SHELL McDONALD, INC.- S-106-72.

This application was granted July 26, 1972 for a pre-school operation in this church. They came back to ask the Board if they would allow the recreation area for the children to go in at another area rather than the original area. They came back before the Board on November 15, 1972, with this request. They had some objections to this from some of the neighbors.

The Board deferred this at that time and required that the applicant resubmit new plats to the Board showing the new location of the recreation area and how it is to be screened and some concurrence from Mr. Kelley that at least he had been informed of the new location and a statement as to how he feels about it if the Church and School promises to replace the shrubbery that was removed.

The plats were received and reviewed by the Staff.prior to the hearing.

The Board then reviewed the plats and read a letter from Harold G. Kelley for the Neighbors of Broyhill Crest. In this letter the neighbors still stated thatthey were aginst having the recreation area at the new location.

The Board continued to discuss the problem.

Mr. Barnes then moved that the new plats be accepted. Mr. Baker seconded the motion and the motion passed unanimously.

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FAIRFAX COUNTRY CLUB -- Chain Bridge Road (Route 123)

Mr. Zabriski, attorney for the applicant, testified before the Board. They asked that they be allowed to make some alterations at the Country Club.

The Clerk, Mrs. Kelsey, had looked for the file and was unable to find one listed under Country Club of Fairfax, John Rust or Fairfax Country Club at that location. There was a file called Fairfax Country Club but the location was on Route 237.

Mr. Kelley stated that at the time the Country Club of Fairfax began in 1948, the Fairfax Country Club was located where the Army-Navy Country Club is now on Route 237. Therefore, they were not able to use that name. He suggested that it might be under Court House Country Club. This was also checked and nothing could be found under that name either. Mr. Kelley stated that they started using the name of Fairfax Country Club after the other club on Route 237 was sold to Army-Navy. The minutes were also checked.

Mr. Kelley stated that he thought that this Fairfax Country Club on Route 123 was under a Use Permit.

Mr. Covington stated that he also had checked and could not find the file.

Mr. Smith stated that if no records could be found to indicate that this was under a Special Use Permit, then it is a non-conforming use. Mr. Kelley stated that they put the swimming pool in about 1956 as he recalled.

Mr. Covington stated that under alterations, they could have some modifications as long as they stayed within the confines of the existing building. He stated that the snack bar is not going beyond the confines of the building itself as he understood from looking at the plats.

Mr. Smith told Mr. Zabriski that he might get the Zoning Administrator to agree with everything except the bath house, but the bath house would have to come before the Board of Zoning Appeals as a new use, if this is a non-conforming use or if it is under Use Permit.

Mr. Covington stated that they were not expanding the use by adding more members to the Club.

Mr. Smith stated that if it is a replacement of an existing building, they might be able to do it.

Mr. Covington stated that if the Board agreed with his approach, then he would approve it

Mr. Smith stated that if this is a non-conforming use, it was up to the Zoning Administrator to make the decision.

Mr. Smith told the Zoning Administrator to continue to check the files and if he determines that it is a non-conforming use, then it is up to the Zoning Administrator to make the decision as to what they can and cannot build.

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TEMPLE RODEF SHALOM; S-128-72; Original Use Permit granted in 1971 under S-188-71 and an extension of the number of students was granted September 13, 1972. A question had arisen as to whether or not they had to put in a chain link fence around the recreation area.

Mr. Smith read the section of the ordinance relating to fencing.

Mr. Smith reread the letter regarding whether or not fencing is required under the Code from Philip Schwartz, attorney for the applicant.

They reread the Resolution granting the Use where one of the Stipulations of the Permit is "The recreational area shall be enclosed with a chain link fence in conformity with county and state standards and codes. Recreational area limited to the hours of 10:30 A.M. to 12:00 Noon". This was No. 8 of the Limitations of the Permit.

Mr. Runyon moved that the fencing in this case be deleted upon receipt of a memorandum from the Health Department stating that it is not necessary.

The motion was seconded and passed unanimously.

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EAST-WEST CAMPING OF VIRGINIA; S-6-71

Mr. Smith read a letter from Mr. William G. Frederick, Secretary - Treasurer, requesting an extension of their use permit. He stated that construction that is due on Route 7 has not begun and they would appreciate any consideration in this matter.

Mr. Smith then read the Resolution granting the Use from February 23, 1971. The Resolution stated in part "...No. 4. This permit is for a one year period at which time the Board of Zoning Appeals may extend the permit for two one year periods if road construction has not started on Route 7..."

It was the Board's determination that the Use Permit had already expired, therefore they could not extend it. They stated that it would be necessary for the applicant to come back with a new application.

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RUDOLF STEINER SCHOOL; S-154-70

Mr. Smith read a letter from someone from the school requesting an extension to their Use Permit that was granted September 15, 1970. Mr. Smith read to the Board members the Resolution granting this use. One of the stipulations was that this be granted only for one year. There was no stipultion that it could be renewed by either the Board or the Zoning Administrator. Mr. Smith noted that the letter was dated November 14, 1972, in which case the permit had already expired, he stated.

It was the Board's decision that it would be necessary for them to file a new application Mr. Smith stated that if they filed immediately, there would be no interruption of the school activities.

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STARLIT FAIRWAYS; S-80-71

Mr. Smith read a letter from Mr. Iver J. Olsen, General Manager, Starlit Fairways, Inc. requesting that they be allowed to enclose the existing practice tee area with a block and concrete one story structure.

After a lengthy discussion, the Board decided that it would be necessary for them to come back with a new application, new plats, etc. In addition they requested that they also furnish the Board with a rendering so the Board would know what it was going to look like.

Mr. Smith stated that if they came in by December 20, 1972, and ask for an out-of-turn hearing the Board would consider the case on January 17, 1973, but otherwise they would have to await their turn.

Mr. Smith advised the Clerk to so notify the applicants.

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Mr. Mitchell handed out the Staff Reports for the December 20 meeting.

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Mr. Baker moved that the Board approve the minutes of November 8, 15 and 22.

Mr. Barnes seconded the motion and the motion passed unanimously.

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The meeting adjourned at 4:00 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED January 10, 1973
DATE

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The Regular Meeting of the Board of Zoning Appeals of Fairfax County was Held on December 20, 1972, at 10:00 A.M. in the Massey Building. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; Joseph Baker; and Charles E. Runyon.

The meeting was opened with a prayer by Mr. Barnes.

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STANLEY MARTIN COMMUNITIES, INC. Subdivision of REFLECTION LAKE, app. under Section 30-7.2.6.1.1 of Ord. to permit construction of pool for 900 members for Swim Club, 16-1 ((1)) 313, 314, 324, 325, parcel G, Section 6, Centreville District (R-12.5), S-184-72

Mr. Harvey Mitchell, Planner, located the property on the map and stated that it is near the Herndon Corporate line. From the Dulles Access Road, you take Centreville Road and Parcher Avenue runs off of that. This pool is off of Parcher Avenue.

Notices to property owners were in order. The contiguous owners were Scholtz Homes, 1832 M. Street, N.W. Washington and National Homes Construction Corporation, 951 South George Mason Drive, Room 205, Arlington, Virginia.

Mr. Larry Cortano, 9332 Annapolis Road, Lanham, Maryland testified before the Board.

He stated that they also own the property adjacent to this pool. Reflection Lake indicates the name of the subdivision. This is the way it was recorded. Stanley Martin Communities is the owner of the property and the developer of the pool. At some point in time, this will be transmitted to the Homeowner's Association of Reflection Lake.

Mr. Knowlton asked if the contiguous property owner that they had mentioned as being contiguous was across the road and the subject of a recent rezoning.

Mr. Cortano stated that he did not know about the property across the street, but this property of National Homes Construction Corporation is contiguous. He indicated on the map where it was located.

In answer to Mr. Smith's question, Mr. Cortano stated that there are some existing townhouses at the intersection of Centreville Road and Parcher Avenue. Those are subsidized housing. He stated that this pool will serve 900 members. It will serve both the Stanley Martin Community, Inc. project plus two other projects. The Lakeview Rental Townhouses and the Scholtz project. They intend to begin immediately with the construction of this pool. These three projects are all surrounding this pool with the pool in the middle.

Mr. Barnes asked how many parking spaces they planned to have.

Mr. Kelley stated that from the plats they show 97 parking spaces with 50 bike rack spaces. He stated that for 900 members that is not much parking and is not sufficient.

Mr. Bill Lanham, 5809 Annapolis Road, Hyattsville, Maryland, landscape architect and engineer for the pool spoke before the Board. He stated that he had a memorandum of statistics relating to the people who will be using the pool and a vicinity map locating the homes in relation to the pool. He stated that three builders are putting up the money to build the pool and all the people who purchase a unit have an automatic membership. Later on the people who run the association can determine future policy as to how they want to handle the pool membership.

He stated that the small map shows the town house areas and the single family lots with the pool in the center. They have used a 1000 foot radius in order to determine how many residents would be within walking distance. There are 99 of those lots which are not 1000 feet from the pool. They are further. Out of the townhouses proposed, 713, 286 of those are within the 1000 feet radius. This is some of the criteria used in determining the 97 parking spaces.

He stated that the law requires 27 square feet per bather; that would allow 197 people in the pool at any one time, which is approximately 33% of the total number of people which would be in the water and 66% of the people would be on the deck. The pool size is 5,321 square feet. The pool and deck area would occupy a space of approximately 70' x130'. The setback from the multi-purpose court is 25'. The setback from Parcher Avenue is 30'.

Mr. Smith asked if the remainder of the open space would be used by the Homeowners or the Park Authority.

He stated that it would be the Homeowners.

Mr. Kelley stated that this plan is not adequate as far as he is concerned. He stated that he didn't feel that 97 parking spaces are enough for 900 families. He stated that if three people are going to go to the pool from three different houses, they would not go in one car, but three cars. Just because the residents are within 1000 feet of the pool does not mean they are always going to walk. He stated that the basketball court could be used year around.

Mr. Smith asked them if they had additional land they could use to add more parking.

Mr. Lanham stated that they did have more land. He stated that the reasoning behind the basketball court being used when the parking wasn't needed, is because the pool facility is only open from May to September and the rest of the year the parking lot facility is not used. When they planned the basketball court, they planned it as something to do with the parking lot in the off pool season.

Mr. Smith stated that he felt one of the things developers were overlooking is when there are this many homes involved there should be more recreational facilities than just a three month swimming pool. There should be some means of utilizing the property year round, either for tennis courts or other outdoor activities. It doesn't seem practical to just develop one three month recreational facility for 900 homes. There are 8 months of the year that could be spent outside in this part of the country.

Mr. Smith suggested that the applicant enlarge on this plan and utilize some of the open space land and utilize the parking along with it.

Mr. Cortano stated that they did plan a tennis court, tot lots, picnic facilities, but he did not think he had to come before this Board for those facilities.

Mr. Smith stated that they do have to come before this Board if it is all under the same ownership.

Mr. Kelley stated that the flood plain area goes right through the middle of the pool

Mr. Rhoads, engineer with Staggs & Associates, 5809 Annapolis Road, Hyattsville, Maryland, spoke before the Board. He stated that he had talked with the people in the County's engineering department; they agree that with the construction of the road and the construction of the culvert under the road, that that area immediately adjacent to the culvert can be filled in. It would be very simple to revise the flood plain calculations to show that.

Mr. Kelley asked if they were aware of the comments from Preliminary Engineering. He read the comments:

> "This office would suggest that a 6 ft. board on board fence be provided as shown on the attached plan (to be available at the meeting). Also, the swimming pool cannot be constructed within the flood plain area including the 2 ft. freeboard area. If the developer proposes to fill within flood plain area in order to develop the site, a complete study redesignating the flood plain limit lines will be required prior to site plan approval."

Mr. Runyon stated that this flood plain is shown as it is before they began any construction. He stated that he did not think it is something that will concern the Board. He stated that his main concern is that of the parking spaces. He stated that the Board's usual criteria of 3 families to 1 parking space is a little high in this particular instance, since the pool is right in the middle of the residential area.

Mr. Smith stated that he agreed with this and perhaps the requirement should be around 160.

Mr. Runyon stated that in the Saratoga application there were 720 families and they had 115 spaces. This should have at least 150. He stated that he agreed that people should be encouraged to walk, but in addition, he can understand the developer not wanting to destroy the whole site with a paved parking lot.

Mr. Cortana stated that there were any number of points where they could have located this pool, but they chose to locate it in the middle of the developments in order to make it more convenient for everyone and to encourage everyone to walk. He stated that if he had to put in an asphalt jungle, he would not build the pool. They are planning pedestrian paths and bicycle paths. He stated that he was not going to build the pool if he had to build 170 parking spaces.

Mr. Kelley stated that whether he liked it or not these people were going to go to that pool, whether they walked or rode and he knew of no way Mr. Cortano could control whether these people rode or walked and by that time Mr. Cortano wouldn't even be there. This Board has to live with these pools and the people who complain about them and the traffic hazards that they create.

Mr. Runyon stated that as far as he could see, this parking is to serve a cluster type development.

Mr. Runyon stated that as far as he could see, this parking is to serve a cluster type development and it would not be necessary for them to use the 1 to 3 ratio, therefore, the Board should ask for 125 to 150 spaces based on the previous criteria for cluster developments.

Mr. Baker stated that he was concerned about the swim metes needing more parking spaces.

Mr. Runyon stated that 150 spaces would be a ratio of 6 to 1, a space for each 6 family members.

Mr. Barnes stated that he moved that this case be deferred for new plats to show the dimensions of the structures on the facility, bath house, pool, or any other structure, parking for 150 cars.

Mr. Baker seconded the motion.

Mr. Smith stated that they should also show the revised flood plain area, picnic areas tennis courts, if they plan to construct them, or any other recreational facility that will eventually be under the ownership of this Association.

The motion passed unanimously. The Case was deferred until January 10, 1973.

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BERNARD, INC., app. under Section 30-6.6 of Ord. to permit corner lot with less frontage than allowed by Ordinance (required 175') to 56.67 feet at 3627 West Ox Road, Mary Ridge Subdivision, 46-1 ((1))2, Centreville District, (RE-1), V-185-72
Mr. Bernard testified before the Board, representing the applicant.
Hearing begun at 11:00 A.M.
Mr. Bernard Bolt represented the applicant before the Board.
Notices to property owners were not in accordance with the Code. He had notified Mr. Newbill who was contiguous, but had not notified Mr. Blair to the northwest of the subject property.
Mr. Runyon stated that the Blairs would be most affected and should have been notified.

Mr. Kelley agreed and stated that the case should not be heard until there is proper notification. He made this his motion.

Mr. Baker seconded the motion.

There was no one present interested in this application.

The motion passed unanimously and the hearing was set for January 10, 1973.

Mr. Smith reminded Mr. Bolt that the property owners had to all be renotified at least ten days prior to the hearing of the time, date, place and purpose of the hearing and he could call the Clerk, Mrs. Kelsey, the following morning to get the specific time on the 10th that this case would be heard.

// Mr. Baker asked the applicant if he had read the Staff's report on this case.

Mr. Bolt stated that he had read it.

Mr. Baker stated that if he had another method of remeding this situation, that the Board would not be empowered to grant this variance. In these cases, the Board is governed by the Ordinance.

Mr. Bolt stated that they did have a means other than this variance, but this variance is what they chose to do.

Mr. Kelley stated that to grant this variance, there must be a hardship.

Mr. Bolt stated again that he preferred to go with the variance.

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FRANCONIA ASSOCIATES & SPRINGFIELD MALL CINEMA, INC., app. under Section 30-7.2.10.3.4 of Ord. to permit enclosed theatre (2), Springfield Mall Shopping Center, Lee District, 90-2((13))5, (C-D), S-186-72

This hearing was scheduled for 10:40 and began at 11:05 A.M.

Mr. Richard Hobson, attorney for the applicant, 4101 University Drive, Fairfax, Virginia, testified before the Board.

Notices to property owners were in order. The contigous owners were Kaufman Strauss Company and J.C. Penny.

Mr. Hobson stated that they plan to have a twin cinema in the Springfield Mall Regional Shopping Center. The applicant's certificate of good standing has been filed. The lease has been filed between the landowner and the tenant. Springfield Mall Cinema, Inc. is a subsidiary of General Cenema Corporation with a chain of theatres across the country. The concept of the mall shopping center was to be a complete package of sales and services for the region, which included late-at-night activities. He stated that he had consulted with Mr. Prichard who had handled the rezoning case and he confirmed that during the rezoning it was stated that this shopping center would include a skating rink, motion picture theatre and perhaps other facilities such as this. This theatre is inside the shopping center. The operation will include about 10 or 12 employees at any given time and the hours of operation are from 9:30 A.M. to 1:00 A.M. The theatre is now under construction along with the rest of the shopping center. The site plan has been approved. They had the Staff comments recommending recalculation of the parking spaces. This has been done by the engineer, and the engineer has found that they have 208 spaces over the required amount of one space for every 1,000 square feet.

Mr. Hobson submitted to the Board an interior building plan showing floor space and construction detail as submitted by the tenant and also a copy of the seating plan for the second floor. The seating for the Number One Theatre is 727 and the seating for Theatre No. 2 is 501.

The plan showed a refreshment stand, but Mr. Smith stated that this was allowed by right.

Mr. Hobson stated that Mr. McCarthy the Construction Supervisor was present today should the Board have any questions of him. The General Manager of the Springfield Mall Shopping Center was also present to answer any questions the Board might have.

Mr. Hobson stated that there is only one sign outside the building and that is in accordance with the sign ordinance. It has been approved by the County Staff.

No opposition.

Mr. Hobson submitted to the Board a picture of what the theatre would look like after it is constructed. There were also pictures in the file showing the construction as it now stands.

hazards and they create.

Mr. Runyon stated that as far as he could see, this parking is to serve a cluster type development.

In application No. S-186-72, application by Springfield Mall Cinema, Inc., and Franconia Associates and Springfield Mall under Section 30-7.2.10.3.4, of the Zoning Ordinance, to permit enclosed theatre (2) on property located at Springfield Mall Shopping Center, Lee District, also known as tax map 90-2((13))5, County of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of December, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Franconia Associates.
2. That the present zoning is C-D.
3. That the area of the lot is 34.0137 acres and 15,134 square feet for(2) two theatres.
4. That site plan has been approved for the overall shopping center, the parking was based on commercial retail stores for the proposed theatre area, i.e., 6 spaces per 1000 square feet net commercial area.
5. Compliance with all County Codes is required.
6. Total seating capacity for both theatres is 1228, # 1, -- 727 and # 2, -- 501.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application.. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The hours of operation will be 9:30 A.M. to 1:00 A.M.
7. The minimum number of parking spaces shall be 307.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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SHOW CAUSE HEARING for Humble Oil and Refining Company, Lessee and Kings Park Association gas station granted February 9, 1971, intersection of Braddock Road and Rolling Road Kings Park Subdivision, 69-4((1))49A, Annandale District (C-D), S-4-71 (For non-compliance of County Codes.

Hearing scheduled for 11:20 A.M. Began at 11:20 A.M.

Mr. Smith read a letter from Douglas Leigh, Zoning Administrator which stated:

"Routine Investigation 6-2-72.

Subsequently, sent notice of violation to R.F. Daniel, c/o Humble Oil in Hyattsville for failing to obtain Certificate of Occupancy, for failure to obtain final As-Built Site Plan No. 275. Dead line for this violation was July 6, 1972. At that time, they had not complied with the Code.

July 17, 1972, sent notice of violation to Humble Oil and Refining Company, c/o H. Merrill Pesco, Registered Agent, Richmond, Virginia, under the same section of the Code. Received no reply from him.

Informed them of Code change from Occupancy Permit to Non-Residential Use Permit per Board of Supervisor's action July 31, 1972.

August 24, 1972, received a letter from E.T. Blake, Jr. confirming a telephone conversation about the violation at 5239 Rolling Road. At that time they required extension of violation dead-line to September 15, 1972.

In same letter, Mr. Blake stated that Humble was trying for a Certificate of Completion. (After receiving a Non-Residential Use Permit, applicants have 6 months in which to ask for and receive the Certificate of Completion.)

September 26, 1972, sent Mr. Blake registered letter stating requirements necessary for Certificate of Completion and warning of Show-Cause Hearing. At that time, I did not know that they had a Non-Residential Use Permit.

The Non-Residential Use Permit has been certified by Public Utilities and Zoning Administration on 8-17-72. The papers were inadvertently mislaid.

Checked with Public Utilities Office at the end of October and they had no record of a Non-Residential Use Permit having been requested, much less issued for that location.

Subsequently, having sent Mr. Blake a letter on September 26, 1972, stating the possibility of a Show-Cause hearing on October 31, 1972, I then proceeded to bring this to the Board's attention.

December 5, 1972, I found that they did have a Non-Residential Use Permit that had been O.K.ed 8-17-72.

Recommend that BZA withdraw the Show-Cause Hearing. /S/ Douglas S. Leigh, Zoning Inspector.

Mr. Baker moved that this be withdrawn.

Mr. Kelley seconded the motion and the motion passed unanimously.

Mr. Smith stated that the record should show that Humble Oil at this location has been in compliance since the 18th day of August, 1972.

Mr. Knowlton stated that he felt this mistake was primarily caused by the change-over from Occupancy Permits to Non-Residential Use Permits.

Mr. Smith asked if the Non-Residential Use Permit was posted. Mr. Knowlton did not know.

Mr. Smith stated that the Non-Residential Use Permit should have the wording printed on it that it should be posted in a conspicious place. This would cut down a lot on the work-load of the inspectors and there would be no question as to whether or not they have it.

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FAIRFAX QUARRIES, INC., app. under Section 30-7.2.1.3 of Ord. to permit stockpiling of quarried stone and erection of a maintenance building as an accessory use, 15717 Lee Highway, 64((1))12, Centreville District, (RE-1), S-233-71 (Deferred from 4-12-72)

Mr. Royce Spence, attorney for the applicant, 311 Park Street, Falls Church, Virginia, testified before the Board.

Notices to property owners were in order. He stated that the contiguous owners were Helen Anderson and the Robinsons.

Mr. Spence stated that this is the same area that they are using to stockpile now. This has been used for 20 to 30 years for a stockpiling operation. It is all under lease.

Mr. Smith asked if Mrs. Collins was contiguous.

Mr. Spence stated that Mrs. Collins is not contiguous to the application that is before the Board today.

Corporate papers were in the file along with a copy of the lease.

The lease runs for 40 years Mr. Spence stated.

Mr. Spence stated that all the people who were notified were also directly contacted by Luck personnel. They were told exactly what was going to be done. There were no complaints from any of these people.

Mr. Spence stated that there were two things that they want to do. One is an old thing and the other is new.

He stated that they would like to continue to stockpile in this area which is indicated on the plat. He stated that it was brought to his attention that a Use Permit was needed for this operation. Prior to that time, they felt that this operation extended back in time beyond the Pomroy ordinance. When put to the test, they found that it was not prior to that ordinance and was not, therefore, a non-conforming use, therefore, they put in this application for this permit. All the neighbors have been contacted and have no complaints. At the present time, there are two operations. One to the north and south area. The north area was granted by the BZA and a condition was put on that there could be no crushing of stone or storage of material and this was to be done on the south side. This area will be strictly for storage and stockpiling operations. He stated that there is a junk yard across the street.

Mr. Smith stated that if it is junk yard, it isn't supposed to be. He asked Mr. Covington to look into it.

Mr. Spence stated that the new building is to be constructed on the front portion of the property adjacent to 29-211. The building is to be 100x40. He submitted a picture of what it would look like. This will be a four bay structure and only three doors in the four bay operation. They would like to have a small maintenance office in this building, a wash room and sanitary facilities. They do not have sanitary facilities now on the quarry property. They use Johnny-On-Spot toilet facilities which are very inadequate. The men have to work on the machinery outside in all types of weather. This will get them inside. They realize that this building is only 65' from the front property line, but this is the only area that perks. If the building is placed anywhere else, they would have to pump uphill to the drainfield. He stated that he had discussed this with the Restoration Board.

Mr. Spence stated that there were three proposals that the Restoration Board had which he would like to discuss. They have asked for $1,000 per acre for restoration. He stated that he had with him a restoration plan which he would like made a part of the record. This area is basically flat and they plan to leave it in its present flat condition. They will put sufficient top soil and fertilizer to carry grass. There will be no holes made in the land to be filled up and no extensive grading carried on. Trees will be planted and also winter barbery bushes. This barbery will also serve the fencing requirement. It is also fairly impentrable, therefore, it will serve as a fence and for screening.

Mr. Spence stated that the other problem that the Restoration Board came up with is the $5,000 to the County annually to take care of the inspector's salary, etc. He stated that he knew that more was required of Vulcan and it is required for Site Plans. I do not mind paying a fee such as this, but they do not want to pay an inspector's salary when he is off inspecting something else, therefore, they want to pay only for the time that the inspector is on the site. In addition, they would like to have a personal bond from Luck Quarry for the restoration. They also feel the amount is too much.

Mr. Smith asked him if he had a bond form that has been approved by the County attorney to submit to the Board.

He stated that he did not.

Mr. Smith told him that this fee not only is for the Zoning Inspector, but for the other inspectors that must go out and check. The paperwork would cost more to keep a time to time check.

Mr. Smith stated that what is really needed is a reevaluation of the property and bring the entire thing under one Site Plan.

Mr. Smith asked if they were now going under the highway.

Mr. Spence stated that they were. They have spent $80,000 going under that road.

Mr. Spence again stated that he did not feel the $5,000 for an inspector annually was fair.

Mr. Smith stated that the Board could defer it long enough to get a study on how much the cost would be if he would like.

Mr. Spence stated that they were not asking for a deferral.

Mr. Smith asked if this was a drive-through building and if the doors open to Lee Highway.

Mr. Spence stated that this is not a drive-through building and the doors do not open to Lee Highway, but to the interior to their property.

Mr. Smith asked what type of work would be done and the it would be only repairs to their own quarry equipment.

Mr. Spence stated that it would be the bulldozers, drills, trucks used in the quarry operation and some pick-up trucks that are mostly used on the site, no dump trucks. The equipment repaired will be strictly the quarry equipment. There is no shop on the property now. There are several little buildings that are used for storage, but are not large enough for the equipment to be brought in out of theweather.

There was no oppostion.

Mr. Knowlton stated to the Board that basically, the applicant's attorney has touched on all of the points raised by the Restoration Board. That Board includes representatives from all County agencies involved. That Board has reviewed the plans and their conclusions are in the report. The use permit on the other operation is up October 27, 1974.

Mr. Baker moved that this case be deferred for one week to allow the Board to draft a Resolution.

Mr. Runyon seconded the motion and the motion passed unanimously.

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VIRGINIA CONCRETE - NR-22

Mr. Knowlton stated that it had been found that in the finding of fact the Board neglected to put in a No. 5 on the Findings of Fact, that the Planning Commission recommended on May 20, 1971 that this application be denied.

Mr. Baker moved that this be added to the Resolution.

Mr. Barnes seconded the motion and accepted it to go in the Resolution that he made the previous week.

The motion passed unanimously.

HENRY W. SCHMALENBERG, S-180-72.

This case was deferred to December 27, 1972. The applicant's attorney, David H. Boyd, requested the Board to defer until January 10, 1972, to allow them additional time to get the plats revised.

The Board agreed to this and advised the Clerk to so advise the applicant.

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STARLITE FAIRWAYS

Mr. Smith read a letter from the applicant's attorney, Tom Lawson, requesting that this case be granted an out-of-turn hearing. This is for a structure to be added to the property that was not on the original plat when the original use permit was granted. They did not realize they would have to come back before the Board and didn't realize it in time to began the paperwork, therefore, in order to begin work as soon as possible and have the driving range ready by next spring, they need this out-of-turn hearing.

Mr. Baker moved that this be granted for January 17, 1972, which is the earliest possible date the Board could hear it.

Mr. Barnes seconded the motion and the motion passed unanimously.

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The hearing adjourned at 12:45 P.M.

By Jane.C. Kelsey
Clerk

Daniel Smith, Chairman

APPROVED January 10, 1973
Date

The Regular Meeting of the Board of Zoning Appeals of Fairfax County was Held on December 27, 1972, at 10:00 A.M. in the Board Room of the Massey Building. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes; Joseph Baker, and Charles Runyon was absent

The meeting was opened with a prayer by Mr. Barnes.

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10:00 - A.G. FOODS REALTY, INC. & HARLEY DAVIDSON OF WASHINGTON, INC., app. under Section 30-6.6 of Ord. to permit construction of building closer to rear property line than allowed by Ordinance, 1852 Watson Street, Apple Grove Subd., 29-4((2))B-2, Dranesville District (C-D), V-181-72

Mr. Smith read a letter from Tom Lawson, attorney for the applicant, stating that he had just been retained to handle this case, but unfortunately the notices did not go out as they should of and in addition he had to be in a Circuit Court trial on this date. He asked that the Board defer this case until January 17, 1973, as he understood this was the earliest possible date. He stated that Mr. Dove would be present to answer any questions the Board might have.

There was only one person in the audience who was interested in this application.

Mr. Smith asked her if she objected to this deferral.

She stated that she did not. She stated that she lived across the street from where this use is proposed and wanted to know what was going on.

Mr. Smith asked Mr. Dove if he would explain to the lady what they were planning to do.

Mr. Dove stated that he would.

Mr. Barnes moved that this case be deferred as requested to January 17, 1973.

Mr. Baker seconded the motion and the motion passed unanimously.

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HOLLY HILL CHURCH OF THE NAZARENE, app. under Section 30-7.2.6.1.11 of the Ordinance to permit church and Sunday School, 3214 Holly Hill Road, 92-4((1))40, Lee District (R-17) S-188-72

Mr. Detwiler, the surveyor who was doing the site design work for the church, spoke before the Board. His address is Warwick Avenue, Fairfax, Virginia.

Notices were ruled in order by the Board.

Mr. Smith asked if the application had been properly posted and advertised.

Mrs. Kelsey answered that it had.

Mr. Detwiler stated that the proposed church building is to be constructed between two existing structures that the church now owns. Both of these structures are single family residences that are being occupied by the pastors of the church. The one structure to the west has a one story cinderblock addition on the rear which is used as a prayer room. The regular church services have been held in the Groveton School. The proposed church will have a capacity for 240 people. The schedule for the use of the church will be the prayer meeting on Wednesday night and the regular Sunday services. The membership attendance averages around 115. He stated that he did not know the exact membership as such, but the Pastor of the church was present and could answer any questions the Board might have.

Mr. Smith stated that this is the first application for a Church that the Board has had. He stated that the Board had nothing to do with the change in the ordinance. He stated that he assumed the reasons for changing the ordinance were good reasons.

There was no opposition.

Mr. Runyon asked if this acreage for this use would be 1.03 acres.

Mr. Detwiler stated that that was correct. They are not using the entire tract. It would not include the other two structures on the property.

Mr. Smith asked if the parking was covered by Site Plan.

Mr. Runyon stated that it was.

In application Number S-188-72, application by Holly Hill Church of the Nazarene under Section 30-7.2.6.11 of the Zoning Ordinance, to permit church and sunday school building use on property loacted at 3214 Holly Hill Road, also known as tax map 92-4((1))40, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 27th day of December, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is trustees of Nazarene Church.
2. That the present zoning is R-17.
3. That the area of the lot is 1.03 acres.
4. That Site Plan approval is required, having been waived at this time.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations.
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plat submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be responsible for fulfilling his obligation to OBTAIN NON-RESIDENTIAL USE PERMITS AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Conformance with Site Plan waiver of October 6, 1972 must be met.
7. Driveways and parking areas must have a dust free surface.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

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10:40 RYLAND GROUP, app. under Section 30-6.6.5.4 of Ordinance to permit houses to remain 22.4 feet from each other (required 24') 12251 & 12253 Angel Wing Court, Reston Subd., 26-1((10)) 21 & 22, Centreville District (RPC), V-189-72

Hearing begun at 10:40 A.M. on schedule

Susan Knight, Administrative Manager, 1930 Issac Newton Square, Reston, Virginia, testified before the Board for the applicant.

Notices were in order. The contiguous owners were Gulf Reston and Reston Homeowners Association.

She stated that they were requesting the variance because they made a mistake in the location of the house. They have built two large homes on a wooded,sloping lot on a cul-de-sac. This is a pie shaped lot. In fact, this goes for both lots 21 & 22. During the excavation of the land they hit a rock and it was necessary to blast. Apparently, after the blasting it was found that the stakes had been knocked out of place and someone put them back incorrectly. The wall check was sent in and it was then that they discovered that they would have to request a variance on these houses that were nearing completion. They were sold before they were even started to large families who are now awaiting the results of this hearing as they are very anxious to move in.

Mr. Smith asked if they would need any other variance in this subdivision.

Ms. Knight stated that they would not.

In application Number V-189-72, application by Ryland Group under Section 30-6.6.5.4 of the Zoning Ordinance, to permit construction of houses to remain 22.4 feet apart, on property located at 12251 & 12253 Angel Wing Court, also known as tax map 26-1((10))21 & 22, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 27th day of December, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the Ryland Group.
2. That the present zoning is RPC.
3. That the area of the lots are 21 = 8,288 square feet, 22 = 10,525 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the Board has found that non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit, and
2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction is completed.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permits and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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FAIRFAX QUARRIES, INC., app. under Section 30-7.2.1.3 of Ordinance to permit stockpiling of quarried stone and erection of a maintenance building as an accessory use, 15717 Lee Highway, 64((1))12, Centreville District, (RE-1), S-233-71 (Deferred from 4-12-72 and 12-20-72)

The Board had deferred this case from December 20, 1972 to allow them time to formulate a motion.

In application Number S-233-71, application by Fairfax Quarries, Inc., (Lessee), under Section 30-7.2.1.3 of the Zoning Ordinance to permit proposed shop building and stockpiling of quarried stone, on property located at 15717 Lee Highway, also known as tax map 64-((1))12 County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of December, 1972.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is W.A. & N.O. Lancaster.
2. That the present zoning is RE-1.
3. That the area of the lot is 25.003 acres.
4. That the Restoration Board has recommended approval.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the building and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting doesnot constitute exemption from the various requirements of this County, The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit shall be posted in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Hours of operation, 5 days a week, sales ½ day on Saturday and maintenance of 8 hours on Saturday. No Sunday operation is permitted.
7. Fencing be provided around the site to secure the site from outside, unauthorized entry. This fence shall be a 7 foot chain link fence or the planting of a Juliane Barberry hedge as per County soil scientist.
8. A bond of $25,000. shall be posted to cover restoration operations.
9. Building to be located 65 feet from Lee Highway as shown on plat, in order to facilitate sanitary requirements.
10. An Annual inspection fee of $5,000 shall be paid to the County of Fairfax.
11. This permit shall expire October 27, 1974.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

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AFTER AGENDA ITEMS
AMERICAN INSTITUTE OF HEALTH

The Board was in receipt of a letter from the Sleepy Hollow Citizens' Association signed by Mr. Donald F. Ewing, President.

Mr. Barnes stated that he did not believe the Board had enough evidence to revoke the permit or ask the hospital to stop having patients go home at night. He stated that he thought it was a good thing.

Mr. Smith stated that they have not exceeded the 100 patients and they are using the facilities in the mannor as the Board intended them to use it.
He stated that they should leave the question of the buses open for a year. He stated that it seemed to him that if the vehicles are being used on a regular basis, they should be lighted in accordance with the State Code for school buses.

Mr. Barnes stated that he didn't agree as this is not a school.

Mr. Smith stated that they are transporting children.

Mr. Runyon stated that he would like to have a copy of Mr. Ewing's letter to ready carefully and moved that the case be deferred for another week until January 10, 1972 for the decision.

Mr. Baker seconded the motion and the motion passed unanimously with the members present.

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CITCO - S-96-72; Show Cause Hearing Deferred for Progress Report

Mr. Smith read a letter from Mr. McIntyre from CITCO regarding the progress they had made in the past few weeks toward finishing up the street in front of their station. He stated that they had made as much progress as is possible with the weather as it is.

Mr. Douglass Leigh, Zoning Inspector, stated that he had inspected the premises once a week and they were making as much progress as is possible and concurred with Mr. McIntyre.

Mr. Baker moved that this case be deferred for 30 days for another progress report.

Mr. Barnes seconded the motion and the motion passed unanimously with the members present.

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RANDOLPH D. ROUSE (MOBIL OIL COMPANY) 27996; Show-Cause Hearing Deferred for 30 days

This was a Show-Cause why they had not obtained a Non-Residential Use Permit.

Mr. Smith read a copy of the Certificate of Completion which showed that the applicant now complies in all respects with the County Codes and is no longer in violation.

Mr. Smith asked Mr. Covington if there had been any complaints against this station.

Mr. Covington stated that there had been no complaints.

Mr. Baker moved that this Show-Cause be dismissed as the applicants now have complied with all County Codes.

Mr. Runyan seconded the motion.

The motion passed unanimously with the members present.

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Mr. Smith read a copy of a letter that Mr. William Barry sent to ARCO, a service station in the 7 Corners area, regarding a sign.

Mr. Barry told ARCO that this service station is in a CBD sign zone and is required to have 200' of lot frontage in order to erect a free standing or "pylon" sign.

Mr. Barry also wrote to the Dowling Sign Company who ARCO has authorized to put in the sign telling them that since the sign was not a legal sign, that the Zoning Office would prosecute the Dowling Sign Company as well as ARCO if this sign is erected as the Code states that any person, whether as owner, lessee, agent, principal employee or

otherwise, who violates any provisions of this chapter shall be liable. He told the company and ARCO that a copy of the letter was going to the BZA as he was sure it would be of interest to them.

Mr. Smith stated that this will be a change in the use and would be in violation of the Special Use Permit that was granted. The Board of Zoning Appeals stated in those days that they must comply with all County Codes and the sign ordinance was a County Code. Therefore, it was the Board's intent that if the sign was not permitted by the County Code, it was not permitted by the BZA either.

He stated that if the sign is installed, then the Zoning Office should so notify the Board of Zoning Appeals and the Board of Zoning Appeals should issue a Show-Cause Hearing to Show-Cause why the Special Use Permit should not be revoked if they have not complied with the Board's Special Use Permit that was granted to them.

Mr. Covington stated that he would check this out.

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The hearing adjourned at 11:35 A.M.

By Jane C. Kelsey
Clerk

DANIEL SMITH, CHAIRMAN

DATE APPROVED: January 10, 1973

The Regular Meeting of the Board of Zoning Appeals of Fairfax County, was Held on January 10, 1973, at 10:00 A.M. in the Massey Building. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes, Joseph Baker and Charles Runyon.

The meeting was opened with a prayer by Mr. Barnes.

The first order of business was to elect a new Chairman, Vice-Chairman and Clerk.

Mr. Baker moved that the Board elect the present Chairman.

Mr. Kelley seconded the motion. There were no other nominations and Mr. Runyon moved that the nominations be closed. Mr. Baker seconded the motion.

Both motions passed unanimously.

Mr. Barnes moved that Loy Kelley be elected Vice-Chairman.by acclamation.

Mr. Baker seconded the motion

The motion passed unanimously.

Mr. Baker moved that the present Clerk, Jane C. Kelsey, be reelected.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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EDWIN F. & ALBERTA M. KELLY, app. under Section 30-6.6 of Ord. to permit construction of an addition of a 12 foot open carport, 5225 Landgrave Lane, Ravensworth Farm Subdivision, 70-4((8))(10)33, Annandale District, (R-12.5), V-190-72

Mr. Kelly represented himself before the Board.

Notices to property owners were in order. The contiguous property owners were Mr. Thomas Bern, 5301 Moultrie Avenue and Mr. John Michaels.

Mr. Kelley stated for the record that he was no relation to Mr. Kelly, the applicant.

Mr. Kelly stated that because of the physical steepness of the driveway and the irregular set of the property line and the safety consideration of not wanting to park on the street at an intersection, he was requesting this variance. He stated that the driveway has a steep slope in the area of 25 to 30 per cent. This presents a safety hazard of parking on the driveway. The property line on that side also cuts back towards the edge of the property. Parking an automobile in the street at this intersection presents a problem because of the children darting into the street when they are playing. This also prohibits the normal flow of traffic. He stated that they had also had one car stolen.

Mr. Kelly stated that all of the five neighbors who had signed the notices, were in unanimous agreement with the building of this carport. He stated that he intended to continue to live here and make Northern Virginia their permanent home. He stated thathe had owned the property since 1961. He is the only owner of this house.

Mr. Smith stated that it should be pointed out for the record that the other construction on this property does meet the requirements of theCode.

Mr. Runyon stated that it would appear that this lot does have an irregular shape to it and one is always very restricted with these corner lots. The lot also has an odd angle. In view of these things, he stated that he was prepared to make a motion.

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EDWIN F. & ALBERTA M. KELLY (continued)

In application No. V-190-72, application by Edwin F. & Albert M. Kelly, under Section 30-6-6 of the Zoning Ordinance to permit construction of addition of a 12 foot open carport on property located at 5225 Landgrave Lane, Ravensworth Farm Subdivision, also known as tax map 70-4((8))(10)33, Annandale District, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS Following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of January, 1973, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 13,858 square feet.
4. Compliance with all county codes is required.

AND WHEREAS The Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
   a. Exceptionally irregular shape of the lot.
   b. Exceptional topographic problems of the land.
   c. Unusual condition of the location of existing buildings.

NOW THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted.

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion,

The motion passed unanimously.

//RICHARD K. HREBIK, app. under Section 30-6.6 of Ord. to permit construction of carport 2.1 feet from side property line, 7463 Long Pine Drive, North Springfield Subd., 80-1 ((2)) (72)36, Annandale District, (R-12.5), V-191-72

//Notices to property owners were in order. The contiguous property owners were Lt. Cmdr. Joyce Page, 7501 Longbranch Drive, on the opposition side from where they are proposing the construction and Mr. Harry McGee, 7461 Longbranch Drive, the owner on the side on which they propose to construct.

Mr. Hrebik represented himself before the Board.

Mr. Hrebik stated that they plan to retire in their home where they are living now. Even though he is in service, he stated that he had just returned from overseas and would now be stationed in this area. They are taxpayers, voters, and residents of Virginia.

He stated that as he had stated in the justification, the side on which this is located is the only area on all their property where they can construct. There has been no changes in the house or property since the house was constructed eleven years ago. They have a severe slope in the back and a moderate slope in the front. On the other side there is no space to put an addition. They have two cars. One of the cars is 5.9' wide and the other is 6.5; therefore, they need a total of 18.4' to park the cars, with allowances being made for opening the doors and maneuvering the cars. The chimney takes up some room, therefore, they will need the 19.5' and that is barely larger than the 18.4' and this was needed because of the posts or columns that support the carport.

Mr. Hrebik went into all the requirements the Board of Zoning Appeals had to take into consideration in granting a variance and further stated that he had met these requirements.

He stated that the structure is going to the rchitecture ontrol ommittee in Springfield and it is according to their requirements.

The neighbors are in concert with the application. He stated that they feel their variance is the minimum that will afford them relief.

Mr. Smith stated that this variance is similiar to the previous variance, but the variance here that Mr. Hrebik is requesting is from an encroachment setback and not from the original setback. The original setback is 12' in this area and there was a 5' encroachment allowed in the ordinance, so this is an additional variance to this ordinance. MR. Smith stated that Mr. Hrebik presented a good case and he did have a topography problem in the backyard that prevents any location of the construction there.

Mr. Kelley stated that it was a good thing to try to get the cars off the street.

There was no opposition.

In application No. V-191-72, application by Richard K. Hrebik, under Section 30-6.6 of the Zoning Ordinance, to permit construction of a carport 2.1 feet from side property line, on property located at 7463 Long Pine Drive, North Springfield Subdivision, also known as tax map 80-1((2))(72)36, Annandale District, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, FOLLowing proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of January, 1973, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5
3. That the area of the lot is 13,695 square feet.
4. That compliance with all County Codes is required.
5. That this is a minimum variance.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

a. Exceptional topographic problems of the land.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. That the addition be in strict architectural conformance with the existing structure.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

// January 10, 1973

DONALD & LOIS SKALA, app. under Section 30-7.2.6.1.3 of Ord. to permit private [illegible] care & educational center, 5330 Sideburn Road, 68-4((1))57, Springfield District, (RE-1), S-192-72

Mr. Donald Stevens, attorney at law, P.O. Box 547, Fairfax, Virginia, represented the applicant before the Board.

Notices to property owners were in order. The contiguous owners were Lt. & Mrs. John Bean and the Eberharts.

Mr. Stevens stated that this application is for a ma[illegible]um number of 120 children. This includes the 100 that will be in the day care facility in the afternoon. The 120 children will be in the educational facility in the morning and some of these 120 children will stay in the day care facility in the afternoon, because their paren[illegible] work. It might possible only be 20 children in the afternoon. There would be no [illegible]ldren coming in the afternoon. Those that will be staying all day might also come earlier in the morning for the same reason, their parents work. The applicant has estimated that the demand for day care facilities will be from 7:00 A.M. in the morning. The school, of course, will run the usual hours from 9:00 A.M. until 12:00 Noon. The hot meals will be catered for the students that stay over.

Mr. Stevens stated that the purchaser of the property is the applicant's parents. The applicants have a long-term lease from their parents.

Mr. Smith asked Mr. Stevens if the applicants were engaged in a private or day care facility at this time.

Mr. Stevens stated that Mrs. Skala is presently the Supervisor of the Accotink Academy. She has experience in teaching in public schools and five years experience in running the nursery operation at the Accotink Academy.

Mr. Smith went over the lease. He stated that the lease read that the term calls for 5 years with five years options to renew for a period of twenty-five (25) years.

Mr. Stevens stated that he felt it was safe to say that in view of the relationship between the contract purchaser and the lessee, that this would be the same as if they were the property owner. He stated that the building had been inspected and the team inspection service has provided the lessee with a list of minor changes that they will have to make. They can accommodate 40 pupils with no structural changes in the house. The house will accommodate 120 pupils when the structural changes have been made. They

anticipate beginning in the so-called first floor of the rambler. They will ultimately convert the garage and the basement to classrooms. This has been approved by the Health Department for the first floor area.

Mr. Runyon asked about the transportation for the school.

Mr. Stevens stated that the transportation on the onset will be provided by the parents of the students in the school. They anticipate at the time they secure an enrollment of 100 students, they might well begin to have a ten passenger vehicle to carry some of the students. Then should they need more transportation in the form of these small buses, they would get them and the parents would drive these buses. The buses would be parked at the parent's house that drove the bus.

Mr. Stevens stated that the initial staff will be Mrs. Skala and one teacher, but at the time they achieve the maximum amount of students, they expect to have seven teachers and perhaps one secretary.

Mr. Smith read the Staff recommendations from Preliminary Engineering:

"This use will be under site plan control. The use is in conformance with the proposed Private School Ordinance. A dustless surface is required for all driveways and parking lots. Sideburn Road is proposed to be a 90' right-of-way. It is suggested that the owner of the subject property dedicate to 45' from the centerline of the existing right-of-way for future road widening. Also, it is suggested that the proposed entrance road and parking spaces be screened to the satisfaction of the Director of County Development."

Mr. Smith also read the Staff report from Zoning Administration:

"Applicants propose tooperate a private school of general education for a maximum of 120 children, of which a maximum of 100 will be in day care, at 5330 Sideburn Road, adjoining Bonnie Brae Subdivision in Springfield District.

The Staff has considered this proposal in the light of the proposed Standards and Criteria for Private Schools and Day Care Centers, and finds the proposal acceptable in those terms. Interior classroom or play space is adequate to accommodate the projected initial enrollment of 40 children, and the existing structures on the property are capable of being modified to provide additional classroom or play space sufficient to accommodate the maximum enrollment proposed."

Mr. Stevens stated that there were several comments he would like to make with reference to these Staff comments. He stated that the screening they would hope that in there now would be satisfactory without a great deal of additional screening. They would like to preserve the existing screening. The applicant has no objection to the dedication of 45' from the center line for the ultimate cross-section of Sideburn Road. They would not be willing to construct along the frontage of this property for the road, because, frankly, the cost of the construction would be more than a school not yet in operation could bear.

Mr. Runyon asked the ages of the children.

Mr. Stevens stated that the ages would be from three (3) to six (6). This school would only cover Kindergarten and First Grades.

Mr. Smith then read the memorandum from the Health Department which stated:

"This is to confirm Mr. Berger's inspection and evaluation of the subject property on 5 December 1972 for use as a Child Care facility.

The first floor area, excluding the kitchen, porch and room designated as the office is adequate for forty (40) children four hours or less daily.

The septic tank system is adequate for sixty (60) children four (4) hours or less daily but because of available space, forty (40) children is the maximum at the present time for four (4) hours or less daily.

The septic tank system is adequate for sixty (60) children. Your ultimate future enrollment of one hundred twenty (120) children will not be a problem when the basement area and garage area is remodeled. Additional toilets and handbasins will have to be installed as provided by the "Minimum Private School and Day Care Facility

Standards Ordinance", and connection to the public sewer will also be necessary.

The drilled well has been repaired to meet structural requirements and may be used provided satisfactory water samples can be obtained.

Upon notification of your hearing before the Board of Zoning Appeals, we will notify the Board that we would have no objection of a maximum enrollment of one hundred twenty (120) children.

Please keep us advised of your progress and make arrangements prior to opening for our final inspection and issuance of the permit to operate..."

/s/ Clevo Wheeling, R.S., Supervising Sanitarian, Consumer Services Section, Division of Environmental Protection.

It was determined that sewer is on Sideburn Road. This property is surrounded by single family homes and there would be no problem as far as hooking up to the sewer and water.

Mr. Smith asked about the sewer tap moritorium and asked Mr. Stevens if they had applied for a sewer tap as yet.

Mr. Stevens stated that they had not applied as yet, nor had the previous owners to his knowledge. Mr. Smith stated that this might be a problem.

Mr. Kelley asked at what point they would be increasing their enrollment. He asked also when they planned to complete the other structures.

Mr. Stevens stated that at the end of the first or second year, if they did a preliminary survey and found that their children would exceed the forty, then they would begin the construction necessary to increase their membership, and would begin the next school year with this larger amount of children. There are no other structures on this property. Other than getting a Special Use Permit from this Board, before they can operate, they must also get Permits from the Health Department, State Department of Welfare and Institutions and approval by the local State and County Fire Marshall and Building Inspector. This they would do prior to expanding their enrollment. The Health Department and the Fire Marshall checks the school every year to make sure that they conform to all the regulations.

The sewer would then be put in also. They do not expect an initial enrollment of 120 children, in fact, it may be years before they would increase to 120 and again after a year they may find that there is no need for this school in this area and they could not make a go of it. This school is just starting out and does not now have any children on the books.

Mr. Stevens stated that they couldn't carry on very long with just forty students to carry the cost of the operation and the property and therefore, they certainly could not commit themselves to the renovation of the remainder of the building for 120 students, before they know whether or not they'll be able to make a go of this.

Mr. Kelley asked Mr. Stevens what he would think of getting a Special Use Permit for forty children now and coming back before the Board later on when they felt they were ready to expand.

Mr. Stevens stated that if that is the Board's pleasure, then they would have to come back, but everytime they have to come back, there is a lot more money involved.

Mr. Kelley stated that the Board is not in a position to go into this speculation business. The Board has to grant or reject on the facts that are before them, in consideration of the citizens in the area.

Mr. Smith for the record stated that the Board had received several letters for and against this use. He placed into the record a Petition-Letter from residents of the Bonnie Brae subdivision stating that they were interested in the Special Use Permit and they supported the granting of this Permit. They stated that they felt the applicant intends to provide quality education and day care facilities. They stated that there is a demand for this type facility in the area. This was signed by 8 families in the area of the Permit: Mr. and Mrs. Fred Holt, Mr. and Mrs. Richard Emerick, Mr. and Mrs. Russ Nazzaro, Roselle K. Fliesler, Mr. and Mrs. Paul Schain, Patricia Breen, Sarah Bean and Phyllis Weiner.

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Mr. Smith also placed into the record a letter in support of this application. This letter was address to the Chairman of the Board of Supervisors and signed by Mrs. R. L. Jones, a resident of the Subdivision of Spectra, which is a nearby subdivision. She stated that she felt the baby sitting and nursery school situation in this area is impossible and she knows many other people who share this view. She stated that she would rather see this property which is beautifully treed used for private use as a child care center than to have three or four more houses on this 1/4 acre lot as it is presently in the surrounding area, if they are restricted to keeping the trees. Mrs. Jones lives at 10514 ArrowWood Street.

Mr. Smith called for the opposition.

The first speaker was Jerry Smith, 5353 Sideburn Road.

Mr. Smith commented to the speaker that to his knowledge he was neither a relative or had personal knowledge of this speaker prior to this minute. He asked the speaker if he would confirm or deny this.

Mr. Jerry Smith confirmed this statement.

Mr. Jerry Smith stated that they oppose this property being used for this use for the following reasons: First, because of the road situation adjoining the property in question. The road is very seriously eroded. The applicants have indicated that they have no intention of improving this road. He submitted pictures to the Board showing the road's condition at this location. He stated that the neighborhood is the Spectra Subdivision, the Magna Subdivision and the Bonnie Brae Subdivision.

Mr. Daniel Smith, Chairman, stated that if this Permit were granted, the applicant would have to comply with Site Plan's recommendations. The use would not be allowed to commence without certain road improvements. This is under Site Plan Control.

Mr. Jerry Smith stated that it was his understanding that this requirement could be waived by the Site Plan Office.

Mr. Smith stated that the Board could ask for this not be waived, if they so chose.

Mr. Jerry Smith stated that the next problem with this application is the potential population. With the possibility of expanding to 120 students, they feel this would create an adverse noise level in the neighborhood, both with the children and the traffic. He asked the Chairman if this would bother him.

Mr. Daniel Smith stated that it would not bother him at all. He stated that he could live next to a public school and enjoy it. He stated that he could see that it might bother someone on night work, who had to sleep during the day.

Mr. Jerry Smith stated that this is a semi-commercial use and they do not want it in their neighborhood. He stated that perhaps they would not have so much objections, if this was an established community, but when they purchased their homes just recently, they did so because of the character of the neighborhood and the restrictive covenants.

Mr. Smith, Chairman, stated that under the present Fairfax County Zoning Ordinance, this use is allowed in this residential area. There is three or more acres of land here and it is very possible that a use of this type could go on a lot of one-half acre, if they had adequate sewer and water facilities. Mr. Smith asked the objector how this would change the character of the neighborhood with this use.

Mr. Jerry Smith stated that it would restrict their freedom of choice. He stated that he was sure that he would not have purchased his house, had he known of this school.

Mr. Jerry Smith asked those in the audience who supported his statement to stand. Eleven (11) stood in support of his statements.

Mr. Daniel Smith asked if they were all living in this subdivision surrounding this use. They answered that they were within one to one and one-half blocks from the property in question.

Mr. Jack Herrity, Supervisor of the Springfield District for Fairfax County, spoke before the Board. He stated that he did not want to be categorized as being either for or against this application. He stated that he had not heard all the facts. He stated that he wished to remind the Board that one of the most significant facts is that it is a community use, therefore, he stated that he felt the size must be related to the neighborhood, notnecessarily the size of the lot acreage. The size should be structured to take care of neighborhood children and not the larger surrounding area outside this neighborhood which would require long range transportation. The use permit should be limited to the neighborhood it is designed to serve. He stated that he was not trying to tell the Board what to do, but he just wanted the members to keep that thought in mind. He stated that he had a large number of calls coming into the office about this use, both for and against.

Mr. Daniel Smith thanked Mr. Herrity for coming out and talking with them. He told Mr. Herrity that the Board of Supervisor's thoughts were always welcome. He stated that there is a new ordinance covering Private Schools and Day Care Centers and the Board has been using this ordinance as a guideline.

Mr. Kelley stated that he did not believe the applicant has stated that this will be restricted to the immediate area or the area affected by this use. He asked the applicant if they propose to solicit students from other areas not in the immediate vacinity.

Mr. Stevens stated that they would not place on themselves the limitation refusing students that they might otherwise accept because of the location that that child lived. He stated that he knew of no private school in the country that could do this. It would be the applicant's intention to serve that area that surrounds the school, every private school unless it is of a specialized nature prefers to have students that live nearby, but they didn't want to be restricted to just that, should another child wish to attend this school.
Mr. Stevens also reminded the Board that what the Health Department meant in their memorandum which mentioned 40 students, four hours or less, was what the school could take care of with the facilities that were on that property. They propose to cater the meals. The Health Department limits the use to less than four hours or four hours, if there is no facility for furnishing hot meals, but if they bring the Health Department in a plan for the catering service and get that approved, then they no longer restrict it to four hours.

Mr. Stevens stated that in answer to Mr. Jerry Smith's opposition to the noise, that there would not be 120 children outside playing at any one time. The children have staggered play periods, just like public school does.

Mr. Stevens stated that as far as any change to the residential character of the neighborhood, there would be no visible changes. The outside of the house would remain the same. The only change would be the circular drive. It will look the same five years from now as it does now. There is a public school down the street just about a block below Mr. Smith's. It hasn't been built yet, but it will be. The pedestrian and vehicle traffic to this proposed school will certainly be less than this public school. Mr. Stevens stated that he did not know how many houses there are in this complex, but he knows there are at least 120 kids in those complexes around this property. Mr. Stevens said in answer to Mr. Barnes' question, that they were agreeable to the dedication as suggested in the Preliminary Engineering memo, but not construction. He stated that it would be nice for the neighborhood. He said he had just purchased a house in the Knolls Subdivision behind this subdivision. In the event the use permit is denied, that is not going to get the road widening here either.

Mr. Smith stated that if someone lives in this residence, there would not be as much traffic as with this use.

Mr. Stevens stated that Sideburn Road is planned for an arterial highway and there will come a point in time when the traffic impact from this school will be virtually unnoticable.

Mr. Smith placed into the record the other letters that were written in opposition to this case some of which were forwarded from Mr. Herrity's office and some from Mrs. Jean Packard's office. One of these letters was from Mr. and Mrs. Rodger Ashley, 5401 Sideburn Road and another from Mr. and Mrs. Omer King, Jr. 5351 Sideburn Road.

Mr. Barnes stated that he would like this case deferred for decision only until January 24th, in order for the Board members to view the property.

Mr. Kelley seconded the motion and the motion passed unanimously.

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STEVEN KOHLS, app. under Section 30-6.6 of Ord. to permit construction of pool 6 feet from rear property line, 7214 Doncaster Street, 80-3((3))(79)1, Springfield District, (R-10), Monticello Forest Subdivision, V-194-72

Mrs. Kohls testified before the Board.

Notices to property owners were in order. In addition, Mrs. Kohls presented twelve letters supporting this variance to the Board. These people were surrounding property owners. The contiguous owners were Post and Garfundler.

Mrs. Kohls stated that the size of the pool would be 16x38 which is the smallest pool size they could get and still have a diving board.

Mr. Covington and Mr. Smith discussed the ordinance as it related to setbacks in side yards versus rear yards. It was determined that because the applicant has two fronts, they have two sides and no rear. They must either set back 12' from the house, or 25' from the rear property line, but since this is a side yard, there is no rear yard.

Mrs. Kohls stated that they had owned the property for five years and planned to continue to live there for at least twenty years. They plan to put a 6' fence, non-climbable, with space between the board so it doesn't seem to be too foreboding. They plan to put landscaping around this.

Mr. Kelley asked her if the neighbor objects to this high fence, could they lower it.

Mrs. Kohls stated that they already have a 6' high fence in their back yard and they are just going to continue it.

Mr. Covington stated that they could not build the 6' high fence in the front yard. It had to be back even with the house. A fence in the front yard must only be 4'.

There was no opposition. Mr. Grafundler, 6111 Hibbling Avenue spoke before the Board. He stated that he would like a clarification about the fence. He stated that he did not believe the County would allow a privacy fence in the front yard.

Mr. Smith explained that the 6' high fence could not go in the front yard, it must be within the property setback. Mr. Covington has stated that it must be even with the house as an accessary use cannot go in the front yard.

Mr. Runyon asked Mr. Grafundler if he objected or if he just wanted a clarification.

Mr. Grafundler stated that he did not object to the pool, it is fine.

In application No. V-194-72, application by Steven Kohls, under Section 30-6.6 of the Zoning Ordinance, to permit construction to pool 6 feet from corner of house and 5 feet from reat property line on property located at 7214 Doncaster Street, Springfield District, also known as tax map 80-3((3))(79)1 County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notive to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of January, 1973, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 11,046 square feet.
4. Thatcompliance with all county codes is required.
5. That the subject property is a corner lot.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning

Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

a. Unusual condition of the location of existing buildings,

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

3. The accessory fence surrounding the pool shall not exceed 4 feet in height in the front of the house.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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RALPH M. SUTHERLAND, T/A AUTO-LAND, app. under Section 30-7.2.10.5.4 of the Zoning Ordinance to permit sale of used autos, 11325 Lee Highway, Springfield District, 56-2((1))part parcel 52, (C-G), Out of Turn Hearing, S-197-72

Mr. Ralph Sutherland, applicant, and his attorney John K. Lally appeared before the Board.

Mr. Sutherland stated that he was going to operate the facility and he was not incorporated, but was trading as Auto-Land.

Notices to property owners were in order. The two contiguous property owners were Mr. Allen Rice, 7417 Hensdale Road, Bethesda on the East and Mr. K. O. Bannor, 5724 Seminar. This land of Mr. Bannor's is vacant and has an old house on the property.

Mr. Smith stated that he came by that property only this morning and he was surprised to see six automobiles already down there and in place.

Mr. Sutherland explained that there were only three automobiles there at the present time, one of which belonged to the painter who is painting the apartment there.

Mr. Kelley stated that he came by there at 5:25 and he saw six automobiles. Two trucks and a panel truck and there were three automobiles there that didn't have tags.

Mr. Sutherland stated that there is a red '64 carry-all there that belongs to Eddie Padger who lives in Aldee, Virginia. There is a 66 black Chrysler that has a bad transmission and he had already called a wrecker to come and get it. There is a '60 black Chrysler there that his colored boy drives. There is a '62 VW there with tags that the man that is painting the inside of the apartment is driving. That is everything that is there.

Mr. Kelley stated that he had talked with the boy that was putting oil in the car that he drives.

Mr. Sutherland stated that there is only one truck on the lot.

Mr. Kelley stated that he had been on the property and made notes of the fact that there were two, a panel red truck and two other trucks and two other passenger cars and the 6th was the one that the boy was driving, but there were five others.

Mr. Sutherland stated that the only one that has been sitting there is the red carry-all truck owned by the man in Aldee. It is a farm truck.

Mr. Smith asked Mr. Sutherland if he was proposing to use that house as an office.

Mr. Sutherland stated that he proposed to use a portion of the house as an office.

Mr. Smith told him that he had not included the house in the use permit area. It would have to be in the use permit area.

Mr. Lally stated that the only portion of the frame house that is being used is the east room on the first floor.

Mr. Smith asked him if they were planning on continuing to use this house as a dwelling and as an office.

Mr. Lally stated that they were.

Mr. Lally stated that the land right next to the use permit area is zoned C-G, but it is non-conforming with motel units on it. Motels are no longer allowed without a Use Permit.

Mr. Smith stated that the Board has no jurisdiction if the house in not in the leas area.

Mr. Covington asked if they proposed to continue to use it as residential and also use the room for the office.

Mr. Lally stated that is what they wish to do.

Mr. Covington stated that he did not see any reason why they could not do this as this is a non-conforming use.

Mr. Smith asked what about the building not being in the use permit area.

Mr. Covington stated that that portion of the building that they are going to use in inside the Use Permit area.

Mr. Lally asked that the application be amended to include the total house.

Mr. Covington stated that he saw no reason why they could not have the office in that house as long as he brought the house into conformity.

Mr. Kelley stated that the parking spaces were not shown on the plat either.

Mr. Kelley asked if Mr. Sutherland planned to blacktop the entire area as the Staff report states that it must be a dustless surface.

Mr. Smith stated that the setbacks are not shown either.

Mr. Smith asked Mr. Sutherland if he planned to repair cars at this location.

Mr. Sutherland stated that he did not, not at the present time.

Mr. Smith asked him what he planned to do with the storage building.

He stated that he would store things in it such as tires, anti-freeze, batteries, etc. The building is to be 16x40 and has not been put up yet.

Mr. Barnes moved to hear thehearing and then if the Board wanted to defer decision until the applicant could submit new plats, then it could do so at the end of the hearing.

Mr. Baker seconded the motion.

Mr. Smith stated that it had been the Board's policy to not hear a case until the applicant has submitted proper plats.

Mr. Kelley stated that he didn't see any need of having the applicant going to the expense of new plats if he could not meet the requirements as far as the dustless surface and the service drive on Shirley Gate Road and Lee Highway.

Mr. Smithasked the applicant to comment on the Staff report.

Mr. Lally stated that it would seem to him that at the present time, curb, gutter and widening of the highway for the full frontage of Lee Highway would be proper, but he did not think that it was necessary to do this for Shirley Gate Road, as the motel would still be in operation for about five more years.

Mr. Smith stated that he would rather see the applicant split the property rather than doing this by lease line. He stated that he would not vote for this use without the applicant agreeing to comply with the site plan recommendations.

Mr. Lally stated that that would be possible if it were not for the office.

Mr. Runyon stated that the Board just sent an applicant back last week because of improper plats.

The vote was 2 for the motion and 3 against. Mr. Baker and Mr. Barnes voted for the motion and Mr. Kelley, Mr. Smith and Mr. Runyon against. The motion failed.

Mr. Beerman stated that he would like to speak.

Mr. Smith called him out of order.

Mr. Runyon moved that the applicant come back with new plats showing the arrangement of the vehicles on the lot, employee parking, what the square footage of the office area is and where the office space is and that should be included in the permit area also, and the storage building -- that should be called a storage building and it should be included in the permit area, if it is going to be necessary for the use of the property. He stated t hat he was not worried about the two widenings of the highways, that will be covered by Site Plan and the BZA has no authority to waive Site Plan requirements. The BZA's job is to determine how he will use theproperty and what the mode of operation will be.

Mr. Baker seconded the motion and the motion passed unanimously.

Mr. Smith stated that the Board usually bases their decision on the plan that they submit and he would not vote for this use unless they could get the improvements that the Staff has requested. He stated that at least, they should show the improvements on Lee Highway.

Mr. Sutherland in answer to Mr. Kelley's question stated that he intended to blacktop only to where the ground drops off. There they have a problem with the land and will have to alleviate that before they can blacktop.

Mr. Smith told Mr. Sutherland that if there is any part of that property that they do not intend to asphalt prior to starting the operation, then they should and would have to cut that part off too.

Mr. Smith further stated that he could not support the application unless there is a good development plan. He stated that there is some question in his mind as to whether or not they should be allowed to cut this office in the lease line and bring in a new use, but the Zoning Administrator says it is permissible.

Mr. Covington stated that if they cut if off, rather than using the lease line, there would be no way to force them to meet all the requirements.

Mr. Reynolds from Preliminary Engineering stated that if they come in to have the property subdivided, a service drive can still be required for the full frontage of the property.

Mr. Smith stated that the case would be set for January 24, 1973, providing the applicants get the new plats in five days prior to the hearing.

Mr. Kelley stated that he would like to hear what Mr. Beerman had to say.

Mr. Beerman stated that Mr. Sutherland is his brother-in-law and that he had no financial interest in the property. He stated that he was trying to help him get a new location. He had operated in Fairfax City previously, but he was on a month to month lease. They are now putting in a new Gino's Steak House in and Mr. Sutherland is out of business. He moved the cars that he had to a farm up in Loudoun County, but they have now told him he will have to move them off the farm, therefore, he has no place to go. This is a serious hardship as Mr. Sutherland has a family that he is trying to raise.

Mr. Smith told Mr. Beerman that the BZA had given Mr. Sutherland an out-of-turn hearing.

Mrs. Ethel Dennis, 11307 Lee Highway, and adjacent to the property in question spoke before the Board. SHe stated that she is within 100' of this property and she is objecting to the use. She stated that she was also objecting to the use for Mrs. M.C. Russell who is also very much against it. Mrs. Russell could not be present today because she was visiting out of town and got caught in the snow. She stated that she wanted to clarify something. Mr. Lally had said that there were cabins along Shirley Gate Road, but there is 75 to 100 feet that he will be using for used cars.

Mr. Smith stated that the plats do not indicate this. Mr. Smith stated that the Board is not hearing the case and he asked Mrs. Dennis to save her remarks until the meeting of January 24.

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BERNARD, INC., app. under Section 30-6.6 of Ordinance to permit corner lot with less frontage than allowed by Ordinance (req.175') to 56.67' at 3627 West Ox Road, Mary Ridge Subd., 46-1((1))2, Centreville District (RE-1), V-185-72 (Deferred for proper notices)

Mr. Smith read a letter from the applicant asked that they be allowed to withdrawn their case without prejudice.

Mr. Barnes so moved.

Mr. Kelley seconded the motion and the motion passed unanimously.

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STANLEY MARTIN COMMUNITIES, INC., in Subdivision of Reflection Lake, app. under Section 30-7.2.6.1.1 of Ordinance to permit construction of community facilities for 900 members for Swim Club, 16-1((1))313, 314, 324, 325, parcel G, Section 6, Centreville District (R-12.5), S-184-72 (Deferred from December 20, 1972 to allow applicant to submit new plats showing additional information needed by theBoard)

The plats had been turned in and approved by the Staff. They had reduced the number of members to 765 and they had also increased the land area.

Mr. Larry Cortano, 9332 Annapolis Road, Hyattsville, Maryland, spoke before the Board. He stated that Rocks Engineering Company decided to drop out of the pool project, they own Lake View. That was 147 units, therefore, that dropped the membership from 912 down to 765. Nevertheless, they had increased the parking to 126.

Mr. Bill Lanham, 5809 Annapolis Road, Hyattsville, Maryland, spoke before the Board. He stated that the 126 parking spaces includes the overflow parking area that appears as a basketball court. It is not called a parking lot as it will not always be used for parking. The basketball backstops will be pulled out of a sleeve. At the first hearing, the Board mentioned they would like a 6 to 1 ratio and this is approximately what the applicant's have done.

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STANLEY MARTIN COMMUNITIES, INC.
January 10, 1973

In application No. S-184-72, application by Stanley Martin Communities, Inc. in subdivision of Reflection Lake under Section 30-7.2.6.1.1 of the Zoning Ordinance, to permit construction of pool for 900 members for Swim Club, on property located at Parcher Avenue also known as tax map 16-1((1))313, 314, 324, 325, parcel G, Section 6, Centreville District, County of Fairfax, Mr. Kelley, moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 20th day of December and deferred to January 10, 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Stanley Martin Communities, Inc.
2. That the present zoning is R-12.5.
3. That the area of the lot is 2.431 acres.
4. That Site Plan approval is required.
5. That Compliance with all County and State Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of members shall be 765 which shall be residents of the Reflection Lake Subdivision and adjoining areas.
7. The hours of operation shall be 9:00 A.M. to 9:00 P.M. Any after hours parties will require written permission from the Zoning Administrator, and such parties shall be limited to six (6) per year.
8. The minimum number of parking spaces shall be 126 for cars and 50 for bicycles.
9. All noise from loud speakers, etc., shall be confined to site. Lights shall be directed onto the site area.
10. Landscaping, screening, fencing, and/or plantings shall be as approved by the Director of County Development.

Mr. Barnes seconded the motion.

The motion passed unanimously.

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HENRY W. SCHMALENBERG, application under Sec. 30-7.2.10.5.4 of Ordinance topermit sales and service of motor home, camping equipment, recreational vehicles, 13616 Lee Highway, Centreville District, 54-4((6))21 & 22 (C-G), S-180-72 (Deferred from December 13, 1972, for new plats)

Mr. Kelley stated that on the new plats, they show the pump islands to be removed and employee parking put in, he asked the applicant if that was correct.

The applicant's attorney, David H. Boyd, 10533 Main Street, stated that that was correct. Mr. Boyd stated that their hours of operation will be the normal business hours. It would be no later than 9:00 P.M. on any day.

Mr. Smith read a letter from Steven L. Best, Attorney at Law, representing Paul H. Mannes, testimentary trustee of the estate of Julia M. Higgins. Mr. Best stated that his clients were opposed to this use as they felt it would downgrade the area and would give it an unsightly appearance. The hearing was postponed and he stated he wanted to submit this letter setting forth their opposition, in lieu of another appearance.

Mr. Boyd stated that there were twenty-nine trailer slots there.

Mr. Smith asked if the applicant would be agreeable to filling the empty storage tanks that are underground with sand.

Mr. Boyd stated that they would agree to do whatever is required to do.

Mr. Smith stated that he definitely did not want them filled with water.

Mr. Smith asked Mr. King, the owner of the property at the present time, how long the tanks had been there. Mr. King stated that they had been there since 1947.

In application No. S-180-72, application by Henry W. Schmalenberg under Section 30-7.2.10.5.4 of the Zoning Ordinance, to permit sales and service of motor home, camping equipment and recreational vehicles on property located at 13616 Lee Highway, Centreville District, also known as tax map 54-4((6))21 and 22, County of Fairfax, Mr. Kelleymoved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 13th day of December, 1972, deferred to January 10, 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Gilber L. King.
2. That the present zoning is C-G.
3. That the area of the lot is 28,000 square feet.
4. That Site Plan approval is required.
5. That compliance with all County Codes is required.
6. That the Planning Commission considered this case on December 5, 1972, and unanimously recommended that the Special Use Permit be granted.

AND, WHEREAS, the Board of Zonigg Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLWED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to changes of ownership, changes insigns, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The hours of operation shall be 9 A.M. to 9 P.M. 6 days per week, Monday through Saturday.

7. The minimum number of parking spaces shall be seven (7) parking for trailers in accordance with plat submitted.

8. Landscaping, screening and plantings shall be as approved by the Director of County Development.

9. The owner is to dedicate to the back of the proposed sidewalk for future road widening.

10. This permit is granted for a period of five (5) years with the Zoning Administrator being empowered to extend for three (3) one (1) year periods.

11. Underground storage tanks shall be filled with sand or removed in accordance with Fairfax County Fire Marshall's instructions.

Mr. Barnes seconded the motion.

The motion passed unanimously.
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SONDERLING BROADCASTING CORP., app. under Sec. 30-7.2.2.1.3 of Ord. to permit an erection of a one story building, addition to existing radio transmitter site facility, 7330 Ronald Street, Tower Heights, 50-1 ((12))2, Providence District (R-10), S-146-72

This case was deferred for a number of things. Inspection by team inspectors had found several deficiencies and requested that they get a permit from the Electrical Inspector and get an independent registered professional Virginia Engineer's report on the tower. (See motion of earlier hearing for details -- November 8, 1972)

Mr. Silberberg, attorney for the applicant, 111 South Alfred Street, Alexandria, Virginia, spoke before the Board.

Mr. Smith read a letter from A. Harry Becker, Assistant Secretary, Sonderling Broadcasting Corporation, to Mr. McDilda, Assistant Chief Electrical Inspector which stated:

"This letter will confirm your telephone conversation December 22, 1972, with our attorney, Howard B. Silberberg, in reference to the above matter.

You and Insp. Kidwell have noted certain deficiencies in the electrical circuits at our existing transmitter building. We are seeking the County's approval to erect a new transmitter equipment structure on the same site. If such approval is given, we intend to remove certain equipment now in the existing building and into the new structure, thus affecting the electrial requirements of the old building which will then be used for the remaining equipment, which requires less electrical service.

If the County approves our application to erect the new structure, it will have circuitry complying with the County Code. In that case, we will also bring the existing structure into compliance with the County Code once the new building is erected and our new equipment is moved into it. However, if our application to erect the new building is ultimately denied, we will bring the existing building into compliance with the Code. In the meantime, it is our understanding that your office will require no further modifications in the existing building's electrical circuitry."/S/ A. Harry Becker

There was no response to the letter from Mr. McDilda.

Mr. Smith reviewed the Use Permit. He stated that this Board previously quite a few years back approved the erection of the tower as it now stands. This was June 24, 1947 and the file indicates that it was to be 339' high and it would be placed 230' from any adjoining land. However, at the time, it was to be built on five acres of land and there was nothing else around it. Sonderling's predecessor sold off all but 2/3 acre. They violated the use permit. This area has been cut down to a point where the fall factor is almost "o". The Board can't grant a variance on this now.

Mr. Barnes asked when Sonderling purchased this property.

Mr. Silberberg stated that it was in '67 or '68. He stated that their office was involved in the transfer through FCC from the former owner to thepresent owner. Sonderling had no knowledge at that time of this problem. He stated that there had to have been some approval from some department of the county.

Mr. Smith stated that the permit had certain conditions and the permittee is not supposed to violate them. It is not the County's responsibility, it is the applicant's.

Mr. Silberberg stated that it might not have been their immediate predecessor, it might have been some owner in between. He stated that his firm handled the transfer of the licensee of the Station. It was a sale of stock, as he recalled and not just assets.

Mr. Barnes asked if FCC approved the tower.

Mr. Silberberg stated that he could not answer that without qualifying his remarks, as he did not know what their position is.

Mr. Barnes stated that he was sure that FCC was only concerned about the tower itself and not where the tower is, tower and signal strength.

Mr. Silberberg stated that he had checked both his office's records and the County's records and found nothing.

Mr. Smith read from the minutes of 1947 when this permit was granted. The permit stated that the tower would be 339' in height and would be 300' from any adjoining property line.

Mr. Kelley stated that the other question was about their renting or leasing space on the tower to other stations, etc., or other operations.

Mr. Silberberg stated that they did have a letter from the engineer that they had employed. He submitted that letter to Mr. Smith. The study was done by Burleson Associates, Inc., 5151 Wisconsin Avenue, N.W. Washington, D. C. 20016. Burleson certified that the engineer who was doing the study was a structural engineer in the State of Virginia PE Registration #05782 and his name is Matthew John Vlissides. They stated in their letter that the computer study now is being completed.

Mr. Smith read the letter and passed it around for the members to read. The letter stated:

"The status of the referenced project is as follows:

1. The field tower survey, including detailed inspection and measurements has been completed.
2. Observations show that some attention is necessary, such as tightening loose bolts and adjustments of secondary members.
3. The preparation of computer input data is now in progress and the final mathematical model will be completed and run within about 10 days.
4. From an initial study of the tower survey results we have formed the preliminary opinion that the tower safety magins are within acceptable levels.
5. As of this date there are no free swinging cables or transmission lines connected to the tower.

Please advise if additional information is desired at this time." /S/ Malcolm M. Burleson

Mr. Silberberg stated that they hoped to have the study from the engineer in about ten days.

Mr. Kelley asked if there had been any comments from Mr. Pete Adams.

Mr. Smith stated that there was nothing in the file other than the original comments from the previous hearing.

Mr. Smith stated that the only thing the Board could do is wait to get the supporting data from the engineers and then make the decision.

Mr. Kelley suggested consulting the County Attorney.

Mr. Smith stated that this owner didn't sell off the land. He has certain vested rights and it is a going operation and the County has not seen fit to check it.

Mr. Barnes asked the applicant what type of insurance they had.

Mr. Silberberg stated that they do have a basic liability policy and also an umbrella policy. He gave some more details.

Mr. Barnes stated that if they had a policy like that then, he could see no problems.

Mr. Smith stated that there always seems to be a clause in the policy that lets the insurance company off without paying.

Mr. Silberberg stated that Sonderling is listed on the American Stock Exchange, if that would be of any benefit to the Board.

Mr. Smith asked Mr. Silberberg to have the applicant's send a copy of the insurance policy to Mrs. Kelsey, Clerk to the BZA.

Mr. Kelley moved that this case be deferred until the inspection's report and engineer's report is completed.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Smith stated that if they have the report back in time, they possibly could be heard on January 24th.

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AMERICAN INSTITUTE OF HEALTH -- This case was a re-evaluation hearing which had been deferred for the Board members to study the information that had been received prior to making a decision.

Mr. Runyon stated that in light of the evidence presented at the hearing and the information supplied by the applicant, the Board has decided that American Institute of Health has complied with the original intent of the motion granting this use. He stated that this was his motion.

Mr. Baker seconded it.

The motion passed unanimously.

Mr. Runyon stated that basically the new letter that was received from Sleepy Hollow Citizens Association points out all of the things that were brought up at the hearing They now have a committee to work with the facility and they have told the Board that they would keep the Board informed if there are any further problems. He stated that it is his feeling that the Board should dismiss this now and if they have problems in the future, perhaps some action would have to be taken.

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SCHOOL FOR CONTEMPORARY EDUCATION, S-167-72

Mr. Smith stated that when the Board granted this Use, they neglected to state that the buildings must be of Brick construction. The applicant stated for the record that they were agreeable to using brick.

Mr. Runyon stated that by all means it should be added to the motion.

Mr. Runyon moved that another limitation be added to the Resolution granting this use --"That all construction shall be of brick construction."

Mr. Kelley seconded the motion and the motion passed unanimously.

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OUT-TURN-HEARING REQUEST -- AMERICAN HORTICULTURAL SOCIETY, S-3-73

The Board members read the letter requesting the out of turn hearing. This request was based on the fact that they had a donor of one million dollars providing they could settle by February 13, 1973.

Mr. Baker moved that the request be granted.

Mr. Barnes seconded the motion.

The motion passed unanimously and the hearing was scheduled for January 24, 1973.

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Mr. Smith read a letter from William Barry, Senior Zoning Inspector, regarding the Brough Kennel. He stated that the original permit was granted in 1960 for three years and the case was again heard and granted in 1967 for a similar period. The BZA both times accepted the plat of the property, but that plat is not in conformity with the regulations that the Board now has. The Brough's definitely want to phase out of the operation within another three years. He asked if the Board would accept the same plats, or if not, would the Board grant Mr. Brough a three year extension. He further stated that the Inspection Office had conducted an annual inspection and if all kennels were as clean and well kept as this one, the Board would have no problems.

The Board members agreed that everybody must abide by the same rules that the Board had previously adopted.

The Board, therefore, stated that Mr. Brough would have to come in with a new application, with the proper plats.

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VIOLATION NOTICE TO SPRINGFIELD ACADEMY.

Mr. Smith read a letter from D. S. Leigh, Zoning Inspector, regarding Springfield Academy. He stated that they had had a complaint that that school had 200 students. He inspected the premises and found that the school had a total of 130 students. Their use Permit was for 80 students. He then had a conversation with Mr. Merritt, who had originally gotten the use permit and Mr. Merritt stated that if this was followed through, it would be like opening Pandora's Box and a few other comments such as that. Nevertheless, Mr. Leigh stated that he gave Mr. Merritt a violation notice and told him that he must comply by February 9, 1973 by filing with the BZA an application for a new use permit for a greater number of children.

Mr. Smith stated that at this point, Mr. Leigh is right on the ball. He stated that if he does not comply by that date, bring Mr. Merritt in for a Show-Cause hearing.

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Mr. Smith read several letters, or copies of letters, that had been sent from William Barry, Senior Zoning Inspector, to several of the oil companies, giving them final violation notice for keeping wrecked, inoperable, junk motor vehicles on the premises. The stations were as follows:

Lorton Shell - 8015 Lorton Road

Annandale Shell - 7413 Little River Turnpike

Ravensworth Shell - 8316 Ravensworth Road

Belvoir Shell - 8540 Richmond Highway

Annandale Arco - 7013 Columbia Pike

Wright's Arco Service - 5900 Columbia Pike

Rose's Arco - 8500 Richmond Highway

Bailey's Crossroads Arco - 3601 Paul Street

Franconia Gulf - 5520 Franconia Road

Lincolnia Gulf - 6528 Little River Turnpike

Renners B-P - 5503 Leesburg Pike

B-P Station - Seminary Road and Gorham Street

Beltway Mobil - 7638 Little River Turnpike

Covey's Texaco - 8249 Richmond Highway

Welch's Texaco - 6286 Little River Turnpike

Pinecrest Texaco - 6565 Little River Turnpike

Franconia Esso - 5514 Franconia Road

Edmonds Esso - 7336 Little River Turnpike

Lake Barcroft Esso - 6345 Columbia Pike

Lakeview Esso - 6116 Columbia Pike

Pineridge Esso - 8630 Little River Turnpike

By Jane C. Kelsey
Clerk

Daniel Smith, Chairman

APPROVED February 21, 1973
(Date)

The Regular Meeting of the Board of Zoning Appeals of Fairfax County, was Held on January 17, 1973, at 10:00 A.M. in the Massey Building. Members Present: Daniel Smith, Chairman; Loy Kelley, Vice-Chairman; George Barnes, and Joseph Baker. Charles Runyon was absent.

The meeting was opened with a prayer by Mr. Barnes.

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ESTHER F. LEYDEN, app. under Section 30-7.2.6.1.7 of Ordinance to permit antique shop, 2720 Chain Bridge Road, 48-1((1))9, Centreville District (RE-1), S-193-72

Notices to property owners were in order. Contiguous owners were Steward and Weber.

Mrs. Leyden stated that Mr. Weber was present in support of the application.

Mrs. Leyden stated that she wanted to have an antique shop. The house has a circular drive and therefore, this will not cause any traffic congestion. This house is located on 13,894 square feet of land. She stated in answer to Mr. Smith's questions that she was not in the antique business now, but had run a shop on Connecticut Avenue and had acquired some knowledge of the antique business through the years. She stated that the plats shows the land that has already been taken by the Virginia Highway Department. Kline Street that runs along side the house is a private street and is taken care of by the residents on that street. All the residents have agreed to maintain the street. There will be little use of Kline Street. She stated that she would have no more than two or three cars there at any one time. There are three parking spaces located on the property. Mr. Weber has given permission for her to use his property should she need more spaces.

Mr. Smith asked her if she planned to live at this address.

Mrs. Leyden stated that her son is going to live there and would live upstairs and the shop would be downstairs. The hours will be from 10:00 A.M. to 4:30 P.M. She stated that she would be contributing to the maintenance of the street. There are five people contributing to the maintenance of this street. She stated in answer to Mr. Baker's question that the circular drive around the house is approximately 30'.

Mr. Smith stated that the operator of the antique shop must be the resident of the house. He read the section of the ordinance that pertained to this.

Mrs. Leyden stated that right now her son would be living in the house, but in the near future, she would live in it. She stated that with the changes in the area and the way they have taken the front of the homes that are there, it will be hard for anyone to be able to stand the noise and the pollution that is involved in a four lane highway.

Mr. Smith stated that this is residentially zoned land and she must be the occupant of the house.

Mr. Ed Raney, 2720 Chain Bridge Road, spoke in favor of the application. He is the seller of the house. He stated that he wanted to give the Board an idea of the neighborhood. He stated that there are several commercial establishments throughout the area, an upholstery shop, two antique shops and an animal hospital that has been operating for five years which he feels is a violation. There is also the C & P Telephone Company, and Tall Oaks Apartments.

Mr. Smith stated that most of these uses came in some time ago and at the time of the application the applicants of the antique shops were also the owners and residents of the property in question. C & P is a public utility and serves all the people of Fairfax County. Gooding Upholstery is zoned commercial.

Mr. O. D. Weber spoke in favor of the application. He stated that he had no interest in this case whatsoever and he was speaking on behalf of most of the neighbors around there. They have no objection to this small business going in. He stated that he lives right beside of Mrs. Leyden and he also has six acres in back of her.

OPPOSITION: Mrs.Paul Stewart, 2722 Chain Bridge Road, Fairfax, spoke in opposition to this use. SHe stated that she lives directly next door to this house. They are concerned about the circular drive on Kline Land which is maintained by all the neighbors and they all get together and fill in ditches that need to be filled in and take care of the road. It can run into some money. They are the only ones on the road, but the road now does not get much use, but they are concerned about this business using

the driveway as it will put much more traffic on it. She is also concerned about the safety of her children who have to cross the street to get on the bus. She stated that they had lived there for one and one-half years.

Mr. Smith read the memorandum from the Planning Commission recommending denial of this use by a vote of 4 to 2 with one abstaining. Their reasons for denying was in accordance with the Staff recommendation and report which was attached to their memo. The Staff's reasons for recommending denial was the lot was too small for the operations and it is not in accordance with the Plan for the area.

In application No. S-193-72, application by Esther F. Leyden, Contract purchaser, under Section 30-7.2.6.1.7 of the Zoning Ordinance, to permit antique shop, on property located at 2720 Chain Bridge Road, Centreville District, also known as tax map 48-1((1))9, County of Fairfax, Mr. Kelley moved that The Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners and a public hearing by the Board of Zoning Appeals held on the 17th day of January, 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Arlin E. & Kathryn J. Raney ("Ed Raney).
2. That the present zoning is RE-1.
3. That the area of the lot is 13,894 square feet.
4. That the Fairfax County Planning Commission on January 11, 1973, recommended by a vote of 4-2, with one abstention, that the above subject application be denied.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Section 30-7.1.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby denied.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

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JAMES V. WRIGHT, app. under Section 30-6.6 of Ord. to permit enclosure of porch and add screened porch closer to side property line than allowed, 8405 Felton Lane, Collingwood on the Potomac Subd., 102-4((6))(8)11, Mt. Vernon District (R-12.5)V-195-72

Mr. Wright represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Cmdr. D. L. Moore, 8407 Felton Lane, Alexandria, and Col. Everett Richards, 63 McGill Circle, Eatontown, Maryland.

Mr. Wright stated that he would like to enclose the porch for a dining room area. He stated that there is no other place on the property to construct. There is not enough room on the other side of the house and even though there isplenty of room in the back, the way the house is constructed it would not be feasible to put on an addition in the back as it would block vents from the stove, dryer and air conditioner. It would also block the windows. He stated that the screened porch was on the house when he purchased it in 1957. It was purchased new by his foster parents. I just want to put walls on that porch.

Mr. Kelley stated that the existing patio that he wishes to screen does not need a variance.

The applicant stated that he planned to continue to live on this property.

In application No. V-195-72, application by James V. Wright under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of porch and add screened porch closer to side property line than allowed, on property located at 8405 Felton Lane, Mt. Vernon District, also known as tax map 102-4((6))(8)11, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of January, 1973, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 12,640 square feet.
4. That the request is for a minimum variance.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
a. Execptionally narrow lot.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, certificates of occupancy and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

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MULTIPLEX CORP. app. under Section 30-7.2.6.1.1 of Ord. to permit construction of community pool, 1500 feet north of Guinea Road off Zion Drive, Glen Cove Subd., 77-2((1)) part parcel 2A, Springfield District (RTC-5), S-196-72

Marc Bettius, attorney at law, 4085 Chain Bridge Road, Fairfax, represented the applicant.

Notices to property owners were in order. The contigous owners were Mr. and Mrs. James Goins, 10133 Zion Drive, Fairfax and Mr. and Mrs. Alfred Abernathy.

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Mr. Bettius stated that this site was given a great deal of attention by the Planning Commission at the time of rezoning. He stated that he took great pride in this development as he has seen it through the rezoning and all the steps that had to be taken. This project is beautiful in topography, but also rough in topography. (He shows the diagram to the Board) He stated that the total site is 66 acres, but the actual area of development is confined to a very small area. The townhouses in the development are now under construction. The architect proposes to place the pool in the center in order to have a walk-to pool. He agrees with the Staff Comments and stated that they already have walk ways planned throughout the development and they have planned to put privacy fences up throughout the development also. These are already on the approved site plan.

Mr. Smith stated that the Board would incorporate any comments from Preliminary Engineering into any motion they might write.

Mr. Bettius stated that there would be a total of 305 memberships and they planned to have 46 parking spaces. Anyone who buys a townhouse will become an automatic member to the pool, he stated.

Mr. Smith requested that they furnish at least 60 bike racks as this is a walk-to pool and many people would, no doubt, ride bicycles. This parking is way below what the Board requires normally for a single family development, but this particular development is very clustered.

In application No. S-196-72 application by Multiplex Corp. under Sec. 30-7.2.6.1.1 of the Zoning Ordinance, to permit construction of community pool on property located at 1500 ft. N. of Guinea Rd. of Zion Drive, also known as tax map 77-2 ((1)) pt. parcel 2, Co. of Fairfax, Mr. Kelly moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of January 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Multiplex Corporation of Virginia.
2. That the present zoning is RTC-5.
3. That the area of the lot is 2.04121 acres.
4. That the Site Plan approval is required.
5. That compliance with all county and state codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.

2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.

3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN A NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. That the maximum number of family memberships shall be 305, which shall be residents of Glen Cove Subdivision and/or the immediate area.

7. The hours of operation shall be 9:00 A.M. to 9:00 P.M. Should there be an occasion when an after hours party is desired, permission must be obtained from the Zoning Administrator in writing prior to date of said function and said parties shall be limited to six (6) per year.

8. There shall be a minimum of 46 parking spaces for cars and a minimum of 60 parking spaces for bicycles, also an emergency lane to the pool shall be provided.

9. The site is to be fenced with a chain link fence as approved by the Director of County Development.

10. Landscaping, screening, fencing, and/or planting shall be as approved by the Director of County Development.

11. All loudspeakers, lights and noise shall be directed to pool area and confined to site.

12. The size, type and spacing of all proposed landscaping plants should be shown on the plat approved by the B.Z.A. A single row of 3' high planting should be provided along Brigantine Way for the full frontage of the property. This planting should be placed behind the proposed sidewalk on Brigantine Way.

13. Also, some provision should be made to provide for walk access from the proposed townhouse units in Sec. 3 and along the entrance road from Brigantine Way to the subject pool site. It is also required that rear yard fences be provided on those townhouse units proposed in Sec. 3 that will abut this pool site to preclude the erection of a screening fence on the pool site along the entire north property line.

Mr. Barnes seconded the motion.

The motion passed unanimously with the members present.

Mr. Bettius asked if this fencing for the site referred to the entire site, or just the area that surrounds the pool.

Mr. Smith stated that it meant only that surrounding the pool itself as he understood it as it is shown on the plats that were submitted with the application.

Mr. Smith asked Mr. Kelley if that is what this meant.

Mr. Kelley stated that it was.

Mr. Barnes agreed.

Mr. Bettius thanked the Board.

The hearing concluded at 11:15 A.M.

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LESTER F. MARKELL, SR., app. under Section 20-7.2.10.2.5 of the Ordinance to permit car wash, 10701 Leesburg Pike, 12-3((1))18A, Centreville District (C-N), S-198-72.

Mr. William Matthews, 4085 Chain Bridge Road, Fairfax, Virginia, engineer and surveyor, represented the applicant.

Notices to property owners were in order. The contiguous owners were Myrtle Wheeler and Mark S. Crippen, who own both parcels 18 and 19.

Mr. Matthews stated that this is an existing service station property and they would like to extend the service station use with the addition of a car wash. He stated that he had taken some more pictures to help the Board with this case.

This property is owned by Mr. and Mrs. Markell. There is 1.8766 acres of land here.

Mr. Smith asked if this service station and the car wash would take up all the C-N land here.

Mr. Matthews stated that it would.

Mr. Smith asked if the service station was under lease to someone else.

Mr. Matthews stated that it was under lease to the American Oil Company.

Mr. Smith stated that the applicant should include the parties leasing the property.

Mr. Matthews stated that they lease only the blacktopped area.

Mr. Smith asked if the original Use Permit included the entire tract of land involved here.

Mr. Matthews stated that the original Use Permit did include the entire thing.

Mr. Smith stated that if the service station permit was granted on the entire parcel of land, then that parcel of land should have been included on the lease. Mr. Smith also stated that the Board would also need a copy of that lease. Mr. Smith stated that if American Oil is not on the Use Permit, there would be a problem with the enforcement of this Use Permit as the violation would have to be issued directly to the owner.

Mr. Matthews stated that Mr. Markell had operated the station until last spring.

Mr. Smith stated that when he stopped operating it, he should have come back and added the name of the person or company that was now operating the station.

Mr. Smith asked the Board members if they wished to hear the case today, or defer it until the Planning Commission had heard the case.

Mr. Barnes stated that he felt the Board should hear the case and defer decision until after the Planning Commission had heard it.

Mr. Kelley stated that he would like to know what the structure would look like.

Mr. Smith stated that the applicant would have to get a letter of intent from the Oil Company. He stated that Markell was in violation of the Use Permit now, as he had leased off a portion of the land from the original acreage that was under Use Permit.

Mrs. Rowena Markell spoke before the Board. She wanted to know what this meant in terms of what they should do now.

Mr. Smith stated that they should get a lease covering the entire tract of land. He stated that even though they were in violation, the Zoning Administration usually gives a person thirty days to clear up the violation.

Mr. Smith read the old Use Permit granting this use. It stated:

"Mr. Smith moved that the application of Lester Markell, application under Section 30-7.2.10.2.1 of the Ordinance, to permit erection and operation of a service station, south side of Leesburg Pike, approximately 400' west of Route 606, Centreville District, be approved in conformity with plats submitted; that all setbacks and side yard requirements be met in accordance with the Ordinance. This is on a two acre tract of land now zoned C-N for service station uses only; that all State Highway and County road requirements be met through dedication, specifically 63' from the proposed edge of pavement of Route 7 if not already acquired by the State, and improvements along #606 might very well require minor revisions. Any necessity for dedications in order to facilitate site plan shall be made also. All other provisions of the Ordinance, both County and State shall be met. Seconded, Mr. Barnes. Carried unanimously."

Mr. Matthews stated that Mr. Hicks, a representative from the equipment company, was also present should the Board have any questionsof him.

Mr. Matthews stated that this would be a drive-through car wash. The architecture and materials would be compatible with the existing service station. This car wash will be operated in conjunction with gasoline sales. When you get gas, you get a ticket and then you drive through the car wash. Getting gas gives you a reduction in the price of the car wash. Of course, you could drive through and get your car washed without purchasing gasoline. The size of the car wash building will be 30x80. The architect is Mr. Pierce and the architecture and materials will actually be identical with the existing facility, brick colonial. He stated that it is possible to join the two buildings together, but they felt that circulation would be better to keep them separate.

Mr. Smith questioned the fact that the stacking lanes began closest to the pump island that was by itself and perhaps the stacking lanes should began and the car go into the building from the opposition direction from what it is now.

Mr. Barnes and Mr. Kelley disagreed and felt it would be better if the stacking lanes remained as they were. Mr. Barnes stated that he felt it was much better this way.

Mr. Baker stated that there is a car wash down in the Groveton area that is similar to this.

Mr. Matthews stated that this is a wide open gas station and there is plenty of room between the pumps and Route 606 so that you could pick up gas at the Route 7 pumps and drive between the pumps and the building right around to the stacking lanes and go right into the car wash. This is a six bay station.

Mr. Matthews stated in answer to Mr. Kelley's question that there were seventeen parking spaces.

Mr. Matthews also stated that this service station is on septic field and Mr. Hicks from the equipment company could explain about the mechanical aspects of this.

Mr. Smith asked Mr. Hicks if the Health Department had approved the plan that they now have for this car wash.

Mr. Hicks stated that they have not submitted it, but they are aware that they will have to have the Health Department's approval of this. He stated that in these car washes, they reclaim the water. Previously they had only reclaimed only the wash water, but in Prince George's County, they had to work out a method to reclaim all the water. He stated that he had to document this method to prove that they could do this. The one in Prince George's County is still on public sewer, but they checked the water bill to be sure that a total reclaim system was being used. The water would flow into a tank either inside the building or outside. These are reinforced concrete tanks with bafflers. He stated that at first when he was talking with Mr. Markell, they were only talking of a partial reclaim system. He stated that with the total reclaim they use only two gallons of water per car of clean water that will go into the septic field.

Mr. Smith stated that this is a major factor of what the septic field will carry and whether or not the Health Department will actually approve this. He stated that this should be done before they go to the Planning Commission hearing.

Mr. Smith also stated that the tanks used for holding the water and the septic field should be located on the plats. With a large capacity tank, it should not be under the building.

Mr. Hicks stated that they would use 140 gallons of water per car and all but two gallon would be reclaimed. Out of the 140 gallon,all of it is wash water except twenty-three gallon.

Mr. Matthews then showed the Board pictures of the area, plus aerial photos.

Mr. Matthews stated that Mr. Markell also has some petitions from adjoining property owners stating that they want the car wash.

He submitted these to the Board.

Mr. Arlo Brown, Route 2, La Plata, Maryland, spoke in favor of this application. He stated that he owns the property across the lot from this use and he feels this will be an asset to the area.

Mrs. Judith , 12134 Warren Lane, representive of the Reston Community Association, came forward and stated that the Association does not oppose this, but they would like the Board to defer the case until the Planning Commission can hear it. They are in favor of the application.

There was no opposition.

Mr. Smith read the memo from the Planning Commission requesting that they be allowed to hear this case on January 23, 1973.

Mr. Barnes moved that this be deferred for decision only for new information:
1. Lease from the oil company.
2. Plats showing the septic field and the tanks for water storage and whatever else is needed.
3. Recommendation from the Planning Commission
4. Letter from the Health Department

Mr. Baker seconded the motion and the motion passed unanimously with the members present.

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January 17, 1973

G.F.S. REALTY, INC. & NORTHERN VIRGINIA BANK, app. under Section 30-6.6 of Ordinance to permit construction of canopy over drive-up bank, 8332 Old Keene Mill Road, Cardinal Forest Subdivision, 79-3((8))5D, Springfield District (RPC), V-199-72

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Mr. Conroy from the Northern Virginia Bank represented the applicants before the Board.

Notices to property owners were in order. Two contiguous owners were Cardinal Plaza Shell and McDonalds.

Mr. Gilbert R. Knowlton, Zoning Administrator, stated that the first time this case came to his attention was by a preliminary plan that had been submitted to the Division of Design Review. One of the members of that staff brought it to his office. The plan indicated that the canopy would be projecting into the travel lane and there was an agreement that this was not allowed by the zoning ordinance. He suggested that it should be brought to the BZA for a variance if they wished to do this, as this is the only way they could possibly put a canopy over a travel lane. After the application came to the BZA and it had been scheduled, he stated that he again looked at the plats and found that the canopy no longer projected into the travel lane. There was a window machine one-half the way to the service lane where people can make deposits at night or after banking hours. He stated that there are two points in the zoning ordinance that give him concern. First, this does project to a travel lane. There is no specific requirement for a specific setback in the RPC zone. The development plan for the RPC development of this property tells absolutely nothing in this case. The code provides for service stations along these lines, but it does not specify banks. The projection of this particular canopy is beyond the line of the building; there is a provision in the ordinance which says that eves may project up to 3' into the setback and there is a section in the site plan ordinance that sets the setback at 10' from the right-of-way line for canopies. There is no right-of-way here. In short, he stated, that there is a great deal of confusion as to exactly how the code relates to this. It is quite possible that this could be administratively approved, but since the application had been filed, the staff thought it best to bring this case to the BZA to clarify this, hopefully.

Mr. Smith stated that he felt Mr. Knowlton was right, that if this projected into the travel lane, a variance would be needed, but, in this case, it does not project into the travel lane, and there is a question in his mind whether or not a variance would be necessary. He stated that service stations do have this right and this is not a service station, but a bank, which is very similar. At the time the ordinance was written no one thought about a bank with canopies and T.V. tellers, etc.

Mr. Kelley stated that if this could be worked out administratively, then this case should be deferred in order to see if it could be worked out. If there is a problem then it could come back to the Board.

Mr. Barnes so moved that it be handled in this manner. Mr. Kelley seconded the motion and the motion passed unanimously.
Mr. Knowlton stated that he would then interpret the ordinance to mean that this canopy could go in in accordance with the Code, as they have indicated on the plats submitted to the Board.
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STARLIT FAIRWAYS, INC., app. under Section 30-7.2.6.1.1 of Ord. to permit construction of structure to cover existing practice tees, pro shop, and one story maintenance building, 9401 Little River Turnpike, Lee-Jackson Highway Subd., 58-3, 58-4((1))2, 38A & 38B, Annandale District (RE-1 & RM-2), S-201-72

Tom Lawson, 4101 Chain Bridge Road, counsel for the applicant, testified for them before the Board.

Notices to property owners were in order. The contiguous owners were Arthur Water, Trustee, 1704 North Rhodes Street, Arlington and Rutherford Day, Trustee, 8578 Leesburg Pike, McLean, Virginia.

Mr. Knowlton stated that for the record, the staff had received numerous telephone calls including the Supervisor's office of that District because the first notification that went out and the first advertisement that went out was stated in such a way that sounded like the entire driving range would be covered. He asked the Board to notice that on the plat that this is not the case.

Mr. Lawson stated that as the Board remembered they came in earlier and received a permit for the nine hole golf course and a driving range. Today, they would like to make a slight alteration in that driving range. They do not intend to change the size of the driving range. This was granted over two and one-half years ago. They are asking that they be allowed to cover the area of the driving tee area with a structure allowing eighteen tees on the lower level and eighteen tees on the upper level. The lower area will be heated.

Mr. Kelley asked if the structure would be constructed in such a way so that no one would fall off.

Mr. Lawson stated that there is a rail around the back area, but the front is open. There is a slant upward toward the edge. The structure is 10' high. The materials to be used will be concrete slab,reinforced slab roof. The mats will be setback quite a ways from the front. The depth will be 19'.

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Mr. Lawson stated that they are not asking for a pro shop or the maintenance building at this time.

They have adequate parking spaces Mr. Lawson stated with the Uses that were granted heretofore.

There was no opposition.

In application No. S-201-72, application by Starlit Fairways, Inc. under Sec.30-7.2.6.1.1, of the Zoning Ordinance, to permit construction of structure to cover existing practice tees, on property located at 9401 Little River Turnpike, also known as tax map 58-3, 58-4 ((1)) 2, 38A & 38B, Annandale District, Co. of Fairfax, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of January 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-1 & RM-2.
3. That the area of the lot is 44.882 acres.
4. That Site Plan approval is required.
5. That compliance with all county codes is required.
6. That applicant is currently operating under S.U.P.#S-80-71, granted granted June 22, 1971.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance) and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening

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or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN A NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Landscaping, planting, screening, and/or fencing shall be as approved by the Director of County Development.

7. A total of thirty-six (36) tees, eighteen (18) upper and eighteen (18) lower is granted.

Mr. Barnes seconded the motion and the motion passed unanimously with the members present.

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DEFERRED CASES:

2:00 P.M. - BERGER CONSTRUCTION CORP., appl. under Section 30-6.6 of Ord. to permit fence 6' in height (required 4') within front setback, 2059 Huntington Avenue, 83-3((1))79, 80, 81, Mt. Vernon District (CRMH), V-175-72 (Deferred from 11-22-72 for proper notices)

Mr. Marc Bettius, 4185 Chain Bridge Road, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Mary Ballard, 2071 Huntington Avenue, Alexandria and Albertine Pullman, 5950 Old Richmond Highway, Alexandria, Virginia.

Mr. Bettius stated that in this case the situation is a fixed object in place on the site. He stated that this is an outstanding project as a high rise structure. At 3:30 P.M. every afternoon until morning, the gate is closed as security for the people who live in the building. The developer of this project contacted many people in the business and also tenants in high rise buildings and found that security was one of the worse problems, particularly in the parking lots.

Mr. Smith stated that this is a problem of every parking lot in Fairfax County, and private residences too.

Mr. Bettius stated that their solution to this has been to erect this fence. He explained to the Board that they had the fence all the way around the building, but the engineer unbeknowing to them removed it from the plan before it went up to the site plan office. The portion of the fence that was in the front and left on, site plan granted. Site distance was a primary concern to them and they pulled the fence back from the right-of-way. The planting is in place along the outside perimeter and as soon as this grows, one will not even know that the fence is there. It was not discovered that the engineer had taken the fence off the site plan until the fence and the plantings were in place. He stated that most of the fence is conforming because of the right-of-way dedication. Most of the fence is in excess of 50' from the property line. Should they have to remove the fence, they would also have to remove all the shrubbery that they have put in;pyracantha,

Mr. Smith asked if the only place the Board needs to be concerned about is the 20' along Huntington Avenue.

Mr. Knowlton stated that the entire area that is in front of the building would need a variance.

Mr. Smith stated that he didn't necessarily agree with this, but if this was the Zoning Administrator's decision, they would abide with it.

Mr. Bettius showed the Board of Zoning Appeals on a large plat exactly which part of the fence that was not approved by the site plan office at the time their site plan was approved. It was a very small amount. Then he showed the Board the amount that Mr. Knowlton had just stated that he would need a variance for.

Mr. Bettius also stated that the lot is very irregular. It is the shape of the property that causes the fence to intrude along the front property line. He stated that he felt the Board should know the effect on the people living there and the residents of the area. It is by accident that this portion of the fence falls in violation. The fence has been in place for six to nine months.

Mr. Smith asked if they had an occupancy permit for the building.

Mr. Bettius stated that they did have, pending this. The building is occupied on a temporary occupancy permit basis.

Mr. Smith stated that the Board would have to establish the exact distance of the fence that is in violation.

Mr. Knowlton stated that in order to be perfectly clear and conform to the Code, everything pertaining to the fence from the front line of the building toward the street would have to be included in this variance. He read the section of the Code that this came under.

Mr. Smith asked then, how could this be in violation, when they allow the construction of a gate house and entrance walls to be put in the front yard.

Mr. Bettius again stated that both sides of this property are planned as multi-family buildings and there is some relief in this. The engineer submitted only to a point on the property where the fence would be beyond the 50' setback area when he actually should have shown the entire front property as fenced.

Mr. Smith asked when the violation first showed up.

Mr. Bettius stated that it showed up when they made the final as-built.

Mr. Smith stated that actually they should be under the mistake section of the Code.

They continued to check the plats and found that the variance would be needed, using Mr. Knowlton's interpretation of the ordinance, for 300'.

Mr. Knowlton agreed that it should be considered under the mistake section of the ordinance which is Section 30-6.6.5.4.

There was no opposition.

There had been a telephone call received from the lady who lives across the street from this building stating that she was in favor of this application.

In application No, V-175-72, application by Berger Construction Corp. under Section 30-6.6.5.4 of the Zoning Ordinance, to permit fence 6 feet in height within front setback, on property located at 2059 Huntington Avenue Mt. Vernon District, also known as tax map 83-3((1))79,80 & 81, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 22nd day of January, 1973, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant
2. That the present zoning is CRMH.
3. That the area of the lot is 204,001 square feet.
4. That the applicant dedicated 25 feet along the entire frontage of the property for widening of Huntington Avenue.
5. Site distance is not effected by fence.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the Board has found that non-compliance was the result of an error in the location of the structure subsequent to the issuance of a building permit, and

2. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vivinity.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. Should the fence be found to adversly effect site distance, applicant agrees to remove or correct same.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

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A.G. FOODS REALTY, INC. & HARLEY DAVIDSON OF WASHINGTON, INC., app. under Section 30-6.6 of the Zoning Ordinance to permit construction of building closer to rear property line than allowed by Ordinance, 1852 Watson Street, Apple Grove, 29-4((2))B-2, Dranesville District (C-D), V-181-72 (Deferred from December 27, 1972, for proper notices)

Mr. Tom Lawson, attorney for the applicant, 4101 Chain Bridge Road, Fairfax, Virginia testified before the Board.

Notices to property owners were in order. The contiguous property owners were Humble Oil, Box 1288, Baltimore, Md., and United States Steel and Safeway 920, 6700 Columbia Pike, Landover, Maryland.

Mr. Smith asked how long A.G. Foods had owned this property and asked if this is a division of Gino's, Inc.

Mr. Lawson stated that A. G. Foods is the holding company. They have owned the property for quite some time. He stated that they were seeking a variance of 20' on the side or rear yard setback. The requirement is 25'. The adjacent property owner is Safeway Stores which is built right on the property line. This property is a corner lot, therefore, they have greater setbacks than if they were not on the corner lot. The side next to the Safeway Store will be treated as if it were a rear property line and with the two primary highways, there is no way this building could be located on this particular site without a variance. The property owners have been notified and they have no objection. Property owners that are adjacent to this property, he stated in clarification. He stated that they met with the property owner across the street and he wanted to know what was going on there, but he had no objection.

Mr. Smith asked what difference this 5.88' would make.

Mr. Knowlton, Zoning Administrator, stated that he was not trying to increase the request for a variance, but this 5.88' that is left between the building is just going to be lost space.

Mr. Lawson stated that he didn't know what they could use this space for unless it would be for trash, or perhaps storage.

Mr. Lawson stated that they supply all the motorcycles for the Fairfax County Police Department.

He further stated that it is because of the shape of this lot and the fact that this is a corner lot with greater setback distances required that they are having to ask for this variance. He stated that the size of the structure is 11,000 square feet total. It will be two story with the sales office on the ground floor and office space on the second floor. Mr. Lawson also stated that this lot has an irregular shape. The lot has 28,000 square feet of land area. He stated that they were not asking for a free standing sign. The outside of the building he stated he would let Mr. Morehouse talk about.

Mr. John Morehouse, employee of Jack Bays, Inc., the contractor, 6819 Elm Street, McLean, Virginia, spoke before the Board.

He stated that they propose to build a butler type building with a mansard roof. The sketch that is before the Board is similar to that that will be put in. The sketch has an aggregate exterior and the one proposed has a bronze exterior. The store front will be glass, very similar to the one that is in Fairfax City. They plan to begin construction sometime the first of March and have occupancy the first of August.

No opposition.

In application No. V-181-72, application by A.G. Foods Realty, Inc. & Harley Davidson of Washington, Inc. under Section 30-6.6 of the Zoning Ordinance, to permit construction of building closer to rear of property line than allowed by ordinance, on property located at 1852 Watson St., Apple Grove, also known as tax map 29-4 ((2)) B-2, Dranesville District, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 17th day of January, 1973, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is A.G. Foods Realty, Inc.
2. That the present zoning is C-D.
3. That the area of the lot is 28,423 sq. ft.
4. That site plan approval is required.
5. That compliance with all county codes is required.
6. This is a corner lot.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land involved:

a) exceptionally irregular shape of the lot.

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.
3. There shall not be a free standing sign.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Non-Residential Use Permit, and the like through the established procedures.

Mr. Barnes seconded the motion.

The motion passed unanimously with the members present.

SCHEFER SCHOOLS, INC., S-73-71; operation of private school; 30 children.

Mr. Smith read a letter from Mr. William B. Fountain, Director of The Schefer Schools. He stated in his lengthy letter that because of several factors relating to tuition grant funds, they had run into problems. The result of these problems resulted in their accepting thirty-two children for the school year instead of 30 which is the limit of their use permit. He stated that he would like for the BZA to allow them to continue to educate these children for the remainder of the school year. He stated that he had attempted to obtain inspections from the various departments, but the Health Department stated that their children was not covered by the current ordinance. He stated that then he wrote to Mr. George William, Chief Plumbing Inspector and Mr. Williams inspected the premises and found that he had no objections to the additional two students. He enclosed the letters from Mr. Williams. Mr. Fountain also stated that these classrooms are in a church building completed only two years ago, therefore, there was plenty of room for additional children.

Mr. Barnes so moved that they be allowed to keep the two children for the remainder of the school year. After that, if they wish to have more children enrolled, they will have to come in with a new application.

Mr. Baker seconded the motion and the motion passed unanimously.

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CEDAR KNOLL INN, 9030 Lucia Lane -- Special Use Permit No. 54

Mr. Smith read a letter from William Barry, Senior Zoning Inspector, with reference to the above application that was granted February 12, 1942. The letter reads:

"1. April 1971 complaint received about expansion of parking area.

2. Inspection was made and no violation of the zoning code was found. Notice was given to obtain siltation permits.

3. March 30, 1971, polaroid pictures taken of parking area, patio being poured across front of restaurant. Footings on south side of dining room.

4. Early September 1971 inspection made, found footings with block walls (24") and floor joists in place.

5. September 13, 1971, letter of violation sent to Mrs. Mallick charging her with expansion of a non-conforming use (Mrs. Mallick and I both believed that it was non-conforming use, pre-1941).

6. Late October 1971, Mr. Barnes Lawson, Mrs. Mallick's attorney, submitted a list of requested improvements and brought to my attention that a Use Permit was obtained for a "Tea Room" in 1942.

7. November 4, 1971, a letter of apology was sent to Mrs. Mallick, advising her that expansion would be allowed under the provisions set forth in Section 30-4.2.7.

8. November 5, 1971, County Attorney, Ken Smith confirmed my opinion that expansion would be allowed under Section 30-4.2.7 as the Use Permit was valid when issued and has remained in effect through the chain of zoning codes and changes since 1942.

9. Mid November 1971, a meeting with Mr. Yaremchuk, Mr. Lawson, Mr. Covington and myself. Two items from the list of ten were denied as expansion. Other eight were approved on basis that they were on behalf of public safety, health and welfare.

10. December 30, 1971, Mrs. Mallick personally obtained building permit for structure on south end of structure. Mr. Covington and I felt that this permit was the only one Mrs. Mallick intended to obtain, and that it covered the previously agreed to items. (see supplement sheet)

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11. January 27, 1972 a follow-up inspection was made. All uses and construction were in compliance with plans and agreements.

12. February 29, 1972, I attended a meeting of the Stratford Landing/ Collingwood-on-the Potomac Citizens Association. The gathering was assured by me that any further expansion would have to go to the Board of Zoning Appeals.

13. April 21, 1972, Mrs. Mallick filed an application for a building permit for the bathrooms, etc. This application was denied by Mr. Covington and myself on the following basis:
    a. We were under the assumption that the permit obtained in December 1971 had included these items and informed Mrs. Mallick at that time that any further expansion would require a Use Permit extended and/or rehearing by the Board of Zoning Appeals.
    b. Numerous complaints from citizens of the area and the county's commitment that no further expansion would be allowed without going to the Board of Zoning Appeals.

14. May 11, 1972, a team inspection was made and various deficiencies noted. Mrs. Mallick was informed at that time to cease the dinner theater operation until the "theatre" room could be brought into compliance with the code. It was noted at the time, and violation notice was given with regards to a five foot deep structure that had been illegally erected on the south end of the stage area.

15. May 12, 1972, Mr. Seldon H. Garnett, Structural Engineer, Building Inspections stated that "due to the uncertainty of the the structural integrity and stability of the roof system above the stage area and adjoining room, he had no choice but to declare the structure unsafe". He further required the owners to have an inspection made by an independent engineer and that a copy of said engineers report be submitted to this office prior to occupancy of that portion of the building in question.

Several inspections were made by me "after hours". The last one being on a Saturday evening early in November. It was during this inspection that that I observed the parking lot full of cars, and the majority of patrons were dining in the south dining room, which is the same dining room used for dinner theatre. At the time of my inspection, there was no theater performance, but I feel certain that it was being done. After a forty minute wait and still no sign of theater, I advised Mr. and Mrs. Mallick, the owners, that an inspection would be made from time to time and there was to be no dinner theater until all aspects of the code had been complied with. Any violation of the above would result in my taking immediate steps to enforce the code.

Mr. and Mrs. Mallick assured me and solemly promised that they would not operate the dinner theater until all inspections had been made and an occupancy permit issued.

<u>The Washington Post</u> of January 13, 1973 carried an ad for the Cedar Knoll Inn Dinner Theater. I had observed this ad on several past Saturday's but had no other indications that it was valid.

Saturday night, January 13, 1973 at 10:50 p.m. I inspected the premises and found that the dinner theater was being operated. I also observed that the dining room had been expanded by the addition of several tables outside the original building area.

A check of county records reveals the following violations:
1. No final electrical inspection.
2. No final mechanical inspection.
3. No final fire marshall inspection
4. No final building inspection. (Including approval of roof truss).
5. Dining facilities have been expanded.
6. The theater itself has expanded from a small corner in the "log" room to the entire end of the wing (south).

Supplem. Sheet No. 507B -- continuation of Cedar Knoll Inn
January 17, 1973

My contact with the present owners of the Cedar Knoll Inn has been a constant series of broken promises and creeping expansion and never ending disregard for the county code.

In the interest of health, safety and welfare of the general public I respectfully request the Board of Zoning Appeals instigate action to revoke the Use Permit granted for the Cedar Knoll Inn."

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507B

January 17, 1973

Mr. Barry stated that this has been a never ending series of fox and rabbit. She promises to do what is required. Then later when it is checked, she has done nothing.

Mr. Smith stated that he knew they had a dinner theater because he was there for dinner one night not too long ago. The waitress asked whether he wished to have dinner or dinner and go to the theater. He stated that the Board had not record of these people coming back to the Board and asking for anything additional or an interpretation of anything they were in doubt about. Originally this was granted for a tea house. They did have live entertainment in the form of one man who played the violin, as he recalled. There was a patio at that time, but that patio has now been glassed in and made into another dining room.

Mr. Smith asked when these people purchased the property from Mrs. Linster.

Mr. Barry stated that they had had the property about two years.

Mr. Smith asked how these changes were made. The size of the dining room is about twice the size that was there originally.

Mr. Covington stated that the County allowed them to make structural changes for the health, safety and welfare of the people who would be using the facility.

Mr. Barry stated that they were supposed to make changes for this purpose, but it is a fact that these changes that are required have not yet been made. For instance they needed to expand, they said, because the Fire Marhsal was requiring two fire doors, double doors, but the last time the property was inspected, less than one week ago, there was only one fire door there and there were tables in front of this door. The stage covers the entire south end of the southern dining room.

Mr. Smith stated that he had talked with Mr. Woodson long ago about this problem and Mr. Woodson had told him that it wasn't allowed. And, yet, here it is.

Mr. Barry stated that the County has asked the owners to run engineering tests. They have run the tests, but have not complied with the recommendations. Mr. Barry stated that he had just talked with the County's inspector, Mr. Garnett, just today and Mr. Garnett in answer to his question as to whether or not this was safe to occupy and Mr. Garnett answered that in his opinion it was not safe.

Mr. Smith asked why the Staff of the County did not make them pave the parking lot. There is a small parking lot there and does not and can not take care of all the cars that come to this dinner theatre.

Mr. Barry stated that another problem of the parking lot that is there is that it is not marked off, therefore, the first people who get there park every which way.

Mr. Smith stated that back when the Board went down there to view the property quite a few years ago, there was a statement made that there were only about twenty-five people there at any one time.

Mr. Smith asked if the County also allows them to use the front walk way for the dispensing of alcoholic beverages.

Mr. Barry asked if he was referring to the flagstone patio.

Mr. Smith stated that he was. He asked if they used that patio before to serve food.

Mr. Barry stated that he was told there were umbrella tables used there before, but unfortunately, the County has no record of this. He stated that that is why he is building a picture file on all these uses.

Mr. Smith stated that he felt this was a very good idea.

Mr. Baker moved that the Board close them up and revoke their license. Give them a revocation notice in other words.

Mr. Barry stated that it was also brought to his attention that their entertainment tax for the months of November and December have not been paid. He stated that he had a complete file on that.

Mr. Kelley seconded Mr. Baker's motion.

Mr.Smith went to page 528 or the County Ordinance regarding revocation of Special Use Permits and read it to the Board. It stated:

"... Unless a time limit is specified for a permit, the same shall be valid for an indefinite period of time but shall be revocable on the order of the board at any time on the failure of the owner or operator of the use covered by the permit to observe all requirements of law with respect to the maintenance and conduct of the use and all conditions in connection with the permit that were designated by the board in issuing the same. Before revoking any permit, however, the board shall give the holder thereof at least ten days' written notice of violation. If within such ten days the permit holder so requests, the board shall hold a hearing on the revocation of the permit and shall give the applicant for the hearing at least ten days' written notice thereof, either sent to him by registered mail or served personally on him..."

Mr. Covington stated that the tea room has been commonly operated as a restaurant ever since the use permit was granted.

Mr. Barry stated that he was not sure that there is a valid occupancy permit at this time since there are so many things that need to be done.

Mr. Smith stated that this permit was granted for an indefinite period of time in 1942 and since the present owner and operator has not observed all of the requirements with respect to the maintenance and requirements of the use and all of the conditions designated by the Board of Zoning Appeals, the Board of Zoning Appeals does hereby notify the owners and operators of the Cedar Knoll Inn, Mr. and Mrs. Raj K. Mallick, that the permit originally granted to Mrs. Mildred F. Linister, Post Office Box 264, Alexandria, Virginia, is hereby revoked, ten days after receipt of this notice. This notice is to be served by the Senior Zoning Inspector, Mr. Barry and a copy is to be sent registered mail.

Mr. Smith asked the Board members if they were in favor of this action, which was just set forth.

All members voted Aye, therefore, the motion passed unanimously.

Mr. Smith asked the Clerk to prepare a letter based on the above testimony and letter from Mr. Barry for his signature, by the direction of the Board of Zoning Appeals.

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Mr. Smith welcomed a group of Girl Scouts that meets at the Peace Lutheran Church to the Board meeting. He explained a little about the case that the Board was hearing at the time.

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By Jane C. Kelsey
Clerk

DANIEL SMITH, CHAIRMAN

DATE APPROVED February 21, 1973

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The Regular Meeting of the Board of Zoning Appeals
of Fairfax County was Held on January 24, 1973.
Members Present: Daniel Smith, Chairman; Loy Kelley,
Vice-Chairman; George Barnes, Joseph Baker and
Charles Runyon

The meeting was opened with a prayer by Mr. Barnes.

// Mr. Knowlton, Zoning Administrator, was also present.

HARRISON W. GALE, app. under Section 30-7.2.8.1.2 of Ord. to permit horse riding rental and instruction, 9718 Beach Mill Road, 8((1))5, Dranesville District, (RE-2), S-202-72

Notices to property owners were in order. Contiguous owners were Curtis W. Miller, Jr. 215 Yarmick Road, Great Falls and Virgil Humphrey, 3237 Martha Curtis Drive, Alexandria, Virginia.

Mr. Gale represented himself before the Board.

Mr. Gale stated that this is an existing riding stable and has been for twenty-five years. This has, therefore, always been a horse farm. It has been a boarding operation and they now wish to have instructions. This farm has been used for training horses. They propose to use the entire parcel of land, 23.7 acres. He stated that they live on this farm, he, his wife and five children. They plan to continue to reside there and continue making it their home. They have six horses of their own and they are boarding twenty-four (24) horses. He stated that one could get forty horses on this farm, but that would be quite a ways off. He stated that when they have instructions, and the pupils wish to come in on off days and practice riding, that is when they would rent the horses. They would not just rent to anyone off the street. They have a present total of thirty horses. There are thirty-six stalls. They feed the horses hay and grain, therefore, they do not need a large grazing area. They are turned out a portion of the time. The people who own the horses that they are boarding come out and groom the horses, put blankets on them and take them out for a workout. These horses are indoor during the day in the summer and outdoors at night. During the winter, the horses are out during the day and inside at night. The stalls are large, 10'wide and 14' deep.

Mr. Barnes asked if they planned to have horse shows.

Mr. Gale answered that they do have a lot of people who go to the International and they will probably have some shows. On the track, there is some Irish jumps and they have some other jumps other than that and plan to install others.

Mr. Barnes asked if they would hold any tryouts.

Mr. Gale stated that that would depend on Mr. John Pandelosa. He is on the United States équitation team and the Columbia team also. He stated that after talking with several of their boarders, they have found that there are very few schools that specialize in international training, therefore, they would like to teach this.

Mr. Barnes looked at Mr. Gale's insurance police and stated that it was all right and very adequate.

Mr. Kelley and Mr. Smith brought out the point that the barn was within 92.4' of the property line, and, therefore, doesn't meet the setback requirements of the ordinance.

Mr. Knowlton stated that this is an existing stable that has been used as a stable since the farm begin this operation twenty-five years ago.

Mr. Knowlton asked Mr. Gale what was inside that barn at the point where it was less than 100' from the property line.

Mr. Gale stated that the first 20' or 18' is comprised of horse stalls for the boarding of the horses. Therefore, there is at least 18' before you get to the horse ring where the teaching would be.

Mr. Knowlton stated that under these circumstances, as long as the portion of the barn that does not comply was not used for the instruction purposes, this would be no problem.

In answer to Mr. Smith's question as to what they did with the manure, Mr. Gale stated that they spread the manure throughout the field for fertilizer.

Mr. Gale stated that he has put in a complete septic system in order that he can put an indoor facility for bathrooms for male and female in the barn, along with showers.

There was no opposition to this use.

Mr. Barnes stated that he felt this was a good operation.

Mr. Smith stated that he was under the impression that the Board has always required an acre per horse.

Mr. Barnes stated that he did not feel that would be necessary in this case.

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In application No. S-202-72, application by Harrison W. Gale under Sec. 30-7.2.8.1.2, of the Zoning Ordinance, to permit horse riding rental/and instruction, on property located at 9718 Beach Mill Road, Dranesville District, also known as tax map 8 ((1)) 5, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of January 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Harrison W., Jr. & Rosa G. Gale.
2. That the present zoning is RE-2.
3. That the area of the lot is 23.17 acres.
4. That Site Plan approval is required.
5. That compliance with all county codes is required.
6. The adopted Upper Potomac Master Plan proposes Beach Mill Road to be a 90 ft. right of way.
7. The large stable existing on the property is non-conforming as to setbacks from the property line, but has been in existence for some time.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance/ Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance); and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plat submitted with this application. Any additional structures of any

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kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.

4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself reaponsible for fulfilling his obligation TO OBTAIN A NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.

5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non-Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. The owner shall dedicate to 45 feet from the center line of the existing right of way for the full frontage of the property for future road widening. Also, a deceleration lane to be provided to the east of the driveway entrance 100 feet.

7. Permit shall be for 3 years and renewable by the Zoning Administrator for 3-one year periods.

8. That adequate sanitation facilities shall be installed in the barn.

9. Maximum number of horses shall be 40.

Mr. Baker seconded the motion.

The motion passed unanimously.

Hearing ended at 10:50 A.M.

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CARREN J. MITCHELL, app. under Sec. 30-7.2.6.1.3 of Ord. to permit child day care center, 8:30 A.M. to 12:30 P.M. and 1 P.M. to 5 P.M., 25 children, 7916 Lewinsville Road, Breezewood Subd., 29-2((2))13, Dranesville District (RE-1), S-200-72

Mrs. Mitchell represented herself before the Board.

Notices to property owners were in order. The contiguous owners are Mrs. Joan L. Ziegler, 7901 Old Falls Road and Mr. John Grabowski, 7912 Lewinsville Road.

Mrs. Gale stated that she proposes to provide a nursery school with learning skills. SHe wants to provide a service to the mothers in the area. The hours will be from 9:00 A.M. to 12:00 Noon and from 1:00 P.M. to 4:30. SHe stated that she would not provide a full day care center. She stated that she would not be keeping any children more than four hours at any one time. This would be two sessions. She stated that she would teach learning ability skills and this would be a play school type operation. A few of the children will be two and one-half years and this will go up to five year. She stated that she lives at this house and plans to continue to reside there. She plans to use the basement area which is about 52' x 28'. They will use the walk-out entrance at the bottom. She stated that there has been a team inspection and they plan to meet the requirements that they have indicated that she will have to meet to operate. The Health Department has inspected the premises and they were the ones who came up with the number of twenty-five (25). She stated that she will operate the school with the help of another girl who will also live in the house. This girl is 22 years old and is a nurses aid at Fairfax Hospital at the present time.

In answer to Mr. Runyon's question about the traffic, Mrs. Mitchell stated that there is an access lane off the main pavement that people pull into prior to pulling into heredriveway. Therefore, because of this access, people can back into the access before pulling out into the main road.

In answer to Mr. Kelley's question, Mrs. Mitchell stated that she does not plan to transport any children. She stated that her house will be convenience for many mothers to walk their children to. If a mother in that subdivision was going to take her child to any day care center, she would be driving by her house anyway.

In answer to Mr. Kelley's question, Mrs. Mitchell stated that she was not keeping any children at the present time. She is a teacher by trade. She taught school in the State of Florida. She has lived in Fairfax County for five years.

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January 24, 1973
MITCHELL (continued)

Mrs. Ziegler, 7901 Old Falls Road, spoke before the Board in favor of the application. She stated that her house was directly in back of Mrs. Mitchell's house. She stated that she felt this would be a service to the community. She stated that she did not feel this would bring property values down nor would it cause a traffic problem. She stated that if there were any objections it it should be from her as she is the closest and she also has a pool in her back yard. She also has the most expensive house in the area, but she stated she does not oppose this use.

Mrs Katreen M. Korte, from Korte Realty, 712 West Broad Street, Falls Church, Virginia, spoke at the request of Mrs. Mitchell as a friend and a real estate broker of twenty years. She stated that she was licensed as a real estate broker in Fairfax County. This is her opinion,she stated, that this school will not affect the property values of the surrounding area. Regarding traffic, Lewinsville Road is a main thoroughfare, planned to be wide and able to carry heavy traffic. She stated that a look at the tax books will show that no properties adjoining these small schools have had taxes lowered because of any depreciation in value caused by such schools. Mrs. Korte gave examples such as Springfield High, stating that the property values surrounding that school had not depreciated because of that school, which is a very large school. She stated that she lives near a very large 2,000 student school and the property values surrounding that school have not changed either to the downward trend, but rather have doubled in value.

Mrs. Korte stated that the applicant is asking for a Special Use Permit and not a rezoning and she feels Mrs. Korte will be doing her neighbors a favor to conduct the school, not only for the cultural value, but when houses nearby are put up for sale, her having the school will be an added attraction.

Mr. Smith asked Mrs. Korte to be more specific about the Lots and exact addresses of the examples that she gave.

Mrs. Korte stated that she had not had time to make exact research on this, but she did not feel one could find any school where the property values surrounding that school have deteriorated.

Mrs. Mel Patton, neighbor directly across the street, 1242,Tetantic, spoke in favor of Mrs. Mitchell's application. She stated that if anyone is affected, she felt it would be her, because the traffic would be going right by her house and into Mrs. Mitchell's property and her kitchen window faces out to the Mitchell's, but they, instead of opposing the use, are in favor of the use and feel it will be an asset to the community.

Mr. Smith received several letters from Mrs. Mitchell in support of the operation. One letter in favor was from Mr and Mrs. Monett, 7906 Old Falls Road, McLean, Virginia. Another letter was from Patricia D. Frye, 1242 Titania Lane, McLean, Virginia, also in favor of the operation.

Another letter was from John S. Grabowski, 7912 Lewinsville Road, McLean, Virginia, who stated that he was familiar with property and assessment values, and he felt that a day care center next door would enhance the real estate value of his property and would be an asset rather than a hinderance in the event he wished to sell. He stated that there is neither a day care center nor a nursery school in the area which is a growing community and he feels there is a need for such a service to their immediate community. He stated that he also felt that the Mitchell property is well suited for this operation as they are located in a central location and the building is well off the street and there is a specious playground area. He further stated that he felt that Mrs. Mitchell is well qualified to direct a Day Care Center as she has had several years experience with children, both in teaching and working with them in groups.

Another letter in favor of the operation was from Gloria Mihalik, 7801 Ariel Way, McLean, Virginia, who stated that she was President of the local Parent Teachers Association and a resident in the McLean Hamlet Community and is in close association with many of the mothers of the area. She stated that being in proximity of an Elementary School and with many of the families being in-transit with no family ties, there is a great need for a pre-school and babysitting service in the area. She stated that many of the mothers have expressed to her the need for their pre-schoolers to have other children with which to associate and they also had a personal need for a pre-school or babysitting service. She stated that she felt that McLean Kiddie Kollege, which Mrs. Mitchell plans to call her school, will be a great asset to the community and ahelping hand to many mothers of pre-school children in the area.

Mr. Smith asked for the opposition to speak and Mrs. Jack Wilson , 8017 Lewinsville Road, secretary of the McLean Hamlet Civic Association, spoke before the Board. He stated that in 1971, the Civic Association and the Board of Directors voted that they adhere to the Master Plan of McLean. They feel this is not in keeping with the Master Plan and they base their objections on several factors: Traffic on Lewinsville Road is bad in the early morning andlate afternoon. They feel there is

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not adequate turn around area. They understand that the access road which Mrs. Mitchell mentioned is the road right-of-way which will, in the future, be part of a four lane road. They fear for the safety of their children who are trying to cross that road to go to school at that time of day. They also feel that if one business is permitted to come into the neighborhood, then it will be easier for others to come in. Therefore, because of these reasons, they request that the BZA deny the application.

They stated that they did have some questions. One question is, is 25 children the maximum number of children that can be cared for here at this location and what happens if later she wants to have more children.

Mr. Smith answered that twenty-five is the maximum number of children that she can have in this building, using the finished basement downstairs, and should Mrs. Mitchell wish to have additional children, she would have to get approval from the Health Department. The Health Department has already said that 25 is the maximum amount that she can have. For additional students or additional building additions, it would be necessary for the applicant to come back before this Board with a complete new application. The Health Department checks out these facilities once a year.

In answer to his second question as to when the operation would begin, Mr. Smith stated that the operation could not begin until the Special Use Permit had been approved, Mrs. Mitchell had made all the changes necessary, all inspections had been done, and a Non-Residential Use Permit obtained.

Mr. Kelley asked Mrs. Mitchell if she was familiar with the Planning Engineer's recommendations. She stated that she was. He asked if she planned to put in a sidewalk. Mrs. Mitchell stated that she had a cement driveway, but if they need an additional sidewalks, she will be glad to put them in. She stated that she would also be glad to put in the turn around area. She stated that the only car that will be on the property will be her car, as her husband will be at work. They do have a garage and she will park her car in the garage.

Mr. Runyon stated that that should be made part of the motion, that she would have to have either a circular drive-way or a turn-around area for the people to back into so they will not have to back out in the street.

Mr. Knowlton reminded the members of the Board, that the Board of Supervisors had requested that the Board of Zoning Appeals defer all cases regarding schools, day care centers and antique shops until after they have adopted the ordinance relating to these uses.

Mr. Smith stated that because of the Code requirements, they could not defer any longer than February 14, 1973.

Mr. Kelley moved that this case be deferred until February 14, 1973, to see if there are any changes in the proposed terms and standards of the Day-Care Center Ordinance.

Mr. Barnes seconded the motion.

Mr. Runyon asked if there was any indication that the Board of Supervisors would act prior to February 14th.

Mr. Knowlton stated that the Board had indicated that they wished the BZA to defer two weeks.

Mr. Runyon stated that he would like to honor their request, if they can legally wait that long.

Mr. Runyon stated that the plat needs to show at least three additional parking spaces and a back around, or turn around area. A Circular drive is not necessarily necessary, but the cars must come out of the property facing the traffic.

Mr. Smith stated that she has enough play space as the application now stands.

The motion passed unanimously and the case was deferred until February 14, 1973, as a Deferred Item.
The hearing ended at 11:30 A.M.
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RICHARD D. FORSTER, app. under Section 30-6.6 of Ord. to permit enclosure of screened porch and construction of carport closer to side property line than allowed, 7609 Westminster Court, 59-2((13)) 6, Providence District, (R-12.5), V-203-72

Mr. Forster represented himself before the Board.

Notices to property owners were in order. The contiguous owners were Reese and Mills 7609 Westminster Court and 7611 Westminster Court, respectively.

He stated that as he had written in his justification, they wish to enclose the existing screened porch and 9' of the existing carport which adjoins the screened protion and to remove the utility shed. He needed a 1.2' variance. He has owned the property since 1964 and he plans to continue to live there. These changes are not for resale purposes.

Mr. Kelley asked what the topographic hardship is.

Mr. Baker stated that it looked like it was an odd shaped lot.

Mr. Smith stated that the justification stated that he needed this variance because of the topography and the irregular features of the land combined with the awkward siting of the house on the lot and there is no other place on the lot where he could make additions.

Mr. Kelley stated that there is also a storm easement across the rear portion of the property.

In application No. V-203-72, application by Richard D. Forster under Section 30-6.6 of the Zoning Ordinance, to permit enclosure of screened porch & construction of carpost closer to side property line, on property located at 7609 Westminister Court, Providence District, also known as tax map 59-2 ((13)) 6, County of Fairfax, Virginia, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of January 1973, and

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 12,334 sq. ft.
4. That compliance with all county codes is required.
5. That the request is for a minimum variance of 1.2 ft.
6. A storm sewer & easement exist across rear of lot.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has satisfied the Board that the following physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:

(a). exceptionally irregular shape of the lot,
(d). exceptional topographic problems of the land,
(e). unusual location of existing buildings,

NOW, THEREFORE BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire one year from this date unless constuction has started or unless renewed by action of this Board prior to date

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of expiration.

3. Architecture and materials to be used in proposed structure shall be compatible with existing dwelling.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, Residential Use Permit and the like through the established procedures.

Mr. Runyon seconded the motion and the motion passed unanimously.

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WOODLAND ASSOCIATES, app. under Section 30-6.6 of Ord. to permit division of lot with less frontage than allowed, 7130 Woodland Drive, 71-3((7))44, 40 & 42, Annandale District, (RE-0.5), V-204-72

John Wilkins, Attorney At Law, 10560 Main Street, Fairfax, appeared as attorney for the applicant and also as one of the partners.

Notices to property owners were in order. The contiguous property owners were George Wood, 7112 Woodland and Mr. Davidson, 7109 Larrlyn Drive.

Mr. Wilkins stated that as the Board could see from the letter of justification the difficulty is that this is RE-0.5 zoning which will allow one-half acre lots and what we have here is an existing building on Lot number 4. He stated that they are having difficulty putting in a proper cul-de-sac and still being able to come up with lots all around to meet the building setback line in Lot 5. They, therefore, need a variance to allow them to build with less frontage than is required by the subdivision ordinance. This is necessary to come up with lots that are attractive.

He stated that he had another partner with him, that would be able to discuss with the Board just how they arrived at the plan that was before the Board.

Mr. Smith asked if they met the ordinance on the other lots.

Mr. Wilkins stated that they did.

There was no opposition.

In application No. V-204-72, application by Woodland Associates under Section 30-6.6 of the Zoning Ordinance, to permit division of lot with less frontage than allowed on property located at 7130 Woodland Drive, Annandale District, also known as tax map 71-3((7))44,40 & 42, County of Fairfax, Virginia, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of January, 1973

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is the applicant.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 38,750 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of Law:
1. That the applicant has satisfied the Board that the following physical conditions exits which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved:
1. Irregular shape of the lot.
2. Unusual condition of the location of existing buildings.

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:
1. This approval is granted for the location and the specific structure or structures indicated in the plats included with this application, only and is

not transferable to other land or to other structures on the same land.
2. This variance shall expire one year from this date unless construction has started or unless renewed by action of this Board prior to date of expiration.

FURTHERMORE, the applicant should be aware that granting of this action by this Board does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain building permits, residential use permit and the like through the established procedures.

Mr. Baker seconded the motion.

The motion passed unanimously.

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SUTHERLAND APPLICATION 12:00 Noon, Scheduled Hearing Time
January 24, 1973

RALPH M. SUTHERLAND, T/A AUTO-LAND, app. under Section 30-7.2.10.5.4 of Ordinance to permit sale of used autos, 11325 Lee Highway, Springfield District, 56-2((1))part of parcel 52, (C-G), (Deferred from 1-10-73 for additional information and proper plats) Complete Hearing

Mr. John K. Lally, attorney for the applicant, 4059 Chain Bridge Road, Fairfax, testified before the Board. The applicant also came before the Board.

The new plats had been submitted. Mr. Smith stated that he did not see any dedication of service lanes on Lee Highway.

Mr. Lally stated that that was not in Mr. Runyon's motion.

Mr. Smith stated that it looked as though it is 20.3' from the right-of-way to the building that they propose to use as an office. He stated that this doesn't meet the requirements.

Mr. Lally stated that he was aware of that, as that is one of the problems.

Mr. Smith stated that this would be bringing a non-conforming building into conformity.

Mr. Lally stated that Mr. Covington stated at the last meeting that this could be done.

Mr. Lally stated that they propose to only use the area shown in blue as the office. The rest of the building is apartments. A portion of that building was used previously with the approval of zoning for a commercial use -- carry out trucks. The building is nonconforming as to setbacks. He stated that he didn't think it was practical to move that building back.

Mr. Smith stated that perhaps they are trying to do too much in this front area.

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Mr. Smith asked if they planned to dedicate as required under Site Plan.

Mr. Lally stated that they are willing to do everything that the County requires.

Mr. Smith asked how they could put in the service drive when the building is only 20.3' from the road.

Mr. Lally stated that the Staff Report says that they may do this in phases. He reads the Staff Report, a copy of which was in the file.

Mr. Smith stated that this brings up the question of the nonconforming building for a conforming use. He asked how many automobiles they plan to have.

Mr. Sutherland stated that they plan to have 49, total.

Mr. Kelley stated that he did not believe they were setting back 50' before they started the parking.

Mr. Lally stated that they were setting back 50' from the pavement.

Mr. Smith stated that the ordinance stated that you must set back 50' from the right-of-way line, which is not the pavement line. property line

Mr. Smith asked why they didn't turn the entire corner into a car lot.

Mr. Lally stated that the reason is because no one is willing to pay the rent.

Mr. Rice, 11317 Lee Highway, spoke before the Board. He stated that he owns property at 11317 Lee Highway, which is adjacent to this use, but he lives at 7417 Elmsdale Road, Bethesda, Maryland. He spoke in opposition.

He stated that one of the reasons that he opposes this use, is that he went by the applicant's present place of business in Fairfax City and has seen the way it is operated. He stated that he felt it was just a junk yard and this will affect his property values.

He stated that there are three businesses already in the area, but they are nice clean businesses and well kept grounds and they do not object to this.

Mrs. Dennis, an adjacent property owners, then spoke before the Board in opposition to this use. She also stated that she felt this would be a junk yard and would affect the property values of her property. She also stated that there are three other businesses in the area and they have no objection to those as they are in character with the neighborhood, well kept, clean and nice; these are the swimming pool business, the excavating business and a nursery. SHe stated that the businesses that Mr. Lally is running, the motel business with cabins all along the road has been a bad business in her opinion, as she has heard of a murder that happened in there and a woman was burned to death and one day she was walking along with her niece and they saw a man chasing a woman around one of those cabins and the woman was only half dressed. SHe stated that she had not seen a used car lot that looked good yet. She stated that he already has several old cars on that lot. On every car lot that she has seen, there has been a wrecker and they take parts off one car and put them on another, then they push the skull of the car off the side and start on another, they put cars up on cinderblocks and most of the used car lots are a disgrace and from experience with Mr. Lally's business and from looking at Mr. Sutherland's old business in Fairfax City, this will be no different. Now, directly across the street, there is a junk car place, which is a disgrace. The City of Fairfax has been working to get rid of it, but it is in there now and it is harder to get rid of, then to keep from coming in in the first place.

Mr. Smith stated that the Board is in receipt of a letter from Allen Rice. He stated that Mr. Rice was present this morning and he assumed him to be the same person. This letter was in opposition.
Mr. Smith stated that also there has been a telegram from Mrs. M. C. Russell, 11316 Lee Highway, Fairfax, Virginia. The telegram stated that they object to having a used car lot in front of their house which is their residence as they felt it would decrease the value of their property.

Mr. Smith then asked about the string of lights along the front of the property. He stated that the County would never allow this.

In rebuttal Mr. Lally stated that they had had some problems with the tenants in the cabins but they had gotten rid of them. He stated that his cabins had passed the regulations of the Health Department. He stated that what happens in Fairfax City, should not affect Fairfax County, and he further stated that he was sure the County would make sure this business was run properly.

Mr. Smith asked if they had in fact moved a building on the property.

Mr. Lally stated that they had, but no one was living in it, it was only used for storage.

Mr. Smith asked if they got permission to move it on the property.

Mr. Lally stated that they did not.

Mr. Smith asked Mr. Knowlton if they should have gotten permission to move the building.

Mr. Knowlton stated that they did need to get permission to move the building on the property.

In application No. S-197-72, application by Ralph M. Sutherland and John K. Lally T/A Auto Land, under Section 30-7.2.10.5.4 of the Zoning Ordinance to permit sale of used autos on property located at 11325 Lee Highway, Springfield District, also known as tax map 56-2((1)) part parcel 52, County of Fairfax, Mr. Baker moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements ofall applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of January, 1973,

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is A. Stephen Lally.
2. That the present zoningis C-G.
3. That the area of the lot is 20,866 square feet.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has not presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I Districts as contained in Section 30-7.1.2 in the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is bereby denied.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Time —

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AMERICAN HORTICULTURAL SOCIETY, app. under Sec. 30-7.2.6.1.1 of Ord. to permit cultural center, 7913 East Blvd., 102-2((1))19 & 20, Mt. Vernon District (RE-0.5), S-3-73; OTH

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Mr. Treese, 523 Duke Street, Alexandria, attorney for the applicant, testified before the Board.

Notices to property owners were in order. The contiguous owners were Mr. and Mrs. Halpin, 7979 E. Blvd. Drive and Mr. and Mrs. Salyor, Jr., Route 1, Springfield City, Pa., and Mr. Gallgher, 7917 E. Blvd. Drive, Alexandria.

Mr. Treece stated that he had with him Mr. Evans, Executive Director of theSociety, to answer any questions regarding the Society that the Board might have.

Mr. Victor Ghent, Engineer, is also present, Mr. Treece stated.

Mr. Treece restated the intent of this use.

"It is the intention of The American Horticultural Society, a tax exempt, non-profit corporation to create at WELLINGTON a national horticultural center. The history of WELLINGTON including but not limited to its improvements and present landscaping lends itself to this concept. It is further intended by The American Horticultural Society that all that lot or parcel known as WELLINGTON be preserved as a single entity rather than subdivided as permitted by existing zoning. Fund raising activities are currently being employed by The American Horticultural Society for the purpose of developing spectacular and creative horticultural displays as well as furnishing and restoring the buildings in a traditional and classic style appropriate to the periods of original construction.

WELLINGTON is intended to be used for restrictive public viewing by members of The American Horticultural Society as well as members of the general public on an admission fee basis. In addition, it is anticipated that lectures, conferences and other professional meetings will occur at WELLINGTON within the horticultural field as well as related subjects.

Lastly, WELLINGTON shall serve as the headquarters for The American Horticultural Society and perhaps as headquarters for other national flower societies."

Mr. Treece stated that the headquarters is now at 901 North Washington Street, Alexandria. It is national in its scope. They have a membership of over 15,000. The employees contemplated by the end of the first year would be 30 and by the end of the second year 40 in number. Currently they have less than 18 employees.

Mr. Kelley asked if they should not be under Section 30-7.2.6.1.1 of the Ordinance.

Mr. Knowlton stated that this is a technical question as to whether this is a community use or whether this should be under the Section where organizations are approved, Group V.

Mr. Treece stated that they studied that question a great deal and could not find a listing under Group V that would apply to them. Group V talks about unions, which they are not. None of the items are compatible with the American Horticultural Society's scope and that is the reason they chose to come under Group VI, Community Use.

Mr. Knowlton stated as to precedent, the B.Z.A. approved the Wildlife Federation under Group V and it appeared to him that this is a similar type use since it is a national organization as opposed to his interpretation of community use. He reminded the Board that there are certain restrictions under the Group V heading.

Mr. Smith stated that some of these buildings are less than the 100' from the property line, but these buildings are presently in existence and he stated that he did not feel it would cause a problem as far as future construction is concerned.

Mr. Treece stated that the buildings that are coming closer than the 100' from the property line as the Board can see from the plat, are planned to be removed within two years.

The main building is meeting the setback requirement, Mr. Smith stated. He stated that Group V would give more flexibility and then they would be able to utilize the facilities

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on a national basis rather than on a community basis.

Mr. Smith asked Mr. Treece if he had any basic disagreement with this being heard under Group V.

Mr. Treece stated that if they were considered within the Group V uses which stated, "private clubs, lodges, meeting rooms, etc." then it might jeopardize the tax exempt status.

Mr. Smith stated that they were a mutual benefit association and could they be categorized under this. This would adequately cover their operation as he saw it. He stated that he could understand their concern from the standpoint of the tax exempt status.

Mr. Knowlton asked if they enjoyed tax relief of any kind from the State.

Mr. Treece stated that they did not. He stated that they do plan to go before Fairfax County and ask for a tax exempt status.

Mr. Kelley asked if they planned to continue the swimming pool operation.

Mr. Treece stated that the plan is up in the air.

There were several suggestions as to what to do with it: lily pond, some type of underwater garden such as theone in D.C., septic tank, etc.

Mr. Smith stated that going back to the Group and Section they should be under, he asked Mr. Knowlton which Group he felt he could better administer this under.

Mr. Knowlton stated that he felt it should be under Group V, Section 30-7.2.5.1.4.

Mr. Smith asked if there was any objections.

There were no objections.

Mr. Smith stated that the group would then be Group V, Section 30-7.2.5.1.4 of the Ordinance.

Mr. Treece stated, in answer to Mr. Kelley's question regarding parking, that they had discussed this earlier prior to the hearing with the adjacent property owners who wish to have to parking moved into the interior of the lot, farther away from their property line and they have agreed to do this.

Mr. Charles Gallagher spoke before theBoard. He stated that he lives adjacent to this on the north side. He stated that they have the promise of the attorney and the representative of the Society that they will move the parking in to comply with their wishes. They do not object to the use, they are in favor of it, but they do want to get on the record as to the proposed road. The road and the parking area is of concern to them. The representatives have agreed to move the road south.

Mr. Smith stated that the Board is in receipt of a letter from Edward Bennington a nearby property owner endorsing the use of the property by the Society.

Mr. Smith stated thatthe Planning Commission has requested that they be allowed to hear this case. He asked if this was agreeable with everyone.

Mr. Smith asked if this would affect the purchase of the property in any way if the Board defers this case in order for the Planning Commission to hear it.

Mr. Treece stated that he was pleased to report that at a meeting of the Society on Monday, it has been arranged that they will have the funds to go forward and purchase the property and they will try to settle as close to February 14th as possible.

Mr. Smith stated that then the Board would defer this until the Planning Commission can hear on February 13, 1973, and the B.Z.A. will hear on February 14, 1973.

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TIME

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DONALD & LOIS SKALA, app. under Section 30-7.2.6.1.3 of Ord. to permit private day care center, 5330 Sideburn Road, 68-4((1))57, Springfield District (RE-1), S-192-72 (Deferred from 1-10-73 for the Board members to view the property) Decision Only.

Mr. Smith read a letter from Mr. Knowlton, Zoning Administrator, stating that:

"The above case was heard by the Board on January 10, 1973 and deferred until January 24, 1973 to allow the Board members to view the property.

The Board of Supervisors at its meeting on January 22, 1973, took action to request the Board of Zoning Appeals to defer this case again for two additional weeks in order that Supervisor Herrity could hold a meeting with some citizens in that area to try and resolve some of the problems that are involved with this case. This meeting will be held Thursday night, January 25, 1973, and a member of the County's Zoning Administration staff will be present."

Mr. Donald Stevens, attorney for the applicant, P.O. Box 547, Fairfax, came before the Board and stated that this is the first notice that he has had to defer. The status of the contract is such that the contract to purchase expires within two weeks. The date of expiration is February 2nd. They do not know whether or not it could be extended.

Mr. Smith stated that this application was made and accepted on November 30, 1972. He stated that this may require a special meeting of the B.Z.A. in order forthe Board to make final decision.

Mrs. Lois B. Skala, 5104 Pomproy Drive, spoke before the Board. She stated in answer to Mr. Smith's question that originally after the first meeting of the community that she was not invited to, that someone called and told her that they would be having another meeting that she would be invited to, but she had not been invited to the meeting tomorrow night. She stated that she stated originally to the citizens of the community that she would be willing to meet with them at any time. Now, two months have elasped and she stated that she felt they had had plenty of time to have their meetings. She had not been invited to any of them, therefore, she would like to have a decision of the Board as their contract time was running out.

Mr. Stevens further stated that the only issue that he could imagine being one of concern to the neighbors, that they may be concerned about at all, is the road, whether or not the applicant will be required to construct the road, or improve the road. He stated that in the event this is included as a condition of a Use Permit that might be granted, that this road be improved at the same time, the applicants would not be able to use the permit. They could not improve the road at this point and time. They might work with the Department of County Development and improve the road at some time later when they see whether or not their school is going to make a go of it.

Mr. Kelley stated that he went and visited the site himself and it certainly isn't a good road.

Mr. Stevens stated that he agreed that the road needs a lot of work, but if the school doesn't go there, that isn't going to get the road improved either.

Mr. Kelley stated that a school with forty children in the morning and forty in the afternoon would mean 160 trips per day in and out of that school. He stated that he didn't feel the school should be permitted without construction of the road in there. He stated that he didn't mind stating this, as this was deferred for the purpose of viewing the property and this is how he feels after viewing it.

Mr. Smith stated that the Staff Report suggests that the owner of thesubject property dedicate 45' from the center line for road widening. It doesn't say anything about construction.

Mr. Runyon stated that the Board could defer this in order to get the comments and advice from Supervisor Herrity after they have had the meeting.

Mr. Kelley stated that the decision has to be made 60 days from the date of the filing of the application unless they have the applicant's concurrence, which they do not.

Mr. Smith suggested the Board meet Friday if the Board room is available.

Mr. Knowlton checked and found that the Board room would be available Friday.

Mr. Runyon so moved that this case be deferred in order that Mr. Herrity might be able to meet with the citizens and hopefully the applicant and solve some of the problems involved with this case and the Board will hold a Special Meeting Friday at 11:00 A.M. to make a decision on this case. Mr. Baker seconded the motion and the motion passed unanimously.
~~Hearing concluded at 3:05 P.M.~~

SONDERLING BROADCASTING CORP., app. under Sec. 30-7.2.2.1.3 of Ord. to permit an erection of a one story building, addition to existing radio transmitter site facility, 7330 Ronald Street, Tower Heights, 50-1((12))2, Providence District (R-10), S-146-72 (Deferred from January 10, 1973 for report from Engineer studying the tower and from the County representatives involved) The report has been received from Burleson Assoc.,Inc. and had been made by Mr. Matthew John Vlissides, P.E., Engineering Consultant. Mr. Silberberg, attorney for the applicant, appeared on their behalf. He stated that they had submitted the report to the County and in addition they had brought in the cover sheet for their insurance policy. The report which they submitted is called "Static Computer Structural Analysis and Evaluation of the 324-Foot Broadcasting Tower, WMOD,FM". Mr. Adams, Fairfax County Communications Engineer, with offices in the Massey Building, spoke before the Board.

Mr. Adams stated that his comment was originally that he did not believe the tower to be safe as it presently stands. He stated that he had seen a copy of the engineer's report and it was one of the most complete reports that he had ever reviewed. He stated that that report did indicate that the tower is unsafe. The report is very detailed. It went through each member of the tower and each bolt and gave the steps that would be necessary to bring the tower into conformance. He stated that in the report they even stated that one bolt was missing. He stated that he agreed with the recommendations made in the report. He stated that it is his recommendation that if these recommendations made by the engineer were met, the tower would then be safe. He stated that the thing that concerns him is, if the tower to brought into compliance and is then safe, what is going to keep them from putting more things on the tower such as they have now, unless someone somewhere controls this tower.

Mr. Smith stated that they should not have added anything from anyone and put it on the tower without coming back to the Board of Zoning Appeals.

Mr. Adams stated that the tower would be safe as far as wind load if they comply with the recommended changes and improvements.

Mr. Silberberg stated that he would have to take issue with what Mr. Adams represents. He stated that he did not feel that the report represents that the tower is unsafe, but it will not withstand a certain wind velocity. He stated that the engineer under whom this report was prepared who can interpret the data for the Board. He stated that it is his understanding from talking with the engineer that this tower is known as a 20 rate tower, 20 lb. per square feet of wind velocity on the exposed area. He stated that he would defer to the engineer as to what must be done to bring this tower into line with the tower that it was intended to be.

Mr. Smith asked how long would it take, an estimate, to bring this tower into what they can all agree is a safe tower. He stated that the Board has previously pointed out that they have already violated the existing use permit by selling off some of the land around it.

Mr. Silberberg stated that they have written to Mr. McDilda in the Electrical Inspection Department and told him that they would make all the necessary changes to conform to the County Code, whether this Use Permit is granted or not. They are waiting to see whether the Board grants the new building before moving all the electrical circuits out of the present building as they have no place to move them. He stated that he is advised by the engineer that to get the tower up to 20 rate it would take two weeks.

Mr. Smith asked him if he admitted that they do have deficiencies.

Mr. Silberberg stated that they do have deficiencies, but there is nothing in there that says the tower is unsafe.

Mr. Smith stated that if there is any possibility of this tower blowing down, certainly the Board is not going to sit idly by and let it continue to stay there in its present condition.

Mr. Matthew Vlissides, Structural Engineer, 4301 Connecticut Avenue, N.W., Washington, D. C. spoke before the Board.

Mr. Matthews stated that the tower was designed in 1946 and in those years he didn't think there were any specific code requirements pertaining to towers. They used the building code requirements. Voka is the adopted standard code for building towers in this area and they require a minimum of 20 lb. design, but the areas are divided into zones. Zone A, which is this area, requires a load of 30 lb. per square feet of specific area. After 300', from there on, the requirement is 35 lb. up to 600' and after 600', it is 40 lb. The tower was designed with the existing codes at that time for 20 lb. per square feet and that is the way it has been used for most of the years. However, the loading has been increased in the past years and the tower, at this moment is still rated a 20 lb. structure, overloaded -- not unsafe. He stated that he had been requested to analyze the tower for 100 mile per hour wind or 30 lb. weight. He stated that in his report he stated that the structure would not withstand safely

100 mile winds and in order for that tower to withstand 30 lb., there are certain things that will have to be done. In order to bring the tower up to 20 lb., there are also certain things that must be done. In the case of the 30 lb, it will take more time, as there are more things to be done. He estimated about a month, providing the weather is appropriate. He stated that there are a total of 15 small antennas active. He explained their position and effect on the tower. Then, there is the big antenna and and three other active antennas. The problem is mainly transmission lines. The transmission lines contribute about 23.41 percent of the loading of the tower. The tower itself and its members are contributing 48 per cent and the antennas all together produce24.39 per cent, or about 4 per cent of the total load on the critical member, the legs at the base.* The problem is not the smaller antennas, but the transmission lines that run the whole length of the tower. In this case, the transmission lines are spread all over the place and if they were bound in such a way and installed correctly, they could cut down the projected wind area considerably, or about fifteen per cent. Therefore, one of the steps that could be taken immediately, is to rearrange the transmission lines. Actually, in order to have a 20 lb. rating as the tower was designed originally, it would only mean replacing and tightening several bolts that are loose or missing and replacing six cross-members which have been destroyed. The condition of the tower is still excellent and there is no heavy rust.
*The remaining 4.03% is contributed to Gravity.
Mr. Kelley stated that his feeling is that they do not meet the ordinance. He stated that there are two ways the Board can go, only two ways, number one, that the operation can be phased out instead of expanding. He stated that he could not see how they can meet the requirements as it now stands. The Board is talking about an expansion, when there is a violation of the present operation.

Mr. Barnes stated that he felt if they can make it safe as the engineer talked about, then he felt they could continue on with a yearly inspection and a better eye kept on the operation.

Mr. Smith asked who the owners of the 15 antennas are.

Mr. Silberberg stated that FAA has one.

Mr. Smith asked what the normal rent is.

Mr. Silberberg stated that the rent varies as to the duration of the contract. He estimated the rent to be in the neighborhood of $60 to$75 per month.

Mr. Smith stated that he would like a list of the people renting space and the length of the contract and the amount of the rent or monies paid for this. He stated that he also would like to know when each contract expires. He stated that he knew this was a normal situation as most of the broadcasting stations do allow local organizations to use the tower.

Mr. Smith asked if they could correct the electrical deficiencies in sixty days. He stated that if he gets the gist of the Board's feelings, they are thinking about phasing this out instead of expanding the use. He stated that he agrees with Mr. Barnes that if the tower can be brought up to a safe standard, and the electrical deficiencies, etc. are corrected, then the station could continue to use this tower, but come in for yearly inspections from now on.

Mr. Silberberg stated that it will cost his client $25,000 because it will be a matter of increasing the base underneath the ground. This could be done within a month and they are willing to do it, but during the two sessions that the Board has discussed this case, there has been no discussion about the principal reason they came in with this application.

Mr. Smith stated that this was because the Board did not know about the deficiencies until they came in and now the Board finds that not only is the tower not in compliance with the wind safety factors and electrical codes, but in addition the land has been sold off around the tower that was originally in the use permit as the "fall area" He stated that if these other things were all right, then the Board would be inclined to go along with the expansion of the use, or the additional building. Now, the Board has to justify allowing this use to continue.

Mr. Silberberg stated that it would be unfair for them to have to spent $25,000 to correct the deficiencies and then five years from now, this Board, or a future Board decide to phase the tower out or close it down. He asked what he could do to satisfy the Board as far as the new application is concerned.

Mr. Smith stated that this Board cannot speak for a future Board. Mr. Smith stated that if the applicants do bring the tower to a 30 lb. rated tower and correct the deficiencies in the existing structure and have a yearly inspection the Board would probably be in favor of setting a 5 year time limit. He stated that the Board is primarily interested in having a safe structure.

Mr. Barnes stated that he would be in favor of that.

Mr. Adams, County Communications Engineer, stated that the problem and the question is, whether or not they will house more two-way radio equipment. He stated that it is his opinion that if they were now to remove the two-way equipment that they now have, they would not need the additional room. If they do decide to rent more space, then a year from now the tower will be in the same condition.

Mr. Baker stated that the Board could put conditions on the permit to prevent this.

Mr. Silberberg stated that there is going to be nothing done at the station that is not being done now. It is an FM broadcasting station. It is in the same building as is the equipment that the people use for the two-way radios.

Mr. Smith stated that if seemed to him that they could renoviate the existing building and continue to use it. Since some of the land has been sold off, he stated, that he did not feel the Board has the right to add any other structures on the property. He stated as far as their being a service to the community, they are also getting paid for that service.

Mr. Silberberg asked if they would be permitted to remove the old building and replace it with a new building.

Mr. Smith stated that they would be permitted to do that providing that the new building is the same size.

Mr. Runyon agreed that this would solve the entire problem.

Mr. Smith stated that they would have to revise the plats to show that the old building would be removed.

Mr. Smith stated that then at the time they replace the building, they are also to have all the electrical deficiencies taken care of.

Mr. Silberberg asked if they could have a basement in the new building.

Mr. Smith stated that they could have a basement and the new building should be the same size as the old building as long as it doesn't undermine the construction of the tower.

Mr. Runyon moved that this case be deferred until the second meeting in March, March 21, 1973, which will be a maximum of 60 days and if they get back with new plats prior to that and have the tower repaired before that, then if they will give the Clerk 10 days notice, perhaps the Board could heard the case sooner than March 21, 1973.

Mr. Baker seconded the motion.

The motion passed unanimously.

// AFTER AGENDA ITEMS

MOUNT VERNON COMMUNITY PARK & PLAYGROUND ASSOC., INC., S-25-71.

Mr. Hodges, 1817 Edgehill Drive, and member of the Board of Directors of the above captioned association, spoke before the Board. He stated that the Board granted a Special Use Permit for tennis courts that were supposed to be 5' from the property line. He stated that they were built 5' from what had been surveyed and thought to be their property line, and which they still feel is their property line. However, there was a dispute between their adjacent neighbor and the Association as to where the line should actually be. The neighbor complained that they were built too close to the line, his line. His line was at a different place from where the Association felt their line was. Finally, after much discussion and problems, the Association decided, rather than go to Court, to accept Mr. Bennett's boundary line. When they did this, the tennis courts then were in violation to the conditions of the Special Use Permit that was granted. He stated that they had a survey done and so did Mr. Bennett, but the two surveys were different.

Mr. William Barry, Senior Zoning Inspector, stated that the reason these two surveys were different was because of the way the metes and bounds descriptions read in the Deed Book. He stated that Mr. Hodges and the Association had cooperated with the County in every way to try to work out all the problems. They put in additional screening and worked on the erosion problem, etc. until all the problems were solved, except this one. This one has been going on for some time. Originally, the attorney was working on the case. They were supposed to come in and ask for a variance, but he was slow to do that. He stated that he then asked the Board to have a Show-Cause Hearing on the case. At the time the Show-Cause Hearing was called, he was not able to be present because that was the

time of the Agnes Storm and his house was flooded and he was out of work at that time working on that problem. The Board deferred the case to see if things could be worked out and things have been worked out.

Mr. Hodges stated that the plats that are in front of the Board today are new plats showing the new boundary line.

Mr. Runyon stated that being an Engineer he knew that this type of thing happens. Everybody is always claiming that someone else's land is theirs and vica versa.

Mr. Barnes stated that the Board should not hold the applicant responsible for this and this was something that happened after the Permit was granted that they did not know at the time ther original permit was granted.

Mr. Baker stated that he was in agreement with Mr. Barnes.

Mr. Smith asked Mr. Berry if Mr. Bennett, the adjacent property owner,is now happy.

Mr. Berry stated that prior to working out this problem, he had calls from Mr. Bennett's attorney every day. Now, he hasn't heard from him since, therefore, he assumes that Mr. Bennett is now happy.

Mr. Hodges stated that they resolved the boundary dispute in September of this year. The fence is in place. The height of the fence is the height that the Board required, 12'. They meet all the other stipulations of the permit except for this 5' condition.

Mr. Baker moved that the Board allow the tennis courts to remain as they are as shown on the revised plats.

Mr. Runyon seconded the motion. The motion carried unanimously.

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CENTREVILLE LODGE #2168, Loyal Order of Moose, 4317 West Ox Road, S-162-72

Mr. Smith read a letter from Mr. Viars and deferred the discussion until they met again on January 26, 1973.

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Hearing concluded at 5:00 P.M.

By Jane C. Kelsey
Clerk

Daniel Smith, Chairman

DATE APPROVED: February 21, 1973

A Special Meeting of the Board of Zoning Appeals Was Held
On January 26, 1973 in the Board Room of the Massey Bldg.
Members Present: Daniel Smith, Chairman; Loy Kelley,
Vice-Chairman; George Barnes, Joseph Baker and Charles Runyon

The meeting was opened with a prayer by Mr. Barnes.

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DONALD & LOIS SKALA, app. under Section 30-7.2.6.1.3 of Ord. to permit private day care center, 5330 Sideburn Road, 68-4((1))57, Springfield District (RE-1), S-192-72 (Deferred from 1-10-73 for Board members to view the property and deferred again 1-24-73 in order for Mr. Herrity, Springfield Supervisor, to meet with some of the citizens in the community to try and solve some of the problems involved.

Mr. Smith asked the results of the meeting of the last evening and also wanted to know whether or not the applicants were present at the meeting.

Mr. Mitchell, Staff Planner for Zoning Administration, who was present at the meeting testified before the Board. He stated that the meeting was in the Spectra-Magna Sales Office just off Zion Drive. There were twelve people in attendance including Mrs. Skala, Mr. Herrity and himself. The purpose of the meeting was stated as being to consider what conditions the neighbors would like to have imposed on this use if it were to be granted to minimize the impact on the local area. There was much discussion of what had been heard at the public hearing held previously. He stated that he told them that the Board of Zoning Appeals would only be willing to consider something new, not something that had been fully taken into account at the hearing. He stated that Mr. Jerry Smith precided at the meeting. Mr. Smith gave out a sheet with a listed itemized list of suggested conditions. This list was passed out and discussed in detail. Mr. Mitchell stated that he was asked what he would report to the Board today and he stated that he indicated that there was no apparent unanimity with that particular group which may or may not be representative of the general area.

Mr. Smith asked if he knew why only twelve people were present.

Mr. Mitchell stated that Mr. Herrity explained at the beginning of the meeting what part of the problem was. His original thought was to have two meetings. One would be a narrow meeting consisting of the immediate neighbors and, or people adjoining or very close to the subject property. The next meeting would be a broader meeting to which everyone would be invited. When the BZA was only able to defer this for two days, they simply didn't have time to carry out the original intent, therefore, they had this very small meeting to which only the immediate neighbors were invited. That is the main reason why Mrs. Skala was invited at the last minute, he explained.

Mr. Mitchell stated that there were twelve individuals present, not necessarily twelve families. There were nine other than Mr. Herrity, Mrs. Skala and himself and possibly about four were couples.

Mr. Mitchell then read the list of items that that group wished to have incorporated into conditions of the Use Permit should the Use Permit be granted.

1. Road widened and paved.
2. Sidewalks installed.
3. Limit of 40 children.
4. All trees and shrubs to remain in a fifty foot buffer strip around the property except for those removed to complete a "U" shaped driveway.
5. No chain link type of fence in front of the house.
6. No addition to the existing building.
7. No outside sound/paging system, bells, etc.
8. No large signs.

Mrs.Skala stated that she had already planned to put a fence around the play area.

Mr. Mitchell stated that the opinion of the group was divided. No vote was taken and there was no way to indicate how many people from this group endorsed this particular list of items. Mrs. Skala stated that she did not plan to put a chain link fence in the front of the property, nor did she intend to take down any trees except where she had to put in a circular drive and she did not plan to have any large signs.

Mr. Stevens, attorney for the applicant, came forward and stated that they could live with all the above conditions except the widening of the road. They cannot afford to construct the road. He stated that they would like to have the maximum number of students that they could accomodate after remodeling, but if it is the Board's pleasure to have them come back, they will do so. He stated that he does not mean to be flippant, but if the Board is going to condition the Use Permit on the construction of the road, they request that the Board then deny the application as the contract is contingent on getting the use permit, therefore, they would be in the position of having

a Use Permit that they couldn't live up to. & School of General Education (Amended 4-11-73)

In application No. S-192-72, application by Donald & Lois Skala under sec. 30-7.2.6.1.3, of the Zoning Ordinance, to permit private day care center on property located at 5330 Sideburn Road, Springfield District also known as tax map 68-4 ((1)) 57, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 10th day of Jan. 1973..and deferred to Jan. 24, 1973 and again to Jan. 26, 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Claire Simmons.
2. That the area of the lot is 3.596 Acres.
3. That the present zoning is RE-1.
4. That Site Plan approval is required.
5. That compliance with all state and county codes is required.
6. The Staff has considered this proposal in the light of the proposed Standards and Criteria for Private Schools and Day Care Centers, and finds the proposal acceptable in those terms.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applciant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in sign, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

The hours of operation shall be 7 A.M. to 6 P.M., five (5) days per week, Monday through Friday, during regular school term, based on county standards.

The maximum number of students shall be 40 in day care, ranging in age from 3 to 6 years.

The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Dept., and the State Department of Welfare and Institutions.

Recreational area to be enclosed with a chain link fence in conformance with county and state codes.

All buses and/or vehicles used for transporting students shall comply with state codes in color and light requirements.

The minimum number of parking spaces shall be 6, with adequate ingress and egress satisfactory to the Land Planning Branch.
A dustless surface is required for all driveways and parking lots.

Owner to dedicate 45' from the centerline of the existing right-of-way for future road widening.

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Landscaping, screening, fencing, and plantings shall be as approved by the Director of County Development.

This permit is granted for a period of 3 years with the Zoning Administrator being empowered to extend for 3 - 1 year periods.

All trees and shrubs to remain in a fifty foot buffer strip around the property, except for those removed to complete a "U" shapped driveway.

No chain link type of fence in front of the house.

No addition to the existing building.

No outside sound/paging systems, bells, etc.

No large signs, the sign to be a 2 square ft. sign as per the county ordinance.

Mr. Baker seconded the motion.

The motion passed 4 to 1.

Mr. Kelley voted no.

(This Resolution was amended to read School of General Education and Private Day Care Center by the Board of Zoning Appeals on April 11, 1973.)

CITCO, S-149-69

Mr. Smith read a letter from Mr. McIntyre, Field Supervisor for CITCO, who stated that they had completed two storm structures up to the pouring of the tops and the majority of the concrete pipe has been placed but no earth work has been placed around the structures or over the pipes due to rain and wet ground. They have also poured some curb and gutter and some sidewalks, but they have been hampered by wet conditions. He stated that they were attempting to finish the the project as far as possible this Winter, weather permitting. This was his report from December. The current letter in January stated that with all the rain and the freezing weather, all they have been able to accomplish is the mulching of all slopes to stop silt and erosion. The road bed has been gravelled but curb, gutter and sidewalk work as well as the last items on the storm work have not been completed.

Mr. McIntyre requested that they be given further extension until they can get some decent weather to finish theproject properly.

Mr. Runyon moved that this case be deferred to give the applicant additional time to complete this project properly. He stated that it would probably be spring before they could finish.

Mr. Smith stated that he would like a monthly report on their progress.

Mr. Baker seconded Mr. Runyon's motion and stated that he also would like to see a report.

The motion passed unanimously.

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LOYAL ORDER OF MOOSE, CENTREVILLE LODGE #2168, Inc.

Mr. Smith read a letter from Mr. John Viars stating:

"It has been brought to my attention that the size of the building shown on our plats submitted to your office October 6, 1972 and approved November 15, 1972 will not accommodate the 400 members and guests as approved in Limitations #6. Therefore, I would like to request permission at this time to increase the size of our building to a minimum of 50' x 100' and a planned future addition as membership increases to its maximum of 400. Also, I would like to have Limitations #7 (The Hours of Operation) changed to read that we may open on Sundays and Holidays as the original application requested."

The Board then discussed exactly what had been granted to the applicant previously. Mr. Runyon stated that this is quite a change.

Mr. Kelley stated that the applicants should know what they are going to do prior to coming before the Board.

Mr. Barnes moved that this applicant come back before the Board with a new application new plats, etc. and it be scheduled for a regular hearing and the Board will then hear the request.
Mr. Runyon seconded the motion and the motion passed unanimously.

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CENTREVILLE HOSPITAL MEDICAL CENTER, INC., S-228-71

Mr. Smith read a letter from Mr. William B. Lawson, Attorney for the above-captioned applicant, stating:

"The above-described use permit was granted until January 23, 1973, unless construction commenced or the use permit vested. In accordance with the various hearings before your Board and commitments made to your Board, this use permit was vested by virtue of obtaining a foundation footing permit and by installing foundations and footings.

The hospital is in the process of obtaining final site plan approval for the construction of its hospital.

In order to alleviate any questions and to avoid any possibility of misunderstanding, the hospital requests that Use Permit No. S-228-71 be extended until April 23, 1973. We feel confident that Fairfax County will be able to complete its evaluation of the site plan and issue it within that period of time.

Thank you for your continuous consideration and courtesy." Letter was received in the office on January 4, 1973, prior to the expiration date.
Mr. Baker stated that he understood that they had the footings in prior to the actual issuance of this existing Use Permit. In other words, the previous Use Permit was actually still valid and they is really no need to extend this one.

Mr. Smith stated that Mr. Covington had gone out there and couldn't find the footings. He had stated that there was trees pushed back and some clearing had been done. Mrs. Pennino, the Centreville Supervisor, had already dedicated the building.

Mr. Covington had stated at the previous meeting that it was his ruling that they had actually done enough on the land to constitute beginning and he had felt that the use permit was valid.

Mr. Baker stated that just in case he would move that the Board grant an extension for six months to give them ample time to clear up everything.

Mr. Smith stated that this is the last possible extension that the Board can give. Actually this is the first extension on this Use Permit No. S-228-71

Mr. Runyon seconded the motion and the motion passed unanimously.

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The hearing adjourned at 12:00 Noon.

By Jane C. Kelsey
Clerk

Daniel Smith
DANIEL SMITH

APPROVED February 21, 1973
(Date)

The Regular Meeting of the Board of Zoning Appeals Was Held On Wednesday, February 14, 1973, in the Board Room of the Massey Building. Present: Daniel Smith, Chairman; Joseph Baker and Charles Runyon. Mr. George Barnes was absent and Mr. Kelley was also absent.

The meeting was opened with a prayer by Mr. Wallace Covington, Assistant Zoning Administrator.

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FRANK LUWIS & RON THOMPSON, app. under Sec. 30-7.2.10.2.6 of Ord. to permit small animal hospital, 2300 Gallows Road, 39-4((1))22B, Providence District (C-N), S-1-73

Dr. Ron Thompson, Hideaway Road, Fairfax, Virginia, spoke before the Board.

Dr. Thompson stated that he would like to have this small animal hospital as proposed in the plats submitted to the Board. He is the contract purchaser.

Notices to property owners were in order. The contiguous owners were R. V. Rashn, 1224 Somerset Drive and Morton Liftin, 1819 H Street, N.W. Washington, D. C.

Dr. Thompson stated that this animal hospital would be on the first floor and they would like to have rental offices on the second floor. They have no plans as to who the tenants would be at this time.

Mr. Smith asked Mr. Covington if this is permissible.

Mr. Covington stated that it is permissible to have offices of any type that are permitted in the C-N zone by right, such as a lawyer's office, an insurance office, a real estate office and the like.

Mr. Smith asked if they planned to have x-ray equipment.

Dr. Thompson stated that they did plan to have x-ray equipment and they are aware of the State regulations regarding this. He stated that he has been practicing veterinary medicine in a large animal hospital for five years and he feels that a small practice stressing individual attention is more fitting to his desires. This will be a one-man practice with perhaps only one employee and by appointment only. This will keep down the number of people on the property at any one time. This will be similar to practices throughout the country in new shopping centers. It will be completely enclosed with no outside use. He stated that he feels this is needed in the Dunn Loring area.

Dr. Thompson stated that Mr. Frank Luwis, the architect for this project, is present to answer any questions the Board might have relating to the construction of the building. This is the third hospital Mr. Luwis has designed this year. He stated that they are very much aware of the concern for noise and odor controls and particularly since they plan to have offices upstairs, it will be necessary to have more rigid controls over this. He stated that Mr. Luwis is a partner in the building, therefore, he is even more concerned than he would be if he were not a partner. He stated that the size and the extent of the practice there would be no more than ten to fifteen animals in the hospital at any one time. They are using a good circulation system and a number of mechanical devices will be used in the exhaust system to prevent odors.

Mr. Luwis also spoke on the way that the building would be constructed to prevent odors and noise from excaping.

Mr. Smith stated that the advertising should have shown the RE-1 land area.

Mr. Covington stated that the use itself is only on the C-N area.

Mr. Runyon stated that it should be included anyway. The plat says that it does include the RE land.

Mrs. Delihla Chastain spoke in opposition to the application. She stated that she owns the lot across the street. She stated that she understands that this is commercial and commercial offices could go in there, but she also understands that an animal hospital is not the most desirable business to have across the street because of the noise and the odor. She stated that she has no objection if there is a stipulation that they must build this building to be noise proof and odor proof and to limit it to the size that the gentleman stated here today, but what is to keep him from expanding to the second floor.

Mr. Smith stated that he could not build an addition to this building as the building now is as large as can be put on this lot. He stated that he was not sure that he could use an upstairs for this use. In any case, for any expansion to the use, he would have to come back to the Board of Zoning Appeals with a new application requesting the addition to the use.

Mr. Smith stated that it should be added to any motion that the Board might have that the RE-1 land is for setback purposes only and cannot be used in any way other than screening and landscaping.

In application Number S-1-73, application by Frank Luwis and Ron Thompson, under Section 30-7.2.10.2.6 of the Zoning Ordinance, to permit small animal hospital, on property located at 2300 Gallows Road, Providence District, also known as tax map 39-4((1))22B, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of February, 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Raymond V and May L. Raehn.
2. That the present zoning is C-N and RE-1.
3. That the area of the lot is 11, 858 square feet.
4. Site plan approval is required.
5. Compliance with all County Codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I District as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless comstruction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED, in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. Building be of material to provide adequate sound proofing and odor control to contain same to the site.
7. No outdoor runs to be constructed.
8. Hospital facilities to be restricted to first floor area.
9. Compliance with definition of small animal hospital is required.
10. RE-1 zoned property to be used only for setbacks and landscaping (Green space).

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

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February 14, 1973

BONNIE M. GRAFFEO, app. under Sec. 30-7.2.6.1.3 of Ord. to permit nursery school, 8613 Woodlawn Court, Engleside Subd., 101-3((1))81, Mt. Vernon District (RE-0.5), S-2-73

Mrs. Graffeo represented herself before the Board.

Notices to the property owners were in order. The contiguous owners were James Wood and John Moore.

Mrs. Graffeo stated that this property is under contract to purchase contingent upon getting this Use Permit. The owner is Charles Mitchem. They plan to use the existing building. They will use the first floor which has a walkout to the side yard and also the basement area which has a walk out to the back yard. They cannot use the second floor except for storage. They propose to have thirty children between the ages of 2 and 5 years old. They will be there from approximately 8:00 A.M. to no later than 6:00 P.M. in the evenings. She stated that she could start a little earlier for mothers who must leave for work earlier. She stated that she does not feel this use will adversely affect the neighborhood. All the students will be delivered to the premises and picked up by the parents. In the future,she stated that she would like to have a bus, but this will depend upon how many people will require transportation. She stated that she expects to have several children there from each family and she also expects that the mothers will form carpools. She has provided three parking spaces. The teachers will be her husband, a friend and herself and they will all come in one car. According to the welfare department, there must be one adult for every ten children and she can meet this requirement. Should she need additional help later on, she would, of course, hire someone competent to help her.

She stated that the Engineer's office had required a turn around space and when she took the plats back to her engineer they worked out the plan that is on the plat and said it would be adequate area for turnaround. She submitted before the Board one large plat showing the turn around area in detail.

There was no opposition.

Mr. Harvey Mitchell, Associate Planner from Zoning Administration, spoke before the Board with regard to his Staff Report. He stated that he had written in his "Findings of Fact" that the applicant would be responsible for a pro-rata share for off-site drainage facilities at the rate of $2,262 per impervious acre. The staff has not decided exactly what the exact amount would be paid. He stated that he had discussed this with the Drainage Office and with Mr. Yaremchuk, the Director of County Development, and they reached the conclusion that this should be uniformly stated in the report to the BZA if pro rata share is required and they would not put the amount in because under the ordinance, the Staff has the right to update their figures on the pro rata shares. This is only a matter of information for the Board and for the applicant. This problem will be resolved with the applicant comes in for their building permit to build, or to operate in which case it would be the Non-Residential Use Permit.

Mr. Runyon stated that this would be covered in Site Plan and would not be necessary for the Board to put on as a condition.

Mr. Baker stated that the amount would vary according to the cost of living index.

Mr. Smith asked the applicant if she was aware of what they were discussing.

The applicant stated that she did not understand it.

Mr. Smith and Mr. Mitchell explained this to her.

Mr. Baker stated that as he understands it, it is based on the amount of land that is for the use that will be paved over.

Mr. Smith asked the applicant if she would be able to make all the necessary changes and improvements that were suggested by Team Inspection.

The applicant stated that she would be able to do this.

Mr. Smith asked her if she has experience in teaching.

The applicant stated that she previously worked in a place called the Central Atlantic Regional Educational Laboratory in Washington for four years and dealt with children from primary to first grade.

BONNIE M. GRAFFEO , continued
February 14, 1973

In application Number S-220-72, application by BONNIE M. GRAFFEO,, under Section 30-7.2.6.1.3 of the Zoning Ordinance, to permit NURsery school for 30 children on property located at 8613 Woodlawn Ct. Engleside Subdivision, also known as tax map 101-3((1))81,County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution: (Mt. Vernon District)

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of February, 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Charles E. & Lois Ann Mitchem.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 43,563 square feet.
4. That Site Plan approval is required.
5. That all County and State Codes shall be complied with.
6. Pro-rata share for off-site drainage facilities is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Sprcial Use Permit Uses in R Distrcits as contained in Section 30-7.1.1 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additonal uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Sprcial Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Department of the County of Fairfax during the hours of operation of the permitted use.
6. Facilities to operate from 7 A.M. to 6 P.M.
7. Maximum of 30 children permitted.
8. Adequate turnaround to be provided on site.
9. Screening and fencing to be provided as per County Development.
10. Complaince with County team report on the structure required.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

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KINGDOM HALL, app. under Sec. 30-7.2.6.1.11 of Ord. to permit church, 6320 Grovedale Drive, Franconia Hills, 81-3((5))10A, Lee District (C-N & RE-1), S-4-73

Mr. Daniel represented the applicant and testified before the Board. His address is 4001 Chaco Road, Alexandria, Virginia.

Notices to property owners were ruled in order by the Board. The contiguous owners were Sarah Burns, 6320 GroveDale Drive, Alexandria. He stated that this church property was part of Mrs. Burns' property. She has subdivided her property. The only other contiguous owner is E. C. Lord, 6400 Arlington Blvd., Falls Church, Virginia.

Mr. Daniel stated that the church will be of brick material.

Mr. Smith asked if it looks like a residence like so many of their churches.

Mr. Daniel stated that this one does not look like a residence, but it does conform with the surrounding neighborhood.

There was no opposition.

In application Number S-4-73, application by Kingdom Hall, under Section 30-7.2.6.1.11 of the Zoning Ordinance, to permit church on property located at 6320 Grovedale Drive, Franconia Hills, Lee District, also known as tax map 81-3((5))10A, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspapers, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 14th day of February , 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Springfield Congreg., Jehovah's Witnesses.
2. That the present zoning is C-N and RE-1.
3. That the area of the lot is43,554 square feet.
4. That Site Plan approval is required.
5. That compliance with all county codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in C or I districts as contained in Section 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable toother land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN CERTIFICATES OF OCCUPANCY AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on theproperty of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.

6. Restricted to 242 member church.
7. Parking for 48 autos.
8. Screening for the parking area to be provided as per the Director of County Development.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

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DEFERRED ITEMS:

AMERICAN HORTICULTURAL SOCIETY, app. under Sec. 30-7.2.5.1.4 of Ord. to permit cultural center, 7913 East Blvd., 102-2((1))19 & 20, Mt. Vernon District, (RE-0.5), S-3-73 (Deferred from 1-24-73 for recommendation from Planning Commission, decision only)
Mr. Smith asked the attorney for the applicant to come forward to answer any questions.
Mr. Treece, attorney for the applicant, testified before the Board.

Mr. Treece gave the address for the location of the American Horticultural Society at present at 901 North Washington Street, Alexandria.

Mr. Smith stated that the Board had received a recommendation from the Planning Commission which stated:

"The Fairfax County Planning Commission on February 13, 1973, under provisions of Section 30-6.13 of the County Code, unanimously recommended to the Board of Zoning Appeals that the above subject application be approved in principle subject to the consideration and adoption of the following conditions:
1. That the access to Wellington be limited to the new road constructed north of the existing driveway and that all admissions except for ceremonial occasions be routed to the new access drive,
2. That the signs be limited to those like the colonial signs on the George Washington Parkway, that they direct traffic to the new access route for ingress and away from the residential areas for egress and that they not be lit."
Mr. Treece stated that with regard to lighting, they have no intent to light a sign on the property. He stated that this question had come up at the Planning Commission hearing.

Mr. Smith stated that he was thinking that it might be a good idea to light the sign in the event they had activities in the evening to provide some notice for the people entering.

Mr. Treece stated that there was a member from the United States Park Service present at the Planning Commission hearing last night. They had worked closely with the American Horticultural Society and had indicated that it would be possible to place on the George Washington Parkway a typical colonial sign the same as the type that is along there now. That is all they will need.

Mr. Treece stated that with regard to the No. 1 item on the Planning Commission recommendation, that there is some confusion on how one would read that recommendation. If they were to remove that driveway completely, they could not get to the property to improve it. They would only use it until they have improved the property and put the new road in and they would like to keep the old road in case they were working on the new road.

Mr. Smith stated that they could put in the Resolution that all major access be on the new road after some particular date. He suggested a year.

Mr. Treece stated that that would be fine. He also stated that they have a Statement of Intended Limited Use that they would place in the file for the record in order that everyone would understand exactly what they intend to do with the roads.

Mr. Smith accepted it for the record. It stated as follows:

"It is the intention of the American Horitcultural Society, should their application for a special use permit be granted that normal ingress and egress to the existing entrance and drive to Wellington not be unduly impeded, hindered or interfered with. In order to implement this intention, the applicant hereby agrees to direct, by use of signs and, if appropriate, other traffic control devices, its employees and the general public seeking access to Wellington to use the proposed alternative entrance to Wellington."

Mr. Treece then asked that they be allowed to have a staff of eight on the premises to oversee the renovation program and improvement program.

Mr. Smith stated that they could do this by setting up a construction office in the building.

Mr. Treece stated that one of the employees would be the Executive Director of the Society.

Mr. Knowlton stated that the Planning Commission had a long discussion about this and went into all matters and phases connected with this. He stated that one factor is the use of the property for a dwelling place for people. There is a desire on the part of the applicant to have a caretaker live on the property and possibily some others.
The Board continued to discuss the Planning Commission's comments on this application.
Mr. Smith stated that for a caretaker to live on the property is a normal procedure.

Mr. Treece stated that there is currently a caretaker living on the property with his immediate family. He stated that they also would like to hire a full time horticulturist who would be expected to occupy one of the houses on the property. He is needed to oversee any horticultural development.

Mr. Smith stated that he felt this would be permitted as long as it is limited to one full time resident horticulturist and his immediate family and one care taker and his immediate family. This would be needed for security of the property and the care of the plants.

Mr. Treece stated that there will be in the main house two suites for visiting dignitaries not on a fee basis of course.

Mr. Smith stated the the horticulturist would be allowed to have guests just like anyone else.

Mr. Smith then asked if there was anyone present in the room who was interested in this application as several new points had been raised.

There was no one in the room to come forward or raise their hand to indicate that they were interested in this application.

In application No. S-3-73, application by American Horticultural Society under Section 30-7.2.5.1.4 of the Zoning Ordinance, to permit cultural center on property located at 7913 East Blvd., Mt. Vernon District, also known as tax map 102-2 ((1)) 19 & 20, County of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to thepublic by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of January, 1973.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:
1. That the owner of the subject property is Malcolm Matheson.
2. That the present zoning is RE-0.5
3. That the area of the lot is 27.662 Acres.
4. That Site Plan Approval is required.
5. That compliance with all County Codes is required.
6. That the Planning Commission has recommended approval unanimously with their recommendation of February 13, 1973.

AND, WHEREAS, the Board of Zoning Appeals has made the following conclusions of law:
1. That the applicant has presented testimony indicating compliance with Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application be and the same is hereby granted

with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling this obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Non Residential Use Permit on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. All major access to the site shall be provided by the new access road within twelve (12) month from this date.
7. Signs shall be limited to the "colonial" character of the area and they should direct traffic to the new access road.
8. Permanent residents are to be a grounds keeper and his immediate family and a resident Horticulturist and his immediate family.

Mr. Baker seconded the motion and the motion passed unanimously with the members present. Mr. Barnes and Mr. Kelley were not present.

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CARREN J. MITCHELL, app. under Sec. 30-7.2.6.1.3 of Ord. to permit child day care center, 8:30 A.M. to 12:30 P.M. and 1:00 P.M. to 5:00 P.M., 25 children, 7916 Lewinsville Road, Breezewood Subd., 29-2((2))13, Dranesville District (RE-1), S-200-72 (Deferred from 1-24-73 at Board of Supervisors request to defer all day care center applications and antique shops until they have adopted new ordinance relating thereto -- public hearing closed, decision only -- applicant to submit new plats showing turn around and parking)

Mr. Mitchell stated to the Board that the ordinance had been passed by the Board of Supervisors and this application does meet the requirements of that ordinance.

Mr. Runyon stated that he would add to the motion that there be added screening of some type of low shrubs around the parking area.

Mrs. Mitchell was present and stated that she would be glad to plant additional shrubbery around the parking area.

In application No. S-220-72, application by Carren J. Mitchell under Sec. 30-7.2.6.1.3 of the Zoning Ordinance, to permit child day care center on property located at 7916 Lewinsville Road, Breezewood Subdivision, also known as tax map 29-2 ((2)) 13, Co. of Fairfax, Mr. Runyon moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and in accordance with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public by advertisement in a local newspaper, posting of the property, letters to contiguous and nearby property owners, and a public hearing by the Board of Zoning Appeals held on the 24th day of Jan. 1973, and deferred to Feb. 14, 1973 for decision.

WHEREAS, the Board of Zoning Appeals has made the following findings of fact:

1. That the owner of the subject property is Frederick E. Mitchell.
2. That the present zoning is Re-1.
3. That the area of the lot is 21,785 sq. ft.
4. That Site Plan approval is required.
5. That compliance with county and state codes is required.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the applicant has presented testimony indicating compliance with (Standards for Special Use Permit Uses in R Districts as contained in Sec. 30-7.1.1 of the Zoning Ordinance, and

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NOW, THEREFORE, BE IT RESOLVED, that the subject application be and the same is hereby granted with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, changes of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
4. This granting does not constitute exemption from the various requirements of this county. The applicant shall be himself responsible for fulfilling his obligation TO OBTAIN NON-RESIDENTIAL USE PERMIT AND THE LIKE THROUGH THE ESTABLISHED PROCEDURES AND THIS SPECIAL USE PERMIT SHALL NOT BE VALID UNTIL THIS HAS BEEN COMPLIED WITH.
5. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicious place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
6. The maximum number of children shall be 25, ages 2½ to 5 years.
7. The hours of operation shall be 8:30 A.M. to 5:00 P.M., five(5) days per week, Monday through Friday.
8. The operation shall be subject to compliance with the inspection report, the requirements of the Fairfax County Health Department and the State Department of Welfare and Institutions.
9. The recreational area to be fenced in conformity with county and state codes.
10. Landscaping, fencing and/or planting shall be as approved by the Director of County Development.
11. Sidewalk shall be provided from Lewinsville Road to the subject house, which shall be to the satisfaction of the Director of County Development.
12. This permit is granted for a period of three (3) years with the Zoning Administrator being empowered to extend said permit for a period of 3 - 1 year periods.
13. There shall be adequate parking for 3 additional vehicles and a back around area for exit shall be constructed on the site with low screening in front.

Mr. Baker seconded the motion.

The motion passed unanimously with the members present.

Mr. Barnes and Mr. Kelley were absent.

LESTER F. MARKELL, SR., app. under Sec. 30-7.2.10.2.5 of Ord. to permit car wash, 10701 Leesburg Pike, 12-3((1))18A, Centreville District (C-N), S-198-72 (Deferred from 1-17-73 for decision only to allow Planning Commission tohear and make recommendation and for new plats-and for letter from Health Department approving the method of disposing of the excess water)

Mr. Smith explained that there were only three members of the Board present today and one of these members was not present at the original hearing of the case and could not participate in the decision, therefore, this would have to be deferred until the Board has a quorum of members who can vote on this case.

Mr. Markell stated that they have solved the water problem and the new plats are in. There is a lease on the entire tract now.

This case was deferred until February 21, 1973 for decision only.

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AFTER AGENDA ITEMS:

WESTMINSTER SCHOOL, INC., S-212-70, 3811 and 3819 Gallows Road, Annandale District 60-3((24)) 4, 5, (R-12.5) Granted December 8, 1970

Mr. Smith read a letter from Stephen L. Best, attorney for the applicant, 4069 Chain Bridge Road, Fairfax. This letter requested the Board to allow them to use the driveway as a means of access to the stone house. He stated that unfortunately and erroneously the language regarding the closing of the driveway was not removed from the new site plan. However, the resolutions of the Board of Zoning Appeals dated December 8, 1970 did not require the closing of the driveway. He stated that he had checked with the Site Plan Department and they had no objection to the entrance remaining open if certain improvements were made to the driveway and if a circular turnaround area were constructed behind the existing garage. The garage is used solely for storage and for no other purposes. They need to use the existing driveway for bringing heating oil to the stone house and for trash collection. The only other use made of the driveway is a maximum of four cars each day

for administrative personnel. The driveway is never used as a means of access to the school building.

Mr. William Barry, Senior Zoning Inspector, came before the Board to state that an inspection had been made and it was found that this driveway was being used. He stated that it was on the Site Plan that the driveway would be closed, but it wasn't in the Resolution granting this Permit, therefore, there was some confusion as to what the Board desired.

Mr. Smith asked that an engineer from the Site Plan Department come down to tell the Board whether or not there would be a traffic hazard if they left the driveway in use.

Mr. Sommai Sooksanguan, Engineer from Preliminary Engineering Branch of Design Review came before the Board and stated that their Department has no objection to leaving this driveway open as long as they have the circular turnaround area around the garage as indicated on the new plats. The surface of this driveway must be dustless.

Mr. Barry stated that the delivery of the students is done on the other driveway at the other entrance.

Mr. Runyon moved to amend the original Resolution granting this use dated December 8, 1970 to include the use of the gravel driveway that exists on Site Plan #1435 dated September 23, 1971, revised to November 24, 1971 and further revised January, 1973 and make it a dustless surface.

Mr. Baker seconded the motion and the motion passed unanimously with the members present.

The plat was so marked approved.

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SCHOOL FOR CONTEMPORARY EDUCATION, S-167-72; 1700 Kirby Road, 31-3((1))Parcel 130, Dranesville District, RE-1, Granted November 22, 1972.

The applicant request that the Board of Zoning Appeals allow them to close in their courtyards that were on the previous plat when the Board granted the permit.

Mr. Michaels from the Architect's office presented the applicants.

Mr. Michaels stated that the building included two interior courtyards. He stated that since the preliminary architectural design has been more firmly established, they find they need additional floor space. They do not plan to enlarge the building, but they want to utilize this courtyard space and enclose them. There will be no change in enrollment or in the use of the facilities.

Mr. Smith asked if they still plan to use brick construction.

Mr. Michaels stated that they did still plan to use brick construction. There will be no change as far as the appearance of the exterior building is concerned. There are no other deviations from the previous plan. He stated that he believed this space is to be the administrative offices.

Mr. Runyon moved that there be added to the original resolution for clarification that the area within the walls of the buildings indicated as courtyards on the plan can be covered as indicated, but in no way will this change the context of the original motion as far as all other aspects of the application are concerned. This is to cover the two areas only. This was Use Permit number S-167-72, granted November 22, 1973.

Mr. Baker seconded the motion and the motion passed unanimously with the members present. Mr. Barnes and Mr. Kelley were absent.

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SCHOOL FOR CONTEMPORARY EDUCATION, S-23-73, 8120 Leesburg Pike, 39-2((1))1A, RE-1 Regularly scheduled for March 21, 1973.

Mr. Smith read a letter from the applicant requesting an out-of-turn hearing for March 14, 1973, as they have been delayed several times due to the difficulty in locating housing for the project and getting new plats drawn up for the Providence Baptist Church.

Mr. Baker moved that the request forthe hearing for March 14, 1973 be granted.

Mr. Runyon seconded the motion and the motion passed unanimously with the members present. Mr. Barnes and Mr. Kelley were absent.

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CITY ENGINEERING & DEVELOPMENT COMPANY, S-5-70

Mr. Smith read a letter from Mr. Aylor with PHILLIPS, KENDRICK, GEARHART & AYLOR, Attorneys At Law, requesting an extension to their Use Permit to permit the erection and operation of a service station at 6383 Little River Turnpike, also known as Tax Map 72-3 ((1)) pt 56, County of Fairfax.

He further stated that:

"This permit originally expired on March 10, 1971 but has been extended from time to time and now I believe expires on March 10, 1973. As we have pointed out in previous correspondence, this matter has been in litigation with the County and in due course the Court of Appeals finally ruled that the action of theCounty in attempting to change the zoning was arbitrary and capricious and therefore void. However, we have run into continuing problems in getting our site plan approved and a final building permit. Among other questions raised is the fact that under the recent moratorium on sewer permits we are not entitled to a sewer tap permit. We hope to get these matters straightened out, but further litigation may be necessary. We would at this time like a further extension for six months of our use permit. I am sorry to have to ask for this, but I think the Board will recognize that the delay has not been due to Cities Service but to other factors which we have spelled out in previous letters. I would appreciate any extension the Board can grant us."

Mr. Smith stated that before the Board takes any action there should be several items of information received by the Board.

1. Whether or not the applicant has actually submitted the Site Plan and what the status is of that Site Plan if it has been submitted.

2. When was the final ruling by the Courts on the question of zoning (the exact date).

3. Does the sewer moritorium apply to this?

4. The question of whether or not if the sewer moritorium goes into effect after the granting the applicant has any control over this.

5. If the sewer moritorium does apply to this, when did the sewer moritorium go into effect.

6. The date of the enactment of the highway corridor ordinance in that area.

Mr. Runyon stated that the sewer moritorium does apply to this area.

Mr. Smith stated that the Board may need to talk with the County Attorney on this. He asked Mr. Covington to make the County attorney aware of all the facts and get all the information together and ask the County Attorney to discuss this at a time that is convenient with him. If this can be done prior to February 21, 1973, the Board can bring it up again and discuss it with all the Board members present and perhaps make the decision on the first meeting in March/ or February 28, 1973. The letter was received prior to the expiration date, but if the Board can make a decision prior to then, it would be better.

Mr. Smith stated that when the Board of Zoning Appeals granted this, they had an Agreement whereby nothing would go on that land except a service station and an office building. He stated that they thought they had worked out a good plan, but apparently the Board of Supervisors did not feel it was a good plan. There was objection from the people in the area of the service station. The work was similar to that at the Heritage Drive intersection of Route 236. There is an office building and a very attractive service station and then a drive back aways to the shopping center. There is no service station back there at all. Then the Board of Supervisors downgraded the zoning or did something that would not then permit a service station use. It has been in the Courts ever since then and he stated that he assumed that the Courts have ruled in favor of Citco.

Mr. Covington stated that he would get the information as quickly as possible and set up an appointment with the County Attorney.

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CEDAR KNOLL INN, No. 54 Special Use Permit

Mr. Smith read a letter from Mrs. Theodora Mallick requesting a hearing before the Board regarding the Revocation Notice served on Cedar Knoll Inn. This letter was dated January 23, 1973 and received January 24, 1973.

Mr. Smith stated that the applicant must make application and pay the fee for this to cover the expense of advertising the case. The other members of the Board were in concurrence. It has been granted, Mr. Smith stated, for a hearing on the Revocation Notice of January 17,1973,

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providing that the applicant makes formal application within fifteen days. This should then be scheduled as an After Agenda item. The Clerk will so notify the applicant.

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Mr. Covington brought to the Board a problem with the carnivals in the Bailey's Crossroads area, in the Korvett area. He stated that he had denied the request of the Catholic War Veterans and they now wish to appeal this.

Mr. Smith stated that they would have to submit to the Zoning Administrator a plan for the booths and all the other necessary information, then the Zoning Administrator should formally deny it, if he so chooses, then the people should make formal application to the Board with a fee, etc., then the Board will hear it.

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The Board then discussed several points on the new Amendment No. 200 to the Zoning Ordinance relating to private schools and day care centers.

The Board decided it must have a letter from the Health Department stating how many children they would permit for each applicant, whether or not the Health Department would require fencing and the adequacy of the septic field and water supply for this number of children.

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Mr. Baker moved that the minutes for January 10, 1973 be approved as corrected.

Mr. Runyon seconded the motion and the motion passed unanimously with the members present. Mr. Kelley and Mr. Barnes were absent.

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The meeting adjourned at 3:15 P.M.

By Jane C. Kelsey
Clerk
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: _____
(Date)